

Resolution 1603 (2008)¹

Honouring of obligations and commitments by Georgia

Parliamentary Assembly

1. On 5 January 2008, Georgia held its fifth presidential election since its independence in 1991. The Parliamentary Assembly recognises that, notwithstanding the unexpected circumstances which brought about this snap election, the often significant shortcomings and electoral violations, as well as a high degree of political polarisation, this was for the first time a genuinely competitive election enabling the Georgian people to express their political choices.

2. The Assembly deplores the events which preceded the pre-term elections and in particular the violent dispersal of peaceful demonstrations on 7 November 2007, the subsequent temporary silencing of two opposition-controlled television stations and, finally, the decision to declare a state of emergency. These actions have tarnished the reputation of the Georgian Government both in the eyes of its own population and abroad. However, the decision to end the crisis by holding early presidential elections in January 2008, together with a plebiscite asking the people to choose the date of the next parliamentary elections, stopped the escalation of tensions and is to be welcomed.

3. The Assembly now launches an urgent appeal to all political forces in Georgia to respect the officially announced result of the presidential election – which was considered by the international election observer mission as being in essence consistent with most international standards for democratic elections. Any allegation of fraud or vote rigging should be pursued through the legal avenues prescribed by the Constitution of Georgia and related legislation. The Assembly urges the Georgian authorities to investigate each complaint regarding the election process duly and impartially, and to bring those who may have violated the law to justice. It is particularly concerned by the numerous allegations of violations at vote counts and the tabulation of results, which tainted the overall election process.

4. The Assembly will closely monitor the developments of the political situation in Georgia and expects the authorities to demonstrate their resolute commitment to democracy, the rule of law and human rights. The newly elected president must do his utmost to strengthen democratic freedoms and constructively engage in a dialogue with those parts of the population that did not vote for him. Internal stability and economic prosperity will best be guaranteed through inclusive policies, improvement of the functioning of institutions and an unfailing respect for the rule of law and fundamental freedoms. To this end, the Assembly urges the authorities to create proper conditions in which a strong and efficient system of checks and balances can finally emerge and function. The Georgian Government should also immediately address the recent shortcomings of the presidential elections in order to ensure that the upcoming parliamentary elections, in the spring of 2008, will be democratic, free, transparent and competitive.

5. In any democratic society, the opposition shares the responsibility for the country's stability and national consensus and for the reforms under way. The Assembly welcomes the emergence of a vibrant and united opposition in the country shortly before the recent elections, which it sees as a positive development towards Georgia maturing into a genuinely pluralist democracy. However, it emphasises that, in order to gain long-term support at grassroots level, in particular in view of the upcoming parliamentary elections, the opposition should start offering issue-based and credible alternatives to the population's concerns and engage in a constructive dialogue with the governing party on all major issues.

1. Assembly debate on 24 January 2008 (8th Sitting) (see [Doc. 11502](#), report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe, co-rapporteurs: Mr Eörsi and Mr Islami) Text adopted by the Assembly on 24 January 2008 (8th Sitting).



6. Sustainable democracy cannot be built in the absence of basic security. Full normalisation of the situation in Georgia remains impossible without reaching a peaceful and democratic settlement of the conflicts in the breakaway regions of Abkhazia and South Ossetia. The Assembly reiterates its unconditional support for the territorial integrity and inviolability of the internationally recognised borders of Georgia and urges Georgia's neighbours, notably the Russian Federation, to do the same. It commends the Georgian Government's continuous efforts to reach a peaceful settlement of those conflicts, notably the recent steps aimed at winning over the secessionist population in the Tskhinvali region (South Ossetia).

7. The Assembly welcomes the holding of the first high-level meeting between the Georgian and the Abkhaz representatives, which took place in Sukhumi in October 2007 after a long pause, while regretting that no progress has been recorded on the ground and that the negotiations conducted under the auspices of the United Nations have produced no results so far. The Assembly deplores in particular that the hundreds of thousands of refugees and internally displaced persons (IDPs) from Abkhazia, victims of the ethnic cleansing in the early 1990s, are still deprived of the possibility of returning safely to their homes. The Assembly calls upon the de facto authorities to provide secure conditions for the return of IDPs and to respect the inalienability of property rights in the conflict zones, in accordance with the recent resolution of the UN Security Council. The Assembly further calls on the Georgian authorities to do their utmost to alleviate the difficult social conditions of the IDPs and to integrate them within the mainstream Georgian society, without prejudice to their right to return.

8. The Assembly regrets that the recent crisis has overshadowed the numerous positive steps taken by the Georgian authorities towards complying with Georgia's obligations and commitments since the adoption of Parliamentary Assembly [Resolution 1477 \(2006\)](#) on the implementation of [Resolution 1415 \(2005\)](#) on the honouring of obligations and commitments by Georgia. On a formal level, a significant number of commitments pertaining to the remaining issues listed in the above resolution have been fulfilled, even if several important shortcomings still persist.

9. With regard to Council of Europe legal instruments, the Assembly notes that to date Georgia has ratified 53 conventions and signed nine others. It commends the ratification of the Framework Convention for the Protection of National Minorities (ETS No. 157), of the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 106) and of the Criminal Law Convention on Corruption (ETS No. 173). Regrettably, however, the procedure for signing and ratifying the European Charter for Regional or Minority Languages (ETS No. 148) has not progressed so far.

10. Georgia's close co-operation with the Council of Europe contributed to the adoption of the Anti-Corruption Strategy and Action Plan, the Law on Repatriation of Persons Forcefully Sent into Exile from Georgia by the former Soviet Union in the 1940s (repatriation of the Meskhetian population), the Law on Property Restitution and Compensation on the Territory of Georgia for the Victims of Conflict in the Former South Ossetia District, the new Law on Legal Aid and the Law on Local Self-Government, and the law prohibiting ex parte communication. Codes of ethics regarding the police, prosecutors, advocates and broadcasters have been elaborated.

11. The Assembly welcomes the fact that, as a result of political dialogue, the last-minute amendments to the Electoral Code incorporated a number of long-standing recommendations of the Assembly and the Venice Commission. In this respect, the Assembly in particular welcomes the agreement jointly reached by the parliamentary majority and opposition to: lower the electoral threshold in future from 7% to 5% – a consistent Assembly recommendation; transform the much-contested majoritarian component of the electoral system into a fully proportional one and change the composition of the electoral commissions and the campaign finance regulations.

12. For the fourth consecutive year, the authorities have demonstrated a clear resolve to build a stable and modern European democracy and to better integrate the country into European and Euro-Atlantic institutions. Many of the most important institutions, including the judiciary, the tax administration, the police and the prosecutor's office as well as the transport, public health and educational systems, have undergone substantial reform. These efforts have been rewarded with double-digit economic growth and remarkable levels of foreign direct investment. Petty corruption has been effectively curbed and steps have been taken to reform the penitentiary system.

13. At the same time, the concerns previously expressed in Resolutions 1415 (2005) and 1477 (2006) on the strong system of government not being accompanied by efficient checks and balances are more valid than ever. Sustainable democracy and development can only be achieved through public participation and a wide range of institutions in society through which the individual can communicate with the state. This is the only way by which a democratic government can achieve the necessary level of consensus to ensure the

irreversibility of its reforms. In this regard, the Assembly calls upon the authorities to commit themselves to building up strong institutions, in particular by creating a responsible and professional state administration and by fostering a political culture that does not support cronyism or self-serving interpretation of laws or restricting independent media, but seeks broad consensus among the plurality of views.

14. The Assembly notes that a number of reforms have been carried out very rapidly and without the public being made adequately aware of their short- or long-term advantages. Georgian society has perceived many reforms as a shock treatment and feels that the prevailing poverty and social injustices have not been adequately addressed so far. Access to basic social services indeed remains limited; incomes continue to be low and unequally distributed. The government has now realised that the social costs of its reform agenda need to be addressed. The Assembly hopes that the recently declared will to focus more on socially oriented policies in the future will be followed by concrete deeds.

15. The Assembly commends the Georgian authorities for having created the appropriate legislative framework for all major reforms. It notes, however, that thorough, fair and professional implementation will be the determining factor for their success. The courts still do not enjoy public confidence, the fight against corruption is perceived as selectively applied and property rights have been abused. The Assembly therefore urges the Georgian authorities to step up their efforts as regards the reform of the judiciary, in particular by creating proper mechanisms to guarantee the independence of judges and prosecutors. Georgia must also urgently improve its record in the protection of human rights, notably with regard to conditions of detention, prevention of torture, and respect for minority, religious or property rights.

16. Whilst welcoming the broad reform agenda of the authorities, the Assembly considers that specific measures need to be taken in order to accelerate the political reforms that will eventually transform Georgia into a stable and prosperous European democracy.

17. With regard to Council of Europe conventions:

17.1. without any further delay, sign and ratify the European Charter for Regional or Minority Languages;

17.2. improve Georgia's record with regard to the ratification of Council of Europe treaties.

18. With regard to the functioning of democratic institutions:

18.1. continue reviewing the constitution, by taking into account the opinion of the Venice Commission;

18.2. ensure that the next parliamentary elections, scheduled for spring 2008, are free and fair and in full compliance with Council of Europe standards; to this end take fully into account the recent findings of the International Election Observer Mission participating in the extraordinary presidential election of 5 January 2008, as well as the recommendations of the ad hoc committee of the Assembly, notably as regards:

18.2.1. adopting further amendments to the Constitution of Georgia in order to reduce the electoral threshold from the current 7% to the agreed 5% and transforming the current majoritarian component of the election system into a system based fully on proportional representation;

18.2.2. reviewing all recent and future amendments to the Electoral Code with the assistance of the Venice Commission;

18.2.3. further improving the accuracy of the voters' list and finalising it so as to cancel election-day voter registration in the future;

18.2.4. ensuring clear separation of governmental structures from the electoral administration;

18.2.5. ensuring a balanced pre-election campaign environment, including equal media access;

18.2.6. improving the training of members of electoral commissions;

18.2.7. guaranteeing the impartiality of courts in this process;

18.3. pursue vigorous investigation of all allegations of intimidation, harassment and violation of electoral law and bring to justice all perpetrators of electoral fraud;

18.4. adopt and ensure proper implementation of the law on transparency of party funding;

- 18.5. maintain the commitment to create a second parliamentary chamber, providing for the representation of its autonomous regions at state level, once South Ossetia and Abkhazia are politically and administratively reintegrated into Georgia;
- 18.6. continue the local government reform by:
 - 18.6.1. implementing the legislative package including core legislation on local self-government and other related laws;
 - 18.6.2. ensuring proper functioning of the State Commission on Decentralisation to lead the implementation of the decentralisation strategy;
 - 18.6.3. following the recommendations of the Venice Commission on local government reform.
19. With regard to the Meskhetian population, pursue the work of the state commission on repatriation, seek actively international assistance and create conditions for the repatriation process with a view to its completion by 2011; implement fully the recommendations set forth in Assembly [Resolution 1428 \(2005\)](#) on the situation of the deported Meskhetian population.
20. With regard to the 1990-94 conflicts:
 - 20.1. continue to seek a peaceful solution to the conflicts in Abkhazia and South Ossetia, in full respect of international law, in the interest of all parties concerned and of regional stability;
 - 20.2. ensure the equal rights of internally displaced persons, along the lines of Assembly [Recommendation 1570 \(2002\)](#) on the situation on refugees and displaced persons in Armenia, Azerbaijan and Georgia.
21. With regard to respect of the rule of law:
 - 21.1. complete the reforms of the judicial system, the Bar, the general prosecutor's office and the police in full compliance with European standards and in close co-operation with Council of Europe experts;
 - 21.2. implement a fully transparent system of appointment and dismissal of judges and ensure that the new generation of magistrates is independent and highly professional; ensure the proper functioning of the High School of Justice; ensure that the courts and prosecution are perceived as fair and impartial;
 - 21.3. adopt the new comprehensive code of criminal procedure elaborated in co-operation with the Council of Europe;
 - 21.4. pursue the fight against corruption and money laundering, and fully implement all recommendations of the Group of States against Corruption (GRECO) and MONEYVAL; step up work aimed at building a culture and ethics of civil service;
 - 21.5. investigate transparently and impartially all credible allegations of corruption, particularly at the higher levels of authorities;
 - 21.6. conduct a prompt investigation of the violent dispersal of a peaceful demonstration on 7 November 2007 and punish those responsible for the disproportionate use of force.
22. With regard to the protection of human rights:
 - 22.1. fully implement the recent recommendations of the European Committee for the Prevention of Torture;
 - 22.2. continue to address the issue of overcrowding in prisons and pre-trial detention centres and consider supplementary measures, where appropriate;
 - 22.3. secure prompt, independent and thorough investigation of all allegations of ill-treatment and apply a policy of zero tolerance to impunity;
 - 22.4. concerning freedom of expression and information:
 - 22.4.1. guarantee full independence and pluralism of electronic media; ensure that media ownership is transparent and governed by democratic rules;
 - 22.4.2. eliminate obstruction of access to information for political or administrative reasons;
 - 22.4.3. ensure the best quality of training for media professionals;

22.4.4. ensure that the Georgian public broadcasting channel organises regular political debates involving a fair representation of different political views;

22.5. facilitate the active participation of civil society in the drafting and implementing of legislation.

23. The Assembly calls on member states to invest more substantially in Georgia's democratic future, security and stability. This implies continued support for Georgia's domestic reforms, for the resolution of its secessionist conflicts, and for its integration into Euro-Atlantic institutions. All member states of the Council of Europe should provide the necessary financial resources for the successful implementation of the programmes of co-operation between Georgia and the Council of Europe. The Assembly also calls on the European Union to co-ordinate its activities in the framework of its European Neighbourhood Policy (ENP) with the Council of Europe.

24. The Assembly further calls on the European Union and all member states of the Council of Europe to get more actively involved in the search for a peaceful solution of the conflicts in the breakaway regions of Abkhazia and South Ossetia on Georgian territory, including by finding a more appropriate international framework for negotiations and for ensuring peace, law, order and respect for human rights on the ground. All interested parties in the conflict, in particular the Russian Federation, must demonstrate their commitment, in principle but also in practice, to a peaceful and democratic solution in full respect of the territorial integrity and sovereignty of Georgia. The Assembly encourages the EU to step up negotiations on readmission and visa facilitation agreements between the EU and Georgia, in particular in order not to discriminate between citizens of Georgia and those holding Russian passports in the separatist regions of South Ossetia and Abkhazia. In this context, the Assembly refers to its [Resolution 1455 \(2005\)](#) on the honouring of obligations and commitments by the Russian Federation (paragraph 14.ii).

25. The Assembly resolves to pursue its monitoring of the honouring of obligations and commitments by Georgia until the ongoing reforms in the areas mentioned in this resolution have produced tangible results. In particular, the Assembly expects the Georgian leadership to demonstrate a high level of political maturity and to implement a governance style that will seek compromise and consensus within a competitive democratic system. It also expects all Georgian political forces to demonstrate their capacity to hold the parliamentary elections in 2008 in accordance with international standards for free and fair elections.