Parliamentary Assembly
Assemblée parlementaire
https://pace.coe.int

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 1730 (2010)[1]
Final version

Post-monitoring dialogue with Bulgaria

Parliamentary Assembly

1. The Parliamentary Assembly recalls its Resolution 1211 (2000), on the honouring of obligations and commitments by Bulgaria, in which it decided to close the monitoring procedure and to initiate a dialogue with the Bulgarian authorities on a number of outstanding concerns included in the resolution, or any other issues arising from the obligations of Bulgaria as a member state of the Council of Europe, in the framework of the post-monitoring dialogue.

2. The Assembly welcomes the progress made by Bulgaria since the last debate in the Assembly, which was held in January 2000, recalling in this context that, on 29 March 2004, Bulgaria joined NATO and, on 25 April 2005, it signed the Treaty of Accession to the European Union, of which it became a full member on 1 January 2007. Indeed, the political components of the Copenhagen criteria for European Union membership of 1993 largely coincide with Council of Europe membership obligations.

3. It should be recognised that, while moving steadily along the path of the implementation of the Assembly's recommendations, the whole reform process in Bulgaria has been directed towards the introduction of European standards which allowed it to join the European Union. Regrettably, in order to meet the strict European Union accession deadlines, some of the reforms involved cosmetic changes that pushed them in an undesired direction. This was particularly the case of the amendments to the Judicial System Act, adopted in February 2007 and the 2007 amendments to the constitution.

4. The Assembly notes with satisfaction that the governing majority of centre-right GERB (Citizens for a European Bulgaria) movement, elected on 5 July 2009, has set ambitious objectives and committed itself to continue democratic reforms, in particular to ensure the proper functioning of its judiciary and to fight corruption and organised crime.

5. Moreover, the Assembly expresses regret that at the end of March 2010 the National Assembly adopted amendments to the Criminal Code and to the Criminal Procedure Code, without any consultation of the European Commission for Democracy through Law (Venice Commission).

6. The Assembly welcomes the important steps taken by Bulgaria to fulfil its commitments as a Council of Europe member state, which include:

6.1. the adoption, in 2007, of the new provisions in the constitution relating to civil and criminal immunity in the judiciary, in line with the Assembly's recommendations;

6.2. the modification of the Criminal Procedure Code in December 2008, abolishing the obligation for civilians to file lawsuits against the police in military courts;

6.3. the amendment to the Criminal Code in April 2009, which adds to the provision on ethnic and racial propaganda and incitement to hatred or national or racial discrimination by making it a criminal offence to incite racial hatred through speech, printed or other media, electronic information systems or other means;

1. *Assembly debate* on 30 April 2010 (18th Sitting) (see Doc. 12187, report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), rapporteur: Mr Holovaty). *Text adopted by the Assembly* on 30 April 2010 (18th Sitting).

6.4. the amendment to the new Civil Procedure Code introduced in 2009, which allows for the possibility of reopening cases following a judgment by the European Court of Human Rights establishing a violation of the European Convention on Human Rights (ETS No. 5) or one of its protocols;

6.5. the creation of the institution of Ombudsman in 2005;

6.6. the adoption of the Protection against Discrimination Act in 2004 and its application, as well as the establishment of the Commission for Protection against Discrimination in 2005.

7. At the same time, the Assembly notes a number of concerns and worrying trends, in particular as regards the functioning of the judiciary, the fight against corruption, the independence of the media and the rights of people belonging to minorities. In order to remedy the situation, it calls on the Bulgarian authorities to take the following steps in the near future, the implementation of which it will closely follow:

7.1. consult systematically the Venice Commission on important draft laws, including the revision of the Criminal Code, the Criminal Procedure Code and the new Electoral Law, in order to take European standards fully into account;

7.2. address, from the point of view of the separation of powers and in line with Venice Commission's recommendations, the structure of the Supreme Judicial Council with a view to ensuring the independence of the judiciary with regard to the executive authorities, including:

7.2.1. reviewing the role of the Minister of Justice as Chair of the Supreme Judicial Council with the right of initiative;

7.2.2. ensuring that, within the Supreme Judicial Council, judges, prosecutors and investigating magistrates cannot interfere with each other's affairs;

7.2.3. providing for an election of the parliamentary component of the Supreme Judicial Council by a qualified majority to enable a certain representation from the opposition;

7.3. provide, in co-operation with the Council of Europe, initial training for judges before their appointment and set up a transparent system of evaluation of their competences to help dispel the widespread perception of corruption and mistrust in the judiciary;

7.4. step up efforts to combat corruption with assistance from the Council of Europe and take measures which would provide sufficient guarantees for an independent investigation into offences in respect of which the Chief Public Prosecutor or other high-ranking officials close to him may themselves be questioned and placed under investigation;

7.5. continue to address human rights abuses by law-enforcement officials through systematic human rights training, in particular at the police academy and in officers' schools, and by taking concrete measures to eradicate impunity and the lack of accountability for such abuses;

7.6. amend Articles 146 to 148 of the Criminal Code to exclude defamation and insult from the criminal sphere;

7.7. guarantee a greater diversity of opinion on national television, ensure independence of the media and, in particular, consider drafting a media law which would address the issue of media group concentration and set standards for media independence from any kind of political or financial influence, with the assistance of Council of Europe experts;

7.8. improve the rights of the persons belonging to minorities and ensure their respect, especially as regards teaching of and in their languages, promote knowledge of the culture and identity of minorities, foster intercultural dialogue and tolerance through education, taking into consideration the recommendations of the Council of Europe Human Rights Commissioner in his report of February 2010, and increase the real opportunities for persons belonging to minorities to apply for job vacancies in the police and in public services;

7.9. sign and ratify the European Charter for Regional or Minority Languages (ETS No. 148);

7.10. introduce within the National Assembly specific mechanisms and procedures for effective parliamentary oversight of the implementation of the judgments of the European Court of Human Rights on the basis of regular reports by the responsible ministries;

7.11. support the activities of the Commission for Protection against Discrimination while ensuring the monitoring of its use of public funds;

7.12. support the National Council for Co-operation on Ethnic and Demographic Issues under the responsibility of the Council of Ministers and actively tackle the human rights problems of the Roma, taking a comprehensive approach;

7.13. publicly condemn hate speech by certain political leaders against minorities and take concrete actions to foster tolerance and mutual respect, encourage exemplary behaviour of the political leaders in this respect and ban openly racist language;

7.14. introduce transparent procedures for the appointment and dismissal of the Ombudsman by the National Assembly by a qualified majority of votes;

7.15. consider the claims of the former prisoners of Belene Island in accordance with the Bulgarian Act on Political and Civil Rehabilitation of Persons Repressed During the Totalitarian Regime;

7.16. find speedily, in co-operation with the Turkish authorities, a solution for pending pension issues in respect of those who were forced to emigrate to Turkey in 1989.

8. The Assembly calls on the Bulgarian National Assembly to hold a debate on the content of the present resolution and take account of its conclusions in its work.