Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 12634
06 June 2011

The progress of the Assembly's monitoring procedure (June 2010 – May 2011)

Report[1]
Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)
Rapporteur: Mr Dick MARTY, Switzerland, Alliance of Liberals and Democrats for Europe

Summary

In its annual progress report, submitted to the Parliamentary Assembly in accordance with its mandate, the Monitoring Committee gives an account of its activities since June 2010. It also provides more general considerations about the achievements and challenges of the parliamentary monitoring procedure since the establishment of the committee fifteen years ago, and draws some conclusions in the light of the completion of the second cycle of reporting upon countries which are not subject to a monitoring procedure or a post-monitoring dialogue.

Furthermore, in view of the forthcoming 15th anniversary of the establishment of the committee, and in the context of the ongoing debate on the reform of the Assembly, the committee elaborates on the challenges facing the Assembly monitoring in the future and possible ways to address them, in order to improve the efficiency and impact of the exercise. It raises a number of questions for further reflection.

1. Reference to committee: Resolution 1115 (1997).

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A. Draft resolution[2]

1. The Parliamentary Assembly acknowledges the work carried out by its Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) in accompanying the ten countries currently under monitoring (Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Moldova, Montenegro, Russian Federation, Serbia and Ukraine) and the four countries engaged in a post-monitoring dialogue (Bulgaria, Monaco, "the former Yugoslav Republic of Macedonia" and Turkey) in their efforts to ensure full respect for democracy, the rule of law and protection of human rights.

2. During the reporting period (June 2010 – May 2011), the committee has produced a full monitoring report on Georgia and assessments of the functioning of democratic institutions in Azerbaijan and Ukraine. The respective rapporteurs carried out visits to Armenia, Azerbaijan, Georgia, Moldova, Monaco, Montenegro, the Russian Federation, Serbia, Turkey and Ukraine, and submitted information notes on their findings to the committee for discussion.

3. Moreover, in accordance with the practice established since 2006, the committee has prepared a periodic report on the third (and final) group of 11 Council of Europe member states among those members which are not subject to a monitoring procedure *stricto sensu* or involved in a post-monitoring dialogue, based on the findings of other Council of Europe monitoring mechanisms, thus completing two full cycles of reports for each country in this category.

4. The Assembly is satisfied with the way that the committee has decided to pursue its work on the consequences of the war between Georgia and Russia. Furthermore, it notes the follow-up given by the committee to the Bureau of the Assembly's request for a written opinion on the motion for a resolution on the "Serious setbacks in the fields of the rule of law and human rights in Hungary".

5. During the reporting period, the committee has been engaged in the implementation of a number of procedural modifications regarding the term of office of co-rapporteurs on monitoring, and its composition following the adoption of Resolutions 1699 (2009) and 1710 (2010). In particular, it proceeded with an important renewal of rapporteurships, which resulted, *inter alia*, in an increased percentage of women (approximately 30%). While this should be considered only as a first step, the committee should nonetheless be commended for its efforts to comply with the Assembly's gender equality policy. This could serve as a good example for other parliamentary bodies, both in the Assembly and in those national parliaments with a low percentage of women.

6. Furthermore, in view of the forthcoming 15th anniversary of the establishment of the committee, and in the context of the ongoing debate on the reform of the Assembly, the committee has initiated a discussion on possible ways and means of rendering the monitoring procedure more effective, and of ensuring improved compliance of all its member states with their statutory obligations.

7. The Assembly is concerned that the two-year deadline for the presentation of a report for each country under monitoring has not been systematically respected. In one case, the Russian Federation, a period of six years has elapsed since the last report was debated in the Assembly.

8. Furthermore, in some countries, quasi-permanent political crises have hindered the proper evaluation of the progress achieved: full monitoring reports had to be replaced on a number of occasions by reports on the functioning of democratic institutions, which were designed to enable the Assembly to react quickly to political developments of concern.

9. Free and fair elections constitute a precondition for democracy. Regrettably, in a number of countries under monitoring procedure, serious shortcomings of the electoral process continue to be observed. The legal framework in some countries still does not fully comply with Council of Europe standards, and insufficient political pluralism, unfair electoral campaigns, violation of the right to freedom of expression and assembly, as well as shortcomings during the registration of candidates or the vote, do not always provide for an inclusive political environment.

10. Electoral reform is under way in Armenia, Georgia and Montenegro. In Bosnia and Herzegovina there is an urgent need to remove ethnicity-based limitations on the right to stand for elections. The Albanian authorities have been invited by the Assembly to improve the legislative framework and enhance the capabilities of the electoral administration in a number of areas. Azerbaijan has not addressed all outstanding concerns expressed by the European Commission for Democracy through Law (Venice Commission) as regards its electoral code. The recent parliamentary elections held in November 2010 revealed that some

2. Draft resolution adopted by the committee on 30 May 2011.

of the conditions necessary for genuinely competitive elections were still lacking. In the Russian Federation, a number of amendments to the electoral code were adopted in 2009-2010. However, limited political pluralism and a restrictive political environment remain serious matters of concern and a number of issues, such as restrictions on party registrations or the high threshold, still need to be addressed. The inconsistencies in the legal framework for elections in Ukraine, and its manipulation by all contestants, underscore the need for a unified election code, as has been repeatedly recommended by the Assembly. In "the former Yugoslav Republic of Macedonia", the electoral code was amended in April 2011, with all opposition parties boycotting the vote on the amendments, only two months before the elections foreseen for June 2011. Electoral legislation must be further improved in Moldova, in particular as regards the threshold for party lists and the accuracy of the voters' lists.

11. Shortcomings in the electoral process have as an immediate consequence weak presence or even absence of any real opposition in the parliament, and, as a result, the lack of parliamentary dialogue with the opposition. Regrettably, in a number of countries under monitoring procedure, parliamentary representation is monopolised by a limited number of political forces. Furthermore, the absence of a parliamentary opposition is often accompanied by a restrictive climate for the activities of the extra-parliamentary opposition, including violations of basic freedoms, such as freedom of assembly, freedom of expression or free press.

12. In Armenia, Azerbaijan and the Russian Federation, some important opposition forces remain outside parliament, and no political dialogue with extra-parliamentary opposition has been initiated. In Georgia, efforts made by the authorities have resulted in the establishment of a dialogue between the government and a significant part of the opposition. In Albania, the ruling party and the opposition's inability to co-operate, following the parliamentary elections of June 2009, triggered an ongoing crisis and led to the tragic events of January 2011. In Bosnia and Herzegovina, the inability of the main political parties to reach a consensus triggered a serious political crisis, with no government formed at state level since the October 2010 elections. In Moldova, the same inability has led to a political and institutional deadlock over the election by parliament of the President of the country.

13. On the other hand, the abuse by opposition parties of boycott strategies, for example in Albania, or their refusal to participate in elections, does not foster the democratic process.

14. The inability of some parliaments to serve as a platform for political dialogue is directly linked to another persisting concern in some countries under a monitoring procedure, namely constitutional problems which are often at the same time the origin and the result of the lack of the representativity of elected bodies. The main symptoms of these problems are the weakness of parliament vis-à-vis executive authorities, the lack of independence of the judiciary and, more generally, an unsatisfactory system of checks and balances.

15. Parliamentary oversight over the activities of the executive and the strengthening of the capacity of parliament are still needed in Armenia, Azerbaijan, Moldova, Montenegro, the Russian Federation, Serbia and Ukraine.

16. As regards the honouring of statutory obligations by the countries which are not subject to the monitoring procedure *stricto sensu,* the Assembly refers to the findings of relevant (selected) Council of Europe monitoring mechanisms. Regrettably, despite repeated calls, at the end of the second cycle of periodic reports, a number of important treaties have not been signed or ratified by the countries from this group. As a result, they are not subject to any monitoring mechanisms in some core areas.

17. Furthermore, in certain countries from this group, the monitoring mechanisms of the core conventions have given rise to some specific concerns. For example, as regards the effective implementation of judgments of the European Court of Human Rights, worrying delays have arisen in Greece, Italy, Poland and Romania. In some cases, they reveal major structural problems which lead to repetitive violations of the European Convention on Human Rights.

18. The Assembly consequently urges:

18.1. with respect to elections and political pluralism:

18.1.1. the Parliament of Albania to introduce an improved legislative framework for the electoral process and enhance the capabilities of the electoral administration as regards the electoral register, for the regulation of media coverage and funding of campaigns, the rules of transparency relating to media ownership, the composition of electoral commissions and lists of candidates;

18.1.2. the Parliament of Armenia to pursue the process aimed at the implementation of comprehensive electoral reform, with a view to ensuring fair and equal conditions for all candidates and increasing public confidence in the electoral process, including the appeals and complaints procedure, in time for the May 2012 elections;

18.1.3. the Parliament of Azerbaijan to revise the electoral code as amended in 2010, with a view to addressing the outstanding recommendations from the Venice Commission and the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR), in particular those relating to the composition of the election commissions, candidate eligibility and the complaints and appeals process;

18.1.4. the Parliament of Bosnia and Herzegovina to revise the Constitution and electoral legislation with a view to eliminating ethnicity-based limitations on the right to stand for office in order to comply with the standards of the European Convention on Human Rights;

18.1.5. the Parliament of Georgia to pursue its efforts to introduce a new election code based on a consensus among the different political forces in time for the next parliamentary elections;

18.1.6. the Parliament of Moldova to further improve its electoral legislation with regard to the reallocation of seats in parliament based on the outcome of elections, and the improvement of accuracy of voter registers;

18.1.7. the Parliament of Montenegro to pursue its work with a view to harmonising the legislation governing parliamentary elections with the new Constitution;

18.1.8. the Parliament of the Russian Federation to address outstanding concerns with regard to the electoral legislation including the elimination of restrictive provisions for party and candidate registration, and to further lower the threshold to enter parliament;

18.1.9. the Parliament of Ukraine to adopt, without further delay, a unified election code in accordance with the political commitment undertaken by the authorities, and the President to enact it;

18.2. with respect to parliamentary co-operation with the opposition:

18.2.1. the main opposition party in Albania (Socialist Party) to terminate its boycott of the work of the parliament and enter into a constructive political dialogue with other political forces;

18.2.2. the Armenian and Georgian authorities and the respective opposition forces to pursue political dialogue with the opposition;

18.2.3. the Azerbaijani and Russian authorities to establish a genuine dialogue with the opposition, including extra-parliamentary opposition;

18.2.4. the political forces of Bosnia and Herzegovina and Moldova to engage in a constructive dialogue with a view to overcoming the political and institutional crises in both countries;

18.3. with respect to the constitutional framework:

18.3.1. the Parliaments of Azerbaijan, the Russian Federation and Ukraine to review their constitution with a view to strengthening the role of parliamentary oversight over the activities of the executive;

18.3.2. the Parliaments of Armenia and Georgia to pursue their efforts with a view to carrying out constitutional changes;

18.3.3. while recalling the special responsibility of the international community and notably of the High Representative, the Parliament of Bosnia and Herzegovina to pursue its efforts with a view to carrying out constitutional changes;

18.4. with respect to the capacities of the parliament:

18.4.1. the Parliaments of Moldova, Montenegro and Serbia to increase their resources and strengthen their administrative capacities;

18.5. with respect to the honouring of obligations by the states which are not subject to the monitoring procedure *stricto sensu*:

18.5.1. Andorra, Belgium, Estonia, Greece, Ireland, Latvia, Lithuania, Portugal and San Marino to sign and ratify, and France, Italy, Iceland and Malta to ratify the European Charter for Regional or Minority Languages (ETS No. 148);

18.5.2. Andorra and France to sign and ratify, and Belgium, Greece, Iceland and Luxembourg to ratify the Framework Convention for the Protection of National Minorities (ETS No. 157);

18.5.3. the Czech Republic and Liechtenstein to sign and ratify, and Estonia, Finland, Germany, Greece, Hungary, Iceland, Ireland, Lithuania and Switzerland to ratify the Convention on Action against Trafficking in Human Beings (CETS No. 197);

18.5.4. Denmark, France, Lithuania, Malta, Poland, Sweden, Switzerland and the United Kingdom to sign and ratify, and Austria, Belgium, the Czech Republic, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Norway, Portugal, the Slovak Republic and Slovenia to ratify Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 177) concerning the fight against discrimination;

18.5.5. Switzerland to ratify Protocol No. 1 to the Convention for the Protection of Human Right and Fundamental Freedoms (ETS No. 9) adding the right to peaceful enjoyment of property, the right to education and the right to free elections by secret ballot to fundamental rights protected by the Convention;

18.5.6. Liechtenstein and Switzerland to sign and ratify, and Austria, the Czech Republic, Denmark, Germany, Greece, Iceland, Latvia, Luxembourg, Poland, San Marino, Spain and the United Kingdom to ratify the European Social Charter (revised) (ETS No. 163);

18.5.7. Andorra, Estonia, Germany, Iceland, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Poland, Romania, San Marino, Spain, Switzerland, and the United Kingdom to sign and ratify, and Austria, the Czech Republic, Denmark, Hungary, the Slovak Republic and Slovenia to ratify the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (ETS No. 158);

18.5.8. Liechtenstein, Portugal, San Marino and Switzerland to sign and ratify, and Andorra, Denmark, Germany, Iceland, Ireland, Italy, and Luxembourg to ratify the Civil Law Convention on Corruption (ETS No. 174);

18.5.9. Austria, Germany, Italy, Liechtenstein and San Marino to ratify the Criminal Law Convention on Corruption (ETS No. 173);

18.5.10. Andorra, the Czech Republic, Denmark, Estonia, Germany, Ireland, Liechtenstein, Lithuania, Norway and Switzerland to sign and ratify, and Austria, Finland, France, Iceland, Italy, and Sweden to ratify the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198);

18.5.11. the national Parliaments of Romania, Greece, Italy and Poland to promote the progress in the implementation of judgments of the European Court of Human Rights, and to initiate legislative changes aimed at eliminating structural problems leading to repetitive violations of the European Convention on Human Rights;

18.5.12. the national parliaments of all the member states not subject to the monitoring procedure *strictosensu* to use periodic reports as the basis for a debate on their country's state of honouring of obligations as members of the Council of Europe and to promote compliance with recommendations made by specific Council of Europe monitoring bodies.

19. The Assembly stresses the importance it attaches to the full independence of rapporteurs on monitoring of obligations and commitments in accomplishing their work and calls on the authorities of all countries concerned to refrain from any pressure to influence their judgment.

20. The Assembly reiterates its dedication to gender equality as one of the preconditions for developing democracies, and encourages the rapporteurs to take this aspect into account in a more comprehensive way in the countries under monitoring procedure.

21. The Assembly commends the remarkable work carried out by the Council of Europe monitoring mechanisms, and the *acquis* they have established over the years.

22. The Assembly resolves to pursue a more general reflection on ways to enhance the efficiency and the impact of the Assembly monitoring procedures with regard to all Council of Europe member states.

B. Explanatory memorandum by Mr Marty, rapporteur

1. Introduction

1. The Monitoring Committee is the only Assembly committee which has a statutory obligation to submit an annual report on its activities. Since 2007, for four consecutive years, the progress report has constituted the committee's contribution to the annual Assembly debates on "the state of democracy in Europe" and "the state of human rights in Europe" usually held in June. This year, however, in view of the forthcoming 15th anniversary of the establishment of the committee, and in the context of the ongoing debate on the reform of the Assembly, I decided to change this formula and to use our annual exercise for launching a more general reflection on the achievements and perspectives of the Assembly's monitoring procedure.

2. My intention is, firstly, to give an account of the committee's activities since the last progress report which I presented in June 2010 (chapter 2). Secondly, I would like to reflect on more general considerations about the achievements and concerns of the parliamentary monitoring procedure over the last fifteen years with regard to all countries which have been covered by the monitoring procedure or the post-monitoring dialogue; I also intend to draw some conclusions in the light of the completion of the second cycle of reporting upon countries which are not subject to a monitoring procedure or a post-monitoring dialogue (chapter 3). Finally, I would like to elaborate on the challenges facing us in the future, and possible ways to address them, thus improving efficiency of the Assembly monitoring (chapter 4).

3. In preparing this report, in accordance with established practice, I have limited myself to references to texts adopted by the Assembly, reports or other public documents prepared by our committee's co-rapporteurs who follow the situation in each specific country. I have also used the reports drawn up by the ad hoc committees of the Bureau of the Assembly on election observation in these countries since this exercise is closely linked to the work carried out by our committee. I have not engaged myself in any analysis or conclusions beyond what has been proposed by the co-rapporteurs concerned or the Assembly observer delegations. In some cases, I also make reference to the documents of the European Commission for Democracy through Law (Venice Commission) which have been used by committee co-rapporteurs in the preparation of their fact-finding visits.

4. In the draft resolution, I have tried not only to address the recurrent issues raised in countries under monitoring and in countries engaged in a post-monitoring dialogue, but also, on the basis of past experience, to identify possible ways to render the monitoring procedure more effective, and to ensure better compliance of all member states with their obligations and commitments.

5. At the same time, and in accordance with the practice established since 2006, periodic reports on the third (and final) group of 11 member states among those member states which are not subject to a monitoring procedure or involved in a post-monitoring dialogue have been prepared and are appended in the addendum to this report. The following states are included this year: Norway, Poland, Portugal, Romania, San Marino, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom. As in the previous two years, they are based on the country-by-country assessments made by the Commissioner for Human Rights and other Council of Europe monitoring bodies and human rights institutions. The draft resolution contains conclusions drawn from these periodic reports.

6. In order to give a better overview of all member states' compliance with their obligations, I have also appended a chart of ratifications and signatures of the main Council of Europe conventions with a monitoring mechanism.

2. Overview of the committee's activities

2.1. Latest evolution in the monitoring procedure

7. The reporting period was marked by the changes in the monitoring procedure, reflected in the amendments to Resolutions 1115 (1997) on the setting up of the Monitoring Committee, and 1431 (2005) on the specific terms of reference of the Monitoring Committee, which were adopted by the Standing Committee on 12 March 2010.[3] The initiative came from the committee itself, and the draft text proposed on its behalf by Mr Pedro Agramunt was accompanied by an explanatory memorandum which gave exhaustive reasons justifying the proposed changes.[4]

3. See Resolution 1710 (2010).

8. The modifications introduced new rules with regard to the term of office of co-rapporteurs of the Monitoring Committee, in particular by reducing to five years the duration of the mandate of co-rapporteurs in respect of countries under monitoring, and by establishing new criteria for the appointment of rapporteurs on post-monitoring dialogue.

9. As a direct consequence of these changes, when the new rules, including transitional measures, entered into force in June and September 2010, the committee was obliged to proceed with the appointment of seven new co-rapporteurs on monitoring, and four new rapporteurs on post-monitoring dialogue. Given the specific rules governing the appointment procedure in this committee, and in particular the involvement of political groups, the whole process took a lot of time and thus impacted on the continuity of the monitoring procedure in respect of a certain number of countries. This explains the relatively small number of reports presented to the Assembly by the committee during the reporting period.

10. On the positive side, it should be noted that, following recent appointments, women constitute now approximately 30% of the total number of rapporteurs in the Monitoring Committee, in accordance with the Assembly's policy of respect for gender equality. This may serve as a good example for other parliamentary bodies, both in the Assembly and in national parliaments.

11. On 20 November 2009, the Assembly also adopted Resolution 1698 (2009) which amended various provisions of its Rules of Procedure. As a result of these amendments "[n]ot more than two members of a national delegation from a state under monitoring procedure or involved in a post-monitoring dialogue may sit on the Monitoring Committee". This provision came into force on 25 January 2010 and had a considerable impact on the membership of the committee.

2.2. Overview of the country-specific monitoring over the reporting period

12. During the reporting period, 10 countries[5] remained under monitoring procedure and four[6] were engaged in a post-monitoring dialogue. Since June 2010, the committee has produced a full monitoring report on Georgia and assessments of the functioning of democratic institutions in Azerbaijan and Ukraine. The respective rapporteurs carried out fact-finding visits to Armenia, Azerbaijan, Georgia, Moldova, Monaco, Montenegro, the Russian Federation, Serbia, Turkey and Ukraine. All visits were followed by information notes on rapporteurs' findings submitted to the committee for discussion; all the notes were declassified.

13. A political stalemate prevailed in **Albania** throughout the whole reporting period. Since the last parliamentary elections held in June 2009, the committee has deplored the absence of parliamentary dialogue between the ruling coalition and the opposition, and recourse to boycotts.

14. The events of 21 January 2011, when a peaceful demonstration organised by the opposition degenerated into violence during which three people lost their lives were particularly worrying. The co-rapporteurs expressed their concern in a statement issued following the events.

15. The developments surrounding the local elections held on 8 May 2011 highlighted the fragile nature of democracy and the ongoing polarisation between the ruling majority and the opposition. The co-rapporteurs intend to visit the country soon after the result of the elections has been announced.

16. The co-rapporteurs on **Armenia** visited the country in March 2011. They noted with satisfaction that the authorities had announced their intention to introduce a comprehensive reform package focused on the judiciary, police and electoral code. They called for these initiatives now to be translated into action and emphasised that legislative changes alone are not sufficient and should be accompanied by policies aimed at changing existing practice and mentalities. The committee had previously organised a hearing on the reform project with the participation of the Armenian opposition in October 2010.

17. In the light of the upcoming parliamentary elections foreseen for May 2012, electoral reform is a key element for the further democratic development of Armenia. It is therefore of utmost importance that a new electoral code be a result of political dialogue and consensus between the different electoral stakeholders. For that reason, in November 2010, the committee decided to ask the Venice Commission for an opinion on the alternative electoral code prepared by the opposition, in addition to the draft prepared by the authorities, on which the Venice Commission is also preparing an opinion. Thus both versions will benefit from its expertise, and they have already been tabled for discussion in the Armenian Parliament.

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4. See Doc. 12143.
5. Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Moldova, Montenegro, the Russian Federation, Serbia and Ukraine.
6. Bulgaria, Monaco, "the former Yugoslav Republic of Macedonia" and Turkey.

18. The ongoing detention of persons relating to the events of March 2008, as well as the lack of a proper inquiry, including command responsibility, into the causes of the 10 casualties that occurred on that occasion, remains an issue of serious concern for the committee.

19. Finally, the recent developments in the media environment, in particular with regard to the tender for broadcasting licenses, in which the bid of A1+ was once again rejected, have given rise to some concern. The committee organised an exchange of views on the human rights situation in Armenia with the participation of the Council of Europe Commissioner for Human Rights in April 2011.

20. The reference period was particularly important for **Azerbaijan,** which held its parliamentary elections on 7 November 2010. Resolution 1750 (2010) on the functioning of democratic institutions in Azerbaijan stressed the importance attached by the Assembly to the establishment of the conditions which would enable these elections to comply fully with European standards and be considered as free and fair.

21. A major concern with regard to the democratic process, identified by the committee, is the application in practice of the constitutionally guaranteed principle of the separation of powers, as well as a system of checks and balances which is a result of some systemic shortcomings such as the lack of competitiveness and genuine political pluralism. There is a clear need to strengthen parliamentary control over the executive, in particular taking into account that Azerbaijan is a state with a strong presidential system.

22. Unfortunately, a number of conditions necessary for a meaningful and competitive election were lacking, including such shortcomings as a deficient candidate registration process, a restrictive political environment, administrative obstacles to mounting an effective campaign, unbalanced and biased media coverage, misuse of administrative resources, composition of election commissions and alleged irregularities on voting day. As a result, the main opposition parties won only one out of 125 seats in the Parliament.

23. During their fact-finding visit to the country in January 2011, the co-rapporteurs noted some outstanding concerns with regard to human rights and fundamental freedoms, in particular concerning freedom of expression and freedom of assembly. The situation of an imprisoned journalist, Mr Eynulla Fatullayev, who remains in prison despite the judgment of the European Court of Human Rights, is particularly worrying.

24. On 3 October 2010, presidential, parliamentary and cantonal elections (both at state and Entity level) were held in **Bosnia and Herzegovina**. Regrettably, the judgment of the European Court of Human Rights in the case of *Sejdic and Finci v. Bosnia and Herzegovina* had not been executed, and the legislation had not been amended before the elections. Otherwise, the elections, which were observed by the ad hoc committee of the Bureau of the Assembly, were considered as free and fair.

25. The ongoing political stalemate in the country following the elections, the inability to establish a government, and the lack of a functioning parliament at state level has been a matter of concern for the committee during a major part of the reporting period.

26. In November 2010, the committee organised a hearing with the participation of the entire parliamentary delegation of Bosnia and Herzegovina. In April 2011, the co-rapporteurs expressed their concern, in a public statement, at being unable to perform their task under the mandate entrusted to them by the Monitoring Committee, taking into account that they have no interlocutors.

27. With regard to **Georgia**,the committee considered that the Georgian authorities have continued to make significant progress in honouring their obligations and remaining commitments to the Council of Europe, despite the impact and the consequences of the war with Russia in 2008.

28. In particular, the adoption of constitutional amendments on 15 October 2010, which, *inter alia*, better guarantee the independence of the judiciary, substantially strengthen the role and powers of the parliament and provide for a better and more comprehensive system of checks and balances between the different branches of power, has largely contributed to the improvement of the democratic process in the country. The co-rapporteurs visited the country in March and July 2010.

29. In Resolution 1801 (2011), the Assembly points out that the upcoming presidential and parliamentary elections will be the litmus test for the consolidation of a mature, more inclusive and robust democratic system and strongly recommends the adoption of an entirely new election code that addresses the shortcomings noted by, *inter alia*, the European Commission for Democracy through Law (Venice Commission) and the Assembly, in particular with regard to the equality of the vote, the delimitation of electoral districts and the abolition of the prohibition of individual candidacies.

30. While welcoming the effort of the Georgian authorities with regard to the reform of the justice system, the Assembly expressed its concern about the problems of the administration of justice that could endanger the principles of the equal application of the law and the right to a fair trial, as enshrined in Article 6 of the European Convention on Human Rights. The Assembly called upon the Georgian authorities to address these concerns as a matter of priority, as these problems, if left unaddressed, could undermine the considerable progress made in the field of judicial reform and of the strengthening of the independence of the judiciary.

31. During the entire reference period, the situation in **Moldova** was marked by the political deadlock resulting from the Parliament's inability to elect the President of the Republic. Further to the two parliamentary elections in April and July 2009, followed by the dissolution of the Parliament as a result of its failure to elect a President, the governing Alliance for European Integration organised, on 5 September 2010, a referendum on its proposal to introduce direct presidential elections nationwide. The referendum failed due to an inadequate voter turnout (30% instead of the 33% required). The next early parliamentary elections were held on 28 November 2010.

32. The Monitoring Committee closely followed the situation in the country and held several exchange of views with the members of the Moldovan parliamentary delegation. The co-rapporteurs carried out a fact-finding visit in March 2011. They stressed that the democratic process is on the right track and the authorities are committed, in the context of Moldova's integration in Europe, to adopt the reforms that are still necessary to achieve the European standards as regards the respect of democracy, rule of law and human rights.

33. After the adoption of Resolution 1724 (2010) on the honouring of obligations and commitments by **Montenegro**, the co-rapporteurs carried out a fact-finding visit to Podgorica from 31 May to 2 June 2011 to identify progress made and the remaining issues to be tackled.

34. The monitoring procedure with respect to **the Russian Federation**,overshadowed by the war between Georgia and Russia and its consequences, has been taken over by the new co-rapporteurs appointed in January 2010. They carried out three fact-finding visits (in March and July 2010 and in January 2011), and presented two information notes.

35. A number of concerns have been identified following the visit. Russia has still not ratified a number of important Council of Europe instruments such as Protocol No. 6 to the European Convention on Human Rights or the European Charter for Regional or Minority Languages. Some legislation, including the law on federal security services, the law on police, or the law on fighting extremist activities, needs to be brought in line with European principles and standards. Reform of the judiciary has to be followed through, and implementation of basic freedoms, in particular freedom of expression and of assembly, must be ensured.

36. The above-mentioned concerns and some other outstanding commitments are the subject of discussions between the co-rapporteurs and the authorities in the framework of a draft roadmap, which will be submitted to the Assembly along with a monitoring report in early 2012.

37. Steady progress in the country's fulfilment of obligations and commitments has been noted by the co-rapporteurs on **Serbia** following their visit to the country, in December 2010. There had been some positive developments in terms of Serbia's regional co-operation, co-operation with the International Criminal Court for the former Yugoslavia and the setting up of regulatory bodies and the political will to introduce reforms. A number of problems still remain, however, with regard to reform of the judiciary, the election of members of the State Prosecutorial Council and the High Judicial Council, the election of judges, party-administered mandates, blank resignations, freedom of expression and the fight against corruption.

38. The country's integration in the European Union creates a political momentum which should be used to speed up the process. Serbia applied for a candidate status to open negotiations with the EU, which requires fulfilling a number of conditions, including in the fields of rule of law, democracy and human rights. In January 2011, the committee organised an exchange of views with the participation of a representative of the European Commission.

39. In April 2011, the committee discussed a draft roadmap for the implementation of the remaining obligations and commitments elaborated by the Serbian delegation to the Assembly in co-operation with the relevant state bodies, in accordance with Resolution 1661 (2009). The draft roadmap will be further discussed by the co-rapporteurs during their next fact-finding visit to be organised in 2012.

40. The reporting period was characterised by an important increase in legislative activity and political stability in **Ukraine** following a shift of power which resulted from the presidential election in January/February 2010. In Resolution 1755 (2010), the Assembly welcomed this relative stability but expressed its concern about its fragile nature, as the underlying systemic causes of political instability that plagued the country in

recent years have not yet been addressed. Moreover, it cautioned that stability and consolidation of powers should not lead to the monopolisation of power by one political force, as that would undermine the democratic development of the country.

41. As a result of the decision of the Constitutional Court of 30 September 2010, abrogating the constitutional amendments adopted in 2004, the 1996 Constitution re-entered into force. This development, however, did not remove the obstacles to fulfilling the country's commitments to the Council of Europe, as mentioned in several Assembly resolutions, but instead created a number of serious legal uncertainties. The committee therefore requested an opinion of the Venice Commission on the constitutional situation in Ukraine and the measures to be implemented to bring the constitutional framework into line with European standards and norms. In addition, a hearing was organised on this subject with the participation of Professor Kaarlo Tuori, member of the Venice Commission.

42. The co-rapporteurs visited the country in June and September 2010, as well as in April 2011. They stressed the need for a comprehensive constitutional reform and they commended the authorities' decision to set up a Constitutional Assembly to guide the constitutional process. They also underscored the need for the introduction of a new unified election code and new election system based on a wide political consensus involving opposition political forces in the country.

2.3. Countries engaged in a post-monitoring dialogue

43. Following the adoption of Resolution 1730 (2010) on post-monitoring dialogue with **Bulgaria**, a new co-rapporteur was appointed. A fact-finding visit is to be organised by the end of 2011.

44. Some progress has been made in **Monaco** since the closure of the monitoring procedure in 2009, and the start of the post-monitoring dialogue, in particular in the field of justice and the fight against money laundering. A law on the statute of judges was prepared, and the consultations that have taken place in this connection with members of the judiciary and the Director of Judicial Services are to be welcomed. Also worthy of mention is the setting up of a judges' trade union. A law regulating the funding of election campaigns is being drafted. It should set a limit on campaign spending and provide for a larger share of expenses to be reimbursed out of the state budget.

45. However, the rapporteur who visited the country in February 2011 stressed that there is a continuing need for reforms in many fields, and none of the recommendations formulated by the Assembly in 2009 have yet been met. In particular, a law on the functioning of the National Council and parliamentary rules of procedure have not been adopted; the ratification of a number of Council of Europe legal instruments has not been carried out, the reform of the Criminal Code has not been introduced, and the constitutional right of the National Council to give its agreement on the ratification of certain international instruments is not observed.

46. A new rapporteur on **"the former Yugoslav Republic of Macedonia"** was appointed in 2011. He will carry out a fact-finding visit in 2011 after the organisation of the early parliamentary elections of 5 June 2011.

47. Clear positive trends and real progress in terms of democratic process have been observed in **Turkey** since the closure of the monitoring procedure in 2004. Its declared commitment to membership of the European Union goes along with the continuous pursuit of democratic reforms in line with European standards.

48. The referendum on constitutional reform of 12 September 2010, initiated by the government, resulted in a 58% vote in favour. Even if the referendum did not fully comply with the relevant recommendations of the Venice Commission, insofar as several amendments had been put to a vote which required a single response, its outcome nevertheless constituted a step forward in the democratic process in the country, and it has introduced democratic measures in a number of areas such as the limitation of the jurisdiction of military courts.

49. However, as noted by the rapporteur during her visit in January 2011, significant problems in some areas still remain. In particular, the length of pre-trial detention and of proceedings, the functioning of the judicial system, freedom of expression, execution of judgments of the European Court of Human Rights and a number of questions related to national minorities and the use of language continue to raise concern.

50. The rapporteur regretted that the threshold of 10% of the votes cast, imposed on political parties as a condition to enter the Parliament, has not been decreased despite numerous recommendations of the Assembly and will still be in place for the next parliamentary elections to be held on 12 June 2011.

2.4. Other issues concerning the fulfilment of obligations and commitments

51. Furthermore, the committee continued its work on the consequences of the war between Georgia and Russia. Following the deadlock which took place in April 2010 – the inability of the rapporteurs to reach agreement on a draft text to be proposed to the Assembly and the lack of consensus on the manner in which the committee should proceed with its work on this file – it was decided to ask the Chair to explore possible ways in which the committee could continue its work on this important issue in a constructive manner. For this purpose, the chairperson carried out a fact-finding visit to Georgia and Russia in December 2010.

52. Consultations have been organised with both parties concerned, as well as with the relevant co-rapporteurs, and a whole day hearing was held aimed at ascertaining the current situation, including the situation on the ground and the current action being taken by the various bodies involved, with the participation of, *inter alia*,the President of the Assembly, the Secretary General of the Council of Europe, the European Union Special Representative for the crisis in Georgia, the United Nations representative in support of the Geneva process, the Head of the European Union Monitoring Mission in Georgia, the European Union Special Representative for the South Caucasus and the former Head of the international fact-finding mission on the conflict in Georgia. As a result, the committee agreed on the Chair's proposal to mandate the respective co-rapporteurs for Georgia and Russia to follow the file in the framework of the ongoing monitoring procedures for both countries; to present, under the responsibility and co-ordination of the Chair and on an annual basis, a joint information note to the committee, in which they will outline the relevant developments with regard to the conflict and their findings with regard to the implementation of Assembly demands as expressed in its resolutions on this subject, and agreed that this information note will be discussed by the committee in a specific sitting in which it will also be updated, *inter alia*, on relevant developments in other international fora.

53. Furthermore, following the tabling of a motion for a resolution on "serious setbacks in the field of the rule of law and human rights inHungary", the committee was seized by the Bureau in March 2011 to prepare a written opinion on the subject in accordance with paragraphs 3 and 4 of the terms of reference of the Monitoring Committee. The committee invited the Chairperson of the Hungarian parliamentary delegation for an exchange of views, and it appointed two co-rapporteurs tasked with the preparation of the opinion.

2.5. Member states which are not under a monitoring procedure or involved in a post-monitoring dialogue

54. Resolution 1515 (2006) imposed on the Monitoring Committee the task of preparing periodic reports on all member states which are not the subject of a monitoring procedure or involved in a post-monitoring dialogue,[7] sub-divided into three groups, on the basis of a country grid indicating for each country the record of signatures and ratifications of the main Council of Europe instruments which provide for a specialised monitoring mechanism and summing up the findings of such mechanisms when applicable.

55. The committee has established the practice of attaching such periodic reports to its annual progress report to the Assembly, with each group of countries reported upon every three years. We have now come to the end of the second full cycle (which means that each country in this category has been reported on twice), which provides us with sufficient information for a more general assessment of the efficiency and usefulness of this exercise. I will try to draw some conclusions on the impact of this exercise in the next chapter. Here I invite the reader to consult the addendum to this report where the countries of the third group are assessed.

3. Some thoughts in the light of the forthcoming 15th anniversary of the Assembly's monitoring procedure

3.1. Overview of the evolution of the Assembly's monitoring procedure and the committee's working methods

56. According to its terms of reference, the Monitoring Committee is responsible for seeking to ensure the fulfilment of the obligations assumed by the member states under the terms of the Council of Europe Statute, the European Convention on Human Rights and all other conventions concluded within the Organisation, as well as the honouring of the specific commitments entered into by the authorities of member states on their accession to the Council of Europe.

7. This group is composed of 33 states.

57. The 15th anniversary of the establishment of the committee, which will take place in January 2012, constitutes an excellent opportunity to take stock of the results achieved and identify strengths and weaknesses of the whole process.

58. The Monitoring Committee was established in January 1997 as a result of a long process of reflection on how best to ensure the respect of commitments and obligations of newly admitted member states. It replaced the mechanism set up in 1993 and 1995 by two decisions of the Assembly: Order No. 488 (1993) (called the "Halonen Order" from the name of the rapporteur) by which the Political Affairs Committee and the Committee on Legal Affairs and Human Rights were seized with the task of reporting to the Bureau at regular six-month intervals on the progress in fulfilling commitments, and Order No. 508 providing for a public Assembly debate and abolishing the distinction between "old" and "new" member states: all member states were made subject to the monitoring procedure.

59. Since its creation, the Monitoring Committee has systematically sought to improve and develop its working methods with a view to increasing its efficiency and impact. In 2000, the mechanism of "post-monitoring dialogue" was introduced, in order to allow the committee to follow the implementation of specific recommendations made in the Assembly resolution closing the monitoring procedure.

60. In 2005, the rules governing the opening or re-opening of the monitoring procedure were amended with a view to strengthening the committee's role in taking the decision and allowing for an Assembly debate in case of diverging opinions between the Monitoring Committee and the Bureau. The new rules ensure that the Bureau cannot block the committee's wish[8] to open or re-open a procedure.

61. In 2002, the committee introduced a new procedure for presenting certain reports on specific questions which allows it to immediately react, if necessary, to worrying developments taking place in the countries under monitoring procedure. These reports, usually focusing on the functioning of democratic institutions or on constitutional reform, do not have to be sent to the national authorities for comments with a deadline of three months and therefore enable more timely reaction to some events or crises. This practice has led to many debates in the Assembly.

62. Since 2006, the committee has prepared periodic reports on all member states not currently the subject of a monitoring procedure or involved in a post-monitoring dialogue,[9] sub-divided into three groups, on the basis of a country grid indicating for each country the state of ratifications or signatures of the main Council of Europe instruments which provide for a specialised monitoring mechanism and summing up the findings of such mechanisms where applicable. These periodic reports are attached to annual progress reports. This practice allows for parliamentary oversight of the monitoring mechanisms of the intergovernmental sector of the Council of Europe.

3.2. Overview of the results of the country-specific monitoring procedure

63. During the almost fifteen years of its existence, the Monitoring Committee has accompanied 20 member states in carrying out their democratic reforms. The monitoring procedures *stricto sensu* were closed in regard to the Czech Republic (1997), Lithuania (1997), Slovakia (1999), Croatia (2000), Latvia (2001), Turkey (2004) and Monaco (2009).[10] The post-monitoring dialogue was concluded with Estonia (in 2000), Romania (2002), Lithuania (2002), Croatia (2003), the Czech Republic (2004), Slovakia (2006) and Latvia (2006). Currently, as already mentioned above, 10 members remain under a monitoring procedure and four are involved in a post-monitoring dialogue.

64. The added value of the Assembly's monitoring process as compared to convention mechanisms within and outside the Council of Europe, remains unquestionable. It benefits from direct relations between the Assembly as a whole and its members, who are at the same time members of national parliaments – both from governing majorities and opposition – and, as a logical consequence, from the influence that the Assembly can exert directly on the legislatures of the countries under monitoring. It is a peer-to-peer monitoring mechanism, and this specific feature offers precious opportunities.

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8. The initiative to amend the rules was the result of the Bureau's decision to block the opening of a monitoring procedure in respect of Liechtenstein as proposed by the committee.
9. That is to say, 33 states.
10. The procedures regarding Estonia and Romania were closed by the Committee on Legal Affairs and Human Rights in 1997, just before the Monitoring Committee was set up.

65. The essential feature of the Assembly's monitoring procedure is its essentially political nature. The process is not limited to the assessment of formal fulfilment of obligations and commitments – adoption of legislation or ratification of international instruments – but it assesses the implementation of the legislation, the political context and process. It takes into account the complexity of different conditions and factors which may influence the situation in the country.

66. In its work, the Assembly has always privileged a political dialogue and non-confrontational approach, as opposed to a sanctions-oriented approach. This is a natural consequence of monitoring being considered a long-term process, based on mutual understanding and co-operation.

67. It is beyond any doubt that the overall assessment of the 15 years of the committee's activities remains positive. It has proved to be a valuable tool in accompanying member states in their transition to democracy, and assisting them in compliance with Council of Europe standards. However, certain difficulties in the committee's work should be noted. The two-year deadline for the presentation of a report for each country under monitoring has not been systematically respected. In the most extreme case, the Russian Federation, six years have elapsed since the last full report was debated in the Assembly.

68. But regarding some other countries, a symptomatic tendency may be observed: more and more often, full monitoring reports are replaced by reports on the functioning of democratic institutions which have been designed as an instrument for quick reaction to unusual political developments or concerns. Regrettably, the political situation in these countries and almost permanent political crises do not allow for a proper overall assessment of the progress, and substantial analysis of the democratic process.

69. From the perspective of fifteen years, we may try to identify certain patterns of the monitoring impact in terms of democratic transition as well as most common obstacles and concerns which persist in some countries hampering the advancement of a democratic process. We should try to evaluate our efficiency and consider possible ways to increase it.

70. It is true that a great number of reports presented by the Monitoring Committee have been received with due attention and led to public debates, often followed by the elaboration of national action plans, reform packages or new legislation. The Assembly's evaluations and rapporteurs' opinions and statements have their place in national debates, are widely used by pro-democratic forces and cannot be ignored in national policymaking.

71. I could quote many examples of concrete influence exerted by the Assembly as a result of its monitoring activities. In many cases, the Assembly has accompanied countries under the monitoring procedure in the elaboration of comprehensive reform packages; sometimes it has put pressure on the authorities in order to revise a concrete law which was not in compliance with European standards, or to implement existing legislation; it has also been instrumental during and following political crises in some countries.

72. In **Albania,** the monitoring mechanism contributed to overcoming a complete boycott of the parliamentary work by the Socialist Party following the parliamentary elections in 2009 as well as to the re-launching of political dialogue – even if no tangible results have been achieved – between the governing Democratic Party and the opposition.

73. In **Armenia,** the monitoring resulted in the elaboration and adoption of a comprehensive constitutional reform in November 2005, in close co-operation with the Venice Commission. In addition, the monitoring procedure has played, and indeed continues to play, a crucial, and widely recognised role in resolving the political crises that erupted after the March 2008 events which contributed, *inter alia*, to the declaration of a general amnesty and the release of a large number of persons arrested for their alleged role in the March 2008 events, as well as to the elaboration of the recently announced reform package focused on the judiciary, police and electoral code.

74. In **Azerbaijan**, the pressure of the Assembly has contributed to the elaboration and adoption of a number of legislative acts in compliance with European standards. Following the Assembly's insistence, Azerbaijan has agreed to co-operate with the Venice Commission throughout the legislative process. In 2006, the intervention of the co-rapporteurs contributed to the re-opening of the independent television Channel ANS following a three-week closure.

75. In **Georgia**, the Assembly has largely contributed to the considerable progress in the democratic transformation following the Rose Revolution in 2004, and, in particular, it assisted the new authorities with the elaboration of a roadmap for the reforms, including deadlines.

76. In **Ukraine**, the monitoring procedure has closely accompanied the democratic reforms in the country and contributed to democratic changes which led to the Orange Revolution in 2004, and during the presidency of Mr Yushenko. The priority given by the new authorities in the wake of the 2010 presidential election to honouring the country's remaining accession commitments as well as to the constructive reaction to the last Assembly resolution on the functioning of democratic institutions in Ukraine,[11] demonstrates the importance attached to the monitoring procedure in the country.

77. For further examples, I invite the reader to consult our monitoring reports on specific countries: each of them takes stock of positive measures (as well as failures) undertaken by the authorities, often as a result of Assembly insistence.

78. Moreover, the Assembly monitoring amplifies the work of intergovernmental or judicial monitoring mechanisms, thus adding political weight and influence to recommendations made by their executive bodies. In this context, the political pressure exerted on the national authorities of countries concerned for a full and speedy execution of the judgments of the European Court of Human Rights is of particular importance. Similarly, findings of the Assembly monitoring are often used by the other Council of Europe monitoring mechanisms in their areas of action.

79. The work of the Monitoring Committee with regard to the consequences of the 2008 war between Georgia and Russia is widely recognised and credited in, *inter alia*, the report of the Independent International Fact-Finding Mission on the Conflict in Georgia (IIFFMCG - CEIIG) and in the context of the judgment of the International Court of Justice in the Application of the International Convention on the Elimination of All Forms of Racial Discrimination (*Georgia v. Russian Federation*).

80. The impact of the Assembly's monitoring procedure may also be illustrated by the use made of its findings and conclusions by the European Commission in its assessment of applicant countries' progress on the way to integration in the European Union. Furthermore, compliance with Council of Europe obligations and commitments is an important element in the assessment of the democratic and human rights record of the European Neighbourhood Policy. The Action Plans for the countries which are members of the Council of Europe systematically include reference to compliance with statutory obligations and commitments.

81. It must be stressed here that membership of the European Union has no influence on the decision concerning the closure of the Assembly monitoring procedure, as is well illustrated by the case of Bulgaria. Similarly, any member of the Council of Europe, irrespective of its membership in the European Union, may be subject to re-opening of the monitoring procedure, as shown by the examples of parliamentary initiatives in respect to the United Kingdom or currently Hungary.

82. On the other hand, a number of serious concerns persisting in certain countries causes a growing feeling of frustration among some members who raise justified questions about the whole exercise. It is sometimes pointed out that, in some countries under monitoring procedure the democratic progress is questionable, and, in some cases, serious setbacks in the field of democracy can even be observed.

83. Indeed, there are a number of states which have remained under the monitoring procedure or post-monitoring dialogue for over fifteen years now,[12] while almost all others have been subject to the monitoring procedure for as long as ten years; and yet in several cases one can hardly envisage the closure of the procedure in the foreseeable future. Equally worrying, in some countries, it is difficult if not impossible to carry out an assessment of the overall progress in the core areas of human rights, democracy and the rule of law, as attention is continuously focused on current political crises which overshadow all other important questions.

84. In this context, I would like to look more closely at some basic principles of democracy, the lack of respect of which in some countries under monitoring procedure raises recurrent concerns.

85. Free and fair elections based on political pluralism and democratic environment constitute a precondition for democracy. Representative democracy is a core principle of a democratic system, and an ultimate requirement for its legitimacy. The committee has often been associated with the exercise of election observation in member states under monitoring: its rapporteurs, as a general rule, participate in the pre-electoral or observation missions to the countries for which they are responsible.[13] The conclusions of these missions are systematically taken into account in the monitoring reports on the countries concerned.[14] The committee is also represented in the Council of Democratic Elections of the Venice Commission.

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11. Resolution 1755 (2010).
12. Albania, Moldova, the Russian Federation, Ukraine, Bulgaria, the "former Yugoslav Republic of Macedonia" and Turkey.

86. In a number of countries under monitoring procedure, serious shortcomings of the electoral process have been repeatedly noted. The concerns relate on the one hand to the deficiencies of electoral laws which do not fully comply with Council of Europe standards, and on the other to an unsatisfactory political environment which hampers the electoral process, and includes insufficient political pluralism, unfair electoral campaigns, shortcomings during the registration of candidates or vote, violation of freedom of expression and assembly, on occasion pre- or post-electoral violence, as well as refusals to recognise the results of the elections and ensuing boycotts of parliament by the opposition.[15]

87. In **Albania**, although the last parliamentary elections of 2009 were considered globally fair and free, the politicisation of the electoral process and infringements found during the campaign, as well as some irregularities noted during the vote, gave rise to the current serious political crisis.

88. Moreover, the legislative framework for the electoral process needs to be revised with a view to enhancing the capabilities of the electoral administration as regards the electoral register, regulation of media coverage and funding of campaigns, the rules of transparency relating to media ownership, the electoral commissions and lists of candidates.

89. In **Armenia**, the lack of public confidence in the electoral process during the 2008 presidential election, aggravated by unequal campaign conditions and problems noted during the vote counting and tabulation, as well as with the handling of election related complaints, triggered off a political crisis which resulted in the tragic events of March 2008.

90. Fortunately, the authorities have now understood that a comprehensive electoral reform with a view to ensuring fair and equal conditions for all candidates and increasing public confidence in the electoral process, including the appeals and complaints procedure, is a necessary condition for the restoration of public confidence. The reforms in this area are particularly important in the light of the upcoming elections foreseen for May 2012.

91. In **Azerbaijan**, both the presidential election of 2008, and the parliamentary elections of 2010 clearly showed that democratic progress is still needed. The result of the former was considered as “the reflection of the will of the country’s electorate” by the Assembly observers but violations were noted during the vote, and in particular, the tabulation of the votes. Regrettably, five political parties did not take part in the election and there was no real competition between the platforms and political ideas.

92. The conduct of the latter was considered overall insufficient to constitute meaningful progress in the democratic development of the country. Main concerns related to a deficient candidate registration process, a restrictive political environment, administrative obstacles to mounting an effective campaign, unbalanced and biased media coverage, misuse of administrative resources, as well as the unbalanced composition of election commissions, alleged irregularities on voting day and an unsatisfactory appeals system.

93. A restrictive political environment, including outside electoral campaigns, with limitations on the freedom of expression, on the freedom of assembly, intimidation and in some cases even persecution of members of the opposition, impedes the establishment of genuine political pluralism and competitiveness.

94. Regrettably, the electoral code, as amended in 2010, did not address outstanding recommendations of the Venice Commission and the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR), in particular those relating to the composition of the election commissions. Furthermore, the Election Code still contains inconsistencies and ambiguities, not least relating to candidate eligibility, as well as to the complaints and appeals process.

95. The composition of Parliament in **Bosnia and Herzegovina** is directly affected by the constitutional ethnicity-based limitations on the right to stand for office. The Assembly has, on several occasions, called on the authorities to remove these limitations in order to bring the electoral legislation and composition of Parliament in compliance with the standards of the European Convention on Human Rights.

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13. According to the revised guidelines for election observation, rapporteurs of the Monitoring Committee cannot chair ad hoc committees on the observation of elections in the countries concerned.

14. In this context, I would like to flag an issue which, in my view, deserves closer consideration by the Assembly. It should be noted that there has recently been some criticism about the way the election observations are conducted by the Assembly. I believe that the whole observation procedure should be thoroughly reviewed with a view to increasing the accountability of the observing delegations, and to establishing a better linkage between the monitoring of the countries concerned and the observation exercise.

15. The Political Affairs Committee is preparing a report on “Measures to improve the democratic character of elections in the Council of Europe member states” (rapporteur: Mr Jean-Charles Gardetto, Monaco, EPP/CD).

96. In late 2009, the European Court of Human Rights adopted its judgment in the case of *Sejdic and Finci v. Bosnia and Herzegovina* which confirmed that the electoral arrangements, as well as the constitutional ethnicity-based limitations on the right to run for elections to the Presidency and the House of Peoples are contrary to the European Convention on Human Rights. Unfortunately, the recent parliamentary elections of 3 October 2010 were held according to this system and resulted in an ongoing political crisis.

97. In the **Russian Federation**, according to the Assembly observers, while the outcome of the parliamentary elections of 2007 and the presidential election in 2008 generally reflected the political will expressed by the Russian voters, significant shortcomings resulted in an election process that undermined political pluralism and did not comply with Council of Europe standards for democratic elections.

98. Despite a number of amendments to the electoral code aimed at its liberalisation and adopted by the Duma in 2009-2010, limited political pluralism and a restrictive political environment remain serious matters of concern. Certain issues such as restrictions on party registration or the excessively high threshold still need to be addressed.

99. A restrictive climate for the activities of the opposition, with limitations on the freedom of expression and on the freedom of assembly, jeopardise the political process as a whole.

100. The forthcoming parliamentary and presidential elections (in December 2011 and March 2012, respectively) will be crucial for the assessment of the democratic credibility of the country.

101. The presidential election which took place in **Ukraine** in 2010 was considered generally in line with Council of Europe standards, notwithstanding attempts by different political forces to manipulate the legal framework for the elections up to the day of voting. However, the inconsistencies in the legal framework for elections in Ukraine, and the manipulation of the legal framework by all contestants, clearly underscore the need for a unified election code, as repeatedly recommended by the Assembly.

102. In **Georgia**, the current electoral code is criticised for being favourable to the ruling party. Therefore, the Assembly welcomed the establishment of a cross-party working group to draft a new election code, which resulted in the legal framework for local elections being changed on a consensual basis. The Assembly urged all political forces in Georgia to pursue the dialogue and agree on the reform of the election code, including the electoral system, well before the next parliamentary elections in the country foreseen for 2012.

103. Electoral legislation has to be further improved in **Moldova**. In particular, the threshold for party lists to access the allocation of seats in Parliament should be reviewed, the accuracy in the voters' lists should be improved and an electronic voter register should be created. The Moldovan authorities have been called upon by the Assembly to promptly adopt a new law governing the election of members of parliament, in order to increase voters' influence on the choice of a specific candidate within a party list.

104. The repeated criticism of elections in some countries raises justified concern; indeed, the correct functioning of democratic institutions is pre-conditioned by the representativity, and, as a consequence, legitimacy of the elected body. The lack of a meaningful electoral process has an immediate consequence in the weak presence or even absence of genuine opposition in the parliament, and, as a result, in no parliamentary co-operation with the opposition.And yet, the efficiency of parliaments is to a great extent a result of their representativity and capacity for serving as a platform for dialogue between different political forces.

105. Regrettably, in a number of countries, parliaments are monopolised by a limited number of political forces. It should be emphasised once again that a strong and active parliamentary opposition is beneficial to democracy. The respect for the rights of opposition, as well as the establishment of a democratic environment in which the opposition can work and flourish, is a necessary feature of a stable democracy. Regrettably, such conditions are still not met in a number of countries where the Assembly has noted violations of basic freedoms, for example freedom of assembly, freedom of expression, or free press.

106. These countries are usually characterised by the existence of an important extra-parliamentary opposition. In such cases, in the interest of the democratic process as a whole, the pursuit of a political dialogue with the extra-parliamentary opposition should be a priority for the authorities and their inclusion in the political decision-making process should be ensured. However, the only long-term solution is the establishment of an electoral framework that allows the participation of a wide array of political forces on equal terms and with no undue restrictions for any contestation.

107. It is a matter of concern that a large part of the opposition in **the Russian Federation** remains outside the Duma and is not involved in the political dialogue. Meaningful progress in this respect requires considerable improvements in the political environment which would allow for opposition forces to be genuinely competitive in the electoral process and for the establishment of a genuine multi-party system.

108. In **Azerbaijan**,following the recent elections, the majority of the opposition remains outside the parliament. Only one seat was won by one of the main opposition parties. It is a matter of fact that the opposition in Azerbaijan is weak and fragmented. The authorities complain that it has no constructive approach and prefers to criticise it rather than to enter into political dialogue.

109. While it may be a matter of debate whether the fragmentation and the lack of constructive approach of the Azerbaijani extra-parliamentary opposition can be explained by the conditions in which it is bound to operate, it is true that any opposition should have not only rights but also responsibilities, and one of the main responsibilities consists in the readiness to look for political solutions through political dialogue. Again, it is in the best interest of all political forces, including those in power, if this political dialogue takes place in the parliament and not outside it.

110. In this context, the recent alleged reports about a repressive climate *vis-à-vis* political forces critical towards the government, in particular with regard to the freedom of assembly and expression, must raise justified concern.

111. In **Armenia**,a significant part of the opposition is not yet represented in parliament. However the relations between the authorities and opposition, and indeed the overall political climate, continue to be poisoned by a number of unresolved issues following the March 2008 events. Recent developments have raised the prospect that these issues might be resolved satisfactorily in the not too distant future, which could herald the start of a more constructive dialogue between the different political forces

112. In **Georgia**,the stand-off between the opposition and ruling party, with the resulting climate of distrust and polarisation, was at the origin of the November 2007 events, and worsened after the presidential election in 2008. However, recently, also as a result of the efforts of the government, a dialogue has started between the authorities and a significant part of the opposition, which has markedly improved the political climate in the country. A litmus test for this co-operation, and indeed for the consolidation of democracy in Georgia, will be the preparations for, and conduct of, the upcoming parliamentary elections in 2012.

113. Following the May 2008 parliamentary elections, 14 opposition members out of 17 took the regrettable decision not to take up their mandates in the newly elected parliament. It has to be emphasised that the authorities announced a number of initiatives to strengthen the parliamentary opposition and to re-start the dialogue that had broken down before the elections. In particular, they adopted changes to the parliamentary rules of procedure that allowed the lowering of the number of MPs to establish a faction.

114. In **Albania**,the inability to co-operate between the ruling party and the opposition, following the parliamentary elections of June 2009, triggered an ongoing political crisis and led to the tragic events of January 2011.

115. The Assembly has repeatedly called on the main opposition party in Albania (Socialist Party) to terminate its boycott of the work of the parliament and enter into a constructive political dialogue with other political forces. It is the responsibility of political leaders to call on the population to demonstrate their support within the democratic institutions and not in the street.

116. The inability of co-operation between different political forces in **Bosnia and Herzegovina** has resulted in a serious political crisis in this country. During the last Assembly part-session in April 2011, the co-rapporteurs urged all political stakeholders to finally act responsibly and not to delay any further government formation at state level.

117. In **Moldova**, relations between the majority and the opposition are extremely polarised. This has led to a political and institutional deadlock over the election by parliament of the President of the country, and, as a consequence, to two consecutive dissolutions of parliament. Regrettably, so far the second anticipated parliamentary elections in November 2010 did not bring about a political compromise which is urgently needed in the country.

118. The inability of parliaments to serve as a platform for political dialogue is directly interlinked with another persisting concern in some countries under monitoring procedure: constitutional problemswhich are often at the same time the origin and the result of the lack of representativity of elected bodies. The main symptoms of these problems are the weakness of parliament vis-à-vis executive authorities, lack of independence of the judiciary, and, more generally, an unsatisfactory system of checks and balances.

119. In a number of countries, the role of parliament as a necessary counterweight to the executive power is not always well established. This weakness may be due to a variety of reasons, including shortcomings in the constitutional framework, lack of representativity of an elected body and the absence or weak presence of genuine opposition, as well as the lack of the necessary structures, staff and legal expertise.

120. The lack of independence of the judiciary is a matter of concern in a number of countries. Some emblematic cases of politicised court decisions are symptoms of more serious democratic deficiencies.

3.3. Conclusions following the end of the second cycle

121. In my attempt to draw some conclusions following the completion of two full cycles of periodic reports on the honouring of statutory obligations by the countries which are not subject to the monitoring procedure *stricto sensu,* I have encountered some methodological difficulties.

122. As said before, the countries are divided into three groups, each of them being evaluated in an annual report. The first cycle started in 2006 with 11 countries and was completed in 2008 when all 33 countries had been evaluated; the second one started in 2009 again with 11 countries, and ends in 2011. This means that the only thing we can compare is the progress made by specific countries over three years, but this is not necessarily up to date, and the information concerning some of them (namely those from the first and second groups) will be respectively three or two years old.

123. In my view, however, this does not constitute an obstacle to assessing the usefulness of periodic reports. Indeed, the purpose of this exercise is to evaluate to what extent the countries which are not subject to a monitoring procedure proper, advance in the way of fulfilment of their obligations. My aim is to examine whether there is any tangible progress in terms of following the recommendations formulated by the Council of Europe monitoring mechanisms, or whether these recommendations are ignored. In other words, I intend to ascertain whether there is a clear political will in these countries to comply with the obligations resulting from their membership of the Council of Europe.

124. In its periodic reports, the committee assesses the state of honouring of statutory obligations in three main areas, namely pluralistic democracy, the rule of law and the protection of human rights. As we have no specific rapporteurs on these countries, under each of these headings we can only rely on the findings of relevant selected Council of Europe monitoring mechanisms. This methodology is based on the assumption that the countries concerned have signed and ratified relevant international instruments (which is their statutory obligation) and that they are subject to their specific monitoring mechanisms.

125. Regrettably, despite repeated calls, at the end of the second cycle, we have to note that a number of these international instruments crucial for the evaluation process, have not been signed or ratified by a number of countries subject to this kind of monitoring. As of today, among 33 members concerned, there is not a single country which has signed and ratified all Council of Europe conventions with a monitoring mechanism.

126. In particular, in the area of human rights, the European Charter for Regional or Minority Languages (ETS No. 148) has not been signed by Andorra, Belgium, Bulgaria, Estonia, Greece, Ireland, Latvia, Lithuania, Monaco, Portugal and San Marino. It has been signed but not ratified by France, Iceland, Italy and Malta.

127. Another crucial instrument, namely the Framework Convention for the Protection of National Minorities (ETS No. 157) has not been signed by Andorra, France and Monaco, and signed but not ratified by Belgium, Greece, Iceland and Luxembourg.

128. The Convention on Action against Trafficking in Human Beings (CETS No. 197) has not been signed by the Czech Republic, Liechtenstein and Monaco, and signed but not ratified by Estonia, Finland, Germany, Greece, Hungary, Iceland, Ireland, Lithuania and Switzerland.

129. Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 177) concerning the prohibition of discrimination, has not been signed by Denmark, France, Lithuania, Malta, Monaco, Poland, Sweden, Switzerland and the United Kingdom, and signed but not ratified by Austria, Belgium, the Czech Republic, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Norway, Portugal, the Slovak Republic and Slovenia.

130. Protocol No. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 9) adding new fundamental rights to those protected under the Convention, namely the right to peaceful enjoyment of property, the right to education and the right to free elections by secret ballot has not been ratified by Monaco and Switzerland.

131. The European Social Charter (revised) (ETS No. 163) has not been signed by Liechtenstein and Switzerland, and signed but not ratified by Austria, the Czech Republic, Denmark, Germany, Greece, Iceland, Latvia, Luxembourg, Monaco, Poland, San Marino, Spain and the United Kingdom.

132. The Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (ETS No. 158) has not been signed by Andorra, Estonia, Germany, Iceland, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Poland, Romania, San Marino, Spain, Switzerland and the United Kingdom, and signed but not ratified by Austria, the Czech Republic, Denmark, Hungary, the Slovak Republic and Slovenia.

133. In the field of the rule of law, the Civil Law Convention on Corruption (ETS No. 174) has not been signed by Liechtenstein, Monaco, Portugal, San Marino and Switzerland, and signed but not ratified by Andorra, Denmark, Germany, Iceland, Ireland, Italy and Luxembourg.

134. The Criminal Law Convention on Corruption (ETS No. 173) has been signed but not ratified by Austria, Germany, Italy, Liechtenstein and San Marino.

135. The Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198) has not been signed by Andorra, the Czech Republic, Denmark, Estonia, Germany, Ireland, Liechtenstein, Lithuania, Monaco, Norway and Switzerland, and signed but not ratified by Austria, Finland, France, Iceland, Italy and Sweden.

136. I wish to point out that the signature and ratification of the international instruments listed above has been included in the list of some of the commitments undertaken by the "newer" member states upon their accession to the Council of Europe. And I have to state that, in general, they are much more advanced in fulfilling these commitments than the "older" members for whom the signature and ratification of these conventions also constitutes a statutory obligation.

137. A chart appended to the present report shows the state of signatures and ratifications by each country from the group which are of interest in this chapter. We can see that there are many countries which have not ratified more than three conventions, and some, like Andorra or San Marino, which have not ratified more than five.

138. On the other hand, however, if we compare the numbers of signatures and ratifications for each group of countries in the first and the second cycle, we can note an increase which is a positive development. Over the three years which separate these two evaluations, some countries have made an important effort in honouring their obligations.

139. Keeping in mind the shortcomings of the present methodology which I mentioned above, and by no means claiming to provide an exhaustive analysis, I would like to draw attention to some particularly worrying concerns revealed by the monitoring mechanisms of the core conventions with regard to the countries not subject to our parliamentary monitoring procedure *stricto sensu.*

140. Effective implementation of judgments of the European Court of Human Rights remains a concern in some of the states which are not covered by the monitoring procedure. In particular, extremely worrying delays[16] have arisen in Greece, Italy, Poland and Romania. In some cases they reveal major structural problems which lead to repetitive violations of the European Convention on Human Rights.[17]

141. The problem of excessive length of judicial proceedings remains systemic in Italy and Greece. Unlawful or overlong detention on remand must be eliminated in Poland. Furthermore, the United Kingdom must put an end to the practice of delaying full implementation of Court judgments with respect to politically sensitive issues, such as prisoners' voting rights.

142. On 15 March 2011, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) issued a public statement concerning Greece as an exceptional measure in reaction to the persistent lack of action since 1997 to improve the situation in the light of the Committee's recommendations, as regards the detention of irregular migrants and the state of the prison system. The CPT has carried out 10 visits to Greece since 1993, and recommendations in this field, repeatedly put forward, have not been followed.

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16. Over 100 non-executed judgments were pending before the Committee of Ministers (which according to the Convention supervises the implementation) as at 1 April 2011.
17. See Doc. 12455 on the implementation of judgments of the European Court of Human Rights (rapporteur: Mr Christos Pourgourides, Cyprus, EPP/CD).

143. The European Commission against Racism and Intolerance (ECRI) has drawn attention, on several occasions, to the particular concerns persisting in some countries which are not subject to the parliamentary monitoring procedure, despite repeated calls on the authorities to eliminate them.

144. For example in its report on France, published in 2010, ECRI pointed out that many recommendations made five years earlier with regard to Roma migrants' human rights as well as social rights to housing, health and education had not been followed. The report stressed that government policies or legislative proposals that were grounded in discrimination on ethnic grounds were impermissible and ran counter to the legal obligations binding on all Council of Europe member states.

145. In a statement published in 2008, ECRI expressed its deep concern about the situation of Roma and many immigrants in Italy who had been the subject of violent racist attacks. ECRI particularly regretted the persistent racist and xenophobic discourse by some Italian politicians, even at the highest level and in the media. It also noted that the recommendations in this regard, contained in its report on Italy published in 2006, had not been fully implemented.

146. It goes without saying that the above list of concerns is purely illustrative and far from exhaustive; its only purpose is to demonstrate that respect for obligations remains a problem also in the countries which have never been covered by the Assembly monitoring procedure *stricto sensu.*

147. It also illustrates the relatively low importance attached to these questions among the members: indeed, the addenda to the progress reports are rarely if ever discussed in the committee or in the Assembly, there is no concrete follow up to the concerns raised therein. Perhaps one of the reasons lies in the format of these periodic reports, which, indeed, are quite difficult to read and interpret.

148. This brings me to the question of a possible modification of this periodic exercise: should we appoint rapporteurs, responsible for analysis, conclusions and follow-up to these periodic reports? Should we concentrate on the countries where serious shortcomings have been detected by other monitoring mechanisms? Should we systematically track these persistent shortcomings, and open a parliamentary dialogue on possible measures to be taken with the countries concerned? Should we present "information reports" on specific countries to the committee with a view to possible further action? This would of course require changes to the modus operandi of the committee.

149. I put all these questions to the committee for further consideration and discussion which will perhaps result in some better and more efficient solutions.

4. Options for the future

150. In view of the forthcoming 15th anniversary of the parliamentary monitoring procedure, and in the hope of provoking a genuine debate with regard to concerns outlined in the previous chapter, I would like to raise a number of questions for further reflection.

151. While the overall positive assessment of the Assembly monitoring achievements since the establishment of the system until now remains unquestionable, the future of this exercise should be thoroughly examined.

152. We are at present confronted with a situation in which a number of countries which have been under a monitoring procedure for many years do not seem to be making any significant progress in terms of the fulfilment of their obligations and commitments. This is sometimes a cause of justified frustration among other member states anxious about the credibility of our Organisation, but also in the countries concerned.

153. The problem is amplified by the fact that ongoing political crises in these countries and the need for quick responses, make it difficult if not impossible for the Assembly to proceed with an overall assessment of progress as regards the fulfilment of their obligations and commitments.

154. Furthermore, given the interlinkage between the different pillars of democracy, the shortcomings in one area are usually aggravated by the problems in other core areas of democracy. Thus, flawed elections often result in a deficient checks and balances system, and the latter is frequently at the origin of human rights abuses, and so on. In an overall deficient democratic system, focus on just one specific aspect of democracy may be misleading.

155. Similarly, as regards our periodic reports on member states which are not subject to a monitoring procedure, in the light of the conclusions after the completion of two full cycles, we seem to have reached a point where further progress, though needed, is questionable.

156. In this situation, we have to face inevitable questions: should we set any limits for the duration of the monitoring procedure? Should we modify our strategy and identify new measures in order to increase the impact of the monitoring? Should we look for a completely renewed framework with a view to achieving the same ultimate goal? We can already observe a certain lack of comprehension on the part of some countries with a long-standing monitoring record and their growing frustration and impatience.

157. This touches on a more general issue of the mandate of the committee and the modalities of its fulfilment. While nobody puts into question the need for some kind of monitoring of all Council of Europe member states, the way it is carried out at present is not unanimously accepted.

158. At present, as I mentioned in Chapter 2, there are 10 countries under the monitoring procedure *stricto sensu* and four countries involved in a post-monitoring dialogue. We can expect that in a not too distant future, these numbers will go down. On the other hand, the majority of members are not submitted to a comparable scrutiny regarding their compliance with statutory obligations. Even if theoretically it is possible to re-open or open a monitoring procedure with regard to any member, in reality this tool is used only exceptionally.[18]

159. My personal view is that we should change our approach in this respect and the future of this committee lies in reacting – by means of motions for re-opening or opening of a procedure – to concrete concerns of democracy in all Council of Europe member states.

160. Furthermore, as I said earlier, in its monitoring practice, the Assembly has always opted for a constructive dialogue and any sanctions have only been adopted as exceptional measures. This has proved to be a very efficient approach in a great number of cases, and I have quoted many encouraging examples of progress brought about in this manner. There are other cases, however, when repeated calls, recommendations and persuasion have had no impact. In such situations, should we maintain our strategy, at the risk of putting the credibility of the whole process at stake? Should we be patient and comprehensive at the expense of our values? How long should we wait? Or perhaps we should enlarge a range of possible sanctions and apply them in a transparent way.

161. Finally, there is a group of questions concerning our working methods, including the modalities of co-operation with other monitoring mechanisms inside and outside the Organisation, with civil society and the extra-parliamentary opposition. Should we increase our contacts with the latter, for example, by inviting them more systematically to our meetings, or by organising hearings?

162. One of the initiatives of the members of the committee, currently taking shape in the form of roadmaps for the implementation of outstanding obligations and commitments for specific countries, is interesting and certainly worth further consideration. Nonetheless, the question of delivery remains, and promises and good intentions cannot endlessly replace concrete results.

163. Certainly, there is no one, ultimate reply to all these questions. Every situation is unique and methods should be adapted accordingly. But the questions deserve to be asked, and reflections should be launched.

164. The above considerations seem to me particularly timely in the context of the ongoing discussions on the more general question of the reform of the Assembly: its place, role and relevance in the future of our societies; and I sincerely hope that this report will initiate an exchange of ideas and proposals designed to improve our monitoring of obligations and commitments of all Council of Europe member states.

Annexe:

Appendix 1: Chart of ratifications and signatures of the main Council of Europe conventions with a monitoring mechanism by the first group of 11 member states

Appendix 2: Chart of ratifications and signatures of the main Council of Europe conventions with a monitoring mechanism by the second group of 11 member states

Appendix 3: Chart of ratifications and signatures of the main Council of Europe conventions with a monitoring mechanism by the third group of 11 member states

Table of abbreviations

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18. In the conclusions of the last session of the Council of Europe Forum for the Future of Democracy held in Yerevan on 19-21 October 2010 and focused on “Perspectives for 2020, democracy in Europe – principles and challenges”, the participants agreed that “all Council of Europe member states should be expected to assume a common corps of commitments and obligations. The inequality between member states as to their commitments and obligations should be addressed”.

R: Ratified

S: Signed but not yet ratified

–: Neither signed nor ratified

ECHR: European Convention on Human Rights

ECPT: European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

ESC: European Social Charter (1961 or revised)

FCNM: Framework Convention for the Protection of National Minorities

ECRML: European Charter for Regional or Minority Languages

ECLS-G: European Charter of Local Self-Government

Appendix 1 – Chart of ratifications and signatures of the main Council of Europe conventions with a monitoring mechanism by the first group of 11 member states (situation on 20 May 2011)

Council of Europe member states not currently under monitoring procedure or post-monitoring dialogue	Total number of Council of Europe conventions ratified or signed (out of 210)	DEMOCRACY	RULE OF LAW			HUMAN RIGHTS									
		ECLS-G	Convention on Corruption		Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990 or rev)	ECHR	Protocol ECHR				ECPT	Social rights		Minority rights	
			Civil Law	*Criminal Law*			6	12	13	14		ESC	Protocol ESC on collective complaints	FCNM	ECR ML
Andorra	41 R 4 S	R	S	R	R 1990 – rev	R	R	R	R	R	R	R rev	–	–	–
Austria	104 R 32 S	R	R	S	R 1990 S rev	R	R	S	R	R	R	R 1961 S rev	S	R	R
Belgium	127 R 35 S	R	R	R	R 1990 R rev	R	R	S	R	R	R	R 1961 R rev	R	S	–
Croatia	89 R 6 S	R	R	R	R 1990 R rev	R	R	R	R	R	R	R 1961 S rev	R	R	R
Cyprus	123 R 18 S	R	R	R	R 1990 R rev	R	R	R	R	R	R	R 1961 R rev	R	R	R
Czech Republic	98 R 13 S	R	R	R	R 1990 – rev	R	R	S	R	R	R	R 1961 S rev	S	R	R
Denmark	132 R 16 S	R	S	R	R 1990 – rev	R	R	–	R	R	R	R 1961 S rev	S	R	R
Estonia	82 R 12 S	R	R	R	R 1990 – rev	R	R	S	R	R	R	R rev	–	R	–
Finland	102 R 19 S	R	R	R	R 1990 S rev	R	R	R	R	R	R	R 1961 R rev	R	R	R
France	128 R 37 S	R	R	R	R 1990 S rev	R	R	–	R	R	R	R 1961 R rev	R	–	S
Germany	117 R 49 S	R	S	S	R 1990 – rev	R	R	S	R	R	R	R 1961 S rev	–	R	R

Appendix 2 – Chart of ratifications and signatures of the main Council of Europe conventions with a monitoring mechanism by the second group of 11 member states (situation on 20 May 2011)

Council of Europe member states not currently under monitoring procedure or post-monitoring dialogue	Total number of Council of Europe conventions ratified or signed (out of 210)	DEMOCRACY	RULE OF LAW			HUMAN RIGHTS										
		ECLS-G	Convention on Corruption		Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990 or rev)	ECHR	Protocol ECHR				ECPT	Social rights		Minority rights	
			Civil Law	*Criminal Law*			6	12	13	14		ESC	Protocol ESC on collective complaints	FCNM	ECRML
Greece	94 R 55 S	R	R	R	R 1990 S rev	R	R	S	R	R	R	R 1961 S rev	R	S	–
Hungary	79 R 18 S	R	R	R	R 1990 R rev	R	R	S	R	R	R	R 1961 S rev	S	R	R
Iceland	80 R 38 S	R	S	R	R 1990 S rev	R	R	S	R	R	R	R 1961 S rev	–	S	S
Ireland	98 R 17 S	R	S	R	R 1990 – rev	R	R	S	R	R	R	R 1961 R rev	R	R	–
Italy	121 R 42 S	R	S	S	R 1990 S rev	R	R	S	R	R	R	R 1961 R rev	R	R	S
Latvia	89 R 8 S	R	R	R	R 1990 R rev	R	R	S	S	R	R	R 1961 S rev	–	R	–
Liechtenstein	79 R 9 S	R	–	S	R 1990 – rev	R	R	S	R	R	R	S 1961 – rev	–	R	R
Lithuania	88 R 13 S	R	R	R	R 1990 – rev	R	R	–	R	R	R	R rev	–	R	–
Luxembourg	126 R 50 S	R	S	R	R 1990 S rev	R	R	R	R	R	R	R 1961 S rev	–	S	R
Malta	78 R 24 S	R	R	R	R 1990 R rev	R	R	–	R	R	R	R 1961 R rev	–	R	S
Netherlands	144 R 17 S	R	R	R	R 1990 R rev	R	R	R	R	R	R	R 1961 R rev	R	R	R

Appendix 3 – Chart of ratifications and signatures of the main Council of Europe conventions with a monitoring mechanism by the third group of 11 member states (situation on 20 May 2011)

Council of Europe member states not currently under monitoring procedure or post-monitoring dialogue	Total number of Council of Europe conventions ratified or signed (out of 210)	DEMOCRACY	RULE OF LAW			HUMAN RIGHTS										
		ECLS-G	Convention on Corruption		Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990 or rev)	ECHR	Protocol ECHR				ECPT	Social rights		Minority rights	
			Civil Law	*Criminal Law*			6	12	13	14		ESC	Protocol ESC on collective complaints	FCNM	ECRML
Norway	142 R 12 S	R	R	R	R 1990 – rev	R	R	S	R	R	R	R 1961 R rev	R	R	R
Poland	84 R 16 S	R	R	R	R 1990 R rev	R	R	–	S	R	R	R 1961 S rev	–	R	R
Portugal	109 R 41 S	R	–	R	R 1990 R rev	R	R	S	R	R	R	R 1961 R rev	R	R	–
Romania	100 R 13 S	R	R	R	R 1990 R rev	R	R	R	R	R	R	S 1961 R rev	–	R	R
San Marino	44 R 12 S	–	–	S	R 1990 R rev	R	R	R	R	R	R	S rev	–	R	–
Slovak Republic	96 R 6 S	R	R	R	R 1990 R rev	R	R	S	R	R	R	R 1961 S rev	S	R	R
Slovenia	101 R 16 S	R	R	R	R 1990 R rev	R	R	R	R	R	R	S 1961 R rev	S	R	R
Spain	121 R 9 S	R	R	R	R 1990 R rev	R	R	R	R	R	R	R 1961 S rev	–	R	R
Sweden	133 R 18 S	R	R	R	R 1990 S rev	R	R	–	R	R	R	R 1961 R rev	R	R	R
Switzerland	109 R 15 S	R	–	R	R 1990 – rev	R	R	–	R	R	R	S 1961 – rev	–	R	R
United Kingdom	115 R 22 S	R	S	R	R 1990 – rev	R	R	–	R	R	R	R 1961 S rev	–	R	R