Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 1895 (2012)[1]
Final version

The progress of the Assembly's monitoring procedure (June 2011-May 2012)

Parliamentary Assembly

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 10 countries currently under monitoring (Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, the Republic of Moldova, Montenegro, the Russian Federation, Serbia and Ukraine) and 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 the protection of human rights.

2. During the reporting period, the committee produced a full monitoring report on Serbia and assessments of the functioning of democratic institutions in Armenia, Bosnia and Herzegovina and Ukraine. Furthermore, preliminary draft reports on Montenegro, the Russian Federation and Turkey have been approved by the committee and transmitted to the national authorities of these countries for their comments.

3. The rapporteurs carried out a total of 18 visits to all the countries under the monitoring procedure and post-monitoring dialogue, except for Turkey. Following the visits, six information notes on Albania, Armenia, Azerbaijan, Georgia, the Republic of Moldova and "the former Yugoslav Republic of Macedonia" were submitted to the committee. All of them, with one exception, were declassified. The rapporteurs systematically participated in election observation missions in the countries under their responsibility when elections were held.

4. In the framework of the preparation of reports on specific countries, the committee organised a number of hearings, with the participation of, *inter alia*, the Minister of Justice of Ukraine, a representative of the Danish Helsinki Committee and another of Amnesty International with respect to the report on Ukraine; the High Representative for Bosnia and Herzegovina with respect to the report on that country; a representative of Amnesty International with respect to the report on Azerbaijan; and the leaders of the Russian political forces not represented in the parliament with respect to the report on the Russian Federation.

5. On the proposal of the respective rapporteurs, the committee requested legal opinions from the European Commission for Democracy through Law (Venice Commission) on a number of laws or draft laws in the countries under monitoring procedure, in particular in respect of the Republic of Moldova, Montenegro, the Russian Federation and Ukraine.

6. Furthermore, in accordance with the practice established in 2006, the committee has prepared a periodic report on the first group of 11 member States among those which are not subject to a monitoring procedure *sensu stricto* or involved in a post-monitoring dialogue, based on the findings of other Council of Europe monitoring mechanisms. The committee has also decided to introduce a new formula for future reporting on these countries.

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1. Assembly debate on 29 June 2012 (27th Sitting) (see Doc. 12954, report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), rapporteur: Mr Herkel). Text adopted by the Assembly on 29 June 2012 (27th Sitting).

7. Moreover, the committee pursued its work on the consequences of the war between Georgia and Russia. The Assembly takes note of the intention of the co-rapporteurs on the Russian Federation and on Georgia to visit Moscow, Tbilisi, Tskhinvali and Sukhumi during a joint mission led by the chair of the committee in the second half of 2012, and to subsequently submit an information report to the committee, in accordance with the procedure agreed on by the committee.

8. The committee pursued preparation of its written opinion on the motion for a resolution on serious setbacks in the fields of the rule of law and human rights in Hungary, to be submitted to the Bureau. The co-rapporteurs carried out two fact-finding visits to the country and the committee requested the legal opinion of the Venice Commission on a number of Hungarian legal acts.

9. In the context of the 15th anniversary of the establishment of the committee in 1997, the committee continued the discussion that began in 2011 on possible ways and means of rendering the monitoring procedure more effective and of ensuring improved compliance of all member States with their statutory obligations.

10. The Assembly takes note of the committee's intention to modify the formula for the presentation of periodic reports on the countries which are not under the monitoring procedure *sensu stricto*, and to abandon the three-year cycle of assessment in order to better reflect the findings of Council of Europe convention monitoring mechanisms, which operate on cycles of varying duration.

11. The Assembly expresses its satisfaction at some positive developments in a number of countries under the monitoring procedure over the reporting period. It welcomes, in particular: in Albania, the end of the boycott of the parliament by the opposition Socialist Party; in Armenia, the release of persons imprisoned in relation to the events of March 2008 and the renewed impetus given to the investigation of the deaths which occurred during those events, as well as the start of a political dialogue between the opposition and the ruling coalition; in Bosnia and Herzegovina, the formation of a new government following the agreement between the leaders of the key political parties; in the Republic of Moldova, the end of the institutional deadlock resulting from the parliament's inability to elect the President of the Republic.

12. Furthermore, the Assembly notes with satisfaction the progress in the fulfilment of commitments and obligations made in a number of countries under the monitoring procedure and, in particular: in Armenia, with regard to the improvement of the political environment in the conduct of parliamentary elections and to the introduction of measures in the framework of the reform of the judiciary and police; in Georgia, with regard to the drawing up of a new electoral code, the reform of penitentiary institutions and the improvement of relations between the associations of the Meskhetian Turks and the authorities; in the Republic of Moldova, with regard to the pursuit of the decentralisation process and initiatives launched by the authorities to combat corruption and to reform the police and the Prosecutor's Office, as well as with regard to the resumption of formal negotiations concerning Transnistria; in Montenegro, with regard to the pursuit of substantial reforms in the area of the judiciary, the fight against corruption and organised crime, the rights of minorities and freedom of the media; in the Russian Federation with regard to the process of political liberalisation launched by the authorities, concerning the registration of political parties and the method of appointing governors, following the events surrounding the parliamentary and presidential elections; in Serbia, with regard to the reform of the electoral law and the justice system, as well as decentralisation and increased protection of minorities; in Ukraine, the adoption of a new Code of Criminal Procedure, globally in line with European standards; in Bulgaria, with regard to codification of the electoral rules and efforts to fight corruption and organised crime; in Turkey, with regard to improvement of the electoral system.

13. At the same time, the Assembly expresses its concern about worrying developments in some of the countries under the monitoring procedure and under the post-monitoring dialogue, in particular: in Armenia, with regard to the fact that, until now, no responsibility has been established concerning events that caused 10 casualties in 2008; in Azerbaijan, with regard to the restrictions imposed on freedom of expression, assembly and association, reports on the detention of prisoners of conscience and the human rights situation in general; in Georgia, with regard to the administration of criminal justice and the lack of credible investigations into alleged abuses by the police forces; in the Russian Federation, with regard to the shortcomings identified by the international observers during the parliamentary and presidential elections, and the violence employed against and the detention of peaceful demonstrators in the immediate aftermath of the December 2011 elections as well as to reports on the human rights situation in general; in Turkey, with regard to the journalists and some members of parliament still in pre-trial detention; in Ukraine, with regard to the criminal proceedings initiated against a number of former government members on controversial charges and numerous serious deficiencies in the procedures.

14. With respect to the countries which are not subject to the monitoring procedure *sensu stricto*, the Assembly expresses its concern that a number of these countries have not signed and/or ratified some major Council of Europe conventions, thus preventing convention monitoring mechanisms from following their implementation.

15. Furthermore, with respect to these countries, the Assembly is concerned by the conclusions of the third round evaluation reports on the implementation of the Civil Law Convention on Corruption (ETS No. 174) and the Criminal Law Convention on Corruption (ETS No. 173) and its Additional Protocol (ETS No. 191). It is particularly worrying that the degree of compliance with the recommendations of the Council of Europe's Group of States against Corruption (GRECO) is considered "globally unsatisfactory" in the case of Belgium, Denmark and Germany.

16. The Assembly therefore urges:

16.1. the Parliament of Albania to pursue work on reform of the electoral code and parliamentary working methods and to promote the strengthening of internal democracy within political parties;

16.2. the Parliament of Armenia to pursue reform of the police and the judiciary with a view to guaranteeing its independence; to pursue a constructive dialogue between the opposition and the ruling coalition; to carry out a public inquiry with a view to establishing responsibility for the 10 deaths that occurred during events in 2008;

16.3. 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; the authorities of Azerbaijan to ensure respect for human rights and freedoms, and in particular freedom of expression, assembly and association;

16.4. 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 (ETS No. 5); to implement the Sejdić and Finci judgment of the European Court of Human Rights; to introduce reforms in the judiciary, the fight against corruption and regarding governance;

16.5. the authorities of Georgia to introduce the necessary measures to improve the administration of criminal justice and carry out credible investigations – within the meaning of the case law of the European Court of Human Rights – into alleged abuses by the police forces;

16.6. the Parliament of the Republic of Moldova to pursue the reform process, including the necessary revision of the constitution, and to ensure political pluralism in the media;

16.7. the Parliament of Montenegro to introduce legislative amendments with a view to ensuring the independence of the judiciary, in line with the Venice Commission recommendations;

16.8. the Parliament of the Russian Federation to follow the recommendations of the Venice Commission with regard to a number of federal laws; to establish a meaningful dialogue with the opposition political forces not represented in the parliament;

16.9. the Serbian authorities to make further progress in adopting and fully implementing the justice reform in order to guarantee its independence and efficiency;

16.10. the authorities of Ukraine to implement fully and without reservations the new Code of Criminal Procedure; to address concerns regarding the criminal proceedings initiated against a number of former government members, in line with Council of Europe recommendations;

16.11. the authorities of Bulgaria to pursue the reform of the judiciary with a view to guaranteeing its full independence;

16.12. the National Council of Monaco to adopt the legislation on the organisation and functioning of parliament, the reform of police custody, the organisation of the courts and the funding of electoral campaigns;

16.13. the authorities of "the former Yugoslav Republic of Macedonia" to ensure the full implementation of the Ohrid Framework Agreement as well as further improve the implementation of laws in the areas of freedom of the media, public administration and the judiciary;

16.14. the authorities of Turkey to address concerns regarding the functioning of the judicial system, freedom of expression, execution of the judgments of the European Court of Human Rights, and the problems associated with national minorities and the use of minority languages.

17. With respect to the countries which are not subject to the monitoring procedure, the Assembly calls on:

17.1. Denmark, France, Lithuania, Malta, Poland, Sweden, Switzerland and the United Kingdom to sign and ratify, and Austria, Belgium, the Czech Republic, Estonia, 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;

17.2. 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);

17.3. 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);

17.4. The Czech Republic and Liechtenstein to sign and ratify, and Estonia, Finland, Germany, Greece, Hungary, Lithuania and Switzerland to ratify the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197);

17.5. Switzerland to ratify the Protocol to the Convention for the Protection of Human Rights 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;

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

17.7. 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, 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);

17.8. Liechtenstein, Portugal, San Marino and Switzerland to sign and ratify, and Andorra, Denmark, Germany, Iceland, Ireland, Italy, Luxembourg and the United Kingdom to ratify the Civil Law Convention on Corruption;

17.9. Austria, Germany, Italy, Liechtenstein and San Marino to ratify the Criminal Law Convention on Corruption;

17.10. Andorra, the Czech Republic, Denmark, Estonia, Germany, Ireland, Liechtenstein, Lithuania, Norway, Switzerland and the United Kingdom to sign and ratify, and Austria, Finland, France, Greece, Iceland, Italy, Luxembourg 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);

17.11. the Parliaments of Greece, Italy, Poland and Romania to promote 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 repeated violations of the European Convention on Human Rights;

17.12. the parliaments of all member States not subject to the monitoring procedure 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.

18. The Assembly stresses the importance it attaches to the full independence of rapporteurs on the monitoring of obligations and commitments in accomplishing their work.

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

20. 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.