Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 1949 (2013)[1]
Final version

Post-monitoring dialogue with "the former Yugoslav Republic of Macedonia"

Parliamentary Assembly

1. "The former Yugoslav Republic of Macedonia" joined the Council of Europe in 1995. In 2000, the Parliamentary Assembly adopted Resolution 1213 (2000) on the honouring of obligations and commitments by "the former Yugoslav Republic of Macedonia" and decided to close the monitoring procedure. Since then, the Assembly has opened a dialogue with the Macedonian authorities to monitor the implementation of the remaining issues identified by the Assembly – including the integration of ethnic minorities, education, reform of the judiciary, freedom of expression, asylum and decentralisation – and any other issues arising from its obligations as a member State of the Council of Europe. Resolution 1710 (2010) on the term of office of co-rapporteurs of the Monitoring Committee requires the Assembly to debate in plenary the report on the post-monitoring dialogue with "the former Yugoslav Republic of Macedonia".

2. The Assembly regrets that the issue of the country's name continues to delay the opening of accession negotiations with the European Union, as repeatedly recommended by the European Commission since 2009, as well as the attempts of "the former Yugoslav Republic of Macedonia" to join the North Atlantic Treaty Organisation (NATO), despite the ruling of the International Court of Justice (ICJ) of 5 December 2011. The Assembly hopes that Greece will adopt a more flexible approach to this issue. The Assembly also invites "the former Yugoslav Republic of Macedonia" to pursue its dialogue under the auspices of the United Nations with a view to settling the name issue in the near future, and to develop constructive relations with neighbouring countries, thus contributing to the overall stability of the region.

3. The Assembly recalls that "the former Yugoslav Republic of Macedonia" is a complex multi-cultural and multi-ethnic society. After the 2001 interethnic conflict, the signing of the Ohrid Framework Agreement (OFA) aimed to improve the rights of non-majority communities, including those of the ethnic Albanians who represent some 25% of the 2 million inhabitants, while maintaining the State's unity. The OFA provided, *inter alia*, for constitutional amendments, provisions on language to regulate and expand the use of the Albanian language, especially in communities that are at least 20% Albanian, the introduction of proportional representation in public administration and State institutions, protection mechanisms for minorities in parliament, decentralisation, and the use of a qualified, double majority facility (so-called "Badinter rule") when the parliament adopts laws that directly concern the rights of national communities. The Assembly acknowledges that the OFA has delivered overall peace and stability in the country over the past decade, and led to substantial reforms.

4. The Assembly notes, however, that, more than 10 years after the OFA, relations between the communities remain fragile. Continuing tensions have led to a number of serious incidents involving members of both the Macedonian and Albanian communities, especially over recent months. The Assembly encourages the Macedonian authorities to continue the effective implementation of the OFA and, in particular, to seek to:

4.1. call on all political and social stakeholders to refrain from using divisive nationalistic rhetoric and to show respect and understanding for each community's identity and culture;

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1. *Assembly debate* on 27 June 2013 (26th Sitting) (see Doc. 13227, report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), rapporteur: Mr Walter). *Text adopted by the Assembly* on 27 June 2013 (26th Sitting). See also Recommendation 2022 (2013).

4.2. pursue the decentralisation process, including fiscal decentralisation, ensure the proper training of members of staff and locally elected representatives, and take advantage of the expertise that could be provided by the Council of Europe in these areas;

4.3. present and debate the results of the implementation status of policies arising from the OFA, in order to inspire new inclusive policies and give a fresh impetus to the implementation of the OFA;

4.4. consider new confidence-building measures and inclusive initiatives aimed at fostering a common vision for bringing all communities together and building a prosperous society. In this respect, the Assembly regrets the segregation which persists in education and undermines the cohesion of future generations;

4.5. pursue its efforts to promote the cultural and linguistic rights of the least represented communities of "the former Yugoslav Republic of Macedonia";

4.6. with a view to further protecting national minorities, implement Committee of Ministers Resolution CM/ResCMN(2012)13 on the implementation of the Framework Convention for the Protection of National Minorities by "the former Yugoslav Republic of Macedonia";

4.7. resume, without further delay, the preparation and conduct of a census based on a methodology agreed by the key stakeholders, as the results of this census will have a direct effect on all communities.

5. The Assembly is convinced that the full implementation of the OFA in a fair, transparent and inclusive manner can contribute to securing a peaceful coexistence and ensure the full participation of non-majority communities, including the smallest ones, in public life, and their access to social rights. Continuous efforts, through dialogue and confidence-building measures, are therefore needed to reach this objective.

6. The Assembly believes that "the former Yugoslav Republic of Macedonia" should be supported in its efforts to consolidate democracy. It notes, however, with concern, that a series of actions against the media, opposition parties and non-governmental organisations (NGOs) after the June 2011 parliamentary elections gave rise to grave concerns within both the opposition and civil society, which perceived these actions as biased and selective. According to the Reporters Without Borders 2013 World Press Freedom Index, "the former Yugoslav Republic of Macedonia" is ranked 116th out of 179 countries. The Assembly therefore urges the Macedonian authorities to guarantee full media freedom.

7. Public life remains highly divided along political and ethnic lines, which hampers the development of an integrated and cohesive society. Depoliticisation of public life is a challenging issue, which has to be seriously addressed by the authorities and endorsed by all political parties in order to enhance the transparency and efficiency of public institutions, boost the socio-economic development of the country and offer a more promising future for the country's youth.

8. The Assembly stresses that the efforts of the authorities to put in place merit-based recruitment systems should be reinforced and based on transparent criteria in selection or election processes. In the context of the perceived polarisation and politicisation of society, the ruling parties, which have held a majority both in the parliament and at local level since the March 2013 elections, have a major responsibility for ensuring that an inclusive dialogue is developed with all segments of society and political parties.

9. In this respect, the Assembly deplores the serious incidents that took place in the parliament on 24 December 2012 on the occasion of the adoption of the 2013 budget, which sparked a political crisis, leading the opposition to boycott the parliament early in 2013, until an agreement was signed on 1 March 2013.

10. The Assembly invites the Macedonian authorities and all the stakeholders to fully implement the 1 March 2013 agreement, and in particular to:

10.1. accelerate the setting up of a commission of inquiry to investigate the 24 December 2012 events and debate its findings so as to enable the parliament to amend its Rules of Procedure and working methods accordingly;

10.2. revise the Electoral Code, taking account of all the recommendations to be adopted by the European Commission for Democracy through Law (Venice Commission) in June 2013 and the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR). The Assembly also invites the Macedonian authorities to address the electoral issues identified by the Parliamentary Assembly's ad hoc committee on the observation of the elections of 2011, in particular the blurring of the line between State and party and the need to strengthen the

legal mechanisms for protecting the status of public officials, especially at the local level, in order to deal effectively with the perceived widespread cases of pressure and threats made during the election campaign that individuals would lose their jobs.

11. The Assembly urges the political parties to engage in a constructive dialogue to ensure the proper functioning of the parliament and the adoption of a code of ethics, and to solicit the expertise of the Parliamentary Assembly to enhance the functioning of the parliament by means of co-operation programmes.

12. The Assembly calls on the Macedonian authorities to secure the freedom of the media, given the weaknesses of the media sector: the high number of media outlets; the heavy dependence of the media (around 50%) on public advertising, which raises concerns about political interference with the media; insufficient professional standards to enable independent, balanced and investigative journalism; and the problems posed by the switch to digital broadcasting in 2013.

13. While the Assembly welcomes the decriminalisation of defamation in 2012, it notes that the newly adopted Law on Civil Liability for Insult and Defamation, and the financial compensation to be paid in civil proceedings, could have a serious economic impact on the viability of the media, and might lead to unintended self-censorship. The Assembly therefore urges the authorities to pursue dialogue with associations of journalists, enhance freedom of expression in future legislation, facilitate the setting up of a self-regulatory body and ensure that the Broadcasting Council, in its new composition, is seen to be independent and performs its work without undue political interference.

14. Concerning the respect of the rule of law, the Assembly considers that an efficient, independent judicial system is fundamental to democracy. It welcomes the reforms undertaken by “the former Yugoslav Republic of Macedonia” to amend its legislation and implement the newly adopted Criminal Procedure Code. It notes, however, that citizens have little confidence in the justice system, and urges the Macedonian authorities to ensure that the conditions are met for the creation of a non-selective justice system. In this context, the Assembly invites “the former Yugoslav Republic of Macedonia” to reinforce training programmes for judges and prosecutors.

15. The Assembly notes with satisfaction the positive trend observed over the past five years in the Transparency International Corruption Perceptions Index. It considers that the fight against corruption must remain a priority: corruption seriously undermines the functioning of democratic and judicial institutions and public services, and the trust of citizens in public institutions. The Assembly welcomes the adoption of the amendments to the Law on Financing of Political Parties in October 2011, November 2012 and February 2013, and to the Criminal Code in 2011. It encourages the Macedonian authorities to fully implement these newly adopted provisions and ensure the training of all stakeholders. It urges “the former Yugoslav Republic of Macedonia” to amend its legislation to comply with the remaining recommendations of the Group of States against Corruption (GRECO), to strengthen the independence and impartiality of the State Commission for the Prevention of Corruption, and to provide stronger legal and institutional protection for “whistle-blowers”.

16. Concerning the protection of human rights, the Assembly encourages “the former Yugoslav Republic of Macedonia” to confront its past and redress unresolved human rights issues, as highlighted by the Council of Europe Commissioner for Human Rights in April 2013. It expresses, however, its concern about the highly controversial Lustration Law, and invites the Macedonian authorities to comply with the decision of the Constitutional Court in the light of the *amicus curiae* brief adopted by the Venice Commission in March 2013.

17. The Assembly calls on the Macedonian authorities to intensify efforts to combat discrimination, in particular against the Roma, pursue local integration programmes and ensure effective access to identification documents, as well as access to health care and social rights. The Assembly recalls that the fight against discrimination should encompass all forms of discrimination, including prejudice against sexual orientation. The Assembly therefore calls on the Macedonian authorities to allocate sufficient financial and human resources to this area and to ensure the proper functioning of the Office of the Ombudsman.

18. The Assembly remains concerned by the measures taken to combat “bogus asylum seekers” – mainly Roma people. The Assembly recalls that the right of the individual to leave his or her country is an established human right, guaranteed by Article 2 of Protocol No. 4 to the European Convention on Human Rights (ETS No. 46), and enshrined in Article 14 of the Universal Declaration of Human Rights. Consequently, the Assembly urges the Macedonian authorities to refrain from any action violating this fundamental freedom and to work on further improving the living conditions of the communities concerned.

19. The Assembly takes note of the efforts made by “the former Yugoslav Republic of Macedonia” to combat torture and ill-treatment. However, it invites “the former Yugoslav Republic of Macedonia” to implement the remaining recommendations of the European Committee for the Prevention of Torture and

Inhuman or Degrading Treatment or Punishment (CPT). The Assembly welcomes the launch of a joint Council of Europe/European Union programme on “Capacity building of the law enforcement agencies for appropriate treatment of detained and sentenced persons” in December 2012, and calls for further co-operation programmes in the field of human rights.

20. The Assembly welcomes the amendments to the Law on Asylum and Temporary Protection adopted in 2012 and the launch of a strategy on integration of refugees (2008-2015). It calls on the authorities to allocate the necessary funds to fully implement the national action plan envisaged with a view to consolidating the access of refugees to housing, education, health protection, employment and social protection, and to further secure the legal protection and rights of refugees and asylum seekers, in co-operation with the United Nations High Commissioner for Refugees.

21. In conclusion, the Assembly is fully aware that “the former Yugoslav Republic of Macedonia” has multi-level challenges to face to secure its political stability and social cohesion. Its aspiration to further integrate into Europe and fully comply with European standards in the fields of human rights, democracy and the rule of law should be praised and supported. However, serious doubts remain as to whether there is sufficient political stability in “the former Yugoslav Republic of Macedonia” to carry out the required reforms at a regular pace.

22. In the light of the above, the Assembly calls on the Secretary General of the Council of Europe to consider the opening of a Council of Europe office to assist “the former Yugoslav Republic of Macedonia” in pursuing its democratisation efforts, to follow current political developments in the country, to provide advice and Council of Europe expertise, if and when needed, and generally to enhance and co-ordinate co-operation with the Macedonian authorities.

23. In the meantime, the Assembly resolves to pursue its post-monitoring dialogue with “the former Yugoslav Republic of Macedonia” on the issues raised in this resolution. It encourages the rapporteur to pay frequent visits to the country in order to support and evaluate the process of fulfilment of obligations and commitments in the post-monitoring dialogue.