

Resolution 2261 (2019)¹

The progress of the Assembly's monitoring procedure (January-December 2018) and the periodic review of the honouring of obligations by Iceland and Italy

Parliamentary Assembly

1. The Parliamentary Assembly acknowledges the work carried out by the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) in fulfilling its mandate as defined in [Resolution 1115 \(1997\)](#) on the setting up of an Assembly committee on the honouring of obligations and commitments by member states of the Council of Europe (Monitoring Committee) (as modified by [Resolution 1431 \(2005\)](#), [Resolution 1515 \(2006\)](#), [Resolution 1698 \(2009\)](#), [Resolution 1710 \(2010\)](#), [Resolution 1936 \(2013\)](#) and [Resolution 2018 \(2014\)](#)). It commends the committee on its work in accompanying the 10 countries under a full monitoring procedure (Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, the Republic of Moldova, the Russian Federation, Serbia, Turkey and Ukraine), and the three countries engaged in a post-monitoring dialogue (Bulgaria, Montenegro and “the former Yugoslav Republic of Macedonia”) in their efforts to fully comply with the obligations and commitments they entered into upon accession to the Council of Europe, as well as the monitoring of the membership obligations of all other member States through its periodic review process.
2. The Assembly deplores that in 2018 the co-rapporteurs for the monitoring procedure were once again unable to visit the Russian Federation due to the boycott by the Russian delegation of the work of the Assembly. It recalls in this context that co-operation with the monitoring procedure is an explicit accession commitment of the country.
3. The Assembly commends the Sub-Committee on Conflicts between Council of Europe Member States for the work it has undertaken.
4. The Assembly welcomes the positive developments and the progress made during the reporting period in a number of countries under a monitoring procedure or engaged in a post-monitoring dialogue. In particular in:
 - 4.1. Albania: the continuing efforts to reform the justice system, especially through the ongoing vetting process of judges and prosecutors;
 - 4.2. Armenia: the ability to manage a change of power in a peaceful manner and in line with the provisions of the new constitution;
 - 4.3. Azerbaijan: the release of Mr Ilgar Mammadov, leader of the opposition civic movement ReAl while regretting that the remaining part of the original sentence, which was based on an unfair trial, was replaced by a two-year probation period without the right to leave Azerbaijan;
 - 4.4. Georgia: the ongoing implementation of the new constitutional framework and the drafting, in an inclusive manner, of new rules of procedure for the Georgian Parliament, with a view to strengthening parliamentary oversight over the executive, as well as the role of the opposition in that process;

1. *Assembly debate* on 24 January 2019 (8th Sitting) (see [Doc. 14792 Part 1](#), [Part 2](#) and [Part 3](#), report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), rapporteur: Sir Roger Gale). *Text adopted by the Assembly* on 24 January 2019 (8th Sitting).



- 4.5. the Republic of Moldova: the recent initiatives taken to combat domestic violence, including the introduction of restraining orders on perpetrators of violence; the progress achieved in the Transnistrian settlement process;
 - 4.6. Turkey: the lifting of the state of emergency in July 2018 and the withdrawal of the derogation from the European Convention on Human Rights (ETS No. 5);
 - 4.7. Ukraine: the adoption of a law on a high anti-corruption court and ongoing implementation of judicial reforms;
 - 4.8. Bulgaria: the adoption of a new law on anti-corruption and forfeiture of assets granting extensive powers to a new anti-corruption agency;
 - 4.9. Montenegro: the end of the parliamentary boycott by a significant number of opposition political groups;
 - 4.10. “the former Yugoslav Republic of Macedonia”: the signature of the Prespa Agreement to settle the “name issue” with Greece; the continuing requests by the authorities for the expertise of the European Commission for Democracy through Law (Venice Commission).
5. At the same time, the Assembly expresses its concern about developments and remaining shortcomings in a number of countries under a monitoring procedure or engaged in a post-monitoring dialogue, that undermine the democratic consolidation in these countries and are at odds with their obligations and accession commitments:
- 5.1. Albania: the continuing polarisation between the main political parties and the still limited tangible results in the fight against organised crime, political corruption and State capture;
 - 5.2. Azerbaijan: the early presidential election that took place within a restrictive political environment and under laws that curtail fundamental rights and freedoms, which are prerequisites for genuine democratic elections; the continued detention of journalists, such as Mehman Huseynov, and civil society activists on politically motivated charges;
 - 5.3. Bosnia and Herzegovina: the continued failure since 2009 to implement the judgments of the European Court of Human Rights related to ethnic- and residency-based limitations to the right to stand for elected offices; the continued failure to address the issue of segregation along ethnic and religious lines in education; the increasing incidence of disrespect for the rule of law and the reluctance or the refusal to abide by the decisions of the Constitutional Court or the State Court;
 - 5.4. Georgia: the persistence of a polarised political climate and of questions regarding the effectiveness of the prosecution service in politically sensitive cases;
 - 5.5. Republic of Moldova: the dubious invalidation of the early mayoral elections in Chişinău in June 2018 and the ongoing pressure exerted on all city councillors, which further undermine trust in the judiciary, as well as the persistence of a high level of corruption;
 - 5.6. the Russian Federation: the ongoing military aggression against Ukraine in Donbass and the illegal annexation of the Autonomous Republic of Crimea and the city of Sevastopol; the absence of any progress in the release of Ukrainian political prisoners and captives in the Russian Federation, illegally annexed Crimea and occupied Donbass; the absence of an impartial and effective investigation into the persecution of lesbian, gay, bisexual, transgender and intersex (LGBTI) people in the Chechen Republic; the arson attack against the Memorial office in Ingushetia and the detention of the director of the Memorial field office in Grozny; the abduction and violent abuse, apparently by the Ingushetian police, of a human rights activist sent by Amnesty International to observe peaceful protests in Maga, Ingushetia; its military aggression against Ukrainian vessels in the Kerch Strait and the Sea of Azov, which the Assembly condemns; in this respect the Assembly reiterates its strong support for Ukraine’s sovereignty and territorial integrity, which includes the right to navigate freely and unhindered in its own territorial waters; the illegal works by the Russian Federation in the Tskhinvali region of Georgia with the aim of installing artificial barriers along the occupation line adjacent to the village of Atotsi, Georgia;
 - 5.7. Turkey: the undermining of the separation of powers and the independence of the judiciary, as a result of the adoption of constitutional amendments in 2017 that are not in line with European standards; the continuing concerns regarding freedom of the media; the pretrial detention of members of parliament following the lifting of their immunity in 2016; the repeated violations of freedom of expression and freedom of the media; the situation of local administrations governed by State-

appointed trustees in south-east Turkey; the limited space for democratic debate and for the free expression of a plurality of views during the June 2018 early presidential and parliamentary elections organised under the state of emergency;

5.8. Ukraine: the unacceptable attacks on journalists and media outlets; the extension of the new financial disclosure regime to anti-corruption activists and its implementation on 1 April 2018; the lack of progress in correcting the imbalance between the official language and the languages of national minorities in the new law on education in Ukraine; the widespread corruption that undermines public trust in the political and judicial system as a whole;

5.9. Bulgaria: the brutal murder of an investigative journalist, Ms Viktoria Marinova;

5.10. Montenegro: the misuse of State resources and the credible allegations of pressure on voters in favour of the ruling party candidate, and of vote buying and hiring of public employees during the election period, all these being recurrent according to the ad hoc committee of the Assembly on the observation of the presidential election in Montenegro.

6. Consequently, the Assembly urges all the countries that are under a monitoring procedure or engaged in a post-monitoring dialogue to step up their efforts to fully honour all membership obligations and accession commitments to the Council of Europe. In particular it calls on:

6.1. the Albanian authorities and all political forces in the country to overcome the political polarisation, to complete the reform of the judiciary, to guarantee international standards for democratic elections, and to demonstrate tangible results in the fight against corruption and organised crime;

6.2. the Armenian authorities, once the general elections have taken place, to resume reforms in key areas, such as the fight against domestic violence or the adoption of legislation to effectively combat vote buying and the abuse of administrative resources during elections; to ensure that all criminal investigations, including those pertaining to the tragic events of March 2008, and allegations of corruption are conducted strictly in line with the principles of the rule of law and judicial independence and the right to a fair trial, as laid out in the European Convention on Human Rights;

6.3. the Bosnian authorities to shoulder their responsibilities and adopt the necessary changes to both the constitution and the electoral law, in accordance with the judgments of the European Court of Human Rights in the Sejdīć and Finci case and the Pilav case;

6.4. the Georgian authorities to fully implement the new rules of procedure for parliament and to continue to strengthen the independence and effectiveness of the judiciary, including the prosecution service, and to take measures to increase parliamentary scrutiny of high-level judicial appointments, as well as to put in place clear selection criteria;

6.5. the Moldovan authorities to create conditions conducive to free and fair general elections in 2019, following the adoption of a mixed electoral system and taking into account the March 2018 recommendations of the Venice Commission, and to amend the constitution to ensure the independence and accountability of judges;

6.6. the authorities of the Russian Federation to fully investigate unlawful detentions, torture and killings of men in the Chechen Republic based on their sexual orientation and gender identity, to hold any perpetrators of such heinous acts accountable and to take effective measures to protect the life, liberty and security of gay and bisexual people throughout the Russian Federation; to halt the abuse of legislation against extremism to curtail freedom of assembly in the Russian Federation; to implement all the Assembly's resolutions related to the military aggression against Ukraine; to return the Ukrainian vessels seized in the Kerch Strait, to immediately release the Ukrainian sailors captured and to fully respect Ukraine's legal right to navigate freely and unhindered in the Kerch Strait and the Sea of Azov; to immediately stop the installation of barbed wire fences and artificial obstacles along the occupation lines in the Abkhazia and Tskhinvali regions and to abide by the norms and principles of international law. In this respect, the Assembly reiterates its strong support for Georgia's sovereignty and territorial integrity within its internationally recognised borders;

6.7. the Turkish authorities to restore freedom of the media and freedom of expression, release detained MPs (including the former Peoples' Democratic Party (HDP) leader Mr Selahattin Demirtaş, in line with the November 2018 Chamber judgment of the European Court of Human Rights), journalists, human rights defenders and academics; to upgrade the electoral legislation so as to ensure fair election campaigns; and to ensure that appeal procedures established for civil servants dismissed by emergency decree laws under the state of emergency are an effective domestic remedy;

6.8. the Ukrainian authorities to abolish the extension of the new financial disclosure regime to anti-corruption activists, in line with the Venice Commission recommendation; to fully implement the recommendations of the Venice Commission in its opinion on the amended law on education and the law on government cleansing (Lustration Law); to implement the law on the establishment of a high anti-corruption court in accordance with the clearly defined timeline provided therein and to increase the pace of reforms to fight widespread corruption in the country and ensure that these reforms lead to tangible and concrete results;

6.9. the Montenegrin authorities to engage in the reform process of the electoral framework in line with the recommendations of the Venice Commission and the Assembly.

7. With regard to the preparation of the report on the functioning of democratic institutions in Poland, the Assembly takes note of the planned visit of the co-rapporteurs to Warsaw in the spring of 2019. In this context, the Assembly calls on the Polish authorities to ensure that the ongoing reforms, and in particular those of the judicial system, are fully in line with European standards. To this end, the Assembly urges the Polish authorities to implement the recommendations of the Venice Commission expressed in its opinions on these reforms.

8. The Assembly reaffirms the importance of the parliamentary monitoring procedure, and the work of the Monitoring Committee in the democratisation and institution-building processes in all Council of Europe member States. In this respect, it welcomes in particular the periodic reviews on the honouring of Council of Europe membership obligations by countries that are not subject to a full monitoring procedure or engaged in a post-monitoring dialogue with the Assembly.

9. The Assembly takes note of the periodic review reports on the honouring of Council of Europe membership obligations in respect of Iceland and Italy, which are presented as part of the report on the progress of the Assembly's monitoring procedure (January-December 2018). It endorses the findings and conclusions in these periodic review reports and encourages the respective authorities to implement the recommendations therein. In particular, the Assembly:

9.1. with respect to Iceland:

9.1.1. notes that, as a result of the size and relatively homogeneous make-up of its society, Iceland has in a number of cases favoured regulating issues via informal rules and arrangements in society rather than by clear rules and norms codified in law, which has led to vulnerabilities in the functioning of democratic institutions, especially with regard to checks and balances; it calls on the authorities to reform its democratic institutions with a view to addressing these vulnerabilities, either through rekindling the constitutional reform process or through common law;

9.1.2. commends the country on the continuing low levels of perception of corruption by its population. In this context, the Assembly welcomes the increased attention paid in Icelandic society to the vulnerability of the country's democratic institutions and financial interests to corruption and conflicts of interest. It therefore calls on the authorities to develop, as a priority, a coherent and comprehensive strategy with regard to corruption and integrity issues in State institutions that will fully address the recommendations of the Group of States against Corruption (GRECO) contained in the evaluation reports on Iceland in the framework of its fourth and fifth evaluation rounds, and in particular:

9.1.2.1. develop a strategy to improve the integrity and management of conflicts of interest of persons holding top executive functions in the government, as well as clear and harmonised codes of conduct for them;

9.1.2.2. review the rules regarding secondary activities as well as employment after leaving government functions;

9.1.2.3. ensure the proper funding of law-enforcement agencies and develop a clear, transparent, merit-based appointment and promotion process that is free from political interference;

9.1.3. while recognising the country's track record with regard to the protection of human rights, recommends that a national human rights institution be established. It urges the authorities to adopt, without delay, a comprehensive anti-discrimination legislative framework, which is currently lacking;

- 9.1.4. commends the country on its track record with regard to gender equality, which can be considered as a role model. At the same time, it notes that domestic and sexual violence against women remains an area of concern that deserves the continuing attention of the authorities;
- 9.2. with respect to Italy:
- 9.2.1. expects Italy to remain committed to the promotion and protection of human rights, foster inclusive social policies and reduce regional disparities in line with the recommendations of the Congress of Local and Regional Authorities of the Council of Europe; welcomes the steps taken by the parliament to establish a national commission for the promotion and protection of fundamental human rights which should act as Italy's independent national human rights institution in line with the Paris Principles;
- 9.2.2. while recognising the transposition into its legal system, in 1999, of principles of the European Charter for Regional and Minority Languages (ETS No. 148), continues to encourage Italy to ratify the charter;
- 9.2.3. encourages Italy to ratify Protocol No. 12 to the European Convention on Human Rights (ETS No. 177), the European Convention on Nationality (ETS No. 166), as well as the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207);
- 9.2.4. invites the parliament to ratify, at its earliest convenience, Protocols Nos. 15 and 16 to the European Convention on Human Rights (CETS Nos. 213 and 214) following the recent introduction of a parliamentary bill to that effect;
- 9.2.5. concerning the management of the migration inflow affecting Italy, which requires a co-ordinated response of the international community, welcomes the end of the so-called "push-back" policy (resulting in forced return of irregular migrants and failed asylum seekers); at the same time, expresses its concerns about recent initiatives aimed at preventing rescue vessels from landing on Italian shores, thus putting the lives of migrants and refugees at risk; urges the Italian authorities to strengthen their action to combat trafficking in human beings for the purpose of labour exploitation, in line with the recommendations made by the Group of Experts on Action against Trafficking in Human Beings (GRETA), and ensure that future legislation on migrants and refugees complies with Italy's European and international obligations;
- 9.2.6. remains concerned by the increase in racist attitudes, xenophobia and anti-Gypsyism in public discourse, notably in the media and on the internet, and rising hate speech by politicians – as highlighted by the Council of Europe Commissioner for Human Rights, the European Commission against Racism and Intolerance (ECRI) and the Advisory Committee on the Framework Convention for the Protection of National Minorities – and calls on the authorities to effectively combat all manifestations of racism, intolerance and xenophobia, particularly by preventing, investigating and prosecuting all racially motivated offences;
- 9.2.7. in the field of freedom of expression and of the media, while welcoming the reform of the public broadcaster aimed at improving its independence, efficiency and sustainability, urges the Italian authorities to:
- 9.2.7.1. strengthen media freedom and address the issue of media ownership concentration;
- 9.2.7.2. decriminalise defamation and amend the criminal law in order to ensure the principle of proportionality of sanctions, in line with the recommendations of the Venice Commission;
- 9.2.8. welcomes the criminal justice reforms, including the extension of the statute of limitations, and calls on the Italian authorities, notwithstanding some progress, to further address the issues of, *inter alia*, excessive use of pretrial detention, delayed justice and backlogs of court cases;
- 9.2.9. notes that corruption remains widespread and deeply rooted and that there is a persistent intertwinement of corruption, money laundering and mafia-type organised crime; welcomes the creation of a national anti-corruption authority, the adoption of the 2017 Whistleblowing Law and the adoption by the Chamber of Deputies of a code of conduct and rules on lobbying, while recognising that Italian mafia legislation has become a yardstick at the global level;

9.2.10. stresses the significant progress achieved in the framework governing political party funding; encourages, however, the Italian authorities to ensure transparency and the implementation of an efficient accountability control mechanism for the new system of party and election campaign funding based on private donations; urges Italy to implement all GRECO recommendations, to consider lifting the reservation made in 2013 to the Criminal Law Convention on Corruption (ETS No. 173) and consider ratifying its Additional Protocol (ETS No. 191).

10. The Assembly welcomes the Monitoring Committee's continuous efforts to reflect on ways in which the periodic review process can be strengthened and reinforced.

11. In this respect, the Assembly refers to the progress report of its Bureau in which it invited the Monitoring Committee to reflect on the proposals aimed at reforming the overall monitoring system of the Assembly or the current working methods and internal procedures of the Monitoring Committee on the basis of [Resolution 1115 \(1997\)](#) (modified) and commends the Monitoring Committee for the work accomplished in this respect.

12. The monitoring procedure of the Assembly is one of its core activities and a vital mechanism for reinforcing democratic processes in Council of Europe member States. The Assembly reaffirms its wish to maintain and reinforce its monitoring procedure based on the country-by-country approach.

13. The Assembly welcomes in particular the Monitoring Committee's intention to create, where relevant, for each country under the full monitoring procedure or engaged in a post-monitoring dialogue, in consultation with respective national authorities, a clear list outlining the concrete issues and actions to be undertaken with a clearly defined timeline in order to progress in the monitoring procedure.

14. Furthermore, it welcomes the committee's decision to change the format of periodic reviews with a view to submitting them for debate independently from the committee's progress report, accompanied by specific resolutions for each country, and replacing the current method of selection based on alphabetical order by a selection on substantive grounds, while maintaining the objective of producing, over time, periodic reviews on all member States.

15. Finally, the Assembly commends the committee's decision to introduce a more flexible frequency of visits by co-rapporteurs and reporting on each country under the full monitoring procedure or engaged in a post-monitoring dialogue in order to ensure that they address developments in the country of relevance to the honouring of commitments and obligations.

16. In the light of the above, the Assembly decides to amend [Resolution 1115 \(1997\)](#) (as modified by [Resolution 1431 \(2005\)](#), [Resolution 1515 \(2006\)](#), [Resolution 1689 \(2009\)](#), [Resolution 1710 \(2010\)](#), [Resolution 1936 \(2013\)](#) and [Resolution 2018 \(2014\)](#)) as follows:

16.1. in paragraph 14, delete the words "and at least once every three years on each country being monitored or involved in post-monitoring dialogue".

17. Furthermore, the Assembly decides to amend the terms of reference of the Assembly's Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), appended to [Resolution 1115 \(1997\)](#) (modified), as follows:

17.1. in paragraph 13, second sentence, delete the words "within the statutory period of three years".

18. The Assembly decides that the amendments to [Resolution 1115 \(1997\)](#) (modified) shall enter into force upon their adoption.

19. The Assembly invites the Monitoring Committee to pursue its own reflection on ways to reinforce co-operation with other committees.