Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 2325 (2020)[1]

The progress of the Assembly's monitoring procedure (January-December 2019)

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 Resolutions 1431 (2005), 1515 (2006), 1698 (2009), 1710 (2010), 1936 (2013), 2018 (2014) and 2261 (2019)). 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 North 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 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:

2.1. Albania: the continuing commitment to the reform of the judiciary and justice system, especially through the vetting of all judges and prosecutors;

2.2. Armenia: the organisation of parliamentary elections in line with international standards; its commitment to combat corruption and to reform the judiciary with a view to strengthening its independence;

2.3. Azerbaijan: the presidential pardon and subsequent release of over 400 prisoners, including 50 persons considered to be political prisoners; the introduction of legal reforms that allow for a reduction in terms of punishment; the introduction of alternatives to detention and the full decriminalisation of about 15 offences, which will help to address the long-standing concerns about over-population of penitentiary institutions;

2.4. Bulgaria: the significant reforms of the judiciary and the ongoing efforts to combat corruption, including by establishment of a new unified anti-corruption agency;

2.5. Georgia: the adoption of a new set of rules of procedure for the Georgian Parliament with a view to reinforce parliamentary oversight and political accountability of the executive; the broad agreement with all stakeholders about the adopted fourth wave of judicial reforms with the aim of further strengthening the independence of the judiciary and efficiency of the administration of justice;

2.6. the Republic of Moldova: the peaceful transfer of power and efforts undertaken to de-oligarchise the country and strengthen its State institutions; the willingness of the Moldovan authorities to continue the 5+2 discussions to achieve a peaceful resolution of the Transnistrian conflict;

1. *Assembly debate* on 30 January 2020 (8th Sitting) (see Doc. 15031, 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 30 January 2020 (8th Sitting).

2.7. Montenegro: the progress made with regard to ensuring lesbian, gay, bisexual, transgender and intersex persons (LGBTI) and minority rights; the inclusive manner in which the new legal framework for media was adopted and the increase in efforts made to investigate attacks on journalists and bring perpetrators to justice;

2.8. North Macedonia: the resolving of the political crisis in the country through peaceful negotiations and the ratification of the historic Prespa Agreement by North Macedonia and Greece, which resolved the so-called "name issue" after twenty-seven years;

2.9. the Russian Federation: its stated commitment to now fully engage in the ongoing monitoring procedure by the Assembly;

2.10. Turkey: the adoption of a first package of legal reforms and the expected action plan for human rights that could address long-standing concerns of the Assembly;

2.11. Ukraine: the establishment of the High Anti-Corruption Court and the clear priority given to fighting the widespread corruption in the country and new initiatives undertaken in this direction.

3. 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:

3.1. Albania: the ongoing polarisation of the political environment evolving into a systemic political crisis that impedes the proper functioning of democratic institutions in the country, including parliament and local self-government institutions; the still widespread and entrenched corruption and limited results in the fight against organised crime;

3.2. Armenia: the challenges faced by the judiciary from all sides in ensuring its independence and impartiality; the continuing prevalence in the Armenian society of intolerance and negative stereotypes regarding LGBTI persons and other minorities; the obstacles placed by some groups in society in the way of the still outstanding ratification of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (CETS No. 210, "Istanbul Convention");

3.3. Azerbaijan: the continuing existence of political prisoners and the ongoing use of politically motivated administrative detention, criminal charges and restrictions on movement and travel bans against government opponents, journalists and representatives of civil society organisations; the restrictive and cumbersome legal environment for non-governmental organisations to operate in;

3.4. Bosnia and Herzegovina: the continuing inability to form a government and other democratic institutions in the country following the 2018 elections, including, *inter alia*, the inability to appoint a new delegation to our Assembly; the worrying developments in the area of freedom of assembly and freedom of the media; the continuous disregard by some authorities at the level of the entities for binding and final decisions of the judiciary;

3.5. Bulgaria: the systematic deterioration of media freedom over recent years; the situation of the Roma minority and the continuing use of racist and intolerant hate speech in political discourse;

3.6. Georgia: the failure to pass the required constitutional amendments to introduce a fully proportional election system by 2020; the lack of investigation and follow-up given to alleged incidents and violations of the electoral code during the 2018 presidential election; the shortcomings in the functioning of the High Council of Justice, including the lack of a clear and uniform selection criteria, the excessive use of discretion and failure to give full and reasoned decisions with regard to the selection of Supreme Court judges;

3.7. Montenegro: the ongoing polarised political climate in the country which is hindering necessary reforms, including of the electoral framework; the allegations of high-level corruption and insufficient investigation into these alleged acts of corruption; the lack of transparency in the selection and the appointments of magistrates;

3.8. Russian Federation: exacerbating negative tendencies with regard to democracy, the rule of law and human rights which are hindering the fulfilment of key accession commitments and membership obligations; the arbitrary use of the law on extremism to silence the opposition and critical civil society organisations; the deterioration of religious freedom in the country as witnessed by the ban on Jehovah's Witnesses; the continuing "borderisation" and creeping annexation of the Georgian regions of South Ossetia and Abkhazia by the Russian Federation; the illegal annexation of Crimea and military aggression in eastern Ukraine;

3.9. Turkey: the worsening situation of opposition politicians and parties; the continuing undue restrictions on the fundamental rights of freedom of expression and assembly; the abuse of anti-terror laws to silence those critical of the ruling authorities' policies, especially with regard to the military intervention in Syria; the continuing deterioration of the media environment;

3.10. Ukraine: the attacks on journalists and anti-corruption activists investigating local corruption and abuses of power.

4. 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:

4.1. all political forces in Albania to resolve the systemic political crisis in the country on the basis of electoral reform followed by elections and to abstain from boycotting parliament and State institutions; and for the Albanian authorities to step up the fight against corruption and organised crime and to ensure that any changes to the legislative framework for the media are fully in line with European standards with regard to freedom of expression and of the media;

4.2. the Armenian authorities to step up the reform of the justice system with a view to strengthening its independence and efficiency while refraining from any actions that could be perceived as putting pressure on or interfering in the work of the judiciary and to continue strengthening the rights of women as well as LGBTI persons and other minorities;

4.3. the Azerbaijani authorities to end the harassment and intimidation of lawyers representing opposition and civil society activists against the State; to release without delay all remaining political prisoners and to fully implement the judgment of the European Court of Human Rights (the Court) in the case of *Ilgar Mammadov v. Azerbaijan*; to fully comply with the European Convention on Human Rights and unconditionally implement the judgments of the Court;

4.4. all political forces in Bosnia and Herzegovina to appoint a new government and representatives in the country's democratic institutions 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 Sejdić and Finci and the Pilav cases;

4.5. the Bulgarian authorities to adopt, in close co-operation and consultation with all stakeholders, clear, objective and transparent criteria with regard to supplementary remuneration within the judiciary; to adopt the necessary legislation ensuring transparency of media ownership; to step up the fight against high-level corruption;

4.6. the Georgian ruling majority to ensure the introduction of an election system that can have the support and trust of all stakeholders before the 2020 elections; to fully implement all the recommendations of the European Commission for Democracy through Law (Venice Commission) in its opinion on the selection and appointment of Supreme Court judges; to promptly implement the fourth wave of reform of the judiciary and for all political forces in the country to work to overcome the continuing polarisation in the political environment;

4.7. the Montenegrin authorities and all political forces in the country to agree on and implement comprehensive electoral reform and to refrain from boycotting the country's parliament and democratic institutions; the Montenegrin authorities to fully and transparently investigate all allegations of high-level corruption in the country and to ensure the freedom of the media and protection of journalists;

4.8. all political forces in North Macedonia to agree to a reform of the legislative framework for elections, in particular with regard to campaign financing and election complaints and appeals; the authorities of North Macedonia to implement outstanding recommendations by the Group of States against Corruption (GRECO) and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT); to further consolidate and ensure the sustainability of the functioning of democratic institutions in the country and to strengthen the independence and accountability of judges and prosecutors;

4.9. the Russian authorities to implement a series of concrete measures aimed at addressing the concerns with regard to the continuing deterioration of human rights and the rule of law; to remove any legal obstacles to the unconditional execution of the decisions of the European Court of Human Rights; to unconditionally and fully co-operate with the joint investigation team and the Dutch prosecution service in bringing those responsible for the downing of Malaysia Airlines Flight MH17 to justice; to take effective measures aimed at preventing violations of the human rights of LGBTI persons, in particular in the Chechen Republic; to co-operate fully with the international community in the investigation of the

murder of Mr Boris Nemtsov; to end and reverse the ongoing "borderisation" and creeping annexations of the Georgian regions of South Ossetia and Abkhazia; to fully implement the Minsk agreements to which the Russian Federation is a party and to end its military intervention in, and support for, illegally armed formations in eastern Ukraine; to reverse its illegal annexation of Crimea as demanded by the Assembly, including in Assembly Resolutions 1990 (2014), 2034 (2015), 2063 (2015), 2132 (2016), 2198 (2018), 2259 (2019), 2292 (2019) and others; to fully comply with the European Convention on Human Rights and unconditionally implement the judgments of the Court;

4.10. the Turkish authorities to respect fully the rights and fundamental freedoms of opposition politicians, in particular to guarantee parliamentary immunity and to release members and former members of parliament who were wrongly imprisoned and stripped of their immunity; to end the use of anti-terror laws to silence opposition parties, journalists, activists and civil society organisations that hold diverging views to those of the ruling party; to fully comply with the European Convention on Human Rights and unconditionally implement the judgments of the Court;

4.11. the Ukrainian authorities to ensure full and transparent investigations into attacks on journalists and anti-corruption activists to ensure that no perception of impunity for such crimes is allowed to exist; and to ensure that the reform of the legal framework governing the Supreme Court and judicial self-governing bodies is carried out fully in line with European standards.

5. 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. It welcomes the efforts made to ensure the monitoring of the membership obligations of all Council of Europe member States, which preclude any possibility for double standards and decides to strengthen the periodic review procedure as a complementary mechanism to the existing monitoring procedure and post-monitoring dialogue. To that end, the Assembly decides to amend the terms of reference of the Monitoring Committee, appended to Resolution 1115 (1997) (as modified), as follows:

5.1. at the end of paragraph 8 add the following text: "The Monitoring Committee is seized to prepare regular periodic reviews of all Council of Europe member States that are not under a full monitoring procedure or engaged in a post-monitoring dialogue. The order and frequency of these reports shall be decided upon by the committee in accordance with its internal working methods based on substantive grounds, with the objective of producing, over time, periodic review reports on all member States";

5.2. replace paragraph 14 by the following: "In the case of reports on the honouring of obligations and commitments, periodic review reports on the honouring of membership obligations, and reports on the post-monitoring dialogue, the authorities of the country in question will be given a six-week period to provide their comments on the preliminary draft report to be transmitted to them by the committee. These comments will be discussed as part of the consideration of the draft report by the committee. No comments by the authorities are required for the consideration of a draft report on the functioning of democratic institutions. Draft reports shall remain confidential until the authorities have been able to give their comments within the aforementioned deadline and the report has been examined by the committee. All other memoranda and working documents of the committee shall remain confidential unless declassified by the committee."

6. Furthermore, in order to strengthen the efficiency and internal coherence of the work of the Monitoring Committee, the Assembly decides to amend Resolution 1115 (1997) (as modified by Resolutions 1431 (2005), 1515 (2006), 1698 (2009), 1710 (2010), 1936 (2013), 2018 (2014) and 2261 (2019)) as follows:

6.1. insert the following new paragraph before paragraph 9: "In line with Rule 50.1, unless otherwise specified, the Monitoring Committee shall appoint two rapporteurs, from different countries and political groups, to prepare country-specific reports on the honouring of obligations and commitments, reports on the functioning of democratic institutions, reports on the post-monitoring dialogue and reports on periodic reviews."

7. The Assembly invites the committee to pursue its reflections on ways to strengthen its work, including with regard to the manner in which the committee is composed.