Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 2357 (2021)[1]

Progress of the Assembly's monitoring procedure (January-December 2020)

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) (as amended) 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). In particular, it welcomes the Monitoring Committee's work in accompanying the 11 countries subject to a monitoring procedure *senso stricto* (Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, the Republic of Moldova, Poland, 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. It recalls that on 28 January 2020, on the basis of a report presented by the Monitoring Committee, the Assembly adopted Resolution 2316 (2020) on the functioning of democratic institutions in Poland, in which it decided to open a full monitoring procedure in respect of Poland.

2. The Assembly is aware that the exceptional circumstances caused by the Covid-19 pandemic affected the monitoring process in 2020 by preventing co-rapporteurs from conducting visits to the countries under their responsibility and maintaining direct political dialogue with stakeholders. Moreover, due to the absence of plenary sessions, which are a necessary pre-condition for an in-depth and balanced political debate on regular monitoring reports, no monitoring reports have been prepared under the ordinary procedure.

3. It should be commended that despite objective constraints imposed on their work, monitoring co-rapporteurs have closely followed developments in their respective countries using all available means including videoconferences, with a view to keeping abreast of developments in the countries under their responsibility, as illustrated by numerous public statements they have made over the reference period.

4. In response to the new crackdown on the political opposition and civil dissent in Turkey, the Monitoring Committee prepared a report under urgent procedure which was the basis for the Assembly Resolution 2347 (2020) "New crackdown on political opposition and civil dissent in Turkey: urgent need to safeguard Council of Europe standards" addressing challenges and shortcomings ranging from restrictions of election rights to the weakening of the rule of law or limitations on freedom of expression and media freedom in Turkey.

5. The Monitoring Committee followed the developments regarding the military hostilities between Armenia and Azerbaijan, which broke out on 27 September 2020 in the Nagorno-Karabakh region. It initiated a current affairs debate on the subject and organised exchanges of views with the participation of parliamentarians from both sides. The monitoring rapporteurs on Armenia and Azerbaijan also issued statements calling for a peaceful resolution to the conflict.

1. *Assembly debate* on 25 January 2021 (2nd Sitting) (see Doc. 15211, report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), rapporteur: Mr Michael Aastrup Jensen). *Text adopted by the Assembly* on 25 January 2021 (2nd Sitting).

6. The Assembly welcomes the adoption and publication by the Monitoring Committee of internal working methods for the selection of countries to be the subject of periodic review reports, thus ensuring an impartial and fully transparent selection process.

7. The Monitoring Committee contributed to the debate on the Covid-19 pandemic, which was organised at the enlarged Standing Committee meeting on 13 October 2020, by preparing an opinion (Doc. 15164) on the report of the Committee on Political Affairs and Democracy entitled "Democracies facing the Covid-19 pandemic".

8. 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:

8.1. Albania: the agreement between all political stakeholders on electoral reform and the will expressed by the authorities to address, in line with European standards, the serious shortcomings noted in the draft amendments to the Law on Audiovisual Media Services;

8.2. Armenia: progress in the fight against corruption reflected by the improvement in the ranking established by the non-governmental organisation (NGO) Transparency International, from 105 to 77 out of 177 countries; the adoption of the 2020-2022 strategy to reform the police force, which foresees creating a new ministry of the interior responsible for law-enforcement agencies; the declared intention of the Armenian National Assembly to increase the transparency of financing of political parties; and the ratification of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201, Lanzarote Convention);

8.3. Azerbaijan: the acquittal of Ilgar Mammadov and Rasul Jafarov in April 2020, while regretting that it had not taken place within the deadline for the implementation of the judgment of the European Court of Human Rights; the release on humanitarian grounds of 176 prisoners aged over 65 in need of special care due to their age and state of health, in the context of the Covid-19 pandemic, including two prisoners convicted following the 2015 Nardaran events in unfair trials, which had raised concerns in the international community, thus addressing concerns expressed by the Council of Europe Commissioner for Human Rights with regard to the protection of the human rights and health of people detained in prisons in Council of Europe member States during the sanitary crisis;

8.4. Bosnia and Herzegovina: the return of a Bosnian delegation to the Assembly in 2020, after a full year of absence, due to the inability of political forces to reach an agreement on the formation of a government at the State level; the holding of postponed local elections on 15 November 2020 and the political agreement signed in June 2020 that allowed local elections to be held in Mostar on 20 December 2020 for the first time since 2008, a requirement of both the European Court of Human Rights in its Baralija judgment and by the Assembly in its Resolution 2201 (2018) on the honouring of obligations and commitments by Bosnia and Herzegovina;

8.5. Bulgaria: the declared will of the authorities to reform the constitution with a view to efficiently fighting corruption and ensuring the independence of the judiciary and the rule of law, as well as its co-operation with the European Commission for Democracy through Law (Venice Commission) in this respect;

8.6. Georgia: the political agreement of March 2020 between all political stakeholders on a more proportional election system, which can contribute to a more pluralist and representative composition of the Georgian Parliament;

8.7. Republic of Moldova: the continuous co-operation of the Moldovan authorities with the Council of Europe and the smooth organisation of the presidential election despite a polarised environment and the challenging sanitary context. The Assembly takes notes of the election, on 15 November 2020, of Ms Maia Sandu by a clear majority of votes – the first woman to become President of the Republic of Moldova;

8.8. Montenegro: the peaceful transfer of power following the general elections that took place in August, which constitutes a major political change since independence and was made possible thanks to the responsible attitude shown by both the new majority and the new opposition in the aftermath of the elections;

8.9. North Macedonia: the ability of the four main political parties, despite their diverging views and different ethnic backgrounds, to build consensus in order to postpone the date of the early parliamentary elections (to 15 July) given the Covid-19 pandemic, and allow the parliament to fulfil its legislative functions; the revision of the much awaited Law on the Public Prosecutor's Office, aimed at

providing a sustainable solution for the cases of the Special Prosecutor for Crimes Related to and Arising from the Content of the Illegal Interception of Communications; the notable efforts made by the authorities to revise the legislative frameworks to fight corruption, while expecting a consistent, practical application of these new rules;

8.10. Poland: the efforts of all political actors to organise democratic elections despite the Covid-19 pandemic and the, albeit belated, agreement between the stakeholders on the postponement of these elections, including the new dates and the conditions for their organisation under pandemic conditions;

8.11. the Russian Federation: the role played in peace brokering over the Nagorno-Karabakh conflict;

8.12. Serbia: the resumption of the Belgrade–Pristina dialogue facilitated by the European Union after a twenty-month interruption and the establishment of a mini-Schengen zone to increase co-operation with Albania and North Macedonia;

8.13. Turkey: the intention expressed by the Turkish authorities to expand freedom of expression while preparing the Human Rights Action Plan and the continuous dialogue and co-operation established with the Council of Europe;

8.14. Ukraine: the efforts by the Ukrainian authorities to establish and ensure the functioning of the institutions to fight corruption in the country, as well as the ceasefire agreement dated 27 July 2020 following the agreement of the Trilateral Contact Group, which enacted additional measures to strengthen the regime of a full and comprehensive ceasefire.

9. 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, in particular:

9.1. Albania: the delays in establishing a functional Constitutional Court as well as the ongoing marked political polarisation in the country;

9.2. Armenia: the violence that erupted following the signature of the trilateral statement between Armenia, Azerbaijan and Russia on 9 November 2020, which resulted in the storming of institutional buildings and in physical aggression against the President of the National Assembly that left him hospitalised; the rapid changes in the composition of the Constitutional Court without the opinion of the Venice Commission being fully taken into account;

9.3. Azerbaijan: reports of large-scale repression of government opponents and restrictions on freedom of expression, including internet access, under the pretext of safety measures against the Covid-19 pandemic; other outstanding concerns including, *inter alia* lack of independence of the judiciary, lack of pluralism, violations of the rule of law and human rights, as well as restrictions put on freedoms of assembly, association, expression and religion;

9.4. Bosnia and Herzegovina: the continuing verbal attacks against the General Framework Agreement for Peace in Bosnia and Herzegovina, including threats by the Republika Srpska to declare self-determination; continuous rhetoric questioning the legitimacy of some State-level institutions established under the General Framework Agreement, including the refusal to implement judgments issued by State-level courts; the lack of any progress with regard to the implementation of the Sejdić and Finci judgment; the lack of any progress with regard to the implementation of the recommendations made by the European Union's group of experts in the 2019 "Priebe report"; the lack of any improvement in the field of freedom of expression and in the field of freedom of peaceful assembly in relation to the "Justice for David" movement; the absence of progress in terms of transitional justice and reconciliation;

9.5. Bulgaria: no substantial progress in the main outstanding areas of concern including high-level corruption and media freedom;

9.6. Georgia: the shortcomings noted during the last parliamentary elections while deeply regretting the decision of opposition parties to boycott the newly elected parliament;

9.7. Republic of Moldova: the slow pace of the reform of the judiciary and slow progress in the fight against corruption, in particular insufficient progress made in the field of corruption prevention in respect of members of parliament, judges and prosecutors and, in this context, the political migration of members of parliament which is a source of political instability, notwithstanding allegations of political corruption;

9.8. Montenegro: the limited progress achieved in the four key areas identified in Resolution 2030 (2015) on the honouring of obligations and commitments by Montenegro: the independence of the judiciary, trust in the electoral process, the situation of the media and the fight against corruption; the reappointment of presidents of courts for more than the two-term limit set by the constitution and the law; the failure to revise the electoral framework before the general elections; the lack of progress with regard to the composition and independence of the Judicial Council and in reviewing the disciplinary framework for judges; the lack of substantial progress in the reform of the funding of political parties and electoral campaigns; the lack of improvement in the situation of journalists;

9.9. North Macedonia: the situation of the media, which remains unchanged, in particular issues such as the financial sustainability of independent media, self-regulation, lack of transparency of media advertising by State institutions, political parties and public enterprises, and the public service broadcaster's independence;

9.10. Poland: the refusal of the Polish authorities to execute judgments of domestic courts and of the Court of Justice of the European Union that they do not like, contrary to their international obligations, including to the Council of Europe;

9.11. Russian Federation: a number of outstanding concerns, including, *inter alia* the lack of pluralism, the independence of the judiciary, the restrictive environment for activities of political extra-parliamentary opposition, civil society, human rights activists and journalists, restrictions on the freedoms of expression, assembly, association and religion, as well as a number of problematic laws including the Foreign Agents Law, the Law on Undesirable Organisations or anti-extremist legislation; ratification of amendments to the constitution that introduce major restrictions on the application of international law and implementation of the decisions of the European Court of Human Rights; the lack of progress with regard to implementing the demands of the international community with regard to eastern Ukraine, Crimea, the occupied Georgian regions of Abkhazia and Tskhinvali region/South Ossetia and the Transnistrian region of the Republic of Moldova;

9.12. Serbia: limited progress, if any, in the outstanding areas of concern; issues raised with regard to general elections held on 21 June 2020 including the boycott by several opposition political parties, which resulted, despite a last-minute lowering of the electoral threshold, in the formation of a new parliament without a viable opposition (with the exception of some members from minority parties); the management of the Covid-19 pandemic in times of elections, including the lifting of restrictive lockdown measures during the election campaign and their unexpected reintroduction after the repeat election of 1 July, which triggered clashes with – and disproportionate use of violence by – the police; restrictions to media freedom and attacks against journalists, as well as financial investigations launched against NGOs and human rights activists;

9.13. Turkey: the new crackdown on political opposition and civil dissent, the restrictions of freedom of expression and media freedom; the dismissal of mayors on alleged terror-related charges and their replacement by government-appointed trustees and the adoption of amendments to the 1969 Attorneyship Law, which undermine the independence of the bar associations and further weaken the rule of law;

9.14. Ukraine: the persistent shortcomings in the reforms of the judiciary and the justice system and the still limited results in the fight against the widespread corruption in the country; the recurrent attacks on journalists.

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

10.1. Albania to foster the freedom of media and to ensure that all Venice Commission recommendations concerning the amendments to the Law on Audiovisual Media Services are fully addressed; it also calls on all political forces to fully implement the new electoral framework which will allow for the conduct of genuinely democratic elections on 25 April 2021;

10.2. Armenia to continue pursuing the democratic path it has chosen and to solve the political crisis that followed the signature of the trilateral statement within the framework of a democratic State that respects the rule of law;

10.3. Azerbaijan to address the outstanding concerns included in past Assembly resolutions, including, *inter alia* the lack of pluralism, violations of the rule of law and human rights as well as the restrictions put on freedoms of assembly, association, expression and religion; and to refrain from war rhetoric;

10.4. Bosnia and Herzegovina to refrain from any attack against the General Framework Agreement; to implement the Sejdić and Finci judgment; to implement the recommendations contained in the "Priebe report"; to end acts of intimidation against journalists and to respect freedom of peaceful assembly, notably in relation to the "Justice for David" movement; to engage in a genuine reconciliatory process in the spirit of the common statement signed by the collegial presidency during the 25th Anniversary of the General Framework Agreement;

10.5. Bulgaria to step up its efforts in addressing outstanding concerns identified in Resolution 2296 (2019) on post-monitoring dialogue with Bulgaria, including high-level corruption, media freedom, human rights of minorities, hate speech and violence against women, and to make full use of the Council of Europe's legal expertise in the process of the adoption of a new constitution;

10.6. Georgia to fully and transparently investigate all allegations of electoral misconduct during the October 2020 parliamentary elections; the Assembly urges all political parties to take up the seats they won in the new parliament and not to undermine its democratic functioning;

10.7. the Republic of Moldova to ensure that all political stakeholders engage in an inclusive dialogue and are ready to make the necessary political compromises to ensure the functioning of democratic institutions in line with Council of Europe standards for the benefit of all citizens; to adopt, without further delay, the expected legal and constitutional amendments in line with the recommendations of the Venice Commission; to improve the independence, accountability and efficiency of the judiciary; to update the election legislation in line with the August 2020 Venice Commission Opinion No. 996/2020, in particular to better regulate funding of election campaigns; to take meaningful action to fight corruption and conduct a thorough investigation into the 2014 bank scandal;

10.8. Montenegro and all political stakeholders to demonstrate that the country is not only able to manage a democratic change in majority, but is also capable of confirming its European path and complying with its obligations, notably in the four key areas identified in Resolution 2030 (2015);

10.9. North Macedonia to pursue its efforts to strengthen the independence of the judiciary and the fight against corruption in line with the recommendations of the Group of States against Corruption (GRECO); to launch the reforms needed to improve the situation of the media with due consultation of all stakeholders; to further implement Resolution 2304 (2019) on post-monitoring dialogue with North Macedonia, and notably to increase the sustainability and functioning of democratic institutions, consolidate the electoral framework and pursue inclusive policies aimed at securing the rights of minorities;

10.10. Poland to fully implement Resolution 2316 (2020), in particular regarding the independence of the judiciary and respect for the rule of law; to respect the reproductive autonomy of women and guarantee unhindered and timely access to sexual and reproductive health services;

10.11. the Russian Federation to address, without further delay a number of outstanding concerns, including, *inter alia* the lack of pluralism, independence of the judiciary, the restrictive environment for activities of political extra-parliamentary opposition, civil society, human rights activists and journalists, restrictions on freedom of expression, assembly, association and religion as well as a number of problematic laws including the Foreign Agents Law, the Law on Undesirable Organisations or anti-extremist legislation; to implement the demands of the international community with regard to eastern Ukraine, Crimea, the occupied Georgian regions of South Ossetia and Abkhazia and the Transnistrian region of the Republic of Moldova;

10.12. Serbia to foster an inclusive dialogue with all political parties in order to ensure pluralism of views when preparing the reforms expected in the framework of the monitoring procedure, in particular the revision of the constitution to enhance independence of the judiciary; to strengthen the position and action of independent institutions; to review the election legislation on the basis of a consensus between the main political forces in order to build trust in election processes and ensure fair election conditions in the future; to improve the situation of the media, investigate attacks on journalists and create conditions allowing civil society and independent media to express critical views and ensure a sound scrutiny of public institutions leading to the necessary checks and balances in a democratic society; to take a firm stand against hate speech which nurtures hostility against journalists, human rights activists and political opponents;

10.13. Turkey to implement Resolution 2347 (2020) and notably to: refrain from systematic prosecution and investigation of dissenting voices – including opposition politicians, human rights defenders, journalists and academics – and protect their fundamental freedoms; reinstate the dismissed mayors and make the expected legal changes in the election legislation in line with Venice Commission Opinion

No. 979/2019 of June 2020; release Osman Kavala and implement the judgments of the European Court of Human Rights; amend and/or ensure strict interpretation of the Anti-Terrorism Law and the criminal code so as to ensure that their implementation and interpretation comply with the European Convention on Human Rights (ETS No. 5), as interpreted by the European Court of Human Rights;

10.14. Ukraine to take all necessary actions to strengthen the structures necessary to fight corruption in the country, including by restoring the effective functioning of the e-declaration system and clarifying the legal status of the National Anti-Corruption Bureau of Ukraine, while at the same time refraining from any actions that could have a lasting detrimental effect on the rule of law and the independence of the judiciary in Ukraine; to ensure the effective investigation of all attacks against journalists; and to ensure compliance with the obligations to protect the linguistic rights of national minorities.

11. With regard to the Nagorno-Karabakh conflict, the Assembly calls on all parties involved to refrain from inflammatory rhetoric which hinders political dialogue; Armenia and Azerbaijan to implement as soon as possible the provisions of the trilateral statement related to humanitarian issues; all parties involved to immediately put into action the exchange of prisoners of war and bodies of the dead, and to respect cultural heritage. It also invites the Monitoring Committee to explore avenues to contribute at parliamentary level to an atmosphere conducive to the peace process. The Assembly expresses its serious concern about reports and allegations of violations of humanitarian and human rights law by all sides during this conflict and allegations of degradations to some religious sites and monuments as well as destruction of private property. It expects these reports to be fully investigated and any violations to be remedied and the perpetrators prosecuted.

12. The Assembly invites the Monitoring Committee to further reflect on possible ways of adapting its working methods to the constraints imposed by the pandemic with a view to improving the efficiency of the parliamentary monitoring procedures under challenging circumstances.

13. The Assembly invites all monitoring rapporteurs to resume visits to the countries under their responsibility as soon as the travel restrictions due to the pandemic are lifted and calls on all countries concerned to facilitate the organisation of such visits without undue delay.