



Resolution 2428 (2022)¹

Progress of the Assembly's monitoring procedure (January-December 2021)

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 \(1997\)](#) (modified) "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 committee's work in accompanying the 11 countries under a monitoring procedure *sensu 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 periodic monitoring of the membership obligations of all other member States, which is currently being carried out in respect of France, Hungary, Malta, the Netherlands, Romania and San Marino.

2. The Assembly is mindful of the continued impact of the Covid-19 pandemic on the monitoring process as well as the work of the Sub-Committee on Conflicts between Council of Europe Member States. It expresses its satisfaction that, by adapting their working methods, the activities of monitoring rapporteurs remained uninterrupted throughout the whole reporting period as illustrated by numerous statements, a number of reports and information notes. It also welcomes the fact that, despite the continuing travel restrictions, several fact-finding visits have taken place, including to Armenia, Georgia, Malta, the Republic of Moldova, the Russian Federation and Ukraine. The Assembly fully endorses the Monitoring Committee's position that in-person contact is a necessary condition for meaningful political dialogue and the preparation of reports must include a visit to the country concerned.

3. The Assembly notes the committee's continuous attention to the developments concerning the Nagorno-Karabakh conflict, and its readiness to actively contribute to the establishment of political dialogue between the parties concerned at parliamentary level.

4. The Assembly welcomes the positive developments and progress made during the reporting period in the countries under a full monitoring procedure or engaged in a post-monitoring dialogue, expresses its concern about some negative developments and remaining shortcomings and urges all these countries to step up their efforts to fully honour their membership obligations and accession commitments to the Council of Europe. In particular:

4.1. with respect to Albania: the Assembly welcomes the organisation of elections on 25 April 2021 and the return of the opposition to the work of the parliament, which should contribute to resolving the systemic political crisis that has plagued the country. It calls on all political forces to refrain from actions and discourse that increase tensions in the political environment. While welcoming the ongoing efforts to strengthen the independence of the judiciary and fight widespread corruption, the Assembly is concerned about the attempts by the authorities to increase their control over the media and the flow of information that could negatively affect the media environment in the country;

1. *Assembly debate* on 28 January 2022 (9th sitting) (see [Doc. 15433](#), 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 28 January 2022 (9th sitting).



4.2. with respect to Armenia: referring to [Resolution 2427 \(2022\)](#) “The functioning of democratic institutions in Armenia”, the Assembly welcomes the fact that Armenia has successfully emerged from the serious political crisis triggered by the outcome of the Nagorno-Karabakh conflict by organising early elections in June 2021, carried out in a democratic manner, notwithstanding the highly polarised environment. The Assembly also welcomes the pursuit of reforms and co-operation with the Council of Europe. At the same time, however, it deplores the political climate surrounding the June 2021 elections, which were characterised by intense polarisation and marred by increasingly inflammatory rhetoric among key candidates. The Assembly calls on all political stakeholders to observe democratic standards in political debate and continue the reforms;

4.3. with respect to Azerbaijan: the Assembly welcomes the authorities’ declared will to conduct a dialogue but regrets that no progress has been made with regard to the outstanding concerns in the area of pluralism and the rule of law. It deplores the lack of independence of the judiciary as illustrated by a long-standing pattern of repression of political opponents and government critics and confirmed by the judgments of the European Court of Human Rights. It also denounces the restrictions on basic freedoms including freedom of expression, assembly and association and calls on the authorities to undertake urgent measures with a view to improving this highly unsatisfactory situation;

4.4. with respect to Bosnia and Herzegovina: the Assembly regrets that no tangible progress has been made by the Bosnian authorities in the execution of the Sejdić and Finci judgment for twelve years. It deplores the inability of the various political forces in Bosnia and Herzegovina to reach an agreement that would allow this to happen, in contrast to what they achieved for the holding of municipal elections. It condemns the maintenance of the current electoral system, which constitutes a clear violation by Bosnia and Herzegovina of its obligations as a member State. It calls on the Bosnian authorities to comply with this judgment before the next parliamentary elections are held in October 2022;

4.5. with respect to Georgia: the Assembly expresses its concern about the deeply polarised political climate in the country that contributed to the breakdown of the 19 April 2021 political agreement mediated by the European Union. It calls upon all political forces, majority and opposition, to commit themselves to and engage in a constructive dialogue with each other to implement the different reforms foreseen in this agreement, which are closely related to its Council of Europe membership obligations. In this respect, it welcomes the adoption of the electoral reforms that were agreed between the ruling majority and the opposition as part of this agreement. Georgia has made considerable progress over the years with its reform of the judiciary with a view to strengthening its independence. However, the functioning of the High Council of Justice remains a point of concern. In that context, the Assembly deeply regrets that the authorities have continued to appoint Supreme Court judges on the basis of a clearly deficient appointment process that in several respects does not comply with international norms and standards, despite repeated calls by the international community to this effect;

4.6. with respect to the Republic of Moldova: the Assembly commends the peaceful political transition and the organisation of early parliamentary elections in July 2021 resulting in greater political stability and better gender-balanced representation in parliament. It welcomes the determination of the Moldovan authorities to reform the judiciary and the prosecution service, to strengthen their independence, fight corruption, enhance transparency and address the roots of “State capture”, all in the interests of the population. It also welcomes the adoption of the constitutional amendments on the judiciary, based on a large political consensus, as well as the ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210, “Istanbul Convention”). The Assembly encourages the Moldovan authorities to continue their reforms that should involve the opposition and civil society representatives and ensure respect for the rule of law, in line with Council of Europe standards. It encourages the Moldovan authorities to continue their close co-operation with the Council of Europe, in particular its European Commission for Democracy through Law (Venice Commission), and calls on the Moldovan authorities to implement its recommendations;

4.7. with respect to Poland: the Assembly welcomes the appointment of a new ombudsperson with the support of both the ruling majority and opposition. However, it deeply regrets that the situation with regard to the respect for the rule of law and independence of the judiciary has continued to deteriorate over the last year. It underscores that the European Court of Human Rights in its judgments in the cases *Xero Flor w Polsce sp. z o.o. v. Poland* (Application No. 4907/18) and *Reczkowicz v. Poland* (Application No. 43447/19) established that certain benches of the Polish Constitutional Tribunal, as well as the Disciplinary Chamber of the Supreme Court of Poland, could not be considered as a “tribunal established by law” within the meaning of the European Convention on Human Rights (ETS

No. 5, “the Convention”). In this respect, it is deeply concerned about the recent judgment of the Polish Constitutional Tribunal that Article 6.1 of the Convention is not compatible with the Polish Constitution if applied to the Constitutional Tribunal or used to give the European Court of Human Rights the right to assess the legality of the process of electing judges to the Constitutional Tribunal, which is a direct and unacceptable challenge to the supremacy of the European Convention on Human Rights and the fundamental values of the Council of Europe;

4.8. with respect to the Russian Federation: important outstanding concerns include the plight of civil society and implementation of restrictive laws, in particular the Law on Foreign Agents and the Law on Undesirable Organisations. The Assembly deplores the ongoing procedure aimed at the liquidation of “Memorial”, a well-known and respected human rights organisation. With regard to the parliamentary elections which took place between 17 and 20 September 2021, the Assembly notes some concerns identified by the Election Assessment Mission of its Bureau with regard to the electoral legal framework, candidate registration and deregistration by the Central Electoral Commission (allegedly depriving some 9 million Russian citizens of their passive voting rights), pressure on State employees to vote on Friday and the safekeeping of ballots overnight, unequal campaigning conditions, in particular media coverage, allegations of misuse of State and administrative resources and the impact of the foreign agent legislation. The Assembly recalls its position regarding the illegal annexation of Crimea, confirmed most recently in [Resolution 2363 \(2021\)](#) and regrets that no progress has been made concerning its earlier recommendations with regard to eastern Ukraine, Crimea, the occupied Georgian regions of South Ossetia and Abkhazia and the presence of Russian troops in the Transnistrian region of the Republic of Moldova. The Assembly expresses serious concern about the recent concentration of large numbers of Russian troops along the border with Ukraine, thus undermining the security and stability in the wider region, and urges the Russian Federation to withdraw these troops as soon as possible. The Assembly calls on the Russian authorities to address the concerns with regard to democracy, the rule of law and human rights;

4.9. with respect to Serbia: the Assembly welcomes the adoption of the constitutional amendments to depoliticise the judiciary with a view to strengthening its independence. It notes with satisfaction that most of the Venice Commission recommendations were taken into consideration but remains concerned about the risk of politicisation of the High Prosecutorial Council. It calls on the Serbian authorities to comply with Council of Europe standards when organising the constitutional referendum of 16 January 2022 and adopting the legislation required to implement these amendments. It welcomes the resumption of the interparty dialogue to improve election conditions but urges all stakeholders to achieve and commit to tangible measures, based on a broad consensus, that will lead to fair, inclusive and competitive elections. It also encourages the Serbian authorities to accelerate their reforms with a view to strengthening the independence of the judiciary, media freedom, the fight against corruption and the independence of institutions, which provide for indispensable checks and balances in a democratic society;

4.10. with respect to Turkey: the Assembly calls on the Turkish authorities to fully implement [Resolution 2376 \(2021\)](#) “The functioning of democratic institutions in Turkey” and in particular to put an end to the judicial harassment of opposition and dissenting voices, to improve freedom of expression and the media, to restore the independence of the judicial system and to revise the legislation on elections and political parties well ahead of the next elections, in line with the standards of the Council of Europe and in co-operation with monitoring mechanisms, including the Venice Commission. While welcoming the decision of the Constitutional Court to reinstate the political rights of MP Ömer Faruk Gergerlioğlu, who was unlawfully stripped of his immunity and deprived of his parliamentary mandate, the Assembly deplores the fact that one third of parliamentarians, overwhelmingly from opposition parties, remain subject to procedures seeking to lift their immunity. It also remains extremely concerned about the attempt to close the Peoples’ Democratic Party (HDP), the continued crackdown on its members and more generally the political violence targeting opposition politicians, which put political pluralism and the functioning of democratic institutions at risk. The Assembly deplores the presidential decision to withdraw from the Istanbul Convention. The Assembly urges the Turkish authorities to uphold women’s rights and protect them effectively from violence, and to remain committed to the principles enshrined in the Istanbul Convention. The Assembly strongly urges the Turkish authorities to implement the European Court of Human Rights’ rulings and to immediately release philanthropist Osman Kavala and former HDP leader Selahattin Demirtaş. It calls on the Turkish authorities to act promptly after the Committee of Ministers adopted, on 2 December 2021, interim resolutions on these cases, and formally notified Turkey of the Committee of Ministers’ intention to refer the [Kavala v. Turkey](#) case to the European Court of Human Rights, in line with proceedings provided for under Article 46.4 of the European Convention on Human Rights;

4.11. with respect to Ukraine: the Assembly welcomes the continuing efforts of the Ukrainian authorities to reform the judiciary with a view to ensuring its independence and the impartial administration of justice. It welcomes the reinstatement of the High Qualifications Commission of Judges and of the High Council of Justice, a move which is essential to a successful reform of the judiciary and for addressing widespread corruption. The Assembly expresses its concerns about the efforts to delay and undermine these reforms, which should be implemented as a matter of urgency. The Assembly calls for the reform, without delay, of the Kyiv District Administrative Court, whose rulings against government decisions have been questioned and are widely seen as attempts to undermine the authority's reform and anti-corruption efforts. The Assembly welcomes that, following reforms, the five-tiered institutional structure to fight corruption is starting to achieve tangible results. It recommends that the authorities increase the number of judges at the High Anti-Corruption Court. It considers that the appointment processes for currently vacant leadership positions in the anti-corruption institutions, as well as those for posts that will soon be vacant, will be a litmus test of the authorities' political will to tackle corruption at all levels in Ukrainian society. The Assembly takes note of the efforts of the authorities to tackle the undue influence of oligarchs in Ukraine. It urges the authorities to address all concerns and recommendations of the Venice Commission in its opinion on the "anti-oligarch law", in order to ensure that it complies with European standards and norms. The Assembly welcomes the improved co-operation of the authorities in the framework of the Council of Europe Platform to promote the protection of journalism and safety of journalists. It urges the authorities to ensure that all cases of violence against journalists are fully and transparently investigated to avoid any sense of impunity in this respect. The Assembly welcomes the holding of the inaugural summit of the Crimea Platform, aimed at peacefully restoring Ukrainian control over this territory, which attracted wide-ranging and high-level international participation;

4.12. with respect to Bulgaria: the Assembly is aware that a major political crisis triggered by corruption scandals, a lack of respect for the rule of law and ensuing street demonstrations in 2020, as well as three parliamentary elections and one presidential election which took place in the country during the reporting period, had an inevitable impact on the pace of addressing the remaining outstanding concerns as defined in [Resolution 2296 \(2019\)](#) "Post-monitoring dialogue with Bulgaria", namely high-level corruption, transparency of media ownership, the human rights of minority groups, hate speech and violence against women. At the same time, the Assembly welcomes the smooth organisation of the elections and expresses confidence that the ongoing talks among the parties will allow for replacing the interim government with a stable coalition government which will continue the meaningful dialogue and progress towards Bulgaria's full compliance with its commitments and obligations;

4.13. with respect to Montenegro: the Assembly welcomes the constructive co-operation between the authorities and the Venice Commission on the consideration of the amendments to the Law on State Prosecution and the draft law on the prosecutor's office for organised crime and corruption. The Assembly notes, however, that the reappointment of all the members of the Prosecutors' Council and the appointment of five new lay members by the parliament by a simple majority constitute a risk to the independence of the council. It therefore calls on the Montenegrin Parliament to ensure that the five new lay members of the Prosecutors' Council are appointed on the basis of their competence and perceived as politically neutral. The Assembly is concerned about an increase in the polarisation of the Montenegrin political scene over issues of national identity in a country that has so far managed to largely limit such tensions. It calls on the various political formations and leaders not to accentuate this polarisation, but rather to help reduce its intensity;

4.14. with respect to North Macedonia: the Assembly welcomes the adoption of ambitious reform packages to reform the judiciary and fight corruption and in particular encourages the authorities to implement the 2021 recommendations of the Group of States against Corruption (GRECO) to tackle corruption within senior executive posts and within the law-enforcement agencies, especially the police. It congratulates the authorities for the conduct of the census and encourages them to ensure the publication of its results in a transparent and open manner and further promote a stable interethnic relationship. The Assembly also urges the authorities to address the remaining serious shortcomings of the prison system and the alarming situation in the Idrizovo Prison, as highlighted by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in its May and July 2021 reports, despite some recent improvements. It regrets that the adoption of the Negotiating Framework by the European Council of the European Union has been blocked by Bulgaria, thus delaying the opening of EU accession negotiations, which has triggered disillusion and political instability in the country.

5. With regard to the countries that are currently subject to the procedure for the periodic review of membership obligations to the Council of Europe:

5.1. with respect to Hungary: the Assembly recalls its previous concerns included in [Resolution 2203 \(2018\)](#). In this respect, it welcomes the repeal of the 2017 Law on the transparency of organisations receiving support from abroad (known as “Lex Soros”) on 22 April 2021 and some progress noted by the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) on its legislation on politically exposed persons. The Assembly is however concerned about the functioning of the country’s democratic institutions. It calls on the authorities to strengthen the self-governance of the judicial system, guarantee its independence more effectively, restore journalistic and media freedoms, implement GRECO recommendations to resolutely fight corruption, and revise and/or implement its legislation and constitution in line with the recommendations made by the Venice Commission in its opinions of 2011, July 2021 and October 2021. The Assembly is also concerned about the swift adoption, in December 2020, of constitutional amendments and a legal package under the state of emergency. This includes an electoral reform requiring political parties to nominate candidates in 70% of the constituencies at the next parliamentary elections; the main effect of this reform, according to the Venice Commission, would be to favour the incumbents, thereby aggravating the level of political polarisation. The Assembly therefore calls on the Hungarian authorities to improve the functioning of democratic institutions, ensuring their pluralism and guaranteeing the necessary checks and balances;

5.2. with respect to Malta: the Assembly welcomes the reforms implemented by the authorities to address the shortcomings and recommendations noted in its [Resolution 2293 \(2019\)](#) “Daphne Caruana Galizia’s assassination and the rule of law in Malta and beyond: ensuring that the whole truth emerges”, as well as those recommended by the Venice Commission in its opinion on the “Constitutional arrangements and separation of powers and the independence of the judiciary and law enforcement bodies”. However, it considers that additional systemic reforms are necessary to fully address the Venice Commission’s recommendations and in particular that a profound reform of the Maltese Parliament is necessary to establish a full-time parliament that can ensure proper parliamentary oversight over the executive;

5.3. with respect to Romania: the Assembly is aware of a number of concerns including some aspects of the functioning of democratic institutions, such as the independence and efficiency of the judiciary, the fight against corruption, pluralism of the media, discrimination of minorities and a number of other issues raised in the report by the Council of Europe Commissioner for Human Rights and the European Commission against Racism and Intolerance (ECRI), in particular racism, violence against women, LGBTI rights and detention conditions. The Assembly is aware of the political crisis which began on 1 September 2021 as a result of economic difficulties and the handling of the pandemic and ended on 25 November 2021 with the establishment of a new government. The Assembly is confident that the new authorities will conduct a meaningful political dialogue and address the concerns without delay.

6. The Assembly reiterates its support for the efforts of the Monitoring Committee to ensure the monitoring of membership obligations of all Council of Europe member States and is aware of the impact this has on its workload. It encourages the committee to continue to regularly select member States for this type of monitoring, on substantive grounds, according to its internal working methods and within the limits of its resources. It recognises that the specific conditions and working methods required by the parliamentary monitoring procedure for the preparation of these reports means that the two-year reference period, in accordance with Article 26 of the Rules of Procedure, is insufficient for the preparation of periodic monitoring reports. This is because of the preparation of the report by two co-rapporteurs, the six-week period for the authorities to provide comments on the preliminary draft report before it is adopted by the committee and the practice of not debating reports on a country during election periods or when it chairs the Committee of Ministers of the Council of Europe. The Assembly therefore invites the Committee on Rules of Procedure, Immunities and Institutional Affairs to consider possible ways to extend the two-year reference period for these reports.

7. The Assembly recognises that the work of the monitoring rapporteurs is time-consuming and requires considerable availability and flexibility. It takes note of the problems encountered by the committee with regard to the availability of rapporteurs as well as candidates for rapporteur positions. It considers that this needs to be addressed in a structural and systemic manner. It therefore invites the committee to explore the advantages of changing the current single five-year-term limit for rapporteurs for a country under a full monitoring procedure or engaged in a post-monitoring dialogue to three three-year terms, which would allow for the possibility of recall and for the retention of available and well-performing rapporteurs for a given

country. In the meantime, the Assembly invites the political groups to make the availability to carry out the work of rapporteurs an important criterion when appointing members to the committee and to make more frequent recourse to the circulation of rapporteurs' positions among the groups to alleviate some of the shortages of rapporteurs for vacant positions.

8. The Assembly takes note that currently only 8 out of 39 rapporteurs and only 20 out of 82 members of the committee are women. The Assembly underscores the need for a more balanced gender representation in the nominations by the groups both for committee membership and rapporteur positions.