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The progress of the Assembly's monitoring procedure (January-December 2022)

Report[1]
Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)
Rapporteur: Mr Piero FASSINO, Italy, Socialists, Democrats and Greens Group

Summary

In its annual progress report, the Monitoring Committee takes stock of its activities from January to December 2022 and assesses the progress in the honouring of their accession commitments and membership obligations to the Council of Europe made by the countries under a full monitoring procedure (Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Hungary, Republic of Moldova, Poland, Serbia, Türkiye and Ukraine), the three countries engaged in a post-monitoring dialogue (Bulgaria, Montenegro and North Macedonia), and the countries under periodic review in the reporting period (France, Malta, the Netherlands, Romania and San Marino). The committee welcomes progress made, notes challenges, and where relevant also expresses concerns about setbacks. On this basis it formulated recommendations to the countries concerned.

In addition, the report presents a number of recommendations to strengthen the efficiency and internal coherence of the work of the committee.

1. Reference to committee: Resolution 1115 (1997).

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A. Draft resolution[2]

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) 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 committee's work in accompanying the 11 countries under a full monitoring procedure (Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Hungary, the Republic of Moldova, Poland, Serbia, Türkiye and Ukraine), the three countries engaged in a post-monitoring dialogue (Bulgaria, Montenegro and Northern Macedonia) in their efforts to comply fully with the obligations and commitments they entered into upon accession to the Council of Europe, as well as the countries subject to periodic monitoring of their membership obligations, which was completed in 2022 in respect of Hungary, Malta and Romania, and is currently carried out for France, the Netherlands and San Marino.

2. The Assembly notes the committee's continued attention to the developments concerning relations between Armenia and Azerbaijan.

3. It commends the Sub-Committee on Conflicts concerning Council of Europe Member States for the work it has undertaken during the reporting period with regard to the consequences of the war between the Russian Federation and Georgia, and in particular on recent developments in the Georgian regions of Abkhazia and Tskhinvali/South Ossetia as well as on recent developments in the Transnistrian settlement process.

4. It confirms that as a result of the Committee of Ministers' decision of 16 March 2022 to expel the Russian Federation from the Council of Europe with immediate effect, in reaction to the Russian aggression against Ukraine, the monitoring procedure for the Russian Federation was immediately closed as the mandate of the Monitoring Committee is limited to Council of Europe member States.

5. 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, while it stands ready and committed to co-operate and assist member States in this respect. In particular:

6. Regarding countries under a full monitoring procedure:

6.1. with respect to Albania: the Assembly welcomes the return of the main opposition parties to the work of the parliament following the parliamentary elections in 2021. It calls upon the ruling majority and opposition to overcome the deep polarisation and systemic political crisis in the country. The Assembly notes with satisfaction that the parliament has extended the constitutional deadline for the vetting of all judges and prosecutors in the country. It takes note of the proposed new judicial map and encourages all stakeholders to ensure that this new map will not jeopardise the access of citizens to the justice system. The Assembly welcomes the fact that all anti-corruption structures are now fully operational and hopes that this will result in an increased number of convictions for high level corruption, which remains a problem. While welcoming the announcement of the authorities that they intend to remove the so-called anti-defamation package of amendments from the agenda of the parliament, it expresses its serious concern about the deteriorating media environment. It calls upon the authorities to refrain from any actions and policies that could have a negative effect on freedom of expression and media freedom in the country;

6.2. with respect to Armenia: referring to Resolution 2427 (2022), the Assembly welcomes the marked progress in the democratic development of Armenia and calls on the authorities to complete the reform of the electoral framework, to continue the reform of the judiciary and to strengthen media freedom. The Assembly resolves to continue to closely follow developments with regard to institutional balances and the establishment of a democratic culture;

6.3. with respect to Azerbaijan: the Assembly welcomes the authorities` declared commitment to political dialogue but regrets that in general, the situation in Azerbaijan has not improved and that a number of outstanding concerns with regard to the rule of law, pluralist democracy and human rights remain unaddressed. They include serious concerns with regard to the independence of the judiciary,

2. Draft resolution unanimously adopted by the committee on 14 December 2022.

media freedom and freedom of expression, freedom of association and political freedom, as well as allegations of torture and ill-treatment by law enforcement officials and unsatisfactory detention conditions;

6.4. with respect to Bosnia and Herzegovina: the Assembly takes note of the holding of general elections and calls on the elected officials to proceed without delay with the formation of institutions at State and entity level and to adopt the critical reforms called upon by the European Union, the Group of States against Corruption (GRECO) and the Organization for Security and Co-operation in Europe (OSCE). The Assembly also calls on the newly constituted authorities to undertake the constitutional and electoral reforms to bring the Constitution into line with the European Convention on Human Rights (ETS No. 5), complying with the Sejdić and Finci group of cases;

6.5. with respect to Georgia: with reference to Resolution 2438 (2022), the Assembly welcomes the progress made by Georgia in honouring its obligations and commitments and encourages all political forces to address the remaining recommendations and concerns expressed in this resolution. In that respect it remains concerned about the extreme political polarisation in the country which affects the reforms and stakeholder participation in the reforms needed for further democratic consolidation and Euro-Atlantic integration of the country. The Assembly urges the authorities to implement a thorough, independent evaluation of its reforms of the judiciary with a view to guiding future reforms to ensure a genuine independent judiciary in the country. It takes note of recent developments with regard to the media and concerns expressed in that regard. It encourages the authorities to take all possible steps to reduce the tensions in the media environment. The Assembly reiterates its full support for Georgia's sovereignty and territorial integrity within its internationally recognised borders and its concern and condemnation of the illegal occupation and creeping annexation by the Russian Federation of the Georgian regions of Abkhazia and Tskhinvali/South Ossetia. It encourages the authorities to address the 12 recommendations of the European Union so that it can be given the candidate status for European Union membership that it rightfully aspires to;

6.6. with respect to Hungary: referring to Resolution 2460 (2022), the Assembly recalls its decision of 13 October to open a monitoring procedure to address the questions pertaining to the rule of law and democracy, including the excessive concentration of powers and use of special legal orders or cardinal laws, that have remained largely unaddressed. It invites the Hungarian authorities to review their electoral framework in the light of the 2021 opinion of the European Commission for Democracy through Law (Venice Commission) and to improve the media environment, so as to ensure the fairness of the electoral procedure. It calls on the Hungarian authorities to urgently revise the National Security Services Act and to repeal the legislation pertaining to the "dissemination of false information". Taking note of the steps taken to improve the functioning of democratic institutions, strengthen the transparency of the legislative process and improve the anti-corruption framework, the Assembly strongly encourages the authorities to seek the expertise of the Council of Europe to ensure the compliance of these measures with previous Venice Commission and GRECO recommendations;

6.7. with respect to the Republic of Moldova: the Assembly acknowledges that the country has faced considerable new challenges following the outbreak of the war in neighbouring Ukraine, adding to the pandemic, the energy and economic crisis. It applauds the Moldovan authorities for their management of the refugee crisis and the resilience and solidarity shown by the population. The Assembly calls on the authorities to remain committed to the reforms undertaken to restore the rule of law and trust in State institutions in consultation with all stakeholders. It welcomes the constructive co-operation established with the Venice Commission, in particular for the reform of the justice system and the prosecution office. It encourages the authorities to adopt the new Electoral Code in line with the Venice Commission's recommendations. The Assembly refers to Resolution … (2023) "The honouring of obligations and commitments by the Republic of Moldova" and invites the authorities to implement it;

6.8. with respect to Poland: the Assembly underscores the exemplary role played by the country in the context of the Russian aggression against Ukraine, and the extensive assistance provided to that country, including by hosting more than 1.4 million Ukrainian refugees on its territory. At the same time, the Assembly remains seriously concerned with regard to the independence of the judiciary and with the adherence of the judicial system with European rule of law standards and norms. It is deeply concerned about the judgments of the Constitutional Tribunal that consider article 6 (right to a fair trial) of the European Convention on Human Rights incompatible with the Polish Constitution under certain conditions. The Assembly reiterates its position that these judgments are an unacceptable challenge to the supremacy of the Convention and run counter to the obligation of all member States to fully implement the Convention and judgments of the European Court of Human Rights. It calls upon the Polish authorities to unconditionally execute the judgments of the Court, including by amending the

Constitution if necessary. The Assembly considers that the lack of independence of the National Council of the Judiciary is a key obstacle for the country to meet its rule of law commitments and calls for the reform of the National Council of the Judiciary in line with Venice Commission recommendations.

6.9. with respect to Serbia: the Assembly welcomes the adoption in January 2022, by referendum, of the constitutional amendments to depoliticise the judiciary and the preparation of subsequent secondary legislation for their implementation in co-operation with the Venice Commission. It encourages the Serbian authorities to take the Venice Commission's recommendations fully into account. The Assembly welcomes the adoption of amendments to the electoral legislation and the election of a more pluralistic parliament in April 2022 but urges the authorities to address long-standing issues such as: access to media, campaign finance, pressure on voters, and to adopt measures to allow for the public scrutiny and audit of voter lists. Concerning the fight against corruption, the Assembly welcomes the progress noted by GRECO, notably the adoption of a code of conduct for parliamentarians. It encourages the authorities to adopt an anti-corruption strategy and address the deficiencies in corruption prevention amongst persons with senior executive functions. The Assembly remains concerned about the level of violence against journalists and the media environment. Recalling the difficulties faced by the organisers of the Europride parade in September 2022, the Assembly urges the authorities to fully ensure freedom of assembly. In addition, the Assembly expects the Serbian authorities to continue the peaceful dialogue with the Kosovo*[3] with a view to solving all outstanding issues;

6.10. with respect to Türkiye: recalling Resolution 2459 (2022), the Assembly welcomes the decrease of the electoral threshold from 10 to 7%. However it reiterates its concerns regarding the overall electoral environment, including electoral amendments adopted in April 2022 in light of the June 2022 opinion of the Venice Commission, the state of freedom of expression and the media, the independence of the judiciary and the pending procedure aimed at closing the second largest opposition party, the Peoples' Democratic Party (HDP). It calls on the Turkish authorities to put an end to the arrests of journalists and civil society activists, which further undermine the exercise of democratic rights. Concerning the implementation of the judgments of the European Court of Human Rights, it calls on the Turkish authorities to ensure the implementation of the Kavala judgment, his release, and the release of his co-defendants. It strongly encourages the Turkish authorities to co-operate with the Venice Commission to ensure the compliance of the legal and constitutional framework with Council of Europe standards and to implement its recommendations and, at the very least, to implement the electoral legislation in a spirit that will be conducive to ensuring a level playing field;

6.11. with respect to Ukraine: the Assembly notes that as a result of the Russian Federation's military aggression, no normal monitoring of obligations and commitments can take place. It lauds the Ukrainian authorities for their considerable efforts to ensure the continuing functioning of the democratic and rule of law institutions, in spite of the challenging situation caused by the war. In that respect, the Assembly welcomes the ratification of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (CETS No. 210, "Istanbul Convention") on 18 June 2022. While welcoming the reforms and legislative initiatives that are being implemented, also in support of its EU candidate status, the Assembly urges the authorities to ensure, notwithstanding the difficult situation, democratic and rule of law norms and principles are maintained as much as possible. The Assembly encourages the monitoring co-rapporteurs for Ukraine to continue to closely follow these developments.

7. Regarding the countries engaged in a post-monitoring dialogue:

7.1. with respect to Bulgaria: the Assembly is fully aware that a major political crisis triggered by the corruption scandals with which Bulgaria has been confronted since July 2020 and which have resulted in four consecutive early parliamentary elections, has inevitably had a negative impact on progress with regard to the implementation of recommendations made in the Assembly Resolution 2296 (2019). A solution is needed to solve the electoral impasse and it requires compromise. The Assembly stands ready to assist Bulgaria in this process. It urges the authorities to address the outstanding concerns with regard to high level corruption, transparency in media ownership, human rights of minorities, and hate speech and violence against women. At the same time, it welcomes the smooth organisation of elections with respect for fundamental freedoms;

3. * Throughout this text, all reference to Kosovo, whether to the territory, institutions or population shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

7.2. with respect to Montenegro: recalling Resolution 2374 (2021), the Assembly commends the developments in the fight against corruption but regrets the failure to carry out the appointments to the Constitutional Court and Judicial Council required to improve the rule of law and the functioning of democratic institutions. The Assembly calls on political parties to proceed with such appointments without delay and to implement the recommendations of the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR) regarding the electoral process before the next presidential and parliamentary elections;

7.3. with respect to North Macedonia: the Assembly welcomes the signature of a bilateral agreement concerning the adoption of a negotiating Framework by the European Union Council in July 2022. The Assembly encourages the political forces in North Macedonia to reach a political compromise to allow the country to pursue its EU integration path. The Assembly also encourages the authorities to pursue the reforms launched to strengthen the rule of law, democracy and human rights, to release all the results of the census and, on the basis of the significant progress identified by the Advisory Committee on the Framework Convention for the Protection of National Minorities, to ensure the practical implementation of the legislation for the protection of national minorities. In the field of the judiciary, the Assembly encourages the country to implement GRECO's July 2022 recommendations and notably to adopt the new Code of Ethics for MPs and its Guidelines.

8. Regarding the countries that are currently subject to the procedure for the periodic review of membership obligations to the Council of Europe:

8.1. with respect to Malta: with reference to Resolution 2451 (2022), the Assembly reiterates its recommendation that the ruling majority and opposition consider a far-reaching reform of the Maltese Parliament with a view to establishing a full-time parliament that can provide proper parliamentary oversight and regain legislative initiative. The continuing vulnerability of Malta's public sector to corruption remains a point of concern. In that context, the Assembly regrets that the Maltese authorities have not followed its recommendation to abolish the country's "citizenship by investment" programme. While the media environment remains a cause for concern, the Assembly welcomes the establishment of a Committee of experts on Media, headed by the former Chair of the Independent Investigation Commission into the murder of Ms Daphne Caruana Galizia and the government's response to it, which is a signal that the authorities wish to address these concerns;

8.2. with respect to Romania: with reference to Resolution 2466 (2022), the Assembly welcomes the ongoing reform of the judicial system in Romania and expresses its confidence that three draft Justice Laws: on the status of Magistrates; on the Organisation of the Judiciary; on the Superior Council of Magistrates would take into account the Venice Commission's recommendations requested by the Monitoring Committee. It also notes with satisfaction the progress towards compliance with Council of Europe standards in areas crucial for the functioning of democratic institutions, namely the judiciary and the fight against corruption. It deplores, however, that some issues still raise some concerns particularly with regard to media freedom and insufficient transparency concerning the use of public funds by political parties to finance media in order to influence their content;

8.3. with respect to San Marino: the Assembly welcomes the recent reforms to strengthen the system of checks and balances and independence of the judiciary in the country. The Assembly underscores that these reforms should not be considered the end of the road but a starting point for ongoing reforms to ensure the efficient functioning of democratic institutions and to address any concerns with regard to their vulnerability to conflicts of interest and corruption. In this context the Assembly urges the Sammarinese authorities to ensure that laws and reforms are fully and consistently implemented to ensure their efficacity and tangible results in the eyes of the Sammarinese citizens.

9. 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 in the framework of the periodic monitoring reports. It is aware of specific conditions and procedural requirements linked to the preparation of these reports which mean that a single two-year reference period, in accordance with Article 26 of the Rules of Procedure is insufficient, and it resolves to address this question in the forthcoming general revision of its rules. In this context, the Assembly welcomes the committee's decision to revise its internal working methods with a view to being better able to respond to current events and developments in member States.

10. The Assembly deplores the ongoing issue of the insufficient availability of monitoring rapporteurs. It calls on political groups to ensure that availability to carry out the work of rapporteurs constitutes an important criterion when nominating members to the committee and candidates for rapporteurs 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. At the same time, the Assembly invites the committee to reflect

on a possible revision of 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 competent rapporteurs for a given country.

11. The Assembly takes note that currently 13 out of 30 rapporteurs and only 28 out of 87 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.

12. The Assembly notes with satisfaction the continued excellent co-operation with the Venice Commission which provides the committee with legal expertise on the functioning of democratic institutions in specific countries.

13. The Assembly invites the committee to pursue its reflections on ways to increase the efficiency and impact of its work.

B. Explanatory memorandum by Mr Piero Fassino, rapporteur

1. Introduction

1. The basis for the Parliamentary Assembly's monitoring procedure is 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), Resolution 2018 (2014), Resolution 2261 (2019), Resolution 2325 (2020), Resolution 2357 (2021) and Resolution 2428 (2022). Resolution 1115 (1997) defines the mandate of the Monitoring Committee and stipulates that "it shall be responsible for verifying the fulfilment of the obligations assumed by the member States under the terms of the Council of Europe statute, the European Convention of Human Rights (STE No. 5) and all other Council of Europe conventions to which they are parties, as well as the honouring of the commitments entered into by the authorities of member States upon their accession to the Council of Europe".

2. In accordance with Paragraph 14 of Resolution 1115 (1997) as amended, the Monitoring Committee is obliged to report to the Assembly, on a yearly basis, on the general progress of the monitoring procedures. In line with established practice, the Committee has entrusted me, as its Chairperson, with the task of being the rapporteur on the committee's activities for the period from January to December 2022.

3. In line with its mandate, the Monitoring Committee follows all Council of Europe member States with regard to the honouring of their membership obligations, and if relevant, specific accession commitments. Currently, eleven countries are subject to a full monitoring procedure (Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Hungary, Republic of Moldova, Poland, Serbia, Türkiye and Ukraine).

4. As a result of the Committee of Ministers` decision of 16 March 2022 to expel the Russian Federation from the Council of Europe with immediate effect, in reaction to the Russian aggression against Ukraine, the country no longer falls under the mandate of the Monitoring Committee whose competence is limited to Council of Europe member States.

5. Following the Assembly's decision of 26 October 2022, a full monitoring procedure was opened with respect to Hungary in reaction to "the long-standing issues pertaining to the rule of law and democracy that remain largely unaddressed by the authorities".

6. Three countries are currently engaged in a post-monitoring dialogue (Bulgaria, Montenegro and North Macedonia) which involves the States that have progressed to this stage following the termination of full monitoring. It is a less intensive procedure focusing on a limited number of remaining issues. According to the Rules, a second post-monitoring report has to determine whether the country may be removed from the parliamentary monitoring or whether it should be returned to full monitoring.

7. Furthermore, in accordance with its terms of reference, the Monitoring Committee is tasked to ensure and assess the fulfilment of obligations assumed by all member States, including those which are not subject to any of the two monitoring procedures above, under the Council of Europe statute, the European Convention on Human Rights and all other conventions concluded within the Organisation to which they are party. In line with Resolution 2261 (2019) as from 2019, the Monitoring Committee selects the countries for periodic review according to its internal working methods, on substantive grounds, while maintaining the objective of producing, over time, periodic monitoring reports on all member States. Reports on the three countries selected in the first round (Hungary, Romania and Malta) were submitted to the Assembly and debated in 2022. Reports on the next three countries selected in 2021 (Netherlands, San Marino and France) are currently under preparation and are due to be submitted to the Assembly in 2023.

8. The Monitoring Committee also runs a Sub-Committee on Conflicts concerning Member States of the Council of Europe in line with Rule 49 of the Assembly's Rules of Procedure and the committee's revised Decision of 24 May 2022 (see appendix) which defines its mandate as covering "a situation in which active armed conflict has been brought to an end, but no peace treaty or other political framework resolves the conflict to the satisfaction of the combatants. Therefore, legally the conflict can start again at any moment, creating an environment of insecurity and instability".

9. The country-specific comments which follow below have been prepared on the basis of rapporteurs' reports, notes and statements as well as the discussions in the Monitoring Committee (with the participation of representatives of the majority and the opposition of countries concerned in accordance with Article 10 of

Resolution 1115 (1997)), and findings of other Council of Europe monitoring mechanisms. All of them have been shared with the respective rapporteurs before being published and I have tried to integrate their comments if any, as far as possible.

2. Overview of the committee's activities

2.1. General comments

10. Following a clear improvement in the sanitary situation in Europe, the monitoring rapporteurs have been able to resume the full extent of their work which had been considerably hindered during the pandemic. The specific nature of the Monitoring Committee's mandate requires rapporteurs to visit the country in the framework of the preparation of each report. The committee's position in this respect is that direct political dialogue with the authorities cannot be replaced by online meetings, therefore, travel restrictions constituted a considerable challenge to the rapporteurs` work.

11. Over the reporting period, the rapporteurs carried out a number of visits to the countries under their respective responsibility including two visits to Türkiye, and one visit to the Republic of Moldova, Hungary, Albania, France (meetings with civil society), Montenegro, Romania and San Marino.

12. At the same time, however, good practices introduced during the pandemic were maintained and online contacts between rapporteurs and different stakeholders, in particular those representing civil society in the countries under their respective responsibility became a common working method. While they could not replace the direct political dialogue with the authorities, they contributed greatly to the rapporteurs` knowledge.

13. At the initiative of certain rapporteurs, in the framework of the committee meetings, a number of hearings and exchanges of views were held including on Hungary, France, the Netherlands, Serbia, Ukraine, Bosnia and Herzegovina and Türkiye. The committee also held a hearing on recent developments in Spain, as well as on the monitoring procedures of the Council of Europe.

14. In 2022, the Monitoring Committee met during the four part-sessions and five times outside the parliamentary sessions. The meeting scheduled to take place in May in Ankara was postponed by the Monitoring Committee following the conviction of Mr Osman Kavala to an aggravated life sentence and replaced by a meeting in Paris.

15. The Monitoring Committee submitted seven country reports to the Assembly during the reporting period: on The Challenge, on substantive grounds, of the still unratified credentials of the parliamentary delegation of the Russian Federation; on The functioning of democratic institutions in Armenia; on The hounoring of obligations and commitments by Georgia; on The honouring of membership obligations to the Council of Europe by Malta; on The honouring of obligations and commitments by Türkiye; on The honouring of membership obligations to the Council of Europe by Hungary; and on The honouring of membership obligations to the Council of Europe by Romania.

16. The report on the honouring of obligations and commitments by the Republic of Moldova was adopted in the committee on 14 December and it is scheduled for debate in the Assembly during the 2023 First Part-Session in January.

17. The preliminary draft report on the honouring of membership obligations to the Council of Europe by San Marino was approved by the committee and sent to the relevant authorities with a view to holding a debate in the Assembly during the Second Part-Session in April 2023.

18. At the same time, the committee considered and declassified the information notes on the state of the parliamentary monitoring procedure for the Russian Federation and on the honouring of obligations and commitments by Albania and by Bosnia and Herzegovina.

19. The rapporteurs on Albania, Armenia, Hungary, the Republic of Moldova, Montenegro, Romania, San Marino, Serbia and Türkiye made statements on the developments in the countries under their responsibility.

20. In the light of the developments in Armenia taking place at the Armenian-Azerbaijani border, the committee proposed to hold a current affairs debate during the Assembly Fourth Part-session in October 2022. In conclusion, the Assembly tasked the Monitoring Committee to continue following the situation.

21. As in previous years the outstanding co-operation with the Venice Commission continued over the reporting period. Exchanges of views were held with the President of the Venice Commission and its Secretary. The committee requested opinions on the Draft law Dismantling the Section for the Investigation of

Offences committed within the Judiciary in Romania as well as three Draft Justice Laws: on the status of Magistrates; on the Organisation of the Judiciary and on the Superior Council of Magistrates in Romania; on draft amendments to the Turkish Criminal Code regarding the provision on “misleading information”; on the amendments to the Electoral Law in Türkiye; on the Media Law in Azerbaijan; on the December 2021 amendments to the Organic Law on Common Courts of Georgia.

22. The Sub-Committee on Conflicts concerning Member States of the Council of Europe held two hearings: on recent developments concerning the Transnistrian conflict settlement process with the participation of Mr Oleg Serebrian, Deputy Prime Minister for Reintegration of the Republic of Moldova and Mr Claus Neukirch, Head of the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR) Mission in Chisinau and reconfirmed its intention to organise a seminar on “The Council of Europe contribution to promoting human rights in the Transnistrian region of the Republic of Moldova” with the participation of the Moldovan authorities and the *de facto* authorities from Tiraspol; as well as on recent developments in the Georgian regions of Abkhasia and Tskhinvali/South Ossetia and on the state of play in the Geneva International Discussions with the participation of Mr Lasha Darsalia, First Deputy Minister of Foreign Affairs of Georgia.

2.2. Countries under a full monitoring procedure

2.2.1. Albania

23. The co-rapporteurs, Mr Joseph O`Reilly (Ireland, EPP/CD) and Mr Asim Mollazada (Azerbaijan, EC/DA), paid a fact-finding visit to Albania from 29 June to 1 July 2022. They submitted to the committee an information note which was considered and declassified on 10 October 2022.

24. Following the parliamentary elections on 25 April 2021, the main opposition parties in Albania have returned and are fully participating in the work of the Albanian Parliament. This is a very welcome development because, as underscored on several occasions by the committee and Assembly, the return of all political parties and forces to the parliament, which is the constitutional platform for political interaction, is an essential precondition to resolving the systemic political crisis in the country.

25. Unfortunately, developments within the main opposition party, the Democratic Party, seem to have resulted in a split between the party structures including part of the parliamentary faction led by former President and party leader Mr Berisha, and part of the party and faction that has remained loyal to the previous party leader Mr Basha. As underscored by the rapporteurs it is important that the internal crisis and schism inside the Democratic Party does not lead to a new disjuncture between the parliamentary faction and party structure of the main opposition party, thereby deepening the political crisis in the country and undermining the progress made in this respect following last year’s parliamentary elections.

26. The mandate of President Meta ended on 24 July 2022. The President of Albania is elected by the Parliament with a 3/5 majority of all members. However, if no candidate achieves such a majority in the first three rounds of voting, the majority needed to elect the president is lowered to an absolute majority of 50%+1 votes in the subsequent rounds of voting.

27. The first round of voting for a new President took place on 16 May 2022. Regrettably, no serious attempts were made to find a compromise candidate who would have the consensus of both ruling majority and opposition and no candidate was proposed in the first three rounds of voting. For the fourth round of voting the Socialist Party proposed the candidature of General Major Bajram Begaj, who until that moment was the Chief of General Staff of the Albanian Armed Forces. He was elected with 78 votes in favour, four against and one abstention, with the majority of the opposition boycotting the vote.

28. It is regrettable that no compromise candidate could be found between ruling majority and opposition. The 3/5 majority requirement was built into the Constitution to ensure that a President has broad support among all political forces and can stand above them. The wilful resort to the anti-deadlock procedure without even attempting to find a compromise candidate for the first 3 rounds clearly goes against the spirit of the Constitution and underscores the level of polarisation in the political environment.

29. The vetting process of all Albanian judges and prosecutors, under international supervision, continues unabated. In a welcome development, on 10 February 2022, the Albanian Parliament adopted constitutional amendments that will extend the mandate of the Independent Qualification Commission (IQC) – which conducts the vetting – as well as Public Commissioners – who represent the public in the vetting process – until 31 December 2024. This extension should allow the IQC to finalise the vetting of the remaining 250 positions. The very high level of dismissals and resignations of judges and prosecutors, including in very

prominent positions, highlights both the thoroughness as well as the clear necessity of the vetting process for the judiciary in Albania. At the same time the vetting process has at times had a negative impact on judicial efficiency in the country. Fortunately, since the end of 2020, the Constitutional Court has obtained its quorum of 6 judges. Similarly, the High Court only became operational in July 2021 when 6 new High Court judges were appointed.

30. A key reform with regard to the judiciary is the new judicial map that is currently being drafted. It will reduce the number of courts, especially appeal and administrative courts. One of the main objectives of this reform is to ensure the efficient use of judicial resources, which have diminished considerably, *inter alia*, due to the vetting process. However, the proposed judicial map is controversial due to fears that the new map could increase the distance between the justice system and Albanian citizens, which could affect public trust in the justice system itself. While this is indeed an issue of concern, it should also be noted that at this moment many courts are understaffed and struggle to deal with the backlog of cases, which also limits the access of citizens to the justice system.

31. The fight against corruption and organised crime remains a priority for the country. The Specialised Structure for Anti-Corruption and Organised Crime (SPAK) comprising of the Special Prosecution Office (SPO) and the National Bureau of Investigation (NBI) are now fully operational. SPAK has initiated a number of cases against officials for corruption, but they are still relatively few, especially in the light of evident widespread corruption as indicated by the vetting results. Regrettably, the number of convictions of high-level officials accused of corruption is still very low, which creates a sense of impunity. This needs to be addressed as a priority.

32. The Albanian media environment has regrettably continued to deteriorate. This backsliding is of serious concern as a free and pluralist media environment is a quintessential requirement for a properly functioning democracy. In the 2022 World Press Freedom Index by Reporter without Borders, which was published on 3 May 2022, Albania dropped 20 places in comparison to 2021 and is now ranked 103 out of 180 countries (1 being the best). According to this report, press freedom is threatened by partisan media regulation and the physical integrity of journalists is at risk due to a lack of protection against violence by organised crime as well as from the police. One concern in this respect has been the proposed so-called anti-defamation package. While this package was withdrawn by the authorities following a very negative opinion from the Venice Commission, it was never formally removed from the agenda of the parliament, and continued to cause concern among the media in the country. The authorities have announced that this package will soon be formally removed from the agenda of the parliament which, when effectuated, could make a positive contribution to the media environment in the country.

33. The criminalisation of defamation, even if no longer punishable with prison sentences, and the increase in the use of so-called SLAPPs (strategic lawsuits against public participation), create chilling effects and are of serious concern. The Albanian authorities are urged to fully decriminalise defamation as well as to enact proper legislation to counter the abuse of SLAPPs to silence critical voices.

34. On 18 September 2021, the Albanian Government established the Media and Information Agency. The establishment of this agency and the centralisation of information has raised considerable concern among a wide range of domestic and international stakeholders who consider this agency to be a de facto ministry of propaganda aimed at increasing the control of the authorities over the media at the expense of media freedom. These concerns have been compounded by the fact that, in a troubling development, journalists have been banned by Prime Minister Rama from government press conferences for extended periods of time after asking questions that were not to his liking. The authorities are urged to address the concerns with regard to the media environment as a priority, in order to ensure a genuinely free and pluralist media environment in the country.

2.2.2. Armenia

35. During the January part-session, the Assembly debated a report and adopted Resolution 2427 (2022) on the functioning of democratic institutions in Armenia. It acknowledged marked progress in democratic development and identified priorities for the country, which include notably reforming the electoral framework, fostering democratic culture, continuing the reform of the judiciary and strengthening media freedom.

36. Over the reporting period, most of the political debate and media attention was focused on the conflict with Azerbaijan, perceived as an existential threat, as well as on the consequences of the Russian aggression against Ukraine. Armenia received tens of thousands of Russian nationals who left their country after the

beginning of the war and again after the announcement of partial mobilisation. This massive influx of mostly well-trained professionals could have beneficial effects on the Armenian economy in the long term although it caused a brutal surge in housing costs in Yerevan.

37. On 24 March, elements of the armed forces of Azerbaijan crossed the ceasefire line and entered part of the territory under the supervision of Russian peacekeepers in Nagorno-Karabakh, fueling anger and anxiety among the Armenian population over the fate of the local population. The Armenian authorities denounced pressure on the Armenian population in Nagorno-Karabakh as part of an effort to expel the population from the territory, mentioning the risk of an ethnic-cleansing campaign.

38. On 13 April, Prime Minister Pashinyan announced that the Armenian Government was ready to start the process of concluding a peace treaty with Azerbaijan to put an end to more than 30 years of conflict. Some members of the opposition called to reject any deal with Azerbaijan that would see Armenia lose control over Nagorno-Karabakh and demanded the resignation of the government, starting a long series of protests. For several weeks, one of the main squares in Yerevan was occupied and street demonstrations blocked traffic in the city. On several such occasions, excessive use of force by police and massive use of administrative arrests of demonstrators were reported. The co-rapporteurs, Mr Kimmo Kiljunen (Finland, SOC) and Ms Boriana Åberg (Sweden, EPP/CD), followed very closely the developments in connection with the human rights defender of the Republic of Armenia. In this context, inflammatory and divisive speeches have been commonly used both by protesters and members of the majority.

39. In September, as discussions on a peace treaty and border settlement seemed to be progressing, violent hostilities broke out. Azerbaijan shelled Armenian territory, striking civilian infrastructures and occupying several locations. More than 200 Armenian and 80 Azerbaijani soldiers lost their lives, 7 600 civilians were displaced and 20 Armenian soldiers were taken prisoner. Allegations of war crimes and inhuman treatment by Azerbaijani armed forces were transmitted to the co-rapporteurs and the Chairperson of the Monitoring Committee.

40. The reporting period was also characterised by a number of international mediation efforts. A trilateral meeting arranged by the European Council's President Charles Michel with the participation of Prime Minister Pashinyan and President Aliyev took place in August in Brussels. Following another meeting between the two leaders in the presence of the French President and the EU Council President on 6 October, a civilian EU mission was sent to the border between Armenia and Azerbaijan, to help de-escalate tensions and contribute to the delimitation of the frontier between the two countries. Prime Minister Pashinyan and President Aliyev met again in Sochi on 31 October in the presence of President Putin. In a common statement, the leaders "agreed to refrain from the use of force or the threat of its use" and "to discuss and resolve all problematic issues solely on the basis of mutual recognition of sovereignty, territorial integrity and inviolability of borders." They also "stressed the importance of active preparation for the conclusion of a peace treaty" between Armenia and Azerbaijan.

41. The military hostilities between Armenia and Azerbaijan were discussed by the Assembly during the October part session and the Bureau of the Assembly tasked the Monitoring Committee to follow the situation. The co-rapporteurs made a statement[4]calling upon the Azerbaijani authorities to immediately withdraw from all parts of the territory of Armenia and to release the prisoners of war under their control.

2.2.3. Azerbaijan

42. The last report on the functioning of democratic institutions in Azerbaijan dates back to October 2017. Following the co-rapporteurs' visit to the country in July 2019, an information note was prepared and declassified.

43. In general, the situation in Azerbaijan has not improved and a number of outstanding concerns with regard to the rule of law, pluralist democracy and human rights remain unaddressed. They include serious concerns with regard to the independence of the judiciary, media freedom and freedom of expression, freedom of association and political freedom, as well as allegations of torture and ill-treatment by law enforcement officials and unsatisfactory detention conditions.

4. Statement by the co-rapporteurs (13 October 2022).

44. A large number of recent European Court of Human Rights judgments clearly illustrate a "troubling pattern of arbitrary arrest and detention of government critics, civil society activists and human rights defenders through retaliatory prosecutions and misuse of criminal law in defiance of the rule of law". This arbitrary deprivation of freedom is often combined with violations of freedom of expression and freedom of assembly.

45. The Court has found the violation of Article 18 of the Convention (misuse of criminal law provisions on arrest and detention for purposes not permitted under the Convention) and of Article 6 (right to a fair trial) in many judgments. The continuing presence of prisoners detained on politically motivated charges in Azerbaijan is a very serious concern.

46. The Order on pardon signed by President Ilham Aliyev on 27 May 2022 which provided for the release of 168 convicts, affected at least 22 prisoners who were allegedly detained on politically motivated charges including Mr Salekh Rustamly, member of the extra-parliamentary opposition Party of People's Front of Azerbaijan (PPFA), Mr Afgan Sadygov, Head of the portal Azel.TV, Mr Pasha Umudov, driver of the Chairman of the PPFA and several convicts in the Ganja case. While the release of unjustifiably imprisoned people is most welcome, the question of unfair trials and trumped-up charges remains unsolved. Moreover, according to human rights defenders there are still prisoners detained on politically motivated charges in prisons.

47. With regard to the emblematic case of a well-known human rights lawyer and a legal representative of many opposition activists, Elchin Sadigov, who was arrested on 10 September 2022 and sentenced to four months of pre-trial detention on charges of bribery (along with famous online TV director Avaz Zeynalli), it should be noted that the Baku Appeal Court released him to house arrest on 17 September 2022 (the Council of Europe Commissioner for Human Rights issued a statement on 13 September urging the authorities to release him immediately).

48. In February 2022, the Monitoring Committee, alerted by civil society and independent journalists in Azerbaijan, requested the Venice Commission's opinion on the Media Law, adopted by the Milli Majlis on 30 December 2021. The Venice Commission's opinion was adopted in June 2022, and it concluded that many provisions were not in line with Council of Europe standards on freedom of expression and media freedom and did not allow the media to effectively exercise its role as a "public watchdog". The Venice Commission made a number of recommendations to the Azeri authorities urging them to repeal or revise the law.

49. As regards the question of hostilities between Armenia and Azerbaijan, the continuous tension despite the ceasefire, over the reporting period, was marked by punctual escalations of violence along the Armenian-Azerbaijani border which caused numerous casualties and significant damage (see Chapter 2.6).

50. The military hostilities between Armenia and Azerbaijan were discussed by the Assembly during the October part session and the Bureau of the Assembly tasked the Monitoring Committee to follow the situation. The rapporteurs, Mr Ian Liddell-Granger (United Kingdom, EC/DA) and Ms Lise Christoffersen (Norway, SOC) intend to visit the country in February 2023.

2.2.4. Bosnia and Herzegovina

51. In 2021, Republika Srpska's authorities had called for the entity's unilateral withdrawal from key elements of the constitutional order established over the last 26 years of implementation of the Dayton agreements, thus threatening secession from the State of Bosnia and Herzegovina. On 10 December 2021, the Republika Srpska National Assembly asked the entity government to present draft laws launching the process of secession within 6 months. As a reaction, the United States, the European Parliament and the United Kingdom adopted sanctions against Mr Dodik, President of Republika Srpska, and some of his closest political allies in Republika Srpska.

52. For several months, political parties from the Federation were engaged in discussions on the electoral law in order to solve the deadlock in the Federation, which has been functioning with a caretaker government stemming from the 2014-2018 mandate. Considerable energy was invested by international sponsors to help find an agreement that would address the violations of the European Convention on Human Rights identified by the Court in the Sejdić and Finci, Zornić and other cases, as well as deficiencies of the electoral process identified by the OSCE/ODIHR, the Group of States against Corruption (GRECO) and the European Commission for Democracy through Law (Venice Commission). No agreement was found. The High Representative decided to implement some decisions, on 7 June to allow the financing of the upcoming elections and on 27 July to modify the electoral law in order to help prevent election fraud and improve transparency.

53. In order to encourage the integration of Bosnia and Herzegovina into the European Union, a meeting was held on 12 June with the President of the European Council, the three members of the Presidency of Bosnia and Herzegovina and the leaders of the political parties represented in parliament. A political agreement was signed on that occasion in which the political leaders committed to electoral reform and those limited constitutional reforms needed to ensure compliance with the judgments of the European Court of Human Rights and the Bosnia and Herzegovina Constitutional Court and the recommendations of the Venice Commission, OSCE/ODIHR and the GRECO. A set of critical reforms should be adopted no later than six months after forming new state-level authorities following the elections.

54. During the June part-session, the committee discussed these developments as the co-rapporteurs, Mr Zsolt Németh (Hungary, EC/DA) and Ms Ekaterina Zaharieva (Bulgaria, EPP/CD) presented an Information Note on the electoral system in Bosnia and Herzegovina and an exchange of views on the execution of the Court's decisions was organised with the participation of the Department for the execution of the Court's judgments.

55. Mr Németh took part in the international election observation mission (IEOM). Presidential and parliamentary elections were held at the State level and within both entities on 2 October. The observation mission concluded that the elections were competitive and overall well organised with fundamental freedoms respected during the campaign. However, failed reform efforts, a widespread mistrust in public institutions, and ethnically divisive rhetoric continued to mark the election environment.

56. For the three-member Presidency of Bosnia and Herzegovina, the opposition candidate Denis Bećirović was elected as the Bosniak member, the incumbent Željko Komšić was re-elected as the Croat member and Željka Cvijanović was elected as the Serb member. In the election for the President of the Republika Srpska, Milorad Dodik beat opposition candidate Jelena Trivić after a recount was ordered. In the parliamentary bodies, parties with a clear ethnic affiliation were able to maintain their strong position in most parliaments of the country.

57. On the closure of polling stations, the High Representative enacted two decisions, one amending the Constitution of the Federation and a second amending the election law. These two decisions, referred to as the "functionality package", affect only the post-election establishment of indirectly elected bodies and are aimed at improving the functionality of the Federation of Bosnia and Herzegovina. They were heavily criticised by some parties who considered they cemented the division of the electorate on ethnic lines. The full extent of these measures will be assessed in the final IEOM report and the co-rapporteurs will carefully follow these developments.

58. Shortly after the elections, on 12 October, and in line with the agreement reached on 12 June, the European Commission recommended that Bosnia and Herzegovina be granted candidate status on the understanding that a number of steps be taken to reinforce democracy, functionality of State institutions, rule of law, the fight against corruption and organised crime, to guarantee media freedom and to improve migration management in the country. It remains to the political parties represented within state institutions to find a compromise on electoral and constitutional reform in line with the European Convention on Human Rights.

2.2.5. Georgia

59. On 28 April 2022 the Assembly adopted Resolution 2438 (2022) "The honouring of obligations and commitments by Georgia", in which it welcomed the continued and marked progress made by Georgia in honouring its membership obligations and accession commitments. At the same time, the Assembly expressed its concern about a number of concerns and shortcomings which remain to be addressed and therefore decided to continue the monitoring procedure with regard to Georgia.

60. The Assembly highlighted that the recommendations contained in Resolution 2438 (2022) and accompanying report provided a clear perspective for Georgia's progression towards the commencement of a post-monitoring dialogue, under the understanding that there would be no backsliding or regression in the progress to date. At the same time, the Assembly also underscored that any change in the monitoring procedure would require the full commitment and political will, including a willingness to work together, of both the ruling majority and the opposition.

61. Unfortunately, since the adoption of the Resolution, some of the reforms needed to ensure the country's democratic consolidation and strengthen the functioning of its rule of law institutions seemed to have stalled, leading to questions among the international community concerning the true support for these reforms. This

was reflected in Georgia's score in Freedom House's Nations in Transit 2022 report, which decreased slightly from 36 to 35, while its ranking declined considerably, from 60th to 89th place. in the 2022 World Press Freedom Index of Reporters without Borders.

62. Concerns with regard to the media environment in Georgia were also expressed in connection to the controversial sentencing of Nika Gvaramia, the Director of the opposition linked Mtavari Arkhi television broadcaster, to 3,5 years in prison for alleged abuse of power and embezzlement of funds when he was Director of Rustavi 2. Mr Gvaramia had appealed his sentence, but, on 2 November 2022, the Tbilisi Court of Appeals upheld his conviction. The charges, and their timing, were questioned by some national and international actors including the Georgian Ombudsperson. Without wishing to judge the merits of the charges against Mr Gvaramia, it is clear that his imprisonment has negatively affected the political and media environment in the country. Some interlocutors have suggested that the Georgian President should consider a pardon for Mr Gvaramia. The authorities are encouraged to take all possible steps to reduce the tensions in the media environment.

63. As underscored by the Assembly, one of Georgia's hallmarks has been the fact that all successive Georgian authorities have always maintained cordial and constructive relations with the country's international partners, and responded to their concerns and recommendations, even on issues where there was disagreement. The increasingly harsh rhetoric from some representatives of the ruling majority to concerns and criticisms voiced by Georgia's international partners is therefore of concern and has, arguably, affected the developments regarding Georgia's EU membership application. All political forces are urged to continue to pursue the customary cordial and constructive co-operation with international partners as a cornerstone of Georgia's international policy.

64. On 2 March 2022, in reaction to the dramatically changed geopolitical environment following the invasion of Ukraine by the Russian Federation, Georgia made an immediate application for membership of the European Union.

65. On 17 June 2022, the European Commission delivered its memorandum on the membership applications of Ukraine, the Republic of Moldova and Georgia. In it, they recommended that Ukraine and the Republic of Moldova be given candidate status on the understanding that these two countries would continue the required political reforms. At the same time, in a clear rebuke concerning the political environment in the country, it recommended that Georgia be given a membership perspective, but that candidate status should only be given after 12 conditions[5] had been satisfactorily addressed by the country. These conditions *inter alia* highlight the need for the political forces to come together to overcome the extremely polarised political environment and to strengthen the democratic and rule of law institutions in the country. It should be pointed out that the 12 conditions of the European Commission cover the same areas as, and to a large extent are similar to, the recommendations made by the Assembly in Resolution 2438 (2022). A number of reforms have been initiated and co-operation with, and opinions of, the Venice Commission have been sought to guide the reforms, which should be welcomed.

66. In this context it should be noted that in Resolution 2438 (2022) the Assembly expressed its serious concern about the extremely tense and polarised political environment in Georgia, driven by zero-sum political strategies and a lack of understanding and accommodation by both the opposition and the ruling majority for their respective positions and rightful roles. In the view of the Assembly this tense and polarised environment, which precludes any constructive co-operation between ruling majority and opposition, and which negatively affects the implementation of crucial reforms, is a key impediment to Georgia's democratic consolidation.

67. Regrettably, there has been no notable improvement in the political environment in Georgia. This is evident from the lack of consensus and co-operation between the opposition and the ruling majority with regard to Georgia's application for EU membership or with regard to the implementation of the required reforms to meet the conditions for candidate status. I wish to reiterate the call made by the Assembly in Resolution 2438 (2022) to all political forces in the country, both ruling majority and opposition alike, to place the common good of the nation over any narrow party-political strategies and to co-operate jointly and constructively for the benefit of the country's democratic consolidation and Euro-Atlantic integration.

68. The Assembly has repeatedly reiterated its full support for Georgia's sovereignty and territorial integrity within its internationally recognised borders and expressed its concern and condemnation of the illegal occupation and creeping annexation by the Russian Federation of the Georgian regions of Abkhazia and Tskhinvali region/South Ossetia that cause a dire security, humanitarian and human rights situation on the ground, with increased illegal militarisation and restrictions on freedom of movement. This has become

5. Opinion of the European Commission on the EU membership application by Georgia.

especially sensitive in the context of the invasion by the Russian Federation of Ukraine. On 15 September 2022, the Sub-Committee on Conflicts concerning Member States of the Council of Europe therefore held an exchange of views on recent developments in the Georgian regions of Abkhazia and Tskhinvali/South Ossetia and on the state of play of the Geneva International Discussions, with the participation of Mr Lasha Darsalia, First Deputy Minister of Foreign Affairs of Georgia, and agreed that the rapporteurs for the country should continue to closely follow developments in these two Georgian regions.

2.2.6. Republic of Moldova

69. The year 2022 was marked by the outbreak of the war in neighbouring Ukraine, which triggered considerable socio-economic challenges and security concerns for the Republic of Moldova. During their visit to the country in June 2022, the rapporteurs, Ms Inese Lībiņa-Egnere (Latvia, EPP/CD) and Mr Pierre-Alain Fridez (Switzerland, SOC) praised the management of the refugee crisis by the Moldovan authorities as well as the resilience and solidarity shown by the population: over 700 000 refugees entered the country, and nearly 100 000 have settled in the country. These developments added to the challenges posed by the pandemic and the energy crisis in the previous year which triggered an economic crisis and high inflation.

70. The Moldovan authorities managed to preserve a 1+1 dialogue with the *de facto* authorities of the Transnistrian region of the Republic of Moldova and de-escalate tensions, despite the possible impact of the Russian aggression on this region (and the presence of the Russian army). These issues were discussed in March in the Sub-Committee on conflicts concerning member States, with the Deputy Prime Minister for Reintegration Oleg Serebrian (see paragraphs 22 and 161). There were also tensions with the Autonomous Region of Gagauzia-Yeri (ATUG) exacerbated by the regional context, such as the decision of the ATUG regional assembly to allow the use of the Saint-George ribbon or to adopt anti-LGBT legislation which contradicted the Moldovan legislation. The war in Ukraine accelerated the European agenda for the Republic of Moldova, which requested, on 2 March, the opening of accession negotiations with the European Union. On 23 June, the European Council granted the status of candidate country to the Republic of Moldova and Ukraine.

71. The rapporteurs welcomed the continuation of the priority reforms in the field of justice and the fight against corruption launched by the stable majority enjoyed by President Sandu's Party of Action and Solidarity despite difficulties arising from the revamp of previously captured state institutions and from a shortage of human resources. Notable developments include the establishment of the Commission on the evaluation of the activity of judges and prosecutors (so-called pre-vetting commission) which is expected, within short deadlines, to play a key role in strengthening the independence and integrity of the judiciary and the prosecution service. A new Anti-Corruption Chief Prosecutor was appointed.

72. The Moldovan authorities have continued to co-operate closely with the Council of Europe. The rapporteurs took into account the findings of the Venice Commission which issued, at the request of the authorities, 5 opinions on judicial matters and 2 *amicus curiae* briefs. These included an opinion on specific measures taken to preserve the sovereignty of the country, including amendments to the Audiovisual Code, and the ban on the use of certain symbols under the Law on countering extremist activity. The Venice Commission also prepared an opinion on the draft Electoral Code.

73. The rapporteurs also followed the high-level criminal cases opened in 2021 (including against former President Dodon, from the Bloc of the Socialists, currently under judicial control, and Marina Tauber, from the Shor party who is under house arrest), as well as the proceedings against the suspended Prosecutor General Mr Stoianoglu. The rapporteurs welcomed the authorities' commitment to address corruption issues while calling for the respect of all procedural safeguards and the requirements of the rule of law. A motion was initiated by the minister of justice to challenge the constitutionality of the Shor Party for its alleged illegal financing and undermining of the country's integrity, following which the Constitutional Court requested from the Venice Commission an *amicus curiae* brief on the declaration of unconstitutionality of a political party.

74. The rapporteurs submitted their draft report to the Monitoring Committee on 14 December, with a view to its presentation at the January 2023 part-session.

2.2.7. Poland

75. Regrettably, due to domestic circumstances affecting their schedules and availability, no fact-finding visit could take place to Poland. It is the intention of the rapporteurs, Ms Azadeh Rojhan Gustafsson (Sweden, SOC) and Mr Pieter Omtzig (Netherlands, EPP/CD) to visit Poland early 2023.

76. Poland has played an exemplary role in the context of the Russian aggression against Ukraine, providing extensive assistance to Ukraine. According to the office of the United Nations High Commissioner for Refugees (UNHCR), by September 2022, nearly 1.4 million Ukrainian refugees registered for Temporary Protection in Poland, the highest number among the EU countries. The country should be applauded for the role it is playing within the international community in relation to Ukraine, and for its continuing solidarity with this nation and its people.

77. Nevertheless, the developments in Poland with regard to the independence of the judiciary and adherence with European rule of law standards and norms remain a source of serious concern that is affecting its relationship with international organisations and in particular the European Union.

78. To resume, on 7 May 2021, the European Court of Human Rights passed its judgment in the case *Xero Flor w Polsce sp. Z oo. vs Poland* (4907/18) in which it ruled that the 2015 election of judges to the Constitutional Court had been irregular, rendering the bench in which these judges participated unlawful (not a tribunal established by law). Instead of complying with this judgment, in line with its obligations under the European Convention on Human Rights, the authorities requested the Polish Constitutional Tribunal to examine the constitutionality, under the Polish Constitution, of article 6 of the Convention. On 24 November 2021, the Polish Constitutional Tribunal ruled that Article 6.1 of the European Convention on Human Rights (the right to a fair trial by an independent tribunal) is not compatible with the Polish Constitution if applied to the Constitutional Tribunal or used to give the Court in Strasbourg the right to assess the legality of the process of electing judges to the Constitutional Tribunal. In response, availing herself of her competencies under article 52 of the Convention, the Secretary General requested, by latest 7 March 2022, explanations from the Polish authorities as to the manner in which the Polish law ensures the effective implementation of articles 6 and 32 of the Convention following the judgment of the Constitutional Tribunal. The reply was received on 8 March 2022.

79. In the meanwhile, on 22 July 2021, the European Court of Human Rights reached its judgment in the case *Reczkovicz v. Poland* (43447/19) in which it ruled unanimously that in the disciplinary proceeding against the complainant (a a lawyer), there had been a violation of art 6.1 of the Convention and that the Disciplinary Chamber of the Supreme Court could not be considered a “tribunal established by law” within the meaning of the European Convention. Similar to what had happened in the *Xero Flor v. Poland case*, the Minister of Justice applied to the Constitutional Tribunal to examine the compatibility with the Polish Constitution of the first sentence of Article 6.1 of the Convention. On 10 March 2022, the Constitutional Court of Poland ruled that Article 6.1 of the Convention was incompatible with the Polish Constitution insofar as it extended civil rights and obligations to the right of a judge to hold an administrative function in the organisational structure of the judiciary in Poland; or if it permitted the European Court of Human Rights in the determination whether a tribunal is established by law, to: ignore provisions of the Constitution, statutes and judgments of the Polish Constitutional Court; review statutes regarding the court system and competences of the courts, as well as the statute of the National Council of the Judiciary; or create independent norms pertaining to the procedure for judicial appointments. On 16 March, the Secretary General of the Council of Europe requested the Polish authorities to provide additional information on how Polish law would ensure the effective implementation of articles 6 and 32 of the Convention following this decision. The Polish authorities’ reply was received on 23 June 2022.

80. On 9 November 2022, the Secretary General presented her report[6] under article 52 to the Committee of Ministers in which she has provided a legal analysis of the replies by the Polish authorities. This report was published on 23 November after being discussed by the Committee of Ministers. In her analysis the Secretary General has made it clear that Poland, as all other countries, is obliged to implement the Convention and abide by the judgments of the European Court, even if in extreme cases that would require amending the Constitution. It is clear that the decisions of the Constitutional Court with regard to the compatibility of the Convention with the Polish Constitution are an unacceptable challenge to the supremacy of the European Convention on Human Rights and run counter to its membership obligations.

81. In order to unblock the EU recovery funds that were frozen as a result of Poland’s failure to uphold its rule of law commitments to the European Union, as well as to stop the daily fine of 1 million € applied by the European Court of Justice for not suspending the Disciplinary Chamber for judges, the Polish authorities adopted amendments to the law on the Supreme Court that abolished the Disciplinary Chamber. These amendments came into effect on 15 July 2022. However, these amendments were not considered sufficient by the European Commission to address its concerns and to unblock the funds. Further reforms are needed. A key obstacle remains the National Council of the Judiciary that, as noted by the European Court of Human

6. https://rm.coe.int/report-by-te-secretary-general-under-article-52-of-the-european-convention/1680a8eb59

Rights, can no longer be considered independent and is under the political control of the authorities. It is difficult to see how Poland would be able to meet its rule of law commitments to the European Union and the Council of Europe without reforming the National Council of the Judiciary.

2.2.8. Serbia

82. In May 2019, the Monitoring Committee considered the comments of the Serbian authorities to a preliminary draft report on the monitoring of Serbia. However, further to the decision of the (previous) co-rapporteurs, the submission of the draft report to the committee was postponed. The preparation of the report was then hampered by the pandemic, further changes of rapporteurs, parliamentary elections held in Serbia in June 2021 and early parliamentary and presidential elections held in April 2022. The year 2022 was also marked by the appointment of new rapporteurs by the Monitoring Committee, namely Ms Lise Christoffersen (Norway, SOC)[7] in February 2022, Ms Eva Decroix (Czech Republic, EC/DA) in May 2022, and Mr Axel Schäfer (Germany, SOC) in December 2022.

83. On 16 January 2022, 59% of Serbian voters approved constitutional amendments aimed at reducing political influence in the judiciary, in line with most of the December 2021 Venice Commission recommendations. The rapporteurs welcomed it as an important first step and pre-condition towards the depoliticisation of the judiciary and the consolidation of the rule of law while noting that the country continued to face democratic challenges, notably the absence of a viable opposition in parliament and a polarised environment.

84. Concerning the April 2022 elections, significant changes to the legal framework were adopted on 4 February 2022 after wide-ranging inter-party consultations. The Assembly *ad hoc* election observation mission noted that, while being smoothly organised, the elections were marked by a number of systematic procedural deficiencies and unaddressed long-standing recommendations, mainly concerning access to media, campaign financing, measures to tackle pressure on voters, and the public scrutiny and audit of voter lists. The incumbent President Mr Vučić was re-elected in the first round with 60% of the votes. The election resulted in a more pluralistic parliament, with a parliamentary majority formed by the coalition led by the Serbian Progressive Party (SNS), the Socialist Party of Serbia (SPS), the Democratic Alliance of Croats in Vojvodina (DSHV) and the Alliance of Vojvodina Hungarians (VMSZ). The parliament reconvened in August 2022 and the government led by incumbent Prime Minister Ms Brnabić was sworn in on 26 October 2022.

85. In the field of rule of law, the Serbian authorities prepared secondary legislation aimed at implementing the constitutional amendments on the judiciary. In its October 2022 opinion on three draft Laws on the Organisation of the Courts, on Judges, and on the High Judicial Council, the Venice Commission praised the efforts invested in the inclusive preparation of this legislative package and noted that the Serbian judicial system is still characterised by a hierarchal spirit and multiple forms of evaluations and controls. It stressed the need to change the legal culture within the judiciary and issued several concrete proposals to improve the draft bills.

86. GRECO acknowledged, in its March 2022 second interim compliance report (Fourth Round), that progress had been achieved with, *inter alia*, the amendment of the Law on Corruption Prevention in line with its recommendations, improved transparency in the process of drafting laws, a more effective system of public participation in the legislative process at a preliminary stage and the adoption of a Code of conduct for parliamentarians. Progress was also noted in the prevention of corruption with respect to prosecutors and judges. A new anti-corruption strategy and action plan has still to be prepared. In July 2022, GRECO published its Fifth Round Evaluation report on corruption prevention amongst persons with top executive functions (PTFEs), highlighting the role of the Agency for the Prevention of Corruption and the need to develop a public strategy on corruption prevention covering explicitly PTFEs and police forces and to ensure the systematic and substantial control of asset declarations of PTFEs.

87. Freedom of media remains an issue of concern. The Council of Europe Platform to promote the protection of journalism and the safety of journalists issued 14 alerts in 2022 (to which the authorities replied only once), notably for journalists being attacked, threatened or intimidated. The role and independence of the Regulatory Body for Electronic Media also raised questions, after it granted in July 2022 national broadcasting licenses, for a period of eight years, to the same four national frequencies as in the previous period despite receiving warnings due to violation of their legal obligations.

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7. Ms Christoffersen replaced me in February 2022 after my election as Chair of the Monitoring Committee. She resigned in October 2022 following her appointment as monitoring rapporteur for Azerbaijan). Ms Decroix replaced Mr Liddell-Grainger (United Kingdom, EC/DA).

88. Anti-discrimination issues were the focus of the Assembly October 2022 part-session. Attempts to ban the Europride parade for security reasons prompted Assembly General rapporteur on the rights of LGBTI people Christophe Lacroix to call for the respect of freedom of expression and assembly. The parade took eventually place, via a shorter route, on 17 September. This issue was debated by the Assembly in October during its current affairs debate entitled "Threatened bans of Pride events in Council of Europe member States".

89. The overall situation was also marked by tensions with Kosovo*[8], notably on the issue of license plates; and by the lack of progress in the negotiations on the comprehensive and legally binding normalisation agreement under the EU-facilitated Dialogue.

2.2.9. Türkiye

90. In 2022, the Monitoring Committee focused on the preparation of a mid-term monitoring report on Türkiye, which concentrated on the judiciary, the implementation of judgments of the European Court of Human Rights and the preparation of the 2023 presidential and parliamentary elections.

91. The Assembly rapporteurs John Howell (United Kingdom, EC/DA) and Boriss Cilevičs (Latvia, SOC) paid a visit to the country from 20-24 March 2022, welcoming the open and frank dialogue with the Turkish authorities. They returned to Türkiye on 18-20 May, following the aggravated life sentence given to philanthropist Osman Kavala – despite the ruling of the European Court of Human Rights of December 2019 which had found his pre-trial detention unlawful and had asked the authorities to release him. Returning from Türkiye, the rapporteurs stressed that resolving the Kavala case lied "in the hands of the Turkish judicial system, which has the capacity to find a legal solution which complies with the Strasbourg ruling".

92. The Committee of Ministers decided to open an infringement procedure in February 2022 due to Türkiye's failure to implement the Kavala judgment, which was confirmed by the Court in July 2022. Following the committee's report and Resolution 2459 (2022), the Assembly invited its President and the Chair of the Committee of Ministers "to maintain close contacts and make full use of the means at their respective disposal, if Türkiye's failure to comply with its obligations should persist".

93. On 24 November, the rapporteurs welcomed the decision of the Court of Cassation to overturn the prison sentences of four human rights activisits in the Büyükada trial, while expecting a swift re-trial of Amnesty International Türkiye Honorary Chair, Taner Kılıç, in line with the May 2022 judgment of the European Court of Human Rights.

94. The committee remains concerned about long-lasting issues, including ongoing crackdown on members of the political opposition, procedures seeking to lift the parliamentary immunity (overwhelmingly of opposition parties), the attempt to close the Peoples' Democratic Party (HDP), restrictions on freedom of expression and of the media and the overly-broad interpretation of anti-terror legislation. In its Resolution 2459 (2022), the Assembly urged the authorities to undertake urgent reforms needed to restore the full independence of the judiciary and an effective system of checks and balances. The prison sentence given to opposition leading politician Canan Kaftancıoğlu or the arrest of the Head of the Turkish Medical Association Şebnem Korur Fincancı were adverse developments deplored by the rapporteurs. The Committee also concluded that the change to the political system adopted in 2017 by Türkiye – while being a sovereign right of any member State – has seriously weakened its democratic institutions and made the system of checks and balances dysfunctional and deficient.

95. The committee paid particular attention to the overall electoral environment in view of the 2023 presidential and parliamentary elections. The electoral legislation was revised on 25 April 2022. While welcoming the lowering of the electoral threshold from 10% to 7%, the committee shared the concerns expressed by the Venice Commission in its June 2022 opinion about other provisions concerning the composition of electoral boards or the misuse of office in election campaigns. In addition, despite the call of the Assembly and the Venice Commission not to enact it, the "disinformation law" was adopted on 13 October. The Assembly rapporteurs deplored its provision foreseeing prison sentences for those spreading "false or misleading information" which is "an unnecessary and disproportionate interference with the freedom of expression" which could undermine the conditions for free and fair elections.

8. * All references to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

96. In its Resolution 2459 (2022), the Assembly also urged the authorities to pay attention to the situation of seriously ill prisoners. The long overdue release of former MP Aysel Tuğluk on 27 October was a development welcomed by the rapporteurs. On 14 December, the Monitoring Committee organised a hearing on the follow-up to Resolution 2459 (2022) to assess the implementation of the Assembly's recommendations.

2.2.10. Ukraine

97. As a result of the Russian Federation's military aggression, no visits to Ukraine by the co-rapporteurs could take place, despite efforts by both rapporteurs, Mr Alfred Heer (Switzerland, ALDE) and Mr Birgir Thórarinsson (Iceland, EPP/CD), and the Ukrainian delegation to organise such a visit.

98. The developments with regard to the Russian Federation's ongoing aggression against Ukraine have been followed closely by the Assembly and were discussed in detail in Doc. 15477 "Consequences of the Russian Federation's aggression against Ukraine", Doc 15506 "Consequences of the Russian Federation's continued aggression against Ukraine: role and response of the Council of Europe", Doc. 15510 "The Russian Federation's aggression against Ukraine: ensuring accountability for serious violations of international humanitarian law and other international crimes", Doc 15547 "Humanitarian consequences and internal and external migration in connection with the aggression of the Russian Federation against Ukraine", Doc 15631 "Further escalation in the Russian Federation's aggression against Ukraine".

99. While the focus of attention has been on the ongoing war, at the same time the authorities have continued to make considerable efforts to ensure the continued functioning of the democratic and rule of law institutions, in spite of the challenging situation caused by the war. In addition, many reforms and legislative initiatives have been drafted and discussed in the Verkhovna Rada, as a result of the application for EU membership and the subsequent granting of candidate status to Ukraine. The authorities should be commended for these efforts, but at the same time it is important that, notwithstanding the difficult situation, democratic and rule of law norms and principles are maintained as much as possible.

100. While, as long as the war is ongoing, no normal monitoring of obligations and commitments can take place, the rapporteurs have continued to follow the situation in the country with regard to the ongoing reforms and functioning of democratic institutions. To that extent, an exchange of views was organised by the committee during the June part-session with Ms Mariia Mezentseva, Chairperson of the Ukrainian delegation, and on 10 November 2022, the rapporteurs held a video conference with representatives of the European Solidarity Party about the ongoing reforms in Ukraine.

101. Ukraine has continued its efforts to strengthen anti-corruption institutions. On 28 July 2022, Prosecutor General Andriy Kostin appointed Oleksandr Klymenko as the Head of the Specialised Anti-Corruption Prosecutor's Office (SAPO). Mr Kostin himself was only appointed as Prosecutor General on 27 July 2022, replacing Ms Irina Venediktova, who was dismissed on 19 July, reportedly for failing to properly act upon the very high number of cases of collaboration with the Russian Federation by officials in the prosecution service.[9] On 16 April, Artem Sytnyk completed his term as Head of the National Anti-Corruption Bureau (NABU). The appointment of the new Director is expected to take place by the end of 2022. Given the important role of NABU in fighting corruption in Ukraine the authorities are urged to ensure that no undue delays will take place in appointing a successor to Mr Sytnyk who also enjoys the full trust of the Ukrainian people.

102. On 5 November 2021, President Zelensky signed the so-called Anti-Oligarch Law into force. While the stated objectives of this law are praiseworthy, a number of questions have been raised regarding this law. In particular with regard to the fact that a person can be declared an oligarch, and as a result considerably limited in their rights, by a decision of the President in consultation with the National Security and Defence Council, who would have very broad discretion in this respect and whose decision cannot be appealed before the Court. The Verkhovna Rada Human Rights Commissioner (Ombudsperson) had raised concerns about the constitutionality of the law which has been sent by the Verkhovna Rada to the Venice Commission for opinion. Regrettably, due to the ongoing war no opinion has yet been adopted. Given that this law is currently being applied, it is important that the Venice Commission soon finalises its opinion and that its recommendations and possible concerns are addressed rapidly by the Verkhovna Rada.

103. On 30 August, the Verkhovna Rada passed in first reading the draft law "On Media". This law, *inter alia*, aims to regulate online media and increases the powers of the national media regulatory agency. This law is reportedly being developed with the assistance of both European Union and Council of Europe. However,

9. Reportedly, more than 651 cases of alleged treason and collaboration have been opened against prosecutorial and law enforcement officials.

several national and international media organisations have expressed reservations about the draft law which they consider would give the authorities too much discretionary control over the media and could curtail freedom of expression in the country. Despite the special conditions imposed by the ongoing war, the authorities are urged to ensure that the final draft of this law adheres fully to Council of Europe norms and principles for freedom of expression and media.

2.3. Post-monitoring dialogue

2.3.1. Bulgaria

104. The last post-monitoring report was debated in the Assembly in June 2019. On that occasion, the Assembly decided not to terminate the post-monitoring dialogue and invited the rapporteurs to continue to assess the progress made in five specific areas of concern including high-level corruption, transparency in media ownership, human rights of minorities, hate speech and violence against women.

105. However, since July 2020, Bulgaria has been confronted with a major political crisis which resulted in four consecutive early parliamentary elections, held on 4 April 2021, 11 July 2021, 14 November 2021 (on the day of the presidential election) and the last one on 2 October 2022. For nine of the last 17 months, Bulgaria has been governed by appointed provisional governments.

106. The crisis was triggered by corruption scandals, a lack of respect for the rule of law and the ensuing street demonstrations. Since then, the political environment has been characterised by a fragmented political landscape. The situation has been aggravated by growing socio-economic concerns and polarised discourse concerning energy policies and the Russian Federation's invasion of Ukraine.

107. Following the November 2021 early parliamentary elections, seven political parties and coalitions entered the parliament: a new coalition We Continue the Change (PP) founded in May 2021 (two months before the elections in July 2021) by two ministers of the May 2021 provisional government achieved a surprise victory receiving 25,3 % of the vote; Citizens for the European Development of Bulgaria (GERB-SDS) – 22,4%; Movement for Rights and Freedoms (DPS) – 12,8%; BSP for Bulgaria (BSP) – 10%; There is Such a People (ITN) – 9,3%; Democratic Bulgaria (DB) – 6,2% and Revival – 4,8%. PP formed a coalition government led by Kiril Petkov with the BSP, ITN and DB. This broke a deadlock that had arisen as a result of the previous two early parliamentary elections after which no party was able to form a government.

108. Subsequent tensions within the coalition concerned, *inter alia*, high level appointments and the question of sending arms to Ukraine. On 8 June 2022, ITN withdrew from the government justifying its move by citing disagreements over the state budget, fiscal policy and the lifting of Bulgaria's veto on opening EU accession talks with North Macedonia. On 2 August 2022, following the no-confidence vote in parliament and three returned mandates to form a new government, in compliance with the Constitution, President Rumen Radev dissolved the parliament, appointed a provisional government and called a new election for 2 October 2022.

109. The October 2022 elections took place amid voter fatigue illustrated by the low turnout (39,3%). They were assessed by the Council of Europe observers as competitive and respectful of fundamental freedoms. The legal framework was evaluated as providing an overall adequate basis for the conduct of democratic elections. Despite the tight timeframe, the election administration was satisfactory.

110. GERB-SDS won 24,4% (+8 seats as compared to the previous elections); PP gained 19,5% (-14 seats); DPS: 13,2% (+2 seats); Revival: 9,8 % (+14 seats); BSP 8,9% (-1 seats); DB: 7,1 % (+4 seats). ITN received 3,7%, below the required threshold (4%) and did not enter the parliament.

111. Unfortunately, the elections did not solve the political crisis and the current parliamentary configuration does not allow for much optimism as there is no majority for a stable cabinet. At the time of drafting this report it is still too early to predict whether a regular government will be formed or whether yet more pre-term elections will be held at the beginning of next year.

112. The monitoring rapporteurs, Ms Thórhildur Sunna Ævarsdóttir (Iceland, SOC) and Ms María Valentina Martínez Ferro (Spain, EPP/CD) (both appointed in 2022), participated in the Assembly parliamentary election observation missions and follow the situation in Bulgaria. The ongoing crisis has prevented them so far from preparing a full post-monitoring report which, according to the rules will have to either terminate the post-monitoring dialogue and remove Bulgaria from PACE monitoring, or to make it subject to the full monitoring procedure.

2.3.2. Montenegro

113. In 2022, Montenegro experienced significant political instability which was the result of the continued process of transformation following the 2020 elections that removed the DPS (Democratic Party of Socialists) from government for the first time in the country's history.

114. In early February 2022, the government formed by Mr Krivokapić was dismissed following a vote of no-confidence. On 3 March, the President of the Republic Milo Đukanović asked the former deputy Prime minister Dritan Abazović to form a government. Lengthy negotiations were necessary to find a majority among the divided parliament. On 28 April, the Parliament approved a new coalition government with Mr Abazović as Prime minister and relying on the support without participation from the DPS. The main focus of this government was to apply the reforms necessary to speed up Montenegro's accession to the European Union, including those recommended by the Council of Europe's monitoring bodies.

115. The country visit that took place from 10 July to 13 July allowed the co-rapporteurs Damien Cottier (Switzerland, ALDE) and Nicos Tornaritis (Cyprus, EPP/CD) to discuss in depth the developments regarding the four areas that had been identified by the Assembly as priorities for the post-monitoring dialogue: the independence of the judiciary, trust in the electoral process, the situation of the media and the fight against corruption.

116. The authorities presented several pieces of draft legislation and expressed their confidence that the electoral reform discussed within a special parliamentary committee would be enacted before the next elections. The appointment of judges to the Constitutional court and of members of the Judicial Council was due to occur within weeks. Appointments to the Constitutional court were urgently needed as the incapacity of political parties to agree on candidates left many positions vacant within the Court, and the scheduled retirement of one of the judges in October would leave the Court without a quorum. All political parties were well aware of the importance of such appointments for the rule of law and the proper functioning of democratic institutions.

117. Developments in the fight against corruption are very promising. Previous assessments concluded that the legal framework was sufficient but that the political will to implement it was lacking. The track-record of investigations, prosecutions and final convictions was low. A series of high-profile cases was expected to prove the real commitment to tackle corruption. During their visit, the co-rapporteurs met the Special State prosecutor who declared that he received all the support he needed from the government in terms of staffing and material facilities. In the weeks preceding the visit, the arrest of the former President of the Supreme Court of Montenegro, Vesna Medenica, as well as the former Commercial Court President, Blažo Jovanić, perhaps indicate a real political will to tackle corruption.

118. However, the political debate has focused on the adoption by the government of an agreement with the Serbian Orthodox Church. Such agreements exist with all the other religious communities, but ties with the Serbian Orthodox Church are extremely sensitive in Montenegro and the content of the agreement was considered by many as illegal and unconstitutional. Following the decision to adopt this agreement, the DPS withdrew its support from the Abazović government and on August 20, the parliament passed another motion of no-confidence. The Abazović cabinet stayed as caretaker government pending the formation of a new government or the call for early parliamentary elections.

119. On September 20, President Đukanović proposed holding a snap election after refusing to confirm the three ruling political blocs' candidate, Miodrag Lekić, for prime minister. The outgoing Prime Minister Dritan Abazović accused President Đukanović of misusing his constitutional rights and blocking political dialogue.

120. These developments impeded the adoption of the electoral reform and the designation of judges to the Constitutional court. On 21 October the parliament failed once again to appoint judges, so the Constitutional Court is now unable to function properly on electoral issues. This failure to proceed with this urgent and much needed decision was lamented by the co-rapporteurs in a statement[10] on 28 October.

10. Statement by the co-rapporteurs (28 October 2022).

2.3.3. North Macedonia

121. In February 2022, outgoing Assembly co-rapporteurs Ms Lise Christoffersen (Norway, SOC) and Mr Zsolt Csenger-Zalán (Hungary, EPP/CD) submitted an information note to the committee, taking stock of the main developments in the country since the adoption of Resolution 2304 (2019). Since then, the committee has appointed new co-rapporteurs, namely Sibel Arslan (Switzerland, SOC) in February 2022 and Ria Oomen-Ruijten (Netherlands, EPP/CD) in October 2022.

122. Following the resignation of Prime Minister Zaev in December 2021, the parliament approved on 23 January 2022, by 62 votes (out of 108), a new government led by Mr Kovacevski comprising ministers from the Social Democrats (SDSH), the Democratic Union for Integration (DUI), the new junior coalition partner Alternative party and the Democratic Party of Albanians (DPA). The parliament currently comprises 42% of women MPs and 35 % of MPs from the non-majority communities, which are the highest ever figures recorded.

123. The country pursued its pro-European agenda. Despite signing a bilateral Friendship Treaty in 2017, Bulgaria blocked the adoption of a negotiating framework by the EU Council (which had decided, in March 2020, to open membership negotiations). The two parties eventually accepted the "French proposal" (France was then chairing the EU Presidency of the Council of the European Union), requiring a constitutional revision to include a reference to the Bulgarian minority in the Constitution's preamble. (This proposal sparked protests in Skopje on 2 July). Bulgaria lifted its veto on 24 June. On 16 July, the Parliament of North Macedonia approved a motion to amend the constitution (the opposition boycotted the vote), while pledging to discuss any remaining issues with the Bulgarian Government. North Macedonia and Bulgaria signed a bilateral agreement on 17 July, paving the way to the opening of the EU accession negotiations on 19 July. However, there is no majority in the Parliament of North Macedonia to revise the Constitution. The European Commission also mentioned in its 2022 report the persisting polarisation in parliament between the ruling parties and the opposition, the "active blockage" of parliament by the Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity (VMRO-DPMNE) main opposition party since May 2022 and the lack of consensus which was delaying important appointments of high level officials. On a positive note, the parliament appointed in November 2022 two new judges at the Constitutional Court. Three more judges need to be appointed for the Constitutional Court to function in its full capacity.

124. The rapporteurs followed closely the developments regarding the protection of national minorities. The complete results of the 2021 census have not yet been published. The Advisory Committee on the Framework Convention for the Protection of National Minorities published on 21 September 2022 its Fifth opinion on North Macedonia, noting that the country had made significant progress in the legal protection of national minorities (new Law on the Prevention and Protection against Discrimination, Strategy "Open society for all"), but noted that their practical implementation was problematic. The issue of the participation of minorities in state administration also remains an issue.

125. In the field of the fight against corruption, North Macedonia's score in Transparency International's Corruption Perceptions Index was 39/100 in 2021 (compared to 35 in 2019 and 2020) and it ranked 87 out of 180 countries (compared to 91th in 2020). GRECO's Addendum to the Second Compliance Report (fourth Evaluation Round) published on 4 July took note that a new Code of Ethics for MPs and its Guidelines were being prepared. Provided that some refinement and streamlining are made, it would provide "a suitable framework for promoting integrity and guiding the ethical behaviour of MPs", for example with respect to conflicts of interest, engagement with lobbyists, gifts, etc.

126. Overall, GRECO noted only modest progress in the implementation of its recommendations. With respect to the judiciary, GRECO took note of the extension of the range of sanctions applicable to judges and welcomed the adoption of a new Code of ethics for the Council of Public Prosecutors. However, it reiterated its concerns that earlier intentions to formally remove the Minister of Justice from the composition of the Judicial Council have still not materialised despite the existence of a potential for political influence by the Minister of Justice.

127. The State Commission for the Prevention of Corruption continues to play a pro-active role. In response to GRECO's Fifth Evaluation Round compliance report of 2021, North Macedonia adopted amendments to the law on internal affairs and to the law on police in April 2022.

2.4. Periodic reviews

2.4.1. France

128. The work on the periodic review of membership obligations by France was held back during the first half of the year because of the electoral campaigns for the presidential and parliamentary elections, which the rapporteurs Ms Fiona O'Loughlin (Ireland, ALDE) and Ms Yelisaveta Yasko (Ukraine, EPP/CD) followed closely.

129. According to the OSCE/ODIHR final report, the electoral campaign was competitive and took place in a calm and open environment with respect for fundamental freedoms. All candidates developed comprehensive campaign platforms, forthrightly addressing the rise in the cost of living, pension reform, crime, employment, healthcare, immigration and other issues. The war in Ukraine dominated the news cycle throughout the campaign. Campaign events showed an overall balanced visibility of women, both as speakers and participants, with gender equality messages featuring in most candidates' discourse. Campaign materials were also accessible for persons with different disabilities.

130. Some concerns arose regarding the influence of the growing concentration of media ownership on editorial freedom. The disproportionate media coverage of the far-right presidential candidate Éric Zemmour, prompting the intervention of the regulatory bodies, may have influenced the topics, tone and outcome of the campaign.

131. The first round of the presidential election put three candidates clearly ahead: the incumbent president Emmanuel Macron, the far-right candidate Marine Le Pen and the far-left candidate Jean-Luc Mélenchon. In the second round, Emmanuel Macron was re-elected over Marine Le Pen. The following parliamentary elections confirmed the division of the electorate into three main blocks: a coalition of left and ecologists, "the new popular ecologic and solidary union" (Nupes), a centre coalition backing president Macron, "Together citizens" and the far-right party backing Marine Le Pen, "National rally". The coalition backing Emmanuel Macron fell short of the absolute majority with 245 seats, while the union of the left and ecologists won 142 seats and the National Rally made an unexpected breakthrough, gaining 89 seats, beating the traditional right party "Les Républicains".

132. The lack of an absolute majority for the elected president was unprecedented in France since the implementation of a 5-year presidential mandate in 2000. Emmanuel Macron appointed Élisabeth Borne as Prime minister, the second woman to undertake such responsibilities in France after Édith Cresson in 1991. Lacking an absolute majority, the government is under the threat of a vote of no-confidence while the President has the constitutional power to call for snap parliamentary elections.

133. The committee heard Ms Claire Hédon, Defender of Rights of the French Republic, in April. Once the parliamentary elections had passed, the co-rapporteurs held several meetings with prominent civil society organizations, especially during a country-visit in September. The execution of judgments of the European Court of Human Rights, in particular regarding the situation in French prisons, the functioning of the judiciary, law-enforcement practices and media independence were among the topics raised.

134. The new French parliamentary delegation to the Assembly received its credentials during the October part-session and on this occasion, the committee held an exchange of views on the state of the procedure in the presence of Mr Bertrand Bouyx, Chairperson of the French parliamentary delegation and vice-president of our Assembly.

135. Following the decision of the Bureau to extend the terms of reference of three periodic review reports, the co-rapporteurs have scheduled a visit to the authorities shortly after the January 2023 part-session in order to submit the final report for debate during the June part-session.

2.4.2. Hungary

136. In 2022, the Monitoring Committee finalised the preparation of the periodic review report on the honouring of membership obligations to the Council of Europe by Hungary undertaken in 2020. The committee had agreed that the report would focus on the independence of the judiciary, the situation of media and good governance issues.

137. This year was marked by the organisation of parliamentary elections on 3 April 2022, which resulted in the victory of the Hungarian Civic Alliance (Fidesz) and its coalition partner the Christian Democratic People's Party (KDNP). As a result, this coalition enjoys – now almost continuously since 2010 – a two-third parliamentary majority.

138. ODIHR noted that the elections were efficiently and professionally organised but tainted by a lack of transparency and a lack of balance in monitored news coverage. The campaign was highly negative in tone and characterised by a pervasive overlap between the ruling coalition and the government. Extensive and unregulated spending by entities other than the election contestants, including through advertisements on social media, largely favoured the ruling party – hence confirming GRECO's previous issues of concern related to the funding of political parties and electoral campaigns. The Venice Commission had, in its October 2021 opinion, warned that the main effect of the electoral reform would be to favour the incumbents. The Monitoring Committee therefore came to the conclusion that the current electoral framework does not ensure a level playing field conducive to fair elections.

139. Following these elections, the Assembly rapporteurs George Papandreou (Greece, SOC) and Eerik-Niiles Kross (Estonia, ALDE) paid a visit to the country in June 2022. They expressed their concern about the use of special legal orders especially the newly-declared 'State of danger' (voted on 24 May 2022) in the wake of the outbreak of the war in Ukraine, despite a two-third parliamentary majority enjoyed by the ruling coalition. Their concern was later confirmed by the decision of the Hungarian Parliament to extend, as of 1 November 2022, the "state of danger" to up to 180 days, as many times as needed, which prompted the rapporteurs to react.

140. The committee observed that the undisputed exercise of power by the same coalition has reduced the efficiency of the system of checks and balances and strengthened the ruling coalition's influence on State bodies and key independent institutions. Rule of law and democracy issues raised by the Assembly since 2013, including the excessive concentration of powers, remained largely unaddressed. The widespread use of cardinal laws, the imbalance of powers between the judicial bodies and, more recently, the creation of "public interest foundations" were also of concern.

141. The Monitoring Committee concluded at its meeting on 14 September that the cumulative effects of the measures that negatively impact the independence of the judiciary, the situation of media, transparency and accountability of State institutions, undermined the functioning of democratic institutions. It proposed to continue to closely follow the developments with regard to the functioning of democratic institutions and the rule of law in Hungary.

142. On 13 October, during the plenary session, the Assembly decided in its Resolution 2460 (2022) to open a monitoring procedure in respect of Hungary until the above-mentioned concerns were addressed in a satisfactory manner. The committee is expected to appoint two co-rapporteurs for the monitoring of Hungary at a next meeting.

2.4.3. Malta

143. On 23 June 2022, the Assembly adopted Resolution 2451 (2022) "The honouring of membership obligations to the Council of Europe by Malta" based on a periodic review report prepared by the co-rapporteurs Mr Bernard Fournier (France, EPP/CD) and Mr George Loucaides (Cyprus, UEL).

144. In this Resolution, the Assembly noted that the reports of the Venice Commission and the independent inquiry commission established by the Maltese authorities on the Assembly's recommendation following Daphne Caruana Galizia's assassination had laid bare a systemic malfunctioning of democratic and rule of law institutions and a culture of impunity among the political class regarding conflicts of interest and corruption.

145. The Assembly therefore welcomed the subsequent reforms initiated by the authorities with regard to the independence of the judiciary and appointment procedures for official positions, but considered that a comprehensive and holistic reform of Malta's democratic institutions and system of checks and balances was still urgently needed. The Assembly made a series of concrete recommendations to this extent and in particular recommended that the authorities implement a far-reaching reform of the Maltese Parliament with the aim of establishing a full-time parliament that can provide proper parliamentary oversight and regain legislative initiative.

146. The continuing vulnerability of Malta's public sector to corruption remains a cause for concern. Despite the widespread perception of corruption, a coherent overall strategy to prevent corruption in public institutions is still lacking. This has created a culture of impunity that needs to be addressed by the authorities as a matter of the utmost urgency. In this context, the Assembly has recommended that Malta abolish its "citizenship by investment" programme. Regrettably, no action was taken by the authorities. On 29 September 2022, the European Commission referred Malta to the Court of Justice of the European Union over this programme,

echoing the reservations of the Assembly. At the same time, in a positive development, in June this year the Financial Action Task Force (FATF) removed Malta from its so-called grey list of Jurisdictions under Increased Monitoring.

147. The polarised media environment and the challenges faced by the media – including direct threats to journalists – negatively affect press freedom in Malta, and remain a point of serious concern. The establishment of a Committee of experts on Media, headed by Judge Michael Mallia, the former Chair of the Independent Investigation Commission into the murder of Ms Daphne Caruana Galizia and the government's response to it, is a positive signal that the authorities wish to address these concerns, which is to be welcomed.

148. Malta continues to have one of the highest levels of Strategic Lawsuits against Public Participation (SLAPPs) cases *per capita* in Europe, which is of concern. The above-mentioned Committee of experts on Media has proposed three draft laws that are currently before the parliament and which aim to counter the abuse of SLAPPs. It is important that these legal provisions are adopted and implemented without further delay.

2.4.4. Netherlands

149. The preparation of the report on the Netherlands is still in its early stages because of the Monitoring Committee`s workload. Thanks to the extension of the reference until 19 September 2023, the rapporteurs, Mr Antonio Gutiérrez Limones (Spain, SOC) and Ms Stephanie Krisper (Austria, ALDE) gained more time to carry out their work.

150. On 14 September 2022, the committee organised a hearing on the functioning of democratic institutions in the Netherlands with a particular focus on the Childcare Allowance case, with the participation of Mr Chris Van Dam, former President of the Childcare Allowance Parliamentary Inquiry Committee of the Dutch House of Representatives; Ms Claire Bazy Malaurie, President of the Venice Commission, and Mr Ruard Ganzevoort, Head of the parliamentary investigation Committee on the effectiveness of anti-discrimination legislation of the Dutch Senate.

151. The rapporteurs intend to visit the Hague in early 2023.

2.4.5. Romania

152. The rapporteurs presented a preliminary draft report to the committee in June 2022. It contained a number of concerns with regard to the rule of law, pluralist democracy and the respect of human rights identified on the basis of contacts with national and international civil society in Romania as well as on the basis of monitoring reports of different Council of Europe monitoring bodies. It was subsequently sent to the Romanian delegation for comment, and it constituted a basis for the rapporteurs' discussions with the Romanian authorities during their visit to Bucharest on 4-5 July 2022. The revised report and draft resolution taking into account the conclusions of the visit and the authorities' comments were submitted to the Monitoring Committee and adopted on 14 September 2022. The debate in the Assembly took place on 13 October 2022 and Resolution 2466 (2022) was adopted on that occasion.

153. The Monitoring Committee has followed with particular attention the ongoing reform of the judicial system in Romania. On 24 January 2022, it requested the Venice Commission's opinion on the draft law dismantling the Section for the Investigation of Offences committed within the Judiciary and on 14 September 2022, it requested an opinion on three draft Justice Laws: on the status of Magistrates; on the Organisation of the Judiciary; on the Superior Council of Magistrates. The Venice Commission's opinion on the former has been taken into account in the report; the latter is expected in December 2022. The committee expressed its confidence that the ongoing reforms will be continued in co-operation with and following recommendations of the Venice Commission and GRECO.

154. The committee noted with satisfaction that, overall, there was clear progress towards compliance with Council of Europe standards since Romania's accession in the areas crucial for the functioning of democratic institutions, namely the judiciary and the fight against corruption.

155. However, there are issues which raise some concern particularly with regard to media freedom and insufficient transparency concerning the use of public funds by political parties to finance media in order to influence their content.

156. The committee agreed to continue to follow the developments in Romania in the framework of its periodic monitoring. It also agreed to consider preparing the next report on Romania within five years.

2.4.6. San Marino

157. On 3 February 2021, San Marino was selected for a periodic review of its honouring membership obligations to the Council of Europe. This was ratified by the Assembly on 19 March 2021. On 19 April 2021, Mr Andrej Hunko (Germany, UEL) and Mr Viorel-Riceard Badea (Romania, EPP/CD) were appointed as rapporteurs for San Marino. As part of the preparation of their report, the rapporteurs made a fact-finding visit to the country from 24 to 26 October 2022. Their report on the honouring of membership obligations by San Marino is foreseen to be debated by the Assembly during its April 2023 part-session.

158. San Marino is both a micro-State and the world oldest existent Republic, which governing structures evolved from the structures of the Roman Republic. Its historical independence from external powers and its reliance on self-governance by its citizens, together with the conditions and challenges of it being a micro-State, have resulted in the development of a unique system of government based on collegiate governing structures which are shared among the citizens for set terms of office. This has resulted in a very close proximity between citizens and their political and governing structures, as well as between the different branches of powers which are often intertwined. While this is a reflection of the country's close and interconnected society, it also raises questions about the functioning of the system of checks and balances and the separation of powers in the country – including with regard to the independence of the judiciary. In addition, questions have been raises, including by GRECO in the context of its fourth evaluation round, regarding the vulnerability of these institutions to conflicts of interests and corruption.

159. Following their visit, the co-rapporteurs therefore welcomed the ongoing reforms to strengthen the independence of the judiciary and system of checks and balances in the country. At the same time, they underscored that these reforms should not be considered the end of the road but a starting point for further reforms to ensure that the functioning of these institutions remains well adapted to the challenges posed by San Marino being a micro-State, as well as to address any vulnerabilities of these institutions to conflicts of interest and corruption. In this context the rapporteurs highlighted the need for the authorities to ensure that these reforms, and laws and decrees adopted, are indeed fully and coherently implemented. This will also help to continuing trust of the Sanmarinese citizens in the democratic institutions, and in their efficient functioning.

2.5. Sub-Committee on Conflicts concerning Council of Europe Member States

160. As already indicated in paragraphs 22 and 71, over the reporting period, the sub-committee organised two hearings: on recent developments concerning the Transnistrian conflict settlement process with the participation of Mr Oleg Serebrian, Deputy Prime Minister for the Reintegration of the Republic of Moldova, and Mr Klaus Neukirch, Head of the OSCE Mission in Chisinau, and reconfirmed its intention to organise a seminar on "the Council of Europe contribution to promoting human rights in the Transnistrian region of the Republic of Moldova" with the participation of the Moldovan authorities and the *de facto* authorities from Tiraspol, as well as on recent developments in the Georgian regions of Abkhazia and Tskhinvali/South Ossetia and on the state of play of the Geneva International Discussions with the participation of Mr Lasha Darsalia, First Deputy Minister of Foreign Affairs of Georgia.

161. The sub-committee held an exchange of views on its work programme and future activities, and agreed to organise a seminar on "the human rights aspects in the Transnistrian settlement process and the role of the Council of Europe" early 2023 in Strasbourg. It also reflected on the possible organisation and format of a meeting on the interlinkage between Peace and Justice and decided to come back to this question.

2.6. Military hostilities between Armenia and Azerbaijan

162. The rapporteurs on Armenia (Mr Kimmo Kiljunen, Finland, SOC, and Ms Boriana Åberg, Sweden, EPP/CD) and on Azerbaijan (Mr Ian Liddell-Grainger, United Kingdom, EC/DA, and Ms Lise Christoffersen, Norway, SOC) continued to follow closely the developments concerning relations between the two countries including regarding (the question of) Nagorno Karabakh.

163. On 11 January 2022, renewed military hostilities erupted on the Armenian-Azerbaijani border, in which three Armenians and one Azerbaijani serviceman were reportedly killed. The implementation of both trilateral statements of 11 January 2021 and 9-10 November 2020 was brought into questions. At the same time, the official mediation mechanism, the OSCE Minsk Group, under the joint chairmanship of the Russian Federation, the United States and France seemed to have reached a stalemate. As a result, parallel mediation efforts were developed by the Russian Federation, the European Union and the United States.

164. On 4 February, online talks took place between Prime Minister Pashinyan and President Aliyev, with the participation of French President Emmanuel Macron and the President of the European Council, Charles Michel, in order to facilitate the peace negotiations.

165. On 8 March, the pipeline through which gas is supplied from Armenia to Nagorno-Karabakh was damaged on a section located in an area that is under the control of Azerbaijan following the war of 2020, cutting the gas supply for the population of Nagorno-Karabakh. Azerbaijan did not allow access by Armenia to the section of the damaged pipeline and after 10 days of negotiations, repaired the pipeline itself. A week later, on 24 March, the ceasefire was broken in the region when Azerbaijani troops advanced into the zone of responsibility of Russian peacekeepers.

166. On 8 April and 23 May two further meetings between President Aliyev and Prime Minister Pashinyan took place in Brussels in the presence of the President of the European Council Charles Michel. A bilateral Commission on the delimitation and demarcation of borders was created but has not yet achieved concrete results.

167. On 30 July, ceasefire violations were reported in the Nagorno-Karabakh region and on the internationally recognised border between Armenia and Azerbaijan. On 2 August, the Russian peacekeeping mission confirmed that Azerbaijan had violated the ceasefire on several occasions. Both Armenia and Azerbaijan have expressed their dissatisfaction with the implementation of the trilateral statements. Azerbaijan has demanded the complete withdrawal of Armenian armed forces from the territory of Nagorno-Karabakh; the completion of a corridor under its control to link mainland Azerbaijan to the Nakhichevan enclave; and the construction of a new road replacing the Lachin corridor between Armenia and Nagorno-Karabakh.

168. On 31 August, a fourth meeting between President Aliyev and Prime Minister Pashinyan took place in Brussels with the mediation of the President of the European Council. Some progress was made, as it was decided to discuss the text of a peace treaty within a month; to resolve outstanding humanitarian issues; to hold a meeting of the border delimitation Commission in Brussels in November; and to unblock transport routes.

169. On 12, 13 and 14 September 2022, new large-scale hostilities broke out along the Armenian-Azerbaijani border when Azerbaijani armed forces conducted an offensive across the border and advanced into internationally recognised Armenian territory, including artillery strikes and the use of drones, striking targets on Armenian territory while claiming that the clashes started after “large-scale provocations” from the Armenian side. A ceasefire was agreed, but it was the most serious escalation since 2020; 200 Armenian soldiers and 80 Azerbaijani soldiers were killed and more than 7 500 Armenian civilians had to flee their homes.

170. On 6 and 7 October, a two-round meeting between President Aliyev and Prime Minister Pashinyan, mediated by the European Union and France, took place in Prague. A statement was adopted in which for the first time Azerbaijan and Armenia mutually recognised each other’s territorial integrity. It was agreed that a civilian mission from the European Union would patrol the Armenian-Azerbaijan border for two months to help reduce the tensions and to provide assistance to the border delimitation Commission.

171. On 10 October, on the initiative of the Monitoring Committee, the Assembly held a current affairs debate entitled “Military hostilities between Azerbaijan and Armenia, including strikes against settlements and civilian infrastructures”. On 13 October, the co-rapporteurs for Armenia issued a statement calling upon the Azerbaijani authorities to immediately withdraw from all parts of the territory of Armenia and to release the prisoners of war under their control.

172. On 1 November, a fourth trilateral meeting took place in Sochi between Presidents Putin and Aliyev and Prime minister Pashinyan. In the concluding tripartite statement, Armenia and Azerbaijan reiterated their commitment to refrain from the use of force or the threat of its use, and agreed to discuss and resolve all problematic issues solely on the basis of mutual recognition of sovereignty, territorial integrity and inviolability of borders, in accordance with the UN Charter and the Alma-Ata Declaration of 1991.

2.7. The Russian Federation

173. Until its expulsion from the Council of Europe on 23 March 2022, the Russian Federation was subject to full parliamentary monitoring. The then rapporteurs, Mr Axel Schäfer (Germany, SOC) and Ms Ria Oomen-Ruijten (Netherlands, EPP/CD), visited Moscow from 28 June to 1 July 2021. Following the discussions during the visit, they intended to draw up a roadmap accompanied by a concrete timetable, based on

recommendations by the Venice Commission, which would identify concrete measures intended to address the concerns identified. They agreed with the Russian delegation to define, in April 2022, concrete action translated into concrete changes to the legislation with deadlines for their accomplishment.

174. During the 2022 first part-session, on 24 January 2022, the still unratified credentials of the Russian delegation were challenged on both substantive and procedural grounds on the basis respectively of Articles 8 and 7 of the Rules of Procedure of the Assembly. The substantive grounds on which the credentials were challenged referred to violations of the basic principles of the Council of Europe enshrined in Article 3 and the Preamble of its Statute (ETS No. 1); to non-fulfilment by the Russian Federation of the Assembly's recommendations addressed to it and included in relevant past resolutions, in particular, Resolution 1990 (2014), Resolution 2034 (2015), Resolution 2063 (2015), Resolution 2292 (2019), Resolution 2320 (2020) and Resolution 2363 (2021); further violations with regard to the rule of law and democracy, the respect for basic freedoms and human rights, and, more generally the non-compliance of the Russian Federation with its commitments and obligations in the Council of Europe. The challenge of the credentials followed similar challenges submitted in June 2019 (upon the return of the Russian delegation to the Assembly after its absence since 2015), in January 2020 and in January 2021.

175. In line with Rule 8.3 of the Rules of Procedure, the Monitoring Committee was seized for report on substantial grounds and the Committee on Rules of Procedure, Immunities and Institutional Affairs for opinion. In accordance with the committee's practice, as chairperson of the committee, I was entrusted with the preparation of the report.

176. The report approved by the committee and submitted to the Assembly (Doc. 15443) pointed to the deteriorating situation with regard to pluralism, human rights and fundamental freedoms in the Russian Federation manifested by the crackdown on opposition politicians, independent civil society, dissenting voices and critical journalists. It deplored the closure of Memorial and the plight of Mr Alexei Navalny. It also referred to the serious shortcomings identified during the 2021 parliamentary elections and expressed concern about the deterioration of relations with its neighbours and the escalation of tension which threatened European security.

177. At the same time, however, the committee emphasised that the Assembly constituted the unique pan-European parliamentary platform for political dialogue with the participation of all European countries. Therefore, it considered that the approval of the credentials would benefit the goal that the Council of Europe was pursuing and allow the Assembly to foster political dialogue on possible ways to improve shortcomings with respect to the functioning of democratic institutions in the Russian Federation and monitor the progress in this area. It also highlighted the obvious benefits that access to the European Court of Human Rights offered to 160 million Russian citizens, although other delegations questioned the willingness of the Russian authorities to implement Court judgments felt to run counter to its political objectives. The committee therefore proposed that the Assembly ratify the credentials of the delegation of the Russian Federation and that it return to the assessment of the progress made when a monitoring report was due to be submitted later in the year 2022 (Resolution 2422 (2022)).

178. With the expulsion of the Russian Federation, the parliamentary monitoring procedure, which is strictly reserved for member States, was terminated. While the Assembly throughout its different committees can – and should – continue its work related to the political situation in the Russian Federation, the Monitoring Committee's mandate is limited to the countries which are Council of Europe member States and therefore can only touch upon the Russian Federation insofar as its policies concern issues covered under the monitoring procedure of other member States. This is particularly the case in relation to the work of the Sub-Committee on Conflicts between Council of Europe member States.

179. In order to preserve the work in respect of the Russian Federation accomplished by the Monitoring Committee prior to the expulsion, the former rapporteurs decided – with the committee's agreement – to prepare an information note (AS/Mon(2022)09). The note was not meant to assess the state of fulfilment of Russia's obligations and commitments to the Council of Europe, nor did it seek to identify the outstanding concerns with regard to democracy, the rule of law and human rights in the Russian Federation over the whole reporting period. Such information can be found in the Monitoring Committee's reports submitted to the Assembly or declassified information notes prepared during 26 years of the monitoring procedure in respect of the Russian Federation. The aim was rather to take stock of the parliamentary monitoring procedure in respect of the Russian Federation and of the work accomplished by the Committee and rapporteurs with a view to identifying and reflecting on possible weaknesses and drawing lessons for the future.

3. Some thoughts on how to improve the Monitoring Committee's working methods for greater efficiency and impact

180. In the 2021 progress report, my predecessor raised the question of the preparation of monitoring reports, and in particular of the validity of references of periodic monitoring reviews. It should be recalled that, in accordance with the Rules of Procedure, the Monitoring Committee has a permanent mandate to deal with the countries under full monitoring procedure as well as countries engaged in the post-monitoring dialogue. The preparation of such a report does not require a special reference from the Bureau. The Committee's terms of reference oblige it to present country reports with a certain frequency which unfortunately, for a number of reasons, cannot always be respected.

181. The situation is different with regard to periodic monitoring reviews. After the Assembly decided that the committee would produce periodic monitoring reports on member States which are not subject to full monitoring procedure in the form of separate reports to the Assembly, on the basis of a selection process based on substantive reasons, the committee agreed in its internal working methods, that it would select once a year a number of countries for such a report. It selected 3 countries in the first round in 2019 (Malta, Hungary and Romania), and 3 countries in the second round in 2020 (France, the Netherlands and San Marino). It intends to proceed with the selection of new countries until after the adoption of revised rules.

182. Currently, according to Rule 26 of the Rules of Procedure, the mandate for the preparation of a periodic monitoring report is two years. Experience has shown that this period is too short and has led the Committee to regularly request extensions of mandates. While other Assembly committees may not encounter difficulty in meeting this deadline, specific procedures in the Monitoring Committee make it almost impossible to comply with it.

183. The reasons which considerably slow down the preparation of periodic reports include the method of appointment of rapporteurs involving political groups (two for each report); the multi-stage preparation process including a visit and time for the authorities to comment and, last but not least, the need for a stable political situation in the country concerned fostering political dialogue. In practical terms it means for example that the pre- or post-electoral period, or any political crisis means that a visit or discussion on the report are excluded as this may be perceived as interference in the country's internal affairs.

184. The issue of the availability and frequent changes of rapporteurs has already been deplored by my predecessor but unfortunately, the situation in this respect has not improved much since the last progress report. In particular, forthcoming elections in rapporteurs' countries and their participation in electoral campaigns often prevent them from fulfilling their commitments in the Monitoring Committee. Furthermore, there is a very real risk that following the elections they will leave the Assembly – either for other duties or because they are not re-elected. The problem of changes in rapporteurship is well illustrated by the number of rapporteurs` appointments which the committee made in the reporting period and which amounted to 11. I call on the political groups to take more care when nominating candidates for rapporteurs for monitoring periodic review reports and to take into account not only their competence but also their availability.

185. In conclusion, the two-year validity of references for periodic monitoring reports creates a situation which is highly unsatisfactory and should be remedied. During the committee's internal discussions, members have indicated that they wished to increase the time limit for the preparation of periodic review reports to at least 3 years with a possibility for extension. As this issue was becoming increasingly acute, the committee, at its meeting in October 2022, invited me to write to the Bureau requesting a change in the Rules in this respect.

186. The Bureau at its meeting in October demonstrated full comprehension of this issue and extended the validity of the ongoing periodic review reports (France, Netherlands, San Marino) by 6 months until 19 September 2023. At the same time, it requested the Committee on Rules of Procedure, Immunities and Institutional Affairs to look into the issue of the duration of the validity of references for periodic monitoring reports in its more general report on the improvement of the rules of procedure. I am confident that the Monitoring Committee's position on the duration of validity will be taken into consideration by the Rules Committee and the relevant rules` articles will subsequently be modified.

187. Another issue which was discussed in the Monitoring Committee concerns its reactivity to developments in member States. The current selection process of periodic reports has been criticised for failing to adequately respond to current events and developments in the member States, whether favourable or worrying for this Assembly. In order to make the committee more responsive and able to deal with future developments, the committee agreed that the selection process be revised in order not to be limited to the decision taken each December but to allow for the *ad hoc* selection by the committee of a country for periodic monitoring.

Appendix – Revised decision[11] to establish a Sub-Committee on Conflicts concerning Council of Europe Member States

1. The Monitoring Committee decides to set up a Sub-Committee on "Conflicts concerning Council of Europe Member States" in line with Rule 49 of the Assembly's Rules of Procedure.

2. For the competences and work of the Sub-Committee, the conflicts in question are understood to mean "a situation in which active armed conflict has been brought to an end, but no peace treaty or other political framework resolves the conflict to the satisfaction of the combatants. Therefore, legally the conflict can start again at any moment, creating an environment of insecurity and instability".

3. The competence of the Sub-Committee is to explore on the basis of the findings of the co-rapporteurs concerned, how the application of the standards as well as obligations and commitments to the Council of Europe can be ensured in the areas affected by the current unresolved conflicts concerning Council of Europe Member States and that, as a result of these conflicts, are not under the control of the authorities of the Member State to which they pertain. In particular it will explore how Council of Europe principles and standards with regard to democracy, the rule of law and human rights can be safeguarded in these areas. In this context, any action undertaken by the Sub-Committee will be status neutral and undertaken in such a manner that it cannot be interpreted as an explicit or implicit recognition of the de facto status quo.

4. In addition, and in this context, the Sub-Committee aims to facilitate the co-ordination and harmonise the approaches taken by the respective teams of co-rapporteurs towards the conflict(s) that the country under their responsibility is party to. In this regard, the Sub-Committee will also explore how the monitoring procedure can support the work of the existing structures and mechanisms established to mediate in the unresolved conflicts in the Council of Europe's geographical area.

5. It should be emphasised that the aim of this Sub-Committee is not to provide an alternative to the already established diplomatic and political mechanisms for the resolution of these conflicts. It does not intend and does not claim to be a conflict-resolution mechanism as such. On the contrary, the aim of this Sub-Committee is to explore how the Assembly, through its Monitoring Committee, can support the work of the existing conflict-resolution mechanisms that have been established for the conflicts in question. At the same time, the Sub-Committee shall explore and promote the possibility for a formal role, where opportune, of the Council of Europe in the relevant conflict-resolution mechanisms.

6. In practical terms, and within the context of its competences as described above, the Sub-Committee shall deal with the conflicts regarding South Ossetia/Georgia and Abkhazia/Georgia, north of Cyprus, Nagorno-Karabakh and other occupied territories, Transnistria and Ukraine.[12]

7. The Sub-Committee's principal aim is to make a positive contribution to the environment in which the conflict-resolution mechanisms function. Therefore, the Sub-Committee will develop its work with regard to a particular conflict if it has the agreement of the delegation(s) of the Member State(s) concerned[13]. For the same reasons, one of the key criteria for the Sub-Committee to decide to focus on a particular conflict should be the opportunity for establishing a constructive dialogue with all parties to the conflict, including the communities in the conflict area themselves.

8. Through its parent committee, the Sub-Committee shall co-ordinate its work with that of the other committees of the Assembly.

9. The Sub-Committee shall be composed of:

   9.1. The co-rapporteurs of the Monitoring Committee for Armenia, Azerbaijan, Georgia, the Republic of Moldova, Türkiye and Ukraine;

   9.2. A member of the Monitoring Committee of each of the Member States that are party to the conflicts under the terms of reference of the Sub-Committee: Armenia, Azerbaijan, Cyprus, Georgia, the Republic of Moldova, Türkiye and Ukraine. In the event more than one member of these countries is a member of the Monitoring Committee, the member to the Sub-Committee shall be designated by the national delegation in question from among its members in the Monitoring Committee;

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11. Adopted by the Monitoring Committee at its meeting on 24 May 2022.
12. Pending the developments with regard to the Russian aggression against Ukraine.
13. During its meeting on 9 March 2021, the sub-committee agreed that it is understood that this requirement is not applicable to exchanges of views with independent experts and representatives of international bodies to inform the sub-committee.

9.3. Ex-officio: the Chairpersons of the Committee on Political Affairs and Democracy and the Committee on Legal Affairs and Human Rights insofar as they are not covered under category (a);

9.4. The chairpersons of the political groups of the Assembly, insofar as they are not covered under category (a), (b) and (c);

9.5. The Chairperson of the Monitoring Committee, in line with Rule 49.6.

10. The members of the Sub-Committee cannot be substituted.

11. In order to foster free exchanges of views within the Sub-Committee, the minutes of its meetings will remain restricted to the members of the Sub-Committee, unless specifically decided otherwise by the Sub-Committee.