



**Doc. 15824**

20 September 2023

## The role of the Council of Europe in preventing conflicts, restoring credibility of international institutions and promoting global peace

### Committee Opinion<sup>1</sup>

Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)

Rapporteur: Mr Claude KERN, France, Alliance of Liberals and Democrats for Europe

### A. Conclusions of the committee

1. The Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) welcomes the report by Ms Lesia Vasylenko (Ukraine, ALDE) on behalf of the Committee on Political Affairs and Democracy. The Monitoring Committee agrees with the main thrust of the draft resolution.
2. The Monitoring Committee agrees with the rapporteur's findings and recommendations and would like to add some points based on its work and that of its Sub-committee on Conflicts concerning Council of Europe Member States. The committee is proposing two amendments to highlight these considerations. They supplement and do not contradict the valuable contribution from the Committee on Political Affairs and Democracy, with which we agree.

### B. Proposed amendments

#### *Amendment A (to the draft resolution)*

At the end of paragraph 12.1, add the following words:

*“in particular by ensuring full compliance with international law and the honouring of the obligations stemming from the conventions to which they are parties;”*

#### *Amendment B (to the draft resolution)*

After paragraph 13.2, insert the following paragraph:

*“strengthen the capacity of the Monitoring Committee, in particular in terms of early warning, in line with the conclusions of the 2023 Council of Europe Summit, and give consideration to mechanisms to ensure that due account is taken of such early warnings”;*

---

1. Reference to Committee: [Doc. 15479](#). Reference 4643 of 28 April 2022. Reporting Committee: Committee on Political Affairs and Democracy. See [Doc. 15821](#). Opinion approved by the Committee on 13 September 2023.



### C. Explanatory memorandum by Mr Claude Kern, rapporteur for opinion

1. The Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) fully agrees with the rapporteur's conclusions regarding the need to ensure the continuation in the long term of a rules-based international order. It would seem worthwhile adding that respect for international law and the obligations which States have freely entered into is a key aspect of the rule of law. Strengthening the rules-based international order is vital as a means of preventing conflicts and ensuring that democracies based on the rule of law flourish. Conversely, the inability or refusal of States to honour the international obligations they have entered into undermines the rules-based international order and, as underlined by Ms Vasylenko, makes it more difficult for the international community to prevent the outbreak of conflicts within and between States or to contain them.

2. If full compliance with international law is to be more than an empty slogan, the mechanisms that guarantee that the rules are applied need to be strengthened. As demonstrated by a number of monitoring reports, obligations, including rulings of the European Court of Human Rights, are not always honoured or implemented. This undermines respect for fundamental rights and the rule of law and erodes the functioning of democratic institutions in the countries concerned, while weakening the relevant conventions and the structures established to implement them, thereby ultimately jeopardising the rules-based international order.

3. That is the reason for Amendment A, which is to add, at the end of paragraph 12.1, the following: "in particular by ensuring full compliance with international law and the honouring of the obligations stemming from the conventions to which they are parties."

4. It is vital for the credibility of the Council of Europe as an organisation and for the convention system as a whole that those member States which fail to honour certain obligations, above all the execution of the judgments of the European Court of Human Rights, be reminded of their commitments. This was pointed out in the Reykjavík Declaration, which refers to member State's "unconditional obligation to abide by the final judgments of the European Court of Human Rights in any case to which [they] are Parties."

5. The Parliamentary Assembly could review the sanction mechanisms at its disposal for ensuring that States honour their obligations: while, as the draft resolution rightly points out, "the Assembly also underscores the importance of the complementary joint procedure, enabling the Council of Europe's statutory organs to take action together in case of a blatant violation by a member State of its obligations under the Statute" (paragraph 9 of the draft resolution), this procedure must, of course, be confined to the most serious violations. It must be possible to use other, less severe measures to improve States' honouring of their obligations. For instance, in [Recommendation 2252 \(2023\)](#) "Implementation of judgments of the European Court of Human Rights", paragraph 2.2, the Assembly recommends that the Committee of Ministers "undertake further work to develop a clear toolkit for assisting co-operation and increasing pressure on States, in order to encourage them to take timely action to implement the judgments of the European Court of Human Rights; this toolkit should include a range of different measures and techniques that could be potentially deployed, as required, in different situations depending on the seriousness and complexity of the issue as well as on the type of barriers that might exist to timely and effective implementation; such a toolkit should be an evolving document to include new techniques and best practice as experience develops; a creative approach should be applied in terms of tools and bodies that might assist in these endeavours".

6. The Monitoring Committee believes that such a toolkit should also be used to encourage States to honour obligations other than just Court judgments. The Assembly should start discussions with a view to developing such a toolkit for cases where the obligations whose honouring is to be encouraged fall within its own remit. In the course of their work, the Monitoring Committee and its Sub-Committee on Conflicts concerning Council of Europe Member States are accustomed to taking account of different situations depending on the seriousness and complexity of the issue and the barriers to timely and effective implementation. To some extent, the finding in monitoring reports of unlawful conduct by States or of failure to honour their obligations amounts to an initial warning, which serves as an initial means of pressure. Its effectiveness largely depends on the publicity given to the reports. In terms of early warning, however, monitoring reports have included the necessary warnings but have not received the attention that these issues deserved.

7. Paragraph 13.2 of the draft resolution calls on the Assembly to "contribute to the Council of Europe's efforts on early warning in order to address situations which risk posing a threat to the rule of law, democratic security and good neighbourly relations." The explanatory memorandum stresses that the Council of Europe has achieved significant progress in observing developments in its member States, especially through the work of the Monitoring Committee and the Commissioner for Human Rights (paragraph 31).

8. The Monitoring Committee's work has already led to several unequivocal warnings being sounded, using the existing tools. For instance, in the case of the Russian Federation's aggression against Ukraine, as far back as 2014, it was stated in report (Doc. 13482 paragraph 86) on "Recent developments in Ukraine: threats to the functioning of democratic institutions" that "[t]here are fears that the Russian intervention in Ukraine will not stop with Crimea. In several statements President Putin has announced that Russia will protect the interests of the Russian minority also elsewhere in the territory of Ukraine. The Donbas area, which is home to most of Ukraine's arms industry, as well as the Odessa region, are potentially at risk of Russian military intervention and occupation. The occupation of the Odessa region would bring Ukraine's access to the Black Sea fully under Russian control and would provide Russia with a direct land corridor to Transnistria, which is under *de facto* Russian control. In this context, it should be noted that, on 17 February 2014, the *de facto* authorities in Tiraspol announced that they would soon make a formal request to join the Russian Federation as a new entity."

9. The report (Doc. 13483, paragraph 55) on "Reconsideration on substantive grounds of the previously ratified credentials of the Russian delegation" was explicit about the fears concerning the consequences of the Assembly's inaction: "There is understandable anxiety in some Council of Europe member States which have large Russian minorities within their borders. I have no doubt that they will follow the debate on the Russian credentials very carefully: if using the false pretext of the need to protect a minority can go unpunished even in the 'House of Democracy', it is a bad prognostic for their future."

10. The report went on to state (paragraph 64): "All the violations evoked in paragraphs 58-63 of the present memorandum may have very serious consequences for stability and peace, not only in Ukraine but also in other neighbouring countries, and, indeed, in Europe as a whole. All the Council of Europe member States are concerned."

11. Moreover, while the report on "The consequences of the war between Georgia and Russia" (Doc. 11724, paragraph 7) stated that "[w]hile the escalation of the conflict into a fully-fledged war between Georgia and Russia came totally unexpected," it immediately added that "tensions between the two countries had been seriously escalating for some time before the outbreak of the war. It is clear that the war between Russia and Georgia did not start on 7 August 2008."

12. As these examples show, the early warning mechanisms did produce the necessary warnings and alerted the members of the Assembly and the public at large. However, they did not lead to any decisions by the Assembly or the Council of Europe. In our view, it is at that stage that improvements need to be made. It is necessary to determine when concerns should give rise to alerts or warnings and, if warnings are issued, how to translate them into follow-up measures to effectively reduce tensions.

13. That is the reason for Amendment B, which is to "strengthen the capacity of the Monitoring Committee, in particular in terms of early warning, in line with the conclusions of the 2023 Council of Europe Summit, and give consideration to mechanisms to ensure that due account is taken of such early warnings."

14. We believe that the profile of monitoring activities needs to be raised so as to boost their impact. The expert report, "The Pursuit of Undivided Europe"<sup>2</sup>, already called for more robust use to be made of the Council of Europe's monitoring mechanisms. The Council of Europe's various monitoring mechanisms produce reports of a very high standard. The synergies between the various monitoring bodies have improved significantly and the reports by the Assembly's Monitoring Committee draw together the conclusions reached by all the Council of Europe bodies, put them in the political and historical context of the relevant countries and present them to the Assembly for public debate when circumstances so warrant. With this monitoring procedure, weak signals can be detected and warnings sounded when necessary. However, as the above examples show, these reports do not receive the necessary attention and are drowned out by a mass of other documents, which greatly reduces their impact for the States concerned.

15. The committee believes that the impact of its work could be substantially improved if its profile were raised. Access to the relevant information could be improved by optimising the use of IT, for instance with a web page that gave quick access to all the Committee's work, broken down by country. It also seems vital for the Monitoring Committee's reports to be made available in the official languages of the States concerned, so that the public there can study and debate them. In addition, rapid response capacities need to be strengthened to enable the Monitoring Committee to address new or rapidly evolving situations. A higher profile for the Monitoring Committee's work would be a form of pressure on States failing to honour their

---

2. "The Pursuit of Undivided Europe, Experts' views on the Political Relevance of the Council of Europe", Directorate of Policy Planning, Council of Europe, 2014, p. 112.

obligations. Lastly, the Monitoring Committee encourages the Assembly to develop the “toolkit for assisting co-operation and increasing pressure on States” to improve compliance in terms of the execution of the Court’s judgments and extend its use to the other obligations entered into at the Council of Europe.