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The progress of the Assembly's monitoring procedure (January-December 2023)

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 2023 and assesses the progress in the honouring of the 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), as well as the countries subject to periodic monitoring, which was completed in 2023 in respect of France and San Marino and is currently carried out for the Netherlands. The committee welcomes progress made, notes challenges, and where relevant also expresses concerns about setbacks. On this basis, it formulates recommendations to the countries concerned.

In addition, the report outlines the work recently initiated by the committee to strengthen its capacity in terms of early warning, in line with the conclusions of the 2023 Council of Europe Summit and to give consideration to mechanisms to ensure that due account is taken of such early warnings, as decided by the Parliamentary Assembly in Resolution 2515 (2023).

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

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A. Draft resolution[2]

1. The Parliamentary Assembly recognises the work carried out by the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) in fulfilling its mandate as defined in Resolution 1115 (1997) (modified) "Setting up of an Assembly Committee on the honouring of obligations and commitments by member States of the Council of Europe (Monitoring Committee)". In particular, it welcomes the committee's work in accompanying the 11 countries under a full monitoring procedure (Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Hungary, the Republic of Moldova, Poland, Serbia, Türkiye and Ukraine) and the 3 countries engaged in a post-monitoring dialogue (Bulgaria, Montenegro and North 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 2023 in respect of France and San Marino and is currently carried out for the Netherlands.

2. The Assembly welcomes the fact-finding visits made in 2023 by the respective rapporteurs to Albania, Armenia, Azerbaijan, Bulgaria, Bosnia and Herzegovina, France, Georgia, the Netherlands, Poland, Serbia and Türkiye; and takes note of the findings of the rapporteurs expressed in the reports of these visits.

3. 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; it 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.

4. Regarding the countries under a full monitoring procedure:

4.1. with respect to Albania: the Assembly welcomes the continued progress in honouring its obligations and commitments to the Council of Europe especially with regard to the reform of the justice system, including the vetting of all judges and prosecutors, with a view to ensuring its independence and efficacity. With regard to fighting the persistent corruption and influence of organised crime in the country, the Assembly welcomes the tangible results achieved by the Specialised Structure for Anti-Corruption and Organised Crime including with regard to high level cases. It is now important that these first tangible results become a non-reversible trend. The removal of Albania from the so-called grey list of the Financial Action Task Force is a significant development in this regard. The Assembly regrets that, despite some improvement, the political environment in Albania is still very polarised and fragmented, which undermines parliamentary oversight and the proper functioning of the system of checks and balances in the country. While recognising Albania's multicultural society and history of inter-religious dialogue and tolerance, the Assembly is concerned that more than five years after the adoption of the Albanian Law on the Protection of Minorities, three essential by-laws have not yet been adopted, which impedes the implementation of this law, and weakens the protection of minorities in the country. The Assembly urges the authorities to adopt without further delay these by-laws, that should fully adhere to the requirements under the Framework Convention for the Protection of National Minorities (ETS No. 157). In addition, referring to Opinion 189 (1995), the Assembly calls on the Albanian authorities to sign and ratify the European Charter for Regional or Minority Languages (ETS No. 148).

4.2. with respect to Armenia: the Assembly commends the actions of the authorities and the solidarity of the population to receive the more than 100 000 refugees from Nagorno-Karabakh and calls on Council of Europe member States to provide all support to help Armenia tackling this enormous challenge. The Assembly welcomes the continuation of democratic reforms and specifically the improvement of the electoral framework. It calls on the authorities to strengthen media freedom and independence and to continue the reform of the judiciary and the efforts to fight corruption. The Assembly urges both the majority and the opposition to refrain from hate speech and stigmatisation and to contribute to the establishment of a genuine democratic culture based on the recognition by political opponents of each other's legitimacy;

4.3. with respect to Azerbaijan: while welcoming the recent reform of the Judicial Legal Council, the Assembly regrets that concerns with regard to the rule of law, pluralist democracy and human rights remain unaddressed. It is seriously concerned about the human rights situation in the country, in particular with regard to the independence of the judiciary, freedom of expression, media freedom, and freedom of association. Allegations of politically motivated arrests and detention, as well as allegations

2. Draft resolution adopted unanimously by the committee on 4 December 2023.

of torture and ill-treatment by law enforcement officials and poor detention conditions are of concern in this context. Recalling Resolution 2494 (2023), it urges the authorities to fully and swiftly implement the judgments of the European Court of Human Rights, in particular those revealing structural or complex problems, some of which have not been resolved for over 10 years. It also invites the authorities to implement without delay outstanding recommendations of the European Commission for Democracy through Law (Venice Commission), in particular those concerning the legislative framework on political parties and media. As regards the situation in Nagorno-Karabakh, the Assembly reiterates its recommendations included in Resolutions 2517 (2023) and 2508 (2023). The Assembly is also monitoring the situation around the Armenian prisoners of war, civilians and other captives, as well as all detained representatives of Nagorno-Karabakh currently held in Azerbaijan and calls upon Azerbaijan to immediately release all detainees;

4.4. with respect to Bosnia and Herzegovina: the Assembly welcomes the swift formation of all levels of government following the last elections. It also welcomes the adoption of important reforms in spite of the persistence of serious challenges to the authority and legitimacy of the State institutions. The Assembly reiterates its call for constitutional and electoral reforms with the purpose of eliminating the discrimination based on ethnic affiliation, in line with the requirements of the European Convention on Human Rights (ETS No. 5). It considers that additional reforms are urgently needed to improve the rule of law, independence of the judiciary and fight against corruption. In this regard, the Assembly is deeply concerned by recent steps taken at entity level that negatively affect the freedom of journalists and freedom of association;

4.5. with respect to Georgia: the Assembly welcomes the continuing reforms by the country to honour its accession commitments and membership obligations to the Council of Europe. In that respect, it acknowledges the importance of the recent recommendation by the European Commission to grant the country candidate status for European Union membership. The Assembly welcomes that Mr Levan Ioseliani, a former member, was appointed as the new Ombudsperson by the Georgian Parliament on the basis of a consensus between ruling majority and opposition. Nevertheless, it remains deeply concerned about the continuing extreme polarisation of the political environment, that is permeating all levels of society. This extreme polarisation is negatively affecting the implementation of the reforms that are essential for the democratic consolidation of the country. It urges the ruling majority, as well as other political forces in the country, to refrain from any actions that could increase the tensions and polarisation in the country. The Assembly reiterates its call in Resolution 2438 (2022) for a holistic reform of the judiciary with a view to ensuring its genuine independence and impartiality. In that respect, it regrets that the recent changes to the Law on Common Courts, despite implementing some improvements, do not reform the High Council of the Judiciary, whose functioning is a key obstacle to the independence of the judiciary, and in the view of the Venice Commission do not amount to a holistic reform as meant by the Assembly. The Assembly takes note of the urgent opinion of the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE/ODIHR), requested by the Georgian Ombudsperson, on the draft amendments to the Law on Assemblies and Demonstrations and, in line with this opinion, urges the Georgian authorities to withdraw these draft amendments. The Assembly reiterates again its full support for Georgia's sovereignty and territorial integrity within its internationally recognised borders and deplores and condemns the recent killing of a Georgian citizen by Russian occupation forces;

4.6. with respect to Hungary, with reference to Resolution 2460 (2022), the Assembly reiterates its call on the Hungarian authorities to address the serious questions regarding the functioning of democratic institutions in the country as a result of the cumulative effects of measures that negatively impact the independence of the judiciary, the situation of media, and the transparency and accountability of State institutions. It takes note of the judicial reform, adopted after consultation with the European Commission in May 2023, with the objective to address some of these concerns. The Assembly notes that the "state of danger" was further extended until 23 May 2024 and reiterates its position that the use of special legal orders must be restricted to what is strictly necessary and proportionate and must be limited in time. The Assembly calls on the Hungarian Parliament to postpone the consideration of the legislative package on "defense of sovereignty" until an opinion has been issued by the Venice Commission, and to fully address any of the Commission's concerns and recommendations both in letter and in spirit;

4.7. with respect to the Republic of Moldova: with reference to Resolution 2484 (2023), the Assembly welcomes the commitment of the Moldovan authorities to European integration and the programme of ambitious reforms, especially with regard to the judiciary and the fight against corruption and "State capture". It reiterates its position that, in order to ensure the necessary wide support for, and acceptance of, the reforms by the Moldovan society, it is essential that these reforms are implemented,

and persons appointed, in accordance with legal provisions and Council of Europe standards and based on an inclusive bi-partisan consultation process. The Assembly welcomes the conclusion of the pre-vetting process for the Superior Council of Magistrates (SCM) and the Superior Council of Prosecutors (SCP) and the decision to extend this procedure to all judges and prosecutors in high-level positions. At the same time, it urges the authorities to ensure that the principle of non-retroactivity is reintroduced into the law that governs this procedure. The Assembly takes note of the amendments to the electoral legislation that introduce the possibility to ban for five years, members of the executive body and members who hold an elected office of political parties that have been declared unconstitutional by the Constitutional Court. It considers that such restrictions affect the right to stand for elections as enshrined in Article 3, Protocol 1 to the Convention (ETS No. 9) and should therefore be very strictly limited to clearly defined legal grounds, with the possibility of judicial review. It urges the Moldovan authorities to fully address the Venice Commission recommendations in this respect, well before the next elections take place. In this context, the Assembly takes note of the conclusions of the joint observation mission of the Congress of Local and Regional Authorities of the Council of Europe, the OSCE/ODIHR and the European Parliament for the first round of the local elections in the Republic of Moldova on 5 November 2023, that interference from abroad and restrictive measures imposed due to national security concerns negatively affected the election process;

4.8. with respect to Poland: the Assembly continues to express its concern with regard to the respect for the rule of law in the country and the deep polarisation between opposition and ruling majority which has permeated many levels of the Polish society and is affecting the functioning of the democratic institutions. The Assembly calls upon the Polish authorities to unconditionally implement the judgments of the European Court of Human Rights in the cases of *Xero Flor w Polsce sp. Z o.o. v. Poland* (4907/18); *Reczkovicz v. Poland* (43447/19) and *Dolińska-Ficek and Ozimek v. Poland* (49868/19 and 57511/19). In this respect, it reiterates its call for the reform of the National Council of the Judiciary with the objective of re-establishing its independence from the executive, the absence of which is undermining the legitimacy of the judicial system in the country. The Assembly expresses its concern about the adoption of the law on "the State Commission for Investigating Russian Influences on the Internal Security of the Republic of Poland in the period of 2007-2022" which, according to the Venice Commission, is fundamentally flawed and could lead to serious violations of human rights and rule of law standards and norms. The Assembly notes that, while its members have been appointed, the State Commission is not yet functioning and urges the authorities to disband it and abrogate this law without delay. The Assembly reiterates its position in Resolution 2513 (2023) on the abuse of the Pegasus Spyware for political purposes and urges the Polish authorities to address its recommendations without delay;

4.9. with respect to Serbia: the Assembly welcomes the ongoing reform aimed at depoliticising the judiciary and encourages the authorities to adopt, according to a fixed time-schedule, the secondary legislation for its implementation, in line with the Venice Commission's recommendations. The Assembly also welcomes the progress in the implementation of the recommendations of the Group of States against Corruption (GRECO) concerning prevention of corruption in respect of members of parliament, judges and prosecutors. It encourages the authorities to adopt an anti-corruption strategy and address the deficiencies in corruption prevention amongst persons with senior executive functions and the police. The Assembly urges the authorities to take further measures to combat organised crime and to show a genuine commitment to investigating and adjudicating war crimes cases. The Assembly takes note that pre-term parliamentary elections were called for 17 December 2023. In this respect, it is concerned about the frequent organisation of early elections at short intervals and urges the authorities to adopt further amendments to the electoral legislation in order to address long-standing issues identified by the Venice Commission and OSCE/ODIHR. With regard to freedom of expression, the Assembly remains concerned about attacks and smear campaigns against independent journalists and media outlets, human rights defenders, and civil society activists, and in particular about the increasing number of strategic lawsuits against public participation (SLAPPs). The Assembly calls on the authorities to intensify their efforts to combat all forms of violence against women. The Assembly expects the Serbian authorities to continue the peaceful dialogue with Kosovo*[3] with a view to solving all outstanding issues;

4.10. with respect to Türkiye: the Assembly reiterates its extreme concern expressed in Resolution 2518 (2023) about the continued incarceration of Mr Osman Kavala and exhorts the authorities to release him without delay. The Assembly equally reiterates the concerns expressed in Resolution 2459

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.

(2022) regarding the ongoing crackdown on members of the political opposition and civil society, the attempt to close the Peoples' Democratic Party (HDP), as well as the restrictions on freedom of expression and media freedom and the overbroad interpretation of anti-terror legislation. It calls on the authorities to carry out, without delay and in line with the recommendations of the Venice Commission, the necessary reforms to restore an effective system of checks and balances, to ensure full independence of the judiciary and freedom of expression. The Assembly furthermore calls on authorities to address the concerns about the electoral framework and to ensure the necessary conditions for free and fair local elections in 2024. It calls on the Turkish authorities to put an end to all forms of reprisals against politicians, lawyers, journalists, and civil society activists and to ensure a conducive environment for all civil society actors. Recalling its Resolution 2494 (2023), the Assembly calls on the authorities to implement the judgments of the European Court of Human Rights fully and speedily, in particular those relating to structural or complex problems which have not been resolved for over ten years;

4.11. with respect to Ukraine: the Assembly commends the unabated efforts by the Ukrainian authorities, and indeed whole society, to ensure the functioning of the democratic and rule of law institutions in the country, in spite of the challenging situation presented by the ongoing military aggression by the Russian Federation. It welcomes the ambitious reform agenda, and progress in its implementation with a view to honouring the obligations and commitments to the Council of Europe and to achieve the goal of European Union membership. It notes and welcomes the close co-operation developed with the Council of Europe, and especially the Venice Commission, in the drafting of these reforms. The Assembly acknowledges the efforts by the Ukrainian authorities to fight the endemic corruption in the country. Fully subscribing to the conclusions of the Venice Commission in its opinion on the “Ukrainian Law on the prevention of threats to national security, associated with excessive influence of persons having significant economic or political weight in public life (oligarchs)”, the Assembly welcomes the announcement that the authorities have now put the implementation of this law on hold and calls upon the authorities to withdraw this law altogether in favour of a systemic approach of strengthening existing tools and mechanisms as recommended by the Venice Commission. With regard to the ongoing efforts by the authorities to strengthen the independence and efficiency of the justice system, the Assembly welcomes the adoption of a reformed appointment procedure for Constitutional Court judges in which the international community plays a significant role. The Assembly acknowledges the diverse and multi-ethnic Ukrainian society and its strong multicultural traditions. It therefore welcomes the adoption of the Law on National Minorities (Communities) of Ukraine, and the subsequent amendments to address Venice Commission recommendations. However, it regrets that not all key recommendations were addressed and urges the authorities to revise, as foreseen in the Law on Minorities, the laws on the State language, media and education, in full compliance with international standards and in close consultation with the Venice Commission and minorities concerned.

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

5.1. with respect to Bulgaria: the Assembly welcomes the overcoming of the political instability in the country and the establishment, in June 2023, of a coalition government following the April early general elections (the fifth since April 2021). It welcomes the ongoing constitutional reform aimed at reinforcing the judicial independence, in particular by aligning the composition and appointment of the Judicial Supreme Council with European standards as well as by revising the competences and increasing the accountability of the Prosecutor General. The Assembly encourages the authorities to complete the legislative process taking fully into account the Venice Commission’s recommendations. The Assembly welcomes the adoption of the Law amending and supplementing the criminal procedure code, the Law on the protection of whistle-blowers or persons publicly disclosing Information about violations, as well as the ongoing legislative process with regard to the draft Law on countering corruption among persons holding senior public office and Law on public procurement. At the same time, it urges the authorities to take further measures to continue efforts to combat high-level corruption. The Assembly calls on the authorities to adopt the legislation addressing the issue of concentration and transparency of media ownership with a view to increasing media pluralism;

5.2. with respect to Montenegro: the Assembly welcomes the democratic conduct of the recent national elections, leading to the formation of a new government but regrets that the electoral legislation was not reformed in time to implement the recommendations of the Venice Commission and OSCE/ODIHR. It calls on the new authorities to now implement the reforms needed to improve the independence of the judiciary, the trust in the electoral process, the fight against corruption, and the situation of the media, as called upon by Resolution 2374 (2021);

5.3. with respect to North Macedonia: the Assembly invites all political forces to reach a consensus on the revision of the Constitution that would allow the country to pave its way to the European Union. It encourages the authorities to step up the reforms launched to strengthen democracy, the rule of law and human rights. In particular, the Assembly urges the authorities to implement GRECO's recommendations from its Fourth and Fifth Evaluation Rounds concerning prevention of corruption respectively of members of parliament, judges and prosecutors and of persons with senior executive functions and the police. In this context, it also urges the authorities to fully address the recommendations of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) concerning combating money laundering and the financing of terrorism. The Assembly calls on the authorities to implement the judgments of the European Court of Human Rights fully and rapidly, in particularly those concerning ill-treatment by police. While welcoming the efforts to combat discrimination in general and to protect the rights of persons belonging to national minorities, the Assembly calls on the authorities to make further efforts to build an integrated multi-ethnic society and to improve the situation of Roma.

6. Regarding the countries that were subject in 2023 to the procedure for the periodic review of membership obligations to the Council of Europe:

6.1. with regard to France: with reference to Resolution 2512 (2023), the Assembly reiterates its call for legislative and constitutional reforms to address the Venice Commission's recommendations regarding the Superior Judicial Council, the status of magistrates and article 49 of the French Constitution. The Assembly urges the authorities to introduce an effective system of recording identity checks and to publish statistics on the number of people wounded or killed during protests with a view to improving the accountability of law enforcement officials. In that context, the Assembly strongly encourages the authorities to improve the prosecution of cases of unlawful violence committed by law enforcement officers and to reform the police and gendarmerie inspectorates so as to improve perceptions of their independence and impartiality. While it welcomes the measures taken by the authorities to reduce prison overcrowding, the Assembly notes that prison population statistics show that the situation is in practice worsening. It therefore recommends the authorities to consider introducing a binding mechanism for regulating the prison population;

6.2. with regard to the Netherlands: the Assembly takes note of the anticipated parliamentary elections that took place on 22 November 2023. It expects that the newly elected authorities will address the concerns and recommendations expressed in the Venice Commission's Opinion on the legal protection of citizens (prepared following the so-called child allowances scandal) and in the joint Opinion of the Venice Commission and Directorate General Human Rights and Rule of Law of the Council of Europe on legal safeguards of the independence of the judiciary from the executive power;

6.3. with regard to San Marino: in its Resolution 2497 (2023), the Assembly recognised the unique collegiate governing structures of San Marino which reflect the country's historic democratic heritage and its specificity as a micro-State. It welcomes the reforms undertaken to strengthen its system of checks and balances and to address vulnerabilities of its democratic institutions to corruption and conflicts of interest. The Assembly welcomes the central role of the Great and General Council, the Sammarinese Parliament, in the governance of the country and reiterates its recommendation for reforms that would improve the conditions for its members to execute their parliamentary tasks and to strengthen the equality of arms between legislature and executive. With regard to the media, the Assembly reiterates its concerns with regard to the strict privacy laws and the continuing criminalisation of defamation in San Marino which are hindering access to public information and could lead to self-censorship by journalists.

7. The Assembly welcomes the continuing outstanding close co-operation with the Venice Commission in the context of the parliamentary monitoring procedures, as evident from the high number of opinions requested and produced.

8. The Assembly acknowledges the efforts by the Monitoring Committee, including by the high-level exchange of views that took place during its meeting on 4 December 2023 in Rome, with regard to the implementation of the Reykjavík Declaration and especially to strengthen its capacity in terms of early warning, in line with the conclusions of the 2023 Council of Europe Summit and to give consideration to mechanisms to ensure that due account is taken of such early warnings, as decided by the Assembly in Resolution 2515 (2023). In that context, the Assembly invites the committee to continue its reflections on mechanisms to strengthen its reactivity and ability to quickly respond to developments in member States that are not under a full monitoring procedure, engaged in a post-monitoring dialogue or subject to periodic review of their obligations to the Council of Europe.

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 [(ETS No. 1)], the European Convention of Human Rights [(ETS 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 2023.

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, 11 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. Three countries are currently engaged in a post-monitoring dialogue (Bulgaria, Montenegro and North Macedonia). The post monitoring dialogue involves the States that have progressed to this stage following the termination of a full monitoring procedure. It is a less intensive procedure focusing on a limited number of remaining issues that are expected to be resolvable within limited timeframe. Therefore, the Rules of Procedure specify that only two post-monitoring dialogue reports will be issued. The second post-monitoring report has to determine whether the post monitoring dialogue can be ended for the relevant country. If not, the country will return to a full monitoring procedure.

5. 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 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. Therefore, as set out in Resolution 2261 (2019), the Monitoring Committee prepares periodic review reports on the honouring of obligations to the Council of Europe for all member States that are not subject to one of the two specific monitoring procedures mentioned above. As specified in this resolution, 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. These reports have gained an increasing importance in the work of the committee. Reports on San Marino and France were submitted to the Assembly in 2023. The consideration of the report on the Netherlands has been postponed to 2024 as a result of the pre-term parliamentary elections called for 22 November 2023. On 5 December 2023, the Monitoring Committee held an exchange of views on the selection of the next three countries for periodic review reports and following a vote, selected Greece, Spain and Sweden.

6. The Monitoring Committee also has a Sub-Committee on Conflicts concerning Council of Europe Member States in line with Rule 49 of the Assembly's Rules of Procedure and the committee's revised decision of 24 May 2022 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".

7. The country-specific comments which follow in the next section below have been prepared in consultation with the responsible rapporteurs on the basis of their 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.

2. Overview of the committee's activities

2.1. General comments

8. The committee has made good progress in overcoming the backlog and delays caused by the Covid-19 pandemic. Nevertheless, also during 2023, the work and agenda of the committee were affected by frequent changes of rapporteurs and their understandably demanding domestic agendas, as well as by the election cycles in the countries being monitored.

9. Over the reporting period, the rapporteurs carried out a number of visits to the countries under their respective responsibility including two visits to Armenia and two visits to Azerbaijan, and one visit each to Albania, Bulgaria, Bosnia and Herzegovina, France, Georgia, the Netherlands, Poland, Serbia and Türkiye.

10. At the initiative of the relevant rapporteurs, several hearings were held during committee meetings such as on recent developments in Serbia, on "The legal situation and the functioning of institutions"; on "Combating undue influence: anti-oligarch legislation in Ukraine, Georgia and the Republic of Moldova" and on "Human rights and humanitarian concerns as a result of the situation in the Lachin corridor". The committee also held joint hearings on "Threats to life and safety of journalists and human rights defenders in Azerbaijan" (with the Committee on Legal Affairs and Human Rights and the Committee on Culture, Science, Education and Media); "SLAPPs as a threat to media pluralism and measures implemented to counteract them" (with the Committee on Culture, Science, Education and Media); "The financing of political parties" (with the Committee on Political Affairs and Democracy); and "Human rights and humanitarian situation of Karabakh Armenians and international obligations of Azerbaijan" (with the Committee on Legal Affairs and Human Rights and the Committee on Migration, Refugees and Displaced Persons).

11. The Monitoring Committee submitted three country reports to the Assembly during the reporting period: on "The honouring of obligations and commitments by the Republic of Moldova" on "The honouring of membership obligations to the Council of Europe by San Marino"; and on "The honouring of membership obligations to the Council of Europe by France". In addition, it prepared an opinion to the report prepared by the Committee on Political Affairs and Democracy on "The role of the Council of Europe in preventing conflicts, restoring credibility of international institutions and promoting global peace".

12. On 5 December 2023, the Monitoring Committee considered a draft report on "The honouring of obligations and commitments by Azerbaijan" and adopted a draft resolution.

13. The preliminary draft reports on "The honouring of obligations and commitments by Albania" and "The post-monitoring dialogue with Bulgaria" were considered by the committee on 5 December 2023 in order to be transmitted to the relevant authorities with a view to holding debates in the Assembly in April 2024.

14. During the year 2023, the committee considered and declassified information notes on the honouring of obligations and commitments by Türkiye, Armenia, Poland, Georgia and Serbia.

15. The rapporteurs on Armenia, Azerbaijan, Georgia, Poland and Türkiye, made several statements on the developments in the countries under their responsibility.

16. As in previous years, the outstanding co-operation with the Venice Commission continued in 2023. The committee requested opinions on the Ukrainian Law on the "prevention of threats to national security related to the excessive influence of persons who have significant economic or political weight in public life (Oligarchs)" (Reg. No. 5599); on the Law on National Minorities (Communities) of Ukraine; on the draft law on "Amending some legislative Acts of Ukraine that limit the participation in State power for individuals associated with political parties, whose activities are prohibited in accordance with the Law"; on the Dutch Judiciary Organisation Act; on amendments to the organic Law on Common Courts as adopted by the Georgian Parliament on 13 June 2023; on amendments to the Law on National Minorities (Communities) of Ukraine; as well as an urgent opinion on the Law on the State Commission to investigate Russian Influence on the Internal Security of the Republic of Poland in the period of 2007-2022 as well as on the amendments to this law proposed by President Duda as adopted by the Sejm on 16 June 2023. In addition, several exchanges of views were held with the Secretary and members of the Venice Commission on opinions produced.

17. Reflecting the sensitive nature of its mandate, the work of the Sub-Committee on Conflicts concerning Council of Europe Member States has been influenced, and regrettably limited, by external factors including the tense and often unpredictable security situation regarding the conflicts that are part of its terms of reference. The seminar on the human rights aspects of the Transnistrian settlement process and the role for the Council of Europe, originally foreseen to take place in April 2023 had to be cancelled due to transport strikes in France. Unfortunately, it has not been possible to agree on new dates for this seminar due to the

tense security situation in the Republic of Moldova as a result of the ongoing Russian aggression against Ukraine. Understandably, the Nagorno-Karabakh conflict has continued to be an important point of attention. Given its importance for the overall work of the committee it was agreed to address these issues in the framework of the plenary meetings of the committee instead of at the more restricted level of the sub-committee. In his function as chairperson of the sub-committee, Mr Claude Kern (France, ALDE) was appointed rapporteur for opinion on the report on "The role of the Council of Europe in preventing conflicts, restoring credibility of international institutions and promoting global peace" of the Committee on Political Affairs and Democracy. The committee over the course of the next year will reflect on how to implement the two recommendations contained in this opinion, in its overall work. On proposal of the chairperson of the sub-committee, the Monitoring Committee held, on 5 December 2023, an exchange of views on the future direction of the sub-committee and its work.

18. As mentioned, in the context of its monitoring procedure for Armenia and Azerbaijan, the committee closely followed the development with regard to the Nagorno-Karabakh conflict. In this context, it held various exchanges of views with the chairpersons of both delegations as well as, on 13 September 2023 an exchange of view with Mr Toivo Klaar, European Union Special Representative for the South Caucasus, on "Human rights and humanitarian concerns as a result of the situation in the Lachin corridor". On 12 October, the committee held a joint hearing with the Committee on Legal Affairs and Human Rights and the Committee on Migration, Refugees and Displaced Persons on "Human rights and humanitarian situation of Karabakh Armenians and international obligations of Azerbaijan". The committee had also agreed to send a joint mission of the co-rapporteurs for Azerbaijan and Armenia to the region to observe the developments regarding the conflict on the ground. Regrettably, this joint mission could not take place over objections by the delegation of Azerbaijan. Instead, this issue was addressed by the respective co-rapporteurs in the context of their monitoring visits to the countries concerned. In February 2023, the co-rapporteurs for Armenia visited Goris and Vardenis and in June 2023 the co-rapporteurs for Azerbaijan visited Aghdam.

19. With regard to the duration of the terms of reference for the periodic review reports, as mentioned in the previous progress report, the current two-year reference is insufficient for the preparation of these reports, also as a result of the specific conditions and procedural requirements linked to the preparation of monitoring reports. The Bureau of the Assembly subsequently decided to refer the issue of the duration of the terms of reference for periodic review reports to the Committee on Rules of Procedure, Immunities and Institutional Affairs to be dealt with in the next general revision of the rules of procedure. During the consultations on the forthcoming report on "Modification of various provisions of the Assembly's Rules of Procedure", the members of the Committee on Rules of Procedure, Immunities, and Institutional Affairs, as well as the rapporteur for this report, Ms Ingjerd Schie Schou (Norway, EPP/CD), supported the proposal to increase the time limit for the preparation of periodic review reports to at least 3 years, with the possibility for a further extension. However, the report on "Modification of various provisions of the Assembly's Rules of Procedure" has not yet been submitted to the Assembly. It is hoped that this will happen swiftly so that the next periodic review reports can be prepared under this 3-year terms of reference.

20. Also in 2023, several changes of rapporteurs took place. This underscores the issue of the availability of monitoring rapporteurs, as well as the time they have to carry out such intensive tasks, that has already been highlighted in previous progress reports. In the next progress report, the committee intends to formulate concrete proposals for 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 that was recommended in Resolution 2483 (2023).

21. In his opinion[4] on the report on "The role of the Council of Europe in preventing conflicts, restoring credibility of international institutions, and promoting global peace", Mr Claude Kern highlighted the role of the reports of the Monitoring Committee as an early warning mechanism to detect and address situations and developments in our member States that risk posing a threat to the rule of law, democratic security and good neighbourly relations. At the same time, he noted that, while the reports of the Monitoring Committee had produced the necessary early warnings and alerted the members of the Assembly and the public at large, they rarely resulted in any decisions of appropriate action by the Assembly or the Council of Europe. In Resolution 2515 (2023), the Assembly therefore decided to "strengthen the capacity of both the Committee on Political Affairs and Democracy and the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (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"[5]. In the next year, the Monitoring Committee intends to

4. Doc. 15824.

develop concrete proposals to implement this decision with regard to its work. In that context, the committee should also reflect on manners in which it can strengthen its reactivity and ability to quickly respond to developments in member States that are not under a full monitoring procedure, engaged in a post-monitoring dialogue or subject to periodic review of their obligations to the Council of Europe.

22. The progress report is an important instrument to take stock of the progress made by member States with regard to the honouring of their membership obligations and, where relevant, accession commitments, to the Council of Europe and to reflect on the development of the monitoring procedures themselves. At the same time, the annual preparation of these reports entails a considerable workload and demand on the resources of the committee. I would therefore suggest that the committee reflects on manners to strengthen the impact of the progress reports as well as on the frequency of its presentation.

2.2. Countries under a full monitoring procedure

2.2.1. Albania

23. On 21 March 2023, Mr Joseph O'Reilly (Ireland, EPP/CD), whose term had ended, was replaced as rapporteur by Mr Ionuţ-Marian Stroe (Romania, EPP/CD). From 25 to 28 September 2023, the co-rapporteurs, Mr Asim Mollazada (Azerbaijan, EC/DA) and Mr Ionuţ-Marian Stroe made a fact-finding visit to Albania. During their stay, in addition to meetings in Tirana, they also visited Fier, Vlore and Himara to see at first-hand the results of the administrative territorial reform that aimed to strengthen local self-government in the country, as well as the situation of minority communities in these areas.

24. As welcomed by the co-rapporteurs in their statement following their visit, in 2023 Albania has continued to make marked and tangible progress in honouring its obligations and commitments to the Council of Europe. At the same time, a number of concerns remain to be addressed and a more consistent implementation of the key reforms that have been adopted is necessary.

25. The extreme polarisation of the political environment is continuing unabated and remains a point of concern. Following the parliamentary elections in 2021, the systemic political crisis that had plagued the country for many years has been largely subdued although many of its causes remain unaddressed. The political polarisations are compounded by a fragmented opposition, also as the result of a leadership crisis within the main opposition party. The combination of the political polarisation and the fragmentation of the opposition is undermining parliamentary oversight and proper functioning of the system of checks and balances, which are essential for the democratic consolidation of the country.

26. The vetting procedure for all judges and prosecutors in Albania, which is a key component of the reform of the judiciary, and the efforts to combat the persistent corruption and influence of organised crime in the country, have continued unabated in 2023. By 30 September 2023, 694 out of a total of 805 judge and prosecutor positions had been vetted. The results of the vetting procedure have been dramatic. Over 62% of all the persons vetted were dismissed, mostly because they failed to justify their assets, or resigned to avoid the vetting process. This result underscores both the importance and need for the vetting procedure. As a result of the enormous caseload, the deadline for the Independent Qualification Commission to finish the vetting process was extended until 31 December 2024. The Independent Qualification Commission has stated that they expect to finalise their work within this deadline. The deadline for possible appeals to be finalised is 17 June 2026.

27. The Specialised Structure for Anti-Corruption and Organised Crime is now fully functional and starts to deliver tangible results, including on high-level cases. On 25 September 2023, the Specialised Anti-Corruption and Organised Crime Court sentenced 7 officials, including a former Minister of Environment of the ruling majority, to lengthy prison sentences for corruption in the so-called incinerator scandal. It is now important that these first tangible results become a non-reversible trend, which will show that there is no longer any impunity for corrupt behaviour in Albania.

28. Local elections that took place on 14 May 2023 were widely seen as a barometer for the political sentiment at national level. The Congress of Local and Regional Authorities of the Council of Europe observed these elections and concluded that they had been well organised but characterised by continued deep polarisation between the main political forces, with national issues dominating the campaign. Similar to

5. Resolution 2515 (2023), paragraph 14.3.

what had already been noted in the 2021 parliamentary elections, abuse of administrative resources and consistent reports of vote buying and pressure on public-sector workers were reported. This is a trend that is to be deplored.

29. The Advisory Committee on the Framework Convention for the Protection of National Minorities (ETS No. 157) adopted its Fifth Opinion on Albania on 6 June 2023. In this report, the Advisory Committee welcomed the diverse, multicultural society of Albania that has a strong history of interreligious dialogue and tolerance. However it deplored that three essential by-laws to implement the Law on the Protection of Minorities had not yet been adopted, more than five years after the adoption of the law in 2017, which impeded its implementation. The authorities are urged to adopt the missing by-laws, following consultation with the Advisory Committee, without further delay.

30. In a welcome development, on 27 October 2023, the Financial Action Task Force removed Albania from the so-called “grey list” of countries that are under increased monitoring to address systemic deficiencies to counter money laundering, terrorist financing, and proliferation financing.

31. The co-rapporteurs have prepared a preliminary draft report on the honouring of obligations and commitments by Albania that was considered by the committee during its meeting in Rome on 4 and 5 December 2023. In line with the rules governing the preparation of Monitoring reports it was subsequently sent to the Albanian authorities for comments and is expected to be presented to the plenary Assembly during the 2024 April part-session.

2.2.2. Armenia

32. During the whole reporting period, the conflict with Azerbaijan and the fate of the ethnic Armenian population of Nagorno-Karabakh overshadowed other topics in Armenia. At the end of 2022, the Lachin corridor – the only road connecting Armenia with the breakaway region of Nagorno-Karabakh, placed under the responsibility of Russian peacekeeping forces – was closed by the Azerbaijani authorities. Armenia appealed to the European Court of Human Rights and to the International Court of Justice for interim measures. Despite the decisions of these two international tribunals, the blockade continued, and the ethnic Armenian population of the Nagorno-Karabakh region suffered shortage of food, medical and energy supplies. Just when diplomatic negotiations seemed to allow for some humanitarian relief to enter the territory, Azerbaijan decided to resort to military force to overtake the territory inhabited by ethnic Armenians and placed under the protection of Russian peacekeeping forces. As the Azerbaijani troops entered the territory on 20 September 2023, almost all the local population fled to Armenia in a matter of days. Armenia had to organise the resettlement of more than 100 000 refugees, representing roughly 3 % of its population.

33. The reaction of Armenia to this incredible challenge is commendable. The refugees have been provided with housing and emergency support, thanks to the measures taken by the authorities and the solidarity of the population. However, in the long term, Armenia will need more international support. The committee endorses the call by the Commissioner for Human Rights “on Council of Europe member states to provide full support to ensure the sustainability of the necessary assistance to respond to the needs of the persons recently displaced to Armenia, especially in relation to their medium and long-term situation.”

34. International support to the negotiations on a comprehensive peace agreement between Armenia and Azerbaijan is also paramount. On 14 May 2023, Armenian and Azerbaijan leaders confirmed their unequivocal commitment to the 1991 Almaty Declaration and the respective territorial integrity of Armenia (29 800 km^2) and Azerbaijan (86 600 km^2) during a meeting in Brussels hosted by European Council President Charles Michel. This means that the administrative borders of the ex-Soviet republics are now the State borders of the countries, and thus, their inviolability must be respected. Establishment of transport links in the region on a mutually agreed basis and in the respect of the sovereignty of all parties is extremely important for the economic development and the long-term stability of the region, as stated by Resolution 2517 (2023).

35. These developments of extraordinary importance for the Armenian society have not impaired the determination to continue improving, in line with international standards the functioning of the country’s democratic institutions and its respect for human rights and the rule of law.

36. On 17 September 2023, local elections were held for the city council of Yerevan. These elections have nationwide relevance as a third of the Armenian electorate is registered to vote in Yerevan. The Congress of Local and Regional Authorities, which observed these elections, welcomed the peaceful and well-managed election day and highlighted the important efforts undertaken by the Central Electoral Commission to reduce

the possibility of fraud and to reinforce the trust of voters in electoral processes. The head of the Congress' delegation stated: "We were satisfied to see some of our recommendations being addressed on the ground and welcomed the wide acceptance of the results by all contestants".

37. On 9 October 2023, the Venice Commission issued an opinion on draft amendments to the electoral code requested by the Armenian authorities. The Venice Commission considered that: "The proposed draft amendments demonstrate a continued effort to bring the electoral legislation in line with international obligations and Council of Europe standards (…)". However, some previous recommendations by the Venice Commission have not been followed and further changes are needed to address them. That said, the Venice Commission concluded that "many of the proposed amendments are positive and a welcome improvement, in particular, with respect to transparency and accessibility of elections, equal campaign conditions for all contestants, as well as the structure and functioning of the Central Electoral Commission."

38. During their visit in Yerevan from 6 to 8 November 2023, the co-rapporteurs discussed the topic of electoral law with political parties, members of government and the Central Electoral Commission. In their view, progress regarding the integrity of the electoral progress is striking. Their conclusions and recommendations will be outlined in their next monitoring report.

39. In December 2022, upon request from the Armenian authorities, the Venice Commission issued an opinion on the draft Constitutional Law on making supplements and amendments to the Constitutional Law on the Judicial Code. The Venice Commission "welcomed the openness of the Armenian authorities to a genuine dialogue with the Council of Europe, and their continued effort to improve the system of judicial governance in line with the European standards, within the boundaries set by the national Constitution, and in view of the overall legal and political context of the country."

40. The issue of disciplinary liability of judges is central in order to improve the situation of the judiciary. The use of disciplinary measures to address the allegations of corruption among members of the judiciary has been preferred over a vetting procedure for the whole judiciary after consultations with Council of Europe's expert bodies. Independent institutions have been established, such as the Ethics and Disciplinary Committee of the General Assembly of Judges, but it still has to fully seize the mandate it has received. In the meantime, the Ministry of Justice keeps the power to initiate disciplinary proceedings, raising concerns over the political neutrality of the disciplinary procedure. A draft reform of the Ethics and Disciplinary Committee has been submitted to the Venice Commission for opinion by the Ministry of Justice. The co-rapporteurs have urged the authorities to address any concerns and recommendations raised by the Venice Commission in its forthcoming opinion.

41. The fight against corruption is a priority for the government and several important steps have been taken in this regard. Two new bodies have been created over the last three years: the Corruption Prevention Commission and the Anti-Corruption Agency. These bodies have strong mandates and real powers. Over the last years, high-ranking officials, including ministers of the current government, have been arrested on corruption charges. Wages of judges, prosecutors and investigators have been raised. A reform of the road police has almost eliminated petty corruption. However, systemic problems remain to be tackled and the authorities have just adopted the 2023-2026 anticorruption strategy to this end.

2.2.3. Azerbaijan

42. In 2022, the Monitoring Committee focused on the preparation of a monitoring report on Azerbaijan. The co-rapporteurs, Mr Ian Liddell-Granger (United Kingdom, EC/DA) and Ms Lise Christoffersen (Norway, SOC) visited the country (Baku and Aghdam) in June 2023.[6] At its meeting on 13 September 2023, the committee considered a preliminary draft report and on 5 December 2023, it considered the final draft report and adopted a draft resolution.

43. A number of concerns pointed out in Assembly Resolution 2184 (2017) with regard to pluralist democracy, the rule of law, and human rights remain unaddressed. As regards pluralist democracy, the Law on political parties of 16 December 2022, criticised by the Venice Commission and the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE/ODIHR), might have a chilling effect on pluralism in the country and following its entry into force, some political parties faced difficulties in re-registering.

6. See a statement published following their visit on 13 June 2023.

44. Regarding respect for the rule of law, further measures are needed to combat corruption and ensure full independence of the judiciary, in line with the recommendations of the Group of States against Corruption (GRECO). However, the reform of the Judicial Legal Council (JLC), approved by the parliament on 9 June 2023, is to be welcomed. Following its adoption, the composition of the JLC no longer includes a representative appointed by the President of Azerbaijan; the Minister of Justice and the Chairman of the Supreme Court are no longer its *ex officio* members; and its chairman can only be elected from amongst its judge members. The number of judges in the JLC has been increased and now 9 of the 15 members of the JLC are elected by the Conference of Judges and one member is appointed by the Constitutional Court.

45. The human rights situation has regrettably not improved in the past year. Serious concerns remain about the restrictions on the rights to freedom of expression, of association and of assembly (which have a negative impact on the overall situation of civil society) as well as on the use of torture or ill-treatment by law enforcement authorities and poor conditions of detention. The co-rapporteurs on Azerbaijan also expressed concerns about the continuing presence of prisoners allegedly detained on politically motivated charges. Moreover, in its Resolution 2494 (2023) "Implementation of judgments of the European Court of Human Rights"[7] of 26 April 2023, the Assembly noted that Azerbaijan was one of the countries having the highest number of non-implemented Court judgments and still facing serious structural or complex problems, some of which had not been resolved for over ten years. In Resolution 2509 (2023) "Transnational repression as a growing threat to the rule of law and human rights", it condemned the use by Azerbaijani authorities of certain transnational repression techniques such as renditions and cross-border abductions, mainly against journalists.[8] As stressed in Resolution 2513 (2023) "Pegasus and similar spyware and secret state surveillance", there is "strong evidence" that Azerbaijan used the Pegasus spyware against journalists and civil society activists, including in connection with the conflict with Armenia.[9]

46. As regards its conflict with Armenia, the Monitoring Committee and its co-rapporteurs closely followed the humanitarian and human rights situation in the Lachin corridor.[10] On 13 September 2023, during its meeting in Paris, the committee held an exchange of views with Mr Toivo Klaar, European Union Special Representative for the South Caucasus. The Assembly also examined this issue in Resolution 2508 (2023) "Ensuring free and safe access through the Lachin Corridor" of 22 June 2023[11] and in Resolution 2517 (2023) "Humanitarian situation in Nagorno-Karabakh" of 12 October 2023.[12] In the latter, it condemned the military operation launched by the Azerbaijani army on 19 September 2023 and regretted that almost the entire Armenian population of Nagorno-Karabakh (more than 100 600 persons) had left this region and had fled to Armenia, which led to allegations of ethnic cleansing. The Assembly thus did not exclude the possibility of initiating a complementary joint procedure.

2.2.4. Bosnia and Herzegovina

47. The reporting period marked a return to functionality for most of the main institutions of Bosnia and Herzegovina. Co-rapporteurs of the Monitoring Committee, Mr Zsolt Németh (Hungary, EC/AD) and Mr Aleksandar Nikoloski (North Macedonia, EPP/CD) undertook a visit to Sarajevo and Banja Luka in September 2023. The co-rapporteurs concluded that following the decision of the European Council on 15 December 2022 to officially grant candidate status to the country, a political momentum now exists in the country, after many years of political stalemate and stagnation, to implement the reforms called for by the Council of Europe and the European Union.

48. Following the parliamentary elections which took place in October 2022, the State Council of Ministers was appointed in January 2023 supported by a ruling coalition including the Alliance of Independent Social Democrats (SNSD), the Croatian Democratic Union of Bosnia and Herzegovina (H DZ BiH), and the troika (Social Democratic Party (SPD), People and Justice Party (NiP), Naša Stranka). Ms Borjana Krišto (HDZ BiH) was designated chairwoman of the Council of Ministers, knowing that it is the first time that this position is occupied by a woman. New legislative assemblies were fully formed by March 2023, and a State budget for

7. Adopted on 26 April 2023, see Doc. 15742, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Constantinos Efstathiou (Cyprus, SOC).
8. Adopted on 23 June 2023, see Doc. 15787, report of the Committee on Legal Affairs and Human Rights, rapporteur: Sir Christopher Chope (United Kingdom, EC/DA).
9. Adopted on 11 October 2023, see Doc. 15825, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Pieter Omtzigt (Netherlands, EPP/CD).
10. See the statement of 16 December 2022 and the statement of 26 April 2023.
11. See also report by the Committee on Migration, Refugees and Displaced Persons (Doc. 15796), rapporteur: Mr Paul Gavan (Ireland, UEL).
12. See also report by the Committee on Migration, Refugees and Displaced Persons (Doc. 15840), rapporteur: Mr Domagoj Hajduković (Croatia, SOC).

2023 was adopted. The Council of Ministers adopted a strategy on organised crime, and action plans on anti-money laundering and combating the financing of terrorism, as well as on migration and on terrorism. Important laws on integrity in the judiciary, torture prevention and freedom of access to information were subsequently adopted in August and September 2023, offering a welcome contrast with the poor legislative output of the former parliament.

49. However, the constitutional framework and the electoral legislation are still in violation of the European Convention on Human Rights since the 2009 judgment in the case of Sejdić and Finci. On 7 June 2023, the Committee of Ministers exhorted the political leaders and all relevant authorities to "take all actions required to ensure the adoption of the constitutional and legislative amendments aimed at eliminating discrimination based on ethnic affiliation in elections for the Presidency and the House of Peoples of Bosnia and Herzegovina". In its 2023 Report on Bosnia and Herzegovina, the European Commission noted that: "No steps were taken by the Parliament […] to remove from the Constitution any ethnic and residence-based discrimination in voting rights, in line with European Court of Human Rights (ECtHR) rulings. The country needs urgently to finalise the pending constitutional and electoral reforms. These reforms should be advanced as an utmost priority."

50. The co-rapporteurs continued to maintain their dialogue with elected representatives of all communities. Several of these interlocutors explained that a solution to this fundamental issue could be at hand and avenues for reform have been discussed. The Monitoring Committee will follow very closely the developments in this regard as reforming the electoral legislation and the Constitution is critical for the future of a democratic Bosnia and Herzegovina.

51. Regarding the electoral regulation, all stakeholders advocated for a reform improving the integrity of the electoral process. Allegations of fraud during 2022 elections have not been quieted by the rulings of the Central Election Commission. The Venice Commission and OSCE/ODIHR have issued a number of recommendations in this regard, and the necessary legislation must be adopted in a near future.

52. The repartition of State property between State and other levels of authority (Entities and Cantons) needs to find an acceptable and sustainable solution, but the positions seem hard to reconcile. The Constitutional Court twice annulled legislation adopted in Republika Srpska on this topic, after the High Representative had suspended them. As a reaction, the authorities in Republika Srpska have ruled that decisions of the High Representative would not be implemented and challenged the authority of the Constitutional Court. The relations between the authorities of Republika Srpska and the Office of the High Representative have become extremely tense, to the point that the President of Republika Srpska, Mr Milorad Dodik, has been indicted for refusing to implement the High Representative's decisions. The functioning of the Constitutional court is further put in jeopardy by the failure from both Entities' parliaments to elect new judges. The retirement of one of the judges in January 2024 could put the institution in a stalemate, whereas the proper functioning of the Court is vital for the respect of the rule of law and the protection of the rights of citizens.

53. In September 2023, amendments to the law on the High Judicial and Prosecutorial Council (HJPC) were adopted in order to establish integrity checks for judges, prosecutors and HJPC members. These amendments constitute an important and welcome step, however the adopted draft has been criticised by the president of the HJPC on several points that did not satisfy the Venice Commission recommendations, and the co-rapporteurs have been told that further modifications would be adopted to satisfy these remarks.

54. On 8 November 2023, the European Commission adopted the 2023 Enlargement Package, providing its detailed assessment of the state of play and the progress made by Bosnia and Herzegovina on the path towards accession to the European Union. While acknowledging the positive dynamic since the elections, the Commission recalled the urgency of adopting important rule of law and judicial reforms and moving forward with constitutional and electoral reforms. The Commission recommends opening EU accession negotiations once the necessary degree of compliance is achieved. This underlines how much Bosnia and Herzegovina is facing a decisive moment: the country has the opportunity to make swift progress on reforms vital for stability and prosperity while its institutions face significant challenges endangering their viability.

2.2.5. Georgia

55. The co-rapporteurs for Georgia, Mr Claude Kern (France, ALDE) and Ms Edite Estrela (Portugal, SOC) undertook a fact-finding visit to Georgia from 27 to 29 March 2023. To recall, following Georgia's application for EU membership, which it made together with Ukraine and the Republic of Moldova, the European Commission decided, in June 2022, that Georgia should be provided with a membership perspective, and that candidate status could be granted when the country had satisfactorily addressed 12 conditions, also known as

priority areas. Addressing these conditions or priority areas, which largely coincide with the concerns and recommendations of the Assembly expressed in Resolution 2438 (2022), has been the key priority for the country in 2023.

56. Regrettably, the political climate in Georgia has remained extremely polarised and co-operation and dialogue between opposition and ruling majority seems few and far between. This has had a large impact on the implementation of the different reforms in the country, including those needed to obtain EU candidate status. The reform process is cumbersome, despite progress in some areas. Regrettably, the reforms implemented often seem to only partially address key concerns and recommendations.

57. In a development that underscored the continuing political polarisation in the country, on 1 September 2023, the ruling party announced that it would start impeachment proceedings against President Salome Zurabishvili as, in their view, she had violated the Constitution by making a series of visits to European Union countries, to lobby for Georgia to be granted EU candidate status, without the government's approval. Subsequently, on 12 September 2023, 80 MPs from the ruling majority filed a formal complaint with Georgia's Constitutional Court. Following 3 days of reportedly acrimonious meetings, which mainly centred on the constitutional articles governing the President's visits, the Constitutional Court ruled, with 6 votes in favour and 3 against, that President Zurabishvili had breached the Constitution by making working visits abroad without the government's approval. This opened the possibility for the parliament to vote on the President's impeachment. On 18 October 2023, the motion of the ruling majority to impeach the President failed to obtain the required 100 votes in favour in the parliament, thereby ending the impeachment proceedings.

58. On 6 March 2023, the Legal Affairs Committee of the Georgian Parliament, on initiative of the ruling majority, adopted a draft law on Transparency of Foreign Influence. This draft law bore uncanny similarities with the Russian foreign agents' law and the Hungarian "anti-Soros laws" and led to an outcry within the Georgian society and raised grave concerns within the international community, including the Assembly, who questioned the compatibility of the draft law with European democratic and human rights standards. In a welcome development, in response to the increasingly widespread protests within the Georgian population, the ruling majority announced that it would no longer support the draft law, which was subsequently voted down in the parliament.

59. On 30 November 2022, the term of the previous Public Defender (Ombudsperson), Ms Nino Lomjaria, came to an end. According to legal provisions, the Public Defender is appointed by the Georgian Parliament with a qualified 3/5 majority (90 votes). In a welcome development, on 7 March 2023, the Georgian Parliament, reached an agreement on a consensual candidate and elected Mr Levan Ioseliani as the new Public Defender for a (non-renewable) six-year term. Until his election as Ombudsperson, Mr Ioseliani was an opposition member in the Georgian Parliament and a member of the Georgian delegation to the Assembly.

60. Georgia has been historically at the forefront of the fight against corruption. However, international anti-corruption bodies, including GRECO, have warned the Georgian authorities against complacency and urged them to further strengthen the legal framework and institutional mechanisms to fight corruption at all levels. Fighting corruption and undue influence of financial interest have been 2 of the 12 conditions set by the EU for Georgia's candidate status. In response, the Georgian Parliament, *inter alia*, established an Anti-Corruption Bureau and adopted a draft law on de-oligarchisation. The latter was sent to the Venice Commission for opinion. In its opinion,[13] the Venice Commission expressed misgivings about the so-called "personal approach" taken in this law which it felt was overbroad, raised questions about its compatibility with the Convention and was open for political abuse in the highly polarised political environment in the country. The Venice Commission therefore recommended a so-called systemic approach that would focus on strengthening the legal tools and institutional mechanisms to fight corruption and excessive political influence by vested economic interests. Subsequently, in a welcome development, the Georgian Parliament, on initiative of the ruling majority, voted down the draft de-oligarchisation law in third reading on 20 September 2023 and on 27 November 2023 adopted a de-oligarchisation strategy (Action Plan on Avoiding Excessive Influence of Interests in Political, Economic and Public Life in Georgia), based on the systemic approach recommended by the Venice Commission and the European Commission.

61. The deepening of the reform of the judiciary, with a view to ensuring its genuine impartiality and independence has been a priority for the Assembly as expressed in Resolution 2438 (2022), and one of the 12 priority areas defined by the European Commission. Regrettably, only scant progress has been made in this respect. As noted in Resolution 2438 (2022), the functioning of the High Council of Justice is one of the main obstacles that impedes the independence and impartiality of the judiciary. A far-reaching reform of this

13. CDL-AD(2023)009.

judicial institution and its decision-making process is therefore essential. On 13 June 2023, the Georgian Parliament adopted a series of amendments to the Organic Law on Common Courts. On 23 June 2023, the Monitoring Committee requested an opinion of the Venice Commission on these amendments. In its opinion,[14] the Venice Commission concluded that, despite some improvements, these amendments could not be considered as the comprehensive reform of the High Council of Justice as recommended by the Venice Commission and the Assembly.

62. On 5 October 2023, the Georgian Parliament adopted, via accelerated procedure, an amendment to the Law on Assemblies and Demonstrations that allows the police to prohibit the erection of temporary structures, like tents, during demonstrations and assemblies if they, *inter alia*, are deemed to pose a threat to the safety of participants or to disrupt public order. On 18 October 2023, President Zurabishvili vetoed the amendments citing concerns about their infringement on the fundamental freedoms of assembly and expression. On the same day, citing the same concerns, the Georgian Ombudsperson requested an opinion of the OSCE/ODIHR on these amendments. On 10 November 2023, the OSCE/ODIHR issued its urgent opinion[15] on these amendments in which it concluded that "the draft amendments would not fulfil the strict requirements under international law when restricting the right to freedom of peaceful assembly. Consequently, their adoption should not be pursued". The Georgian authorities are therefore urged to withdraw these amendments.

63. On 19 October 2023, the Georgian Parliament adopted a series of amendments to the Law on Broadcasting to bring Georgia's legislation in line with the EU Audiovisual Media Services Directive. These controversial amendments, adopted via accelerated procedure, expand the powers of the national media regulator, the Georgian National Communications Commission. Civil society organisations and media stakeholders have expressed concern about these amendments which in their view could be abused to limit freedom of the media and stifle critical broadcasters. On 21 February 2023, the Directorate General Human Rights and Rule of Law of the Council of Europe provided an expertise[16] on the original law – so before the October amendments were adopted – in which it considered that the Law on Broadcasting does not align with EU and Council of Europe standards and a number of provisions would likely be in breach of Article 10 of the Convention. In addition, it underscored that the national regulatory authority could not be considered an independent institution according to Council of Europe standards on the independence of regulatory bodies. The October amendments do not seem to have addressed the concerns and recommendations of the Council of Europe expressed in this expertise and in some cases reportedly aggravated them. Also, in the context of the upcoming parliamentary elections in Georgia in 2024, the Assembly should urge the Georgian authorities to request a follow-up expertise from the Council of Europe and fully address any concerns and recommendations therein, as well as that of the previous expertise.

64. In a welcome and important development, the European Commission recommended[17] on 8 November 2023, to grant candidate status to Georgia on the clear understanding that the following concrete steps are taken by the country: "(1) Fight disinformation and foreign information manipulation and interference against the EU and its values; (2) Improve Georgia's alignment with the EU common foreign and security policy; (3) Further address the issue of political polarisation, including through more inclusive legislative work with opposition parties in Parliament, notably on legislation related to Georgia's European integration; (4) Ensure a free, fair and competitive electoral process, notably in 2024, and fully address OSCE/ODIHR recommendations. Finalise electoral reforms, including ensuring adequate representation of the electorate, well in advance of election day; (5) Further improve the implementation of parliamentary oversight notably of the security services. Ensure institutional independence and impartiality of key institutions, notably the Election Administration, the National Bank, and the Communications Commission; (6) Complete and implement a holistic and effective judicial reform, including a comprehensive reform of the High Council of Justice and the Prosecutor's Office, fully implementing Venice Commission recommendations and following a transparent and inclusive process; (7) Further address the effectiveness and ensure the institutional independence and impartiality of the Anti-Corruption Bureau, the Special Investigative Service and the Personal Data Protection Service. Address Venice Commission recommendations related to these bodies, in an inclusive process. Establish a strong track record in investigating corruption and organised crime cases; (8) Improve the current action plan to implement a multi-sectorial, systemic approach to deoligarchisation, in line with Venice Commission recommendations and following a transparent and inclusive process involving opposition parties and civil society; (9) Improve the protection of human rights including by implementing an

14. CDL-AD(2023)033.
15. Urgent opinion on proposed amendments to the Law on Assemblies and Demonstrations and to the Administrative Offences Code.
16. DGI(2023)1.
17. 2023 Communication on EU Enlargement Policy.

ambitious human rights strategy and ensuring freedom of assembly and expression. Launch impartial, effective and timely investigations in cases of threats against safety of vulnerable groups, media professionals and civil society activists, and bring organisers and perpetrators of violence to justice. Consult and engage with civil society, allowing for their meaningful involvement in legislative and policy-making processes and ensure they can operate freely".

65. With this recommendation, the European Commission recognised the reform efforts undertaken by the country and the overwhelming support of the Georgian population for European integration and EU membership. At the same time, the Commission underscored that the ongoing polarisation and lack of co-operation between political actors – as well as obstacles to the involvement of civil society – had hindered the decision-making processes and implementation of important reforms, as evident from the fact that only 3 out of the 12 priority areas had been fully addressed.[18] The Commission therefore urged the stakeholders to step up their efforts to overcome the extreme political polarisation and called for a more positive engagement by the ruling party with opposition parties and civil society.

66. 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. The human costs and risks of this illegal occupation for the human rights situation on the ground were sadly underscored when, on 6 November 2023, the Russian occupation forces killed a Georgian citizen when trying to arrest him near the administrative boundary line with the Tskhinvali region/South Ossetia. This deplorable action by military troops of the Russian Federation should be condemned in the strongest possible terms.

2.2.6. Hungary

67. In its Resolution 2460 (2022), the Assembly concluded 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 overall undermined the functioning of democratic institutions in Hungary. As a consequence, the Assembly decided to open a monitoring procedure in respect of Hungary. The Monitoring Committee appointed Mr Eerik-Niiles Kross (Estonia, ALDE) and Mr George Papandreou (Greece, SOC) as co-rapporteurs in January and March 2023.

68. The Assembly at that time urged the Hungarian authorities to strengthen the self-governance of the judicial system and guarantee its independence more effectively, in line with the recommendations of the Venice Commission. With regard to the media environment, the Assembly concluded that the great market concentration resulting from the creation in 2018 of the Central European Press and Media Foundation (KESMA) – a conglomerate of 470 media outlets – and the overwhelming distribution of advertising by the State or State-owned companies to pro-governmental media have distorted media pluralism and amounted to State capture of media. The Assembly also called on the Hungarian authorities to repeal the legislation criminalising the dissemination of false information which threaten journalists with a three-year prison sentence.

69. In its resolution, the Assembly also expressed concerns regarding new legal structures known as "public interest trusts". These private structures are tasked to provide public services in the areas of higher education, healthcare, and the management of public assets. Most universities and significant amounts of national assets have been transferred to these trusts. They are managed by a board appointed by the government, and once established, the Hungarian State has no power of control over these structures, depriving the parliament of its budgetary control function and of the possibility to oversee the policies implemented.

70. In December 2022, the European Union decided to impose measures against the consequences of breaches of the principles of the rule of law, concerning public procurement, the effectiveness of prosecutorial action and the fight against corruption in Hungary. Among the remedial measures that Hungary has to fulfil, four aim at restoring the independence of the judiciary and one deals with the transparency of public interest trusts. On 3 May 2023, the Hungarian Parliament adopted, after consultation with the European Commission,

18. To consolidate efforts to enhance gender equality and fight violence against women; to adopt legislation so that Georgian courts proactively take into account European Court of Human Rights judgments in their deliberations; and to ensure that an independent person is given preference in the process of nominating a new Public Defender (Ombudsperson) and that this process is conducted in a transparent manner and ensure the Office's effective institutional independence.

a judicial reform to address some of these demands. The European Commission is currently assessing the practical implementation of these reforms before making a conclusion on the fulfilment of the conditions. On 30 October 2023, the government announced it has decided to launch a national consultation over the disputes with EU institutions. On 15 November 2023, the General Affairs Council of the EU discussed the issue of respect for EU values in Hungary. The Commission informed ministers about the progress made, and remaining steps to be taken, with regard to the judicial independence and the fight against corruption in Hungary since the last hearing. At the same time it highlighted its continuing and serious concerns related to, *inter alia*, media independence and pluralism, the rights of migrants and persons belonging to minorities, including LGBTI persons, pressure on civil society and the extensive use of emergency powers by the government.

71. The Assembly also expressed concern over the fact that the country has been ruled under a special legal order since 2020. The Fundamental Law was amended to allow the government to trigger a "state of danger" in "the event of an armed conflict, war situation or humanitarian catastrophe in a neighbouring country". Since then, an uninterrupted state of danger has been in place in Hungary, on the ground of the war in Ukraine. On 6 November 2023, the state of danger was extended by parliament until 23 May 2024. According to Resolution 2460 (2022): "the Assembly recalls that the use of special legal orders must be restricted to what is strictly necessary and proportionate and must be limited in time. It also stresses that parliamentary oversight, political deliberations involving all political forces in the parliament and proper checks and balances are crucial in times of crisis."

72. On 21 November 2023, the Hungarian Parliament started consideration of a bill on "defence of sovereignty" which potential effects on the functioning of democratic institutions have raised concerns both in Hungary and internationally. The co-rapporteurs have urged the Hungarian Parliament to postpone the consideration of this bill until an opinion from the Venice commission has been issued,[19] and the Commissioner for Human Rights considered that the bill posed "a significant risk to human rights and should be abandoned."[20]

2.2.7. Republic of Moldova

73. On 26 January 2023, the Assembly adopted Resolution 2484 (2023) on the honouring of obligations and commitments by the Republic of Moldova, based on a report prepared by the co-rapporteurs Mr Pierre-Alain Fridez (Switzerland, SOC) and Ms Inese Lībiņa-Egnere (Latvia, EPP/CD). On 20 June 2023, the committee appointed Ms Zanda Kalniņa-Lukaševica (Latvia, EPP/CD) as co-rapporteur to replace Ms Lībiņa-Egnere, who had left the Assembly. As a result of the change of rapporteurs, as well as due to domestic and international developments, no monitoring visit took place in 2023.

74. In Resolution 2484 (2023), the Assembly welcomed the current authorities' commitment to European integration and programme of far-reaching reforms, notably with regard to the judiciary and fight against corruption, aimed at tackling the roots of "State capture" and restoring the integrity of and public trust in State institutions. At the same time, the Assembly expressed concern about the manner and speed with which reforms were drafted and implemented, and officials in State institutions and independent bodies appointed. This was affecting the transparency and inclusiveness of the reform process. The Assembly therefore urged the authorities to ensure that the reforms are implemented, and persons appointed, in accordance with legal provisions and Council of Europe standards and based on an inclusive bi-partisan consultation process. This was essential to ensure a wide cross-border support for, and acceptance of, the reform programme among the Moldovan society.

75. The reform of the judiciary is a key priority for the Republic of Moldova. Considerable progress has been made with the implementation of this reform. A key component of the justice reform, as well as fight against corruption and state capture, is a pre-vetting process for the candidates for the Superior Council of Magistrates and Superior Council of Prosecutors – the main self-governing bodies of the judiciary – and for their specialised bodies. The Commission for the Assessment of Judges' and Prosecutors' Activities ("Pre-Vetting Commission") was set up in April 2022 and is composed of national and international members. It finalised the vetting of the candidates in January 2023, with only eight passing the vetting – five judge candidates and three non-judge candidates. On 30 March 2023, the parliament adopted a law on the external evaluation of sitting judges and candidates for the Supreme Court of Justice, on the same basis as for the Superior Council of Magistracy and the Superior Council of Prosecutors. When this draft law was announced in February 2023, 20 of the 25 Supreme Court of Justice judges resigned in protest. However, this did not

19. Statement by the co-rapporteurs (27 November 2023).
20. Statement by the Commissioner for Human Rights (27 November 2023).

affect the adoption of the law and judges from lower-level courts were transferred to the Supreme Court of Justice to assure its functioning. In July 2023, the parliament adopted a law extending the pre-vetting procedure to all judges and prosecutors in high-level positions. This law was further amended to address Venice Commission recommendations. These amendments were sent to the Venice Commission for opinion in September 2023. In its follow-up opinion,[21] adopted during its session on 6 and 7 October 2023, the Venice Commission welcomed that all its recommendations had been addressed in these amendments but recommended that a "provision ensuring the principle of non-retroactivity of law, which was present at the drafting stage of the Law, be reintroduced in the final text of the Law."[22] Given the sensitivity of this matter, it is important that the authorities fully implement any Venice Commission recommendations on these amendments.

76. In a welcome development, on 30 March 2023, a new law on the Supreme Court of Justice which changes and reduces its composition was adopted in line with Venice Commission recommendations.

77. The Republic of Moldova has continued its efforts to combat the pervasive corruption in the country. The Law on Whistle-blowers was amended to strengthen the protection for whistle-blowers. The fight against the state capture and excessive influence by oligarchs and financial interests in public life is a key challenge for the country and a key condition for the opening of accession negotiations with the European Union. In order to address this issue, the authorities produced a draft law "on limiting excessive economic and political influence in public life (de-oligarchisation)" that was based on the oligarch legislation adopted by the Ukrainian Verkhovna Rada. As it was the case for the Ukrainian Law and similar legislation in Georgia, the Venice Commission expressed misgivings about the so-called "personal approach" taken in this law which raised questions about its compatibility with international standards including the European Convention on Human Rights and was vulnerable to political abuse. The Venice Commission therefore recommended the adoption of a so-called systemic approach that would focus on strengthening the existing legal tools and institutional mechanisms to fight corruption and excessive political influence by vested economic interests. This was followed by the authorities: in May 2023, following public consultation, they adopted an action plan to strengthen existing mechanisms and tools to fight the excessive influence of oligarchic interest in public life.

78. With regard to elections, a new electoral code was adopted in December 2022 that went into force in January 2023. This new legislation addresses a number of recommendations of the OSCE/ODIHR and Venice Commission regarding the previous election legislation.

79. On 19 June 2023, the Constitutional Court of the Republic of Moldova found the Şor Party to be unconstitutional as a result of the fact that the party and its leaders had persistently engaged in actions that were detrimental to the sovereignty and independence of the Republic of Moldova. Subsequently, on 31 July 2023, the Moldovan Parliament adopted a series of amendments to the electoral legislation introducing the possibility to ban for five years, members of the executive body and members who hold an elected office of political parties that have been declared unconstitutional by the Constitutional Court. These amendments were declared unconstitutional by the Constitutional Court on 3 October 2023. The day after the Constitutional Court decision, new amendments were introduced – and later adopted – by the parliament that in its view would allow the banning of certain members of unconstitutional parties, but in line with the Constitutional Court decision. As noted by the Venice Commission in its opinion on the original amendments, these restrictions affect the right to stand for elections as enshrined in Article 3, Protocol 1 of the European Convention on Human Rights (ETS No. 9) and should therefore be very strictly limited to clearly defined legal grounds, with the possibility of judicial review. The Constitutional Court of the Republic of Moldova, on 4 November 2023, asked for an *amicus curiae* brief from the Venice Commission on the ineligibility of persons connected to political parties declared unconstitutional. It is important that any recommendations of the Venice Commission in that brief, are fully implemented. Regrettably, the Constitutional Court decision on the constitutionality of the 4 October amendments is still pending, as a result of which the local elections took place under these amendments.

80. Elections of the Bashkan (Governor) of the autonomous region of Gagauzia were held on 30 April 2023 (first round) and 14 May 2023 (second round). The elections were won by Ms Evghenia Guțul, with 52.3% of the vote. Ms Guțul was a candidate of the pro-Russian[23] Șor party (which had not yet been declared unconstitutional at the time of these elections). On 16 May 2023, Officers of the Republic of Moldova's National Anticorruption Centre, raided the Central Election Commission of Gagauzia following allegations of electoral fraud. On the same day, People's Assembly of Gagauzia validated Ms Guțul's elections, which were

21. CDL-AD(2023)035.
22. ibid, paragraph 26.
23. Ms Guțul, for example, had announced that she wished to open a liaison office in Moscow.

also confirmed by the Appeal Court in Comrat (capital of the autonomous region of Gagauzia) on 22 May 2023. Regrettably, the events around the gubernatorial elections in Gagauzia have raised tensions between Comrat and Chisinau. It is important that all stakeholders co-operate constructively and take all necessary measures to reduce the tensions between them.

81. Local Elections took place in the Republic of Moldova on 5 November 2023. They were organised under a state of emergency resulting from the war in Ukraine. These elections were observed by the Congress of Local and Regional authorities of the Council of Europe in the framework of an International Election Observation Mission (IEOM), together with the European Parliament and the OSCE/ODIHR. The IEOM concluded that, while conducted peacefully and efficiently, interference from abroad and restrictive measures imposed due to national security concerns, negatively affected the elections. Two days before the day of the vote, all 8.605 candidates from the Change Party, which is linked to the Șor Party were deregistered without a realistic possibility for appeal. Moreover, the Commission for Exceptional Situations suspended 12 TV stations on concerns of misinformation and threats to national security, while the Security Service blocked access to 73 websites on similar grounds, which, in the view of the IEOM, limited freedom of speech in a disproportionate manner. A second round for those mayoral races where none of the candidates obtained 50% of the votes took place on 19 November 2023.

82. On 8 November 2023, the European Commission published its 2023 communication on EU Enlargement Policy. Welcoming the significant reform efforts by the Republic of Moldova, despite severe impact of the Russian Federation's war of aggression against Ukraine, the Commission recommended opening accession negotiations with the Republic of Moldova – under the understanding that it continues its reform efforts on the nine steps needed to open accession negotiations; continues to make significant progress in appointing vetted Supreme Court Judges, members of judicial and prosecutorial self-governance bodies, and in nominating a new Prosecutor General in a merit-based and transparent process; assigns adequate resources and structures to the Anticorruption Prosecutor's office of the Republic of Moldova; undertakes further steps on de-oligarchisation. Moreover, the European Commission considered that the Republic of Moldova has to continue to fight against corruption by building a further track record of corruption investigations and convictions.

2.2.8. Poland

83. In 2023, the political developments in Poland were dominated by the preparations and conduct of the parliamentary elections of 15 October 2023, which both the ruling majority and opposition considered to be a defining election for the country's future. The co-rapporteurs carried out a fact-finding visit to Poland from 13 to 15 March 2023.

84. In the information note following this visit, the co-rapporteurs, Ms Azadeh Rojhan (Sweden, SOC) and Mr Peter Omtzigt (Netherlands, EPP/CD) expressed their concern that the deep polarisation between opposition and ruling majority was deteriorating and had permeated many levels of the polish society, which was negatively affecting the system of checks and balances, and the overall functioning of the democratic institutions in the country.

85. The situation with regard to the respect for the rule of law continues to dominate the domestic political agenda as well as relations of the country with its international partners, in particular the Council of Europe and the European Union. Regrettably, the situation has continued to deteriorate in this respect. While some political actors have expressed hope that this situation could now change as a result of the last elections, most have indicated that no quick resolution of the rule of law crisis is to be expected or possible.

86. As outlined in the previous progress report, the European Court of Human Rights had found that certain benches of the Constitutional Court, as well as the Disciplinary and Extraordinary Review and Public Affairs Chambers of the Supreme Court, could not be considered tribunals established by law within the meaning of the Convention. It is important to note that the relevant cases are the leading cases. At least 57 other cases that concern the independence of the judiciary have already been communicated to the Polish authorities by the Court. In total, the number of pending cases before the Court dealing with one or more aspects of the reform of the judiciary was 195 in October 2022.

87. Regrettably, the current authorities have continued to indicate that they do not intend to comply with the above judgments of the European Court of Human Rights. This is further complicated by the questionable decision of the Polish Constitutional Tribunal that, under certain conditions, Article 6 of the Convention is not compatible with the Polish Constitution and that therefore the above-mentioned judgments cannot be implemented.

88. The execution of these judgments is now in the hands of the Committee of Minsters, but a solution is not yet forthcoming. It should be underscored that, with regard to the two Chambers of the Supreme Court, the judgments are based, in the words of the European Court of Human Rights, on manifest breaches in the appointment of judges to these newly established chambers, as a result of the fact that these judges are proposed by the reformed National Council of the Judiciary, also known by its Polish acronym KRS. Following its reform, the KRS according to the European Court of Human Rights, as well as the Court of Justice of the European Union, can no longer be considered a body that is independent from the legislative or executive powers, as required by European standards in this respect. It is clear that this reasoning by the European Court of Human Rights could also hold for other chambers when new judges will be appointed to them in sufficient numbers, and indeed for all judicial benches that will contain judges appointed by the reformed KRS. This need to be addressed as a matter of urgency as it undermines the legitimacy of the entire judicial system.

89. In Resolution 2513 (2023) "Pegasus and similar spyware and secret state surveillance" the Assembly considered that in Poland, "Pegasus surveillance spyware has been illegally deployed for political purposes to spy on journalists, opposition politicians, lawyers, prosecutors, and civil society actors", which has affected the fairness of the 2019 parliamentary elections. I wish to reiterate the recommendations made in this resolution, which should be addressed without delay.

90. In the context of the investigations of the Polish Senate into the abuse of the Pegasus spyware by the authorities, it was underscored that the number of (secret) services and law enforcement agencies that are legally allowed to conduct covert surveillance has proliferated in Poland after independence. The judicial and parliamentary oversight is similarly fragmented and clearly no longer adequate. Moreover, there are questions about how well the oversight mechanisms are adapted to Poland's increasingly polarised political and social environment. It is therefore recommended that the authorities consider reforming the covert surveillance functions of the different secret services and law enforcement agencies with a view to creating a single agency with the technical capacity and mandate to execute such surveillance and with the necessary mechanisms to ensure proper judicial and bi-partisan parliamentary control over its operations.

91. In the run up to the parliamentary elections, the ruling majority introduced a controversial draft law on "the State Commission for Investigating Russian Influences on the Internal Security of the Republic of Poland in the period of 2007-2022". This law was adopted by the Sejm on 14 April 2023. The Senate vetoed the law on 11 May 2023, but its veto was overruled by the Sejm on 26 May 2023 after which it was signed into law by President Duda on 29 May 2023. However, in the face of the domestic and international outcry regarding this law, President Duda, on 2 June 2023, proposed a number of amendments with a view to addressing some of the criticism.

92. Deeply concerned about the serious questions with regard to the compatibility of this law with European principles and norms on due process and the rule of law, as well as about its possible impact on the democratic nature of the upcoming elections, the Monitoring Committee, on 21 June 2023, requested an urgent opinion of the Venice Commission on this law as well as on the amendments proposed by President Duda. The Venice Commission issued its urgent opinion[24] on 26 July 2023, in which it concluded that the law was fundamentally flawed and could lead to serious violations of human rights and rule of law standards and norms. In addition, the Venice Commission expressed its concern about the possible impact of the law on the democratic process and the October 2023 parliamentary elections, as it lacks guarantees against political misuse and could easily become a tool in the hands of the majority to eliminate political opponents. In addition, the Venice Commission concluded that the amendments proposed by President Duda would not resolve the fundamental flaws of the law and therefore recommended that the law be repealed in its entirety. Regrettably this advice was ignored by the Sejm who proceeded, on 31 August 2023, without participation of the opposition, to appoint the members on the investigation Commission. However, this Commission never met before October 2023. It is hoped that it will now be disbanded without any undue delays.

93. On 15 October 2023, parliamentary elections took place in Poland in an extremely polarised political and social environment, with both ruling majority and opposition publicly stating that these elections would be a defining moment for the future development and identity of the country. This was also reflected in the very high turnout for these elections of more than 72%, the highest since the fall of communism in Poland. These elections were observed by the Assembly as part of an IEOM with the OSCE Parliamentary Assembly and OSCE/ODIHR. The IEOM concluded that the elections had been competitive, with a wide choice of political alternatives for the voters, but in which the ruling party "enjoyed a clear advantage through undue influence over State resources and public media". As noted by the observers, the campaign was marred by "wide use of intolerant, xenophobic and misogynistic rhetoric" which is of concern. While the incumbent Law and Justice

24. CDL-PI(2023)021.

Party (PiS) obtained the most mandates in the elections but not sufficient to form a government of its own, the three main opposition parties, Civic Coalition (PO), Third way (PL2050/PSL) and the Left (NL), who together have a majority of 248 seats in the 460-seat parliament announced that they were ready to form a coalition government. The hard right Confederation Party announced that it would neither support a government formed by PO, nor by PiS.

2.2.9. Serbia

94. In 2023, the co-rapporteurs of the Monitoring Committee held an exchange of views on the legal situation and the functioning of institutions with Mr Oliver Kask, substitute member of the Venice Commission in respect of Estonia. On 2-4 October 2023, the co-rapporteur Mr Axel Schäfer (Germany, SOC) undertook a fact-finding visit to Serbia (Belgrade and Novi Sad) (in the absence of Ms Eva Decroix (Czech Republic, EC/DA)). This had been the first visit of a rapporteur of the Monitoring Committee since 2017.

95. On 13 October 2023, President Aleksandar Vučić announced that early parliamentary elections, along with local elections in Belgrade and in Vojvodina province, would be held on 17 December 2023. This decision was due to the mounting pressure that the ruling party – Progressive Party (SNS) – had been facing from the opposition after two deadly mass shootings in May, which sparked public outrage and triggered massive protests.[25]

96. In his statement made after his visit, the rapporteur of the Monitoring Committee recalled that since 2000, all but one parliamentary elections had been early elections and stressed that "the frequent organisation of elections at short intervals destabilises the functioning of democracy and State institutions." Moreover, as regards the electoral framework, further changes are needed to implement the recommendations included in the joint opinion of the Venice Commission and OSCE/ODIHR of December 2022 (issued at the request of the Monitoring Committee), in particular with regard to the use of public media to promote the government, the lack of independence of the Central Electoral Commission, the financing of political parties and election campaigns, the failure to verify voters' lists, misuse of administrative resources and the limited access to litigation procedures.

97. As regards the recent reform of the justice system launched following the constitutional amendments adopted on 9 February 2022 (following a referendum), the new laws – on the organisation of courts, on judges, the Office of the Prosecutor General, the High Judicial Council and the High Prosecutorial Council – have been aligned with the constitutional amendments and entered into force on 10 May 2023. These laws, which had been rather positively assessed by the Venice Commission in its opinions of October 2022 and December 2022, seek to make the judiciary more independent and efficient and reduce the influence of the executive and parliament on the appointment of judges and prosecutors. The Monitoring Committee's rapporteur praised the authorities' commitment to fully implementing this reform in line with the recommendations of the Venice Commission and the OSCE/ODIHR as well as those of the GRECO and encouraged the authorities to adopt the secondary legislation as soon as possible and according to the adopted time-schedule.

98. As regards the fight against corruption, information is still awaited on how Serbia intends to implement the recommendations contained in GRECO's Fifth Evaluation Round, which tackles preventing corruption and promoting integrity in central government (top executive functions) and law enforcement agencies.

99. As stressed by the rapporteur of the Monitoring Committee, the state of freedom of expression and media remains an issue of concern, mainly due to the State monopolisation of the majority of media outlets as well as the harassment of journalists expressing critical views or investigating cases of corruption and organised crime. The Council of Europe Platform to promote the protection of journalism and the safety of journalists issued nine alerts concerning Serbia in 2023.[26]

100. In a report following her visit to Serbia in March 2023,[27] the Council of Europe Commissioner for Human Rights, Dunja Mijatović noted that pressure on independent voices, including independent journalists, had intensified in response to the public protests against the May 2023 massive shootings. She also expressed concern about the widespread use of strategic lawsuits against public participation (SLAPPs) against not only journalists but also human rights defenders and activists, about restrictions to freedom of peaceful assembly, biometric surveillance of public spaces and biometric data processing as well as about

25. In two separate mass shootings which took place in a local school in Belgrade and in villages near the city of Mladenovac, respectively on 3 and 4 May 2023, 17 people died, including 7 students, and 21 were injured.
26. As of 20 October 2023, see the Platform to promote the protection of journalism and safety of journalists.
27. Of 6 September 2023.

persisting discriminatory gender stereotypes and the prevalence of all forms of violence against women. According to the findings of the Commissioner for Human Rights, Serbia needs to show a genuine commitment for investigating and adjudicating war crimes cases. In particular, it should do more to ensure the resolution of about 9 800 pending cases of missing persons in the region and to counter the widespread public glorification of war criminals, denial and relativisation of war crimes and genocide.

101. As of 30 September 2023, Serbia ranked 9th in the ranking of countries having the highest number of applications pending before the European Court of Human Rights, with 1 750 applications pending (2,3 % of the total number of applications). As regards the execution of Court judgments, there are 62 cases pending before the Committee of Ministers.[28] Three main groups of cases are under the "enhanced procedure"' of the Committee of Ministers: ill-treatment by police officers and ineffective investigations into such allegations (the Stanimirović group of cases), excessive length of different types of judicial proceedings (the Jevremović group of cases) and non-enforcement or delayed enforcement of domestic decisions against socially/State-owned companies (the Kačapor group of cases). While in 2023 some progress was achieved in the execution of the Jevremović group of cases, information is still awaited on execution measures required in the two other groups of cases.

102. The political environment was also marked by tensions with Kosovo, notably following the 24 September 2023 terrorist attacks on Kosovan police-officers by ethnic Serb para-militaries in the north of Kosovo.

2.2.10. Türkiye

103. In 2023, the Monitoring Committee focused on the presidential and the early parliamentary elections in Türkiye and the case of philanthropist and human rights defender Mr Osman Kavala, who has remained in prison since 2017 despite two judgments of the European Court of Human Rights ordering his release.[29]

104. The Assembly's co-rapporteurs for Türkiye, Mr John Howell (United Kingdom, EC/DA) and Mr Stefan Schennach (Austria, SOC), who had been appointed rapporteur on 24 January 2023 following the departure of Mr Boriss Cilevičs (Latvia, SOC), took part in the Assembly's election observation missions for the parliamentary and presidential elections of 14 and 28 May 2023. Shortly before the elections, they condemned police raids of 25 April 2023, targeting politicians from the People's Democratic Party (HDP), lawyers, journalists and civil society activists and called on the authorities to end all forms of reprisals against them.[30]

105. As regards the first round of elections on 14 May 2023 (held in the wake of devastating earthquakes), there was a high turnout, with 87% out of almost 61 million people registered to vote in the country, as well as 3.5 million abroad. The People's Alliance led by the Justice and Development Party (AKP) won 323 seats in the Grand Assembly, out of 600. The Republican People's Party (CHP) with its Nation Alliance won 212 seats, while other smaller parties (Labour and Freedom Alliance) won a combined of 65 seats. Prior to the election, the electoral threshold for a party to enter parliament was lowered from 10% to 7%.

106. According to the joint observation mission from the OSCE/ODIHR, the OSCE Parliamentary Assembly and the Assembly, the 14 May elections were "well-managed" and "offered voters a choice between genuine political alternatives". However, President Recep Tayyip Erdoğan and the ruling parties enjoyed an "unjustified advantage", mainly due to biased media coverage. Continued restrictions on the rights to freedom of assembly, association and expression had hindered the participation of some opposition politicians and parties as well as civil society and independent media. The observers also found that the legal framework did not provide fully adequate basis for holding democratic elections and that women were underrepresented as candidates and generally in politics.

107. Following the second round of the presidential election on 28 May, the incumbent President Erdoğan was re-elected with 52.18% of the votes against the opposition candidate Kemal Kılıçdaroğlu, who received 47.82%. The joint observation mission found that the second round of elections was well run and had given the voters the opportunity to choose between real political alternatives. However, they deplored increasingly inflammatory and discriminatory language used by both sides during the campaign period and an unjustified advantage to the incumbent, due to media bias and ongoing restrictions to freedom of expression.

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28. As of 22 September 2023, see the Department for the Execution of Judgments of the European Court of Human Rights.
29. Application No. 28749/18, judgment of 10 December 2019 and of 11 July 2022 (Grand Chamber judgment on Article 46, paragraph 4, of the Convention).
30. Statement of 27 April 2023.

108. The composition of the new cabinet was announced on 3 June 2023, following the inauguration of President Erdoğan. The cabinet comprises one Vice-President and 17 ministers (all newly appointed, with two exceptions, and all being AKP members or having close association with the party or the President). The new Minister of Family and Social Services, Ms Mahinur Özdemir Göktaş, is the only woman within the Cabinet. Local elections will take place in 2024.

109. On 12-13 January 2023, the Assembly co-rapporteurs Mr Howell and Mr Cilevičs made a fact-finding visit to the country to discuss the case of Mr Osman Kavala. During the visit, they met with Mr Kavala at the Marmara prison.[31]

110. On 29 September 2023, the co-rapporteurs expressed their "deep consternation" at the decision of the Turkish Court of Cassation of 28 September which had confirmed the aggravated life sentence for Mr Kavala.

111. On 9 October 2023, the Assembly awarded Mr Osman Kavala the 11th Václav Havel Human Rights Prize and, on 12 October, it adopted Resolution 2518 (2023) "Call for the immediate release of Osman Kavala"[32]. The Assembly considered that Mr Kavala fell within its definition of "political prisoner" and called again for his immediate release. It also called on the authorities of Türkiye to "urgently improve the legal framework and conditions for respect for the rule of law, the independence of the judiciary, the protection of human rights and compliance with the Court's judgments", and in particular to urgently reform the Council of Judges and Prosecutors.[33] Therefore, in light of these "exceptional circumstances", it considered "the time ha[d] now arrived to take steps to initiate the complementary joint procedure foreseen in its Resolution 2319 (2020)".[34] The Assembly also called on Council of Europe member States to apply 'Magnitsky legislation' towards officials responsible for the unlawful and arbitrary detention of Mr Kavala."[35] Moreover, in its Recommendation 2261 (2023) concerning the same subject, the Assembly called on the Committee of Ministers to establish country monitoring in respect of the execution of judgments of the European Court of Human Rights by Türkiye under the 1994 Declaration process.

112. As regards the execution of the judgments of the European Court of Human Rights in general, in its Resolution 2494 (2023) of 26 April 2023, the Assembly noted that Türkiye was one of the countries having the highest number of non-implemented Court judgments and still facing serious structural or complex problems, some of which had not been resolved for over ten years.

2.2.11. Ukraine

113. As a result of the Russian Federation's war of aggression against Ukraine, no visit to Ukraine by the co-rapporteurs could take place, despite the efforts by both the co-rapporteurs and the Ukrainian delegation to organise such a visit. If the situation allows, the co-rapporteurs will visit the country in the first half of 2024. It is clear that, as long as the war is ongoing, no normal monitoring of obligations and commitments can take place, but the co-rapporteurs have nevertheless continued to closely follow the situation in the country with regard to the ongoing reforms and functioning of democratic institutions.

114. The Assembly has continued to closely follow the developments with regard to the Russian Federation's ongoing aggression against Ukraine. In the course of 2023, the Assembly debated the following reports regarding the consequences of the Russian Federation's aggression against Ukraine: "Legal and human rights aspects of the Russian Federation's aggression against Ukraine" (Doc. 15689); "Supporting Ukraine one year since the beginning of the Russian Federation's large-scale war of aggression: the role of the Council of Europe", current affairs debate; "Deportations and forcible transfers of Ukrainian children and other civilians to Russian Federation or to Ukrainian territories temporarily occupied: create conditions for their safe return, stop these crimes and punish the perpetrators" (Doc. 15748); "Political consequences of the Russian Federation's war of aggression against Ukraine" (Doc. 15797); "Ensuring a just peace in Ukraine and lasting security in Europe" (Doc. 15842).

115. In the previous progress report, the Assembly already lauded the efforts by the Ukrainian authorities, and indeed whole society, to ensure the continuing functioning of the democratic and rule of law institutions, in spite of the challenging situation presented by the war. These efforts continued unabated in 2023.

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31. Information note, AS/Mon (2023) 01 REV 2 declassified of 31 January 2023.
32. On the basis of a report by the Committee on Legal Affairs and Human Rights, Doc. 15841 of 10 October 2023, rapporteur: Ms Petra Bayr (Austria, SOC).
33. Paragraph 13.3 of the resolution.
34. Paragraph 12 of the resolution.
35. Paragraph 14.3 of the resolution.

116. On 28 February 2022, Ukraine applied for EU membership. On 23 June 2022, following a positive opinion by the European Commission, the European Council granted candidate status to Ukraine on the understanding that Ukraine would implement a number of so-called key steps, namely: implement legislation on a selection procedure, including an evaluation of integrity and professional skills for judges of the Constitutional Court of Ukraine; finalise the vetting of the candidates for the High Council of Justice and the selection of candidates to establish the High Qualification Commission of Judges of Ukraine; strengthen the fight against corruption, in particular at high level and complete the appointment of a new head of the Specialised Anti-Corruption Prosecutor's Office as well as new Director of the National Anti-Corruption Bureau of Ukraine; ensure that anti-money laundering legislation is in compliance with the standards of the Financial Action Task Force and adopt a strategic plan for the reform of the entire law enforcement sector; implement anti-oligarch law to limit the excessive influence of oligarchs in economic, political, and public life in line with the opinion of the Venice Commission on this law; adopt a new media law that limits the influence of vested interests in the media sector, empowers the independent media regulator and aligns Ukraine's legislation with the EU audio-visual media services directive; reform the legal framework for the protection of national minorities in line with Venice Commission recommendations.

117. The implementation of these key steps has been the priority of the ongoing reforms process in Ukraine. The European Council decision granting candidate status to Ukraine underscores the essentiality of these reforms adhering to Venice Commission recommendations and accords a central position to the Venice Commission opinions in its own evaluation process. This should be strongly welcomed.

118. With regard to anti-oligarch legislation, the draft anti-oligarch law was tabled already in July 2021. At that moment, while supporting the stated objective of law, the co-rapporteurs, as well as other international and domestic actors expressed concerns about the methodology taken in the law which they feared would be at variance with the European Court of Human Rights and vulnerable to political abuse. On 10 September 2021, the Speaker of the Verkhovna Rada requested an opinion from the Venice Commission on this law which was regrettably adopted without waiting for the Venice Commission. The adoption of the opinion was delayed on request of the Ukrainian authorities, also as a result of the war situation in the country. In the meanwhile, the Ukrainian anti-oligarch legislation, with its deficiencies, was used as the basis for similar legislation in Georgia and the Republic of Moldova.

119. The Venice Commission adopted its opinion[36] on the law in June 2023. Similar to its conclusions in the opinions on the anti-oligarch legislation in Georgia and the Republic of Moldova, the Commission expressed misgivings about the so-called "personal approach" taken in this law which it felt was overbroad, raised questions about its compatibility with the Convention and was open for political abuse. The Venice Commission therefore recommended a so-called systemic approach that would focus on strengthening the existing legal tools and institutional mechanisms to fight corruption and excessive political influence by vested economic interests. The Ukrainian authorities have announced that they have put the implementation of the anti-oligarch legalisation on a hold in order to address the Venice Commission recommendations.

120. Combating the endemic corruption in the country has been a long-standing focal point of the monitoring procedure and a key priority for the current authorities. This has become all the more important in relation to the large volume of assistance given to Ukraine by the international community in the context of the war of agression by the Russian Federation. Underscoring his determination to root out corruption in the armed forces, and in the light of concerns regarding the handling of military contracts, President Zelensky, in September 2023, replaced the Minister of Defence[37] and fired all heads of the regional recruitment offices. The government appointed a new Director of the National Anti-Corruption Bureau (NABU) on 6 March 2023. This follows the appointment in July 2022 of a new Specialised Anti-Corruption Prosecutor. Their appointments have started to show tangible results as evident from, *inter alia*, the arrest of the Chairperson of the Supreme Court of Ukraine for accepting a € 2.5 million bribe.

121. The Constitutional Court is composed of 18 judges, 6 of which are appointed by the President of Ukraine, 6 by the Verkhovna Rada and 6 by the Congress of Judges. As outlined in previous reports, serious concerns had been raised about the impartiality and integrity of Constitutional Court judges leading to the Constitutional Court crisis in 2020 and subsequent reform of this court. In its opinion[38] on the reform of the Constitutional Court, the Venice Commission found that the existing selection procedures for each of these three groups did not ensure the highest level of moral and professional qualifications of the candidates. It therefore recommended the establishment of a special screening body in which the international community

36. CDL-AD(2023)018.
37. President Zelensky had stressed that the Minister himself was not suspected of any wrongdoings in this respect.
38. CDL-AD(2020)039.

would have a decisive role. On 12 August 2022, the Verkhovna Rada adopted in first reading a series of amendments to the legislation covering the appointment of Constitutional Court judges that established an Advisory Group of Experts with the task of assisting the three appointment bodies with assessing the integrity and professional qualifications of the candidates. In line with the Venice Commission recommendations, the international community is represented in this body with three members, one of which is appointed by the Venice Commission. These amendments were sent to the Venice Commission for opinion. In a laudable process of close co-operation between the authorities and the Venice Commission, further amendments were drafted by the Verkhovna Rada, and follow-up opinions adopted, to address the recommendations and concerns expressed by the Venice Commission on this appointment procedure. As a result, on 25 September 2023, the Venice Commission adopted a follow up opinion[39] on these amendments in which it concluded that its key recommendations had all been addressed in the final amendments that were adopted on 27 July 2023 and that therefore the Venice Commission would be ready to appoint a member and a substitute on the Advisory Group of Experts.

122. Ukraine has a diverse and multi-ethnic population and a strong multicultural tradition. According to the 2001 census, Ukraine comprises more than 130 different nationalities, most of them very small in number. According to this census, the population self-identified as: Ukrainian 77.8%, Russian 17.3%, Romanian 1.1% (including Moldovan 0.8%), Belarusian 0.6%, Crimean Tatar 0.5%, Bulgarian 0.4%, Hungarian 0.3%, Polish 0.3%, Jewish 1.0%, and 1.8% other nationalities. Minorities and minority rights are complex and sensitive issues in Ukraine, compounded by the illegal Russian aggression against Ukraine which was *inter alia* justified by the denial of the existence of a Ukrainian identity by the Russian Federation. Strengthening the legal system to protect minority rights has been a long-standing point of attention of the monitoring procedure and was one of the seven steps demanded by the European Commission to start accession negotiations.

123. In its opinions on the 2017 Law on Education and the 2019 Law on Supporting the Functioning of the Ukrainian Language as the State Language, the Venice Commission had recommended that the Ukrainian authorities adopt a new law on Minorities to replace the outdated legislation that was in place. On 13 December 2022, the Verkhovna Rada adopted the Law on National Minorities (Communities) of Ukraine. On 26 January 2023, the Monitoring Committee requested an opinion of the Venice Commission on this law. In its opinion[40] the Venice Commission welcomed the law but considered that a number of provisions should be reconsidered in order to make the law fully in line with international standards. In addition, it recommended that other laws be amended in connection, in particular their provisions limiting the use of minority languages in the media and the education system. The Ukrainian authorities announced subsequently that they had prepared a number of amendments to the law with a view to making it fully compatible with the Framework Convention on National Minorities and to address Venice Commission recommendations. Both the Speaker of the Verkhovna Rada as well as the Monitoring Committee requested a follow-up opinion of the Venice Commission on these amendments. In that opinion,[41] the Venice Commission welcomed several amendments that implemented its recommendations. However, a number of recommendations were not or only partly followed, including with regard to: moving provisions related to the use of the Russian language in the context of the ongoing agression into specific legislation and the provisions relating to the use of the Russian language that would allow limitations on its use to continue after the end of the war. The amendments also foresee the revision of the laws on the State language, on media and on education. The authorities are urged to draft this amendments in close consultation with the Venice Commission and minorities concerned.

124. On 8 November 2023, the European Commission published its 2023 communication on EU Enlargement Policy in which it recommended the opening of accession negotiations with Ukraine as soon as the country will have increased the staffing cap for the National Anti-Corruption Bureau of Ukraine (NACCP); removed from the law on corruption prevention the provisions that restrict the NACCP's verification powers; adopted a law regulating lobbying in line with European standards, as part of the anti-oligarch action plan; and adopted legislation addressing the remaining Venice Commission recommendations regarding the Law on national minorities, including those linked to the laws on State language, on media and on education.

39. CDL-AD(2023)042.
40. CDL-AD(2023)021.
41. CDL-AD(2023)028.

2.3. Post-monitoring dialogue

2.3.1. Bulgaria

125. The last post-monitoring report was debated in the Assembly in June 2019. The Assembly resolved not to terminate the post-monitoring dialogue and invited the Monitoring Committee to submit, in 2020, its assessment of the progress made by Bulgaria in some specific areas of concern, including in particular high-level corruption, transparency in media ownership, human rights of minorities, hate speech and combating violence against women.

126. However, since July 2020 and until recently, Bulgaria has been confronted with a major political crisis which resulted in five consecutive parliamentary elections held over a period of two years: on 4 April 2021, 11 July 2021, 14 November 2021 (on the day of presidential election), on 2 October 2022 and on 4 April 2023. For the majority of this period, Bulgaria was governed by the appointed technical governments.

127. The crisis was triggered by mass street demonstrations in reaction to corruption scandals and the underlying causes including a lack of respect for the rule of law. The situation was aggravated by growing economic concerns and polarisation with regard to energy policies and the invasion of Ukraine by the Russian Federation.

128. Following the April 2023 parliamentary elections, six political parties and coalitions entered the parliament. On 6 June 2023, a new coalition government was approuved. It is composed of the two biggest political groups: the GERB-SDS and PP-DB. According to the coalition agreement, Mr Nikolay Denkov from the PP-DB will be Prime Minister for the first nine months and after that period, the position will be taken over by Ms Mariya Gabriel from GERB who until then will be deputy Prime minister and foreign minister.

129. The coalition government has agreed on a pro-European Union agenda including top priorities: membership in the Schengen area and accession to the Euro-monetary Union. It is determined to fight Russian influence in Bulgaria's security sector. The government has also agreed to conduct a constitutional reform which is a necessary condition for the reform of the judiciary and the effective fight against high-level corruption.

130. In the framework of the ambitious programme of reforms, a number of draft laws is currently proceeded in parliament, including amendments to Chapter VI of the Constitution with regard to the system of governance of the judiciary and of the prosecution service, amendments to the Criminal Procedure Code and to the Judicial Act System. All drafts have been submitted to the Venice Commission for opinion. If adopted, taking into account Venice Commission's recommendations, these legislative acts will address long-standing concerns with regard to the functioning of democratic institutions in Bulgaria expressed by the Assembly in its monitoring resolutions on Bulgaria, and in particular in Resolution 2296 (2019).

131. The co-rapporteurs carried out a visit to the country on 17-19 September 2023 and met the highest representatives of the legislative, executive and judicial authorities as well as the representatives of civil society.

132. The preliminary draft report was submitted to the Monitoring Committee on 5 December 2023 and sent to the Bulgarian authorities for comments with a view to final consideration by the committee in March 2024.

133. In accordance with the revised rules on the parliamentary monitoring procedure, the Monitoring Committe can prepare only two reports in the framework of the post-monitoring dialogue; the second one should either propose the termination of the post-monitoring dialogue or return to the full monitoring procedure.

2.3.2. Montenegro

134. The reporting period was dominated by national elections. At the end of August 2022, the former government lost the confidence of parliament. It has been acting in a caretaker function since then. This situation is hampering the adoption of expected reforms in the field of the rule of law and democratic institutions to advance on the path towards accession to the European Union. Few days before the presidential election of 19 March 2023, incumbent President Đukanović announced a call for early parliamentary elections in June, triggering a full renewal of national political institutions.

135. The presidential election was marked by the decision of the State Election Commission (SEC) to deny registration to Mr Spajić – who was leading in the opinion polls at that time – on the basis of contradictory information regarding his citizenship and permanent residence. The IEOM, of which the Assembly was a part,

concluded that "the SEC's denial of registration to Mr. Spajić, the inconsistency in decision making and the lack of transparency in verifying support signatures and other nomination documents significantly undermined the inclusiveness of the candidate registration process and impacted confidence in the election administration." Mr Spajić was replaced by Mr Milatović as candidate for the newly created party "Europe Now!".[42]

136. The presidential election was won by Mr Jakov Milatović with 58,88 % of the votes, over Mr Milo Đukanović. The IEOM found that the presidential election was competitive but regretted that long-standing shortcomings in the legal framework and campaign finance regulations remained unaddressed.

137. In the subsequent parliamentary elections on 11 June 2023, "Europe Now!" received most of the votes and took 24 out of the 81 seats in parliament. Lacking an absolute majority, the party needed to find partners for a coalition. President Milatović charged Mr Milojko Spajić to find a governing coalition as Prime minister designate.

138. On 31 October 2023, the Parliament of Montenegro appointed the government of Prime Minister Milojko Spajić, with a majority of 46 out of 81 members of parliament. The coalition backing the government is composed of "Europe Now!", Democrats (DCG), the Socialist People's party (SNP) as well as Albanian minority parties and pro-Serb parties (NSD and DNP). Mr Andrija Mandić, president of the New Serbian Democracy (NSD) party, was elected as Speaker of parliament. His election caused protests due to his criticism during the campaign of NATO membership and Montenegro's independence from Serbia, as well as his calls for closer ties with the Russian Federation. However, Mr Mandić pledged to "reconcile the divisions". Mr Spajić outlined his government's priorities as: "full membership of the EU, active, credible membership of NATO and improvement of good relations with neighbours". In its 2023 communication on the enlargement policy, the European Commission stated, regarding Montenegro that: "progress in the accession negotiations will depend on reforms in the area of rule of law". The capacity of this government to deliver will depend on the cohesiveness of the ruling coalition and its willingness to step aside from divisive nationalistic and religious debates and prioritise the search of consensus to undertake the much expected economic, social and judicial reforms.

139. To complete the post-monitoring dialogue, Montenegro needs to improve the independence of the judiciary, the trust in the electoral process, the fight against corruption and the situation of the media, as called upon by the Assembly Resolution 2374 (2021).

2.3.3. North Macedonia

140. In 2023, there were no visits by the co-rapporteurs in the framework of the post-monitoring dialogue with North Macedonia, due to changes in the rapporteurship: the co-rapporteur, Ms Ria Oomen-Ruijten (Netherlands, EPP/CD) resigned in April 2023 and was replaced by Mr Joseph O'Reilly (Ireland, EPP/CD) on 13 September 2023.[43] However, the co-rapporteurs followed closely the developments in the country.

141. There has been no progress as regards the revision of the Constitution in order to include a reference to the Bulgarian minority as well as other minorities in the Constitution's preamble. This revision is a requirement for North Macedonia's accession to the European Union. The persisting polarisation in parliament between the ruling parties and the opposition, including the main opposition party VMRO-DPMNE, has prevented the adoption of the constitutional amendments, which requires a majority of two-thirds; a parliamentary debate on this subject held on 18 August 2023 ended without a vote.

142. As regards the fight against corruption, in its Second Compliance report published in October 2023 concerning the Fifth evaluation round on preventing corruption and promoting integrity in central governments and law enforcement agencies, the GRECO concluded that North Macedonia was not "in sufficient compliance", as it had implemented only 13 out of its 23 recommendations. Nevertheless, GRECO noted some progress with respect to integrity risk assessments in central government, the strengthening of the resources of the State Commission for the Prevention of Corruption and some measures taken to enhance integrity within the police.

42. "Europe Now": describes itself as an economically focused, liberal and anti-corruption movement
43. Ms Sibel Arslan (Switzerland, SOC) remains the other co-rapporteur.

143. In May 2023, MONEYVAL adopted its Fifth Round Mutual Evaluation Report on North Macedonia, in which it urged the authorities to further enhance efforts in combating money laundering and the financing of terrorism. While it concluded that the country had made progress in strengthening its legal framework to investigate and prosecute money laundering, it noted that only modest results had been achieved in terms of money laundering investigations and prosecutions.

144. The Committee of Ministers is currently supervising the execution of 28 judgments of the European Court of Human Rights concerning North Macedonia, including 13 "leading" cases. The following judgments/ groups of judgments are under the enhanced supervision procedure: cases concerning ill-treatment by police and lack of effective investigation in this respect (Kitanovski[44] group), the X. judgment[45] concerning lack of legislation on conditions and procedures for changing, on birth certificates, the sex of transgender people (an issue which was also raised by the Council of Europe Commissioner for Human Rights in a letter sent to the parliament on 3 July 2023) and cases concerning refusal to register certain associations as religious entities (Orthodox Ohrid Archdiocese[46] group). As regards the first group of cases, only limited progress has been achieved in 2023, while in the two other groups of cases, information is still awaited on execution measures.

145. In October 2023, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out a periodic visit to the country, in order to assess mainly the treatment of persons held in prisons and the progress made in developing a professional prison management system.[47]

146. In March 2023, the Group of Experts on Action against Trafficking in Human Beings (GRETA) adopted its report on North Macedonia in the framework of its Third evaluation round: Access to justice and effective remedies for victims of trafficking in human beings, on the basis of which, in June 2023, the Committee of the Parties adopted Recommendation CP/Rec(2023)04 calling on the authorities to take without delay further steps to facilitate and guarantee access to justice for victims of human trafficking.

147. As regards combating discrimination and protection of minorities' rights, in June 2023, the ECRI published its Report on North Macedonia (sixth monitoring cycle), in which it concluded that since 2016, progress has been made and good practices had been developed in a number of fields (amongst others, the establishment of a new equality body, the Commission on Prevention and Protection against Discrimination (CPPD), the adoption of a new Law on Prevention and Protection against Discrimination, and numerous measures taken to improve Roma inclusion in the areas of housing, health, education and employment). Nevertheless, it also pointed some issues of concern (such as lack of financial independence of the CPPD and the Ombudsperson institution, incidents of violence against LGBTI persons and persons identifying themselves as Bulgarians and social marginalisation of Roma). Moreover, following the Fifth opinion on North Macedonia of the Advisory Committee on the Framework Convention for the Protection of National Minorities of May 2022, on 8 February 2023, the Committee of Ministers adopted Resolution CM/ResCMN(2023)2, in which it called on the authorities to take further steps to promote "an integrated society that is based on respect and trust between the various communities", to prevent human rights violations against Roma by the police and to improve access of Roma children to quality education.

148. In September 2023, the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) published its Baseline Evaluation Report on North Macedonia, in which it commended the authorities for having established a solid legal framework to prevent and combat violence against women and domestic violence but regretted significant gaps in its implementation as well as traditional beliefs that such violence is a private matter.

2.4. Periodic monitoring reports

2.4.1. France

149. In 2019, France was selected by the Monitoring Committee for a periodic review report on its honouring of the obligations incumbent on every Council of Europe member State in the areas of democracy, rule of law and human rights. Ms Yelyzaveta Yasko (Ukraine, EPP/CD) and Ms Fiona O'Loughlin (Ireland, ALDE) were appointed co-rapporteurs in April 2021.

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44. Application No. 15191/12, judgment of 22 January 2015.
45. Application No. 29683/16, judgment of 17 January 2019.
46. Application No. 3532/07, judgment of 16 November 2017.
47. Press release of 17 October 2023.

150. In April 2022, Mr Emmanuel Macron was elected for a second mandate as President of the Republic. The following elections to the National Assembly in June 2022 resulted in a hung parliament. A minority government was set up with Ms Elisabeth Borne as Prime minister.

151. After the parliament and the government were formed, the co-rapporteurs made a first visit in Paris in September 2022 to meet representatives of civil society organisations. During a second visit, in January 2023, the co-rapporteurs held meetings with representatives of governmental authorities and of independent administrative authorities, as well as members of parliament. Some matters of concern that had been reported by civil society organisations and various monitoring bodies were presented and discussed.

152. On 27 April 2023, the committee decided, in line with the rules of procedure, to send the preliminary draft report to the French authorities for comments. At the same time, it decided to request two opinions of the Venice Commission: one on Article 65 of the French Constitution concerning the composition of the Superior Council of Magistracy and the status of the judiciary, and another on Article 49 of the French Constitution.

153. The Venice Commission and the Directorate General Human Rights and Rule of Law released the joint advisory opinion on the Superior Council of Magistracy and the status of the judiciary on 10 June 2023. This advisory opinion recalled that recent reforms had progressively strengthened separation of the judicial authority from the executive power and reinforced the principle of independence of the judiciary, and that possible amendments at both the constitutional and the legislative levels were being prepared to further this reform process. In that context, the Venice Commission recommended changes to the composition of the Superior Council of Magistracy and reforms of the procedures for the nomination, promotion and disciplinary procedures for magistrates.

154. The Venice Commission adopted an interim opinion on Article 49.3 of the French Constitution and, before making its final conclusions, resolved to carry out a comparative analysis of the manner in which motions of no confidence and other means by which the executive may intervene in the legislative powers of parliaments are regulated in the constitutions and legislations of its member States.

155. The comments of the French authorities were taken into consideration in the draft report and the resolution that was adopted by the Assembly on 10 October 2023.

156. In Resolution 2512 (2023), the Assembly acknowledged the longstanding democratic tradition and the respect for human rights in France but also expressed some concerns. The high number of people injured during demonstrations was considered alarming, and the Assembly urged the authorities to provide more detailed statistics on the number of people injured and killed during demonstrations, and called for a reflection on law enforcement techniques. It also encouraged the authorities to improve the criminal law treatment of cases of unlawful violence committed by law enforcement officers and to reform the police and gendarmerie inspectorates so as to improve perceptions of their independence and impartiality, while increasing the resources allocated to them. Regarding the fight against discrimination, the Assembly called to open a wide-ranging debate about police practices and to address ECRI's recommendation to introduce, without delay, an effective system of recording identity checks by law enforcement officials.

157. The Assembly endorsed the recommendations by the Venice Commission on the composition of the Superior Council of Magistracy and the status of members of the judiciary and invited the authorities to adopt these recommendations in a future constitutional reform.

158. The Assembly recalled the series of judgments ordering France to put an end to a situation of systemic prison overcrowding that causes detention conditions in breach of the prohibition of inhuman or degrading treatment or punishment as provided for in Article 3 of the European Convention on Human Rights. Welcoming the many measures decided by the authorities to reduce prison overcrowding, the Assembly nevertheless noted that the prison population statistics showed that the situation was steadily worsening. It recalled the Committee of Ministers' decision which, in view of the consistent recommendations of several competent national institutions and the urgency of the situation, "invited again the authorities to consider rapidly new legislative measures that would regulate the prison population in a more binding nature". The Assembly therefore called on the authorities to implement a binding mechanism for regulating the prison population, at least until such time as the other measures to reduce the prison population have an effect and make such a mechanism unnecessary.

159. The Assembly also commended the protection of journalists' freedom and the planned reform to improve their protection against vexatious proceedings; welcomed the advances in the regulation of political financing and the efforts to combat violence against women; and expressed its interest in the experiments of participatory democracy being conducted in France.

2.4.2. Netherlands

160. The Monitoring Committee selected the Netherlands for a periodic review in January 2021 and was seized for the preparation of a report in March 2021. Due to multiple changes in rapporteurs, as well as the calling of pre-term parliamentary elections for November 2023, the validity of the reference has been extended by the Bureau of the Assembly until March 2024.

161. The co-rapporteurs, Ms Stephanie Krisper (Austria, ALDE) and Mr Titus Corlăţean (Romania, SOC), visited the Hague on 17-19 April 2023 and established a direct political dialogue with the Dutch authorities on the issues identified prior to the visit including during the exchange of views on the 2021 rule of law report on the Netherlands with a representative of the European Commission held on 9 March 2021.

162. In their discussions with representatives of legislative, executive and judicial authorities, the co-rapporteurs, sought, *inter alia*, to evaluate whether the concerns identified by the Venice Commission`s Opinion on the legal protection of citizens prepared following the so-called child allowances scandal had been addressed.

163. The child allowances scandal revealed malfunctioning of the democratic institutions in the context of emerging reports about significant malpractice within the Tax Administration`s collection since 2005. While democratic safeguards including the judicial institutions initially failed to remedy the situation, in the end a special parliamentary inquiry committee was established in 2020, whose report led to the resignation of the Government in January 2021.

164. In particular, the following questions were raised during the visit: the role of the parliament in the appointment of the judges of the Supreme Court; the Council of State, the double mandate of State councillors and the disciplinary regime of its judicial members; the role of the Minister of Justice and Security with regard to the Council for the Judiciary and the court management boards in terms of appointments of and disciplinary powers against the respective members, as well as to the Public Prosecution Service; the double mandate of judges and members of parliament.

165. Fight against corruption and organised crime was another major issue discussed during the visit.

166. On 30 May 2023, the Monitoring Committee requested the Venice Commission's Opinion on the Judiciary Organisation Act and specifically its aspects listed above. On 6 October 2023, a joint Opinion of the Venice Commission and DGI on legal safeguards of the independence of the judiciary from the executive power was adopted by the Venice Commission.

167. The Venice Commission and DGI while recalling that in general they are of the opinion that the Netherlands is a well functioning State with strong democratic institutions and safeguards for the rule of law, made a number of recommendations to address vulnerabilities including concerning the transparency of the process by which the House of Representatives designates Supreme Court judges as well as the process by which the Minister of Justice and Security nominates members of the Council for the Judiciary; aligning the position of councillors of the Administrative Jurisdiction Division of the Council of State to the position of other judges in disciplinary matters, and, as regards the possibility for the Vice-President to issue a written warning against a councillor, providing a remedy before an independent instance; integrating in statutory law both the new procedure for appointing court administrators, and the mechanisms (to be developed and implemented) to ensure a broader representation of all levels and types of courts in the Council for the Judiciary; defining in a more concrete and precise manner the concept of “unsuitability” and rephrasing the wording “serious suspicion” of unfitness required for the suspension or dismissal of a member of the Council for the Judiciary and of the court management boards by including reference to concrete elements of proof, as well as abolishing differences in treatment between judicial and non-judicial members in disciplinary matters and removing the Minister’s power to give instructions not to prosecute in specific cases, or at least to limit this prerogative to clearly defined exceptional circumstances.

168. At its meeting on 30 May 2023, the committee considered a preliminary draft report and agreed to send it to the Dutch authorities for comments with a view to submitting it for debate in the Assembly in October 2023.

169. However, on 7 July 2023, the government headed by Mr Rutte collapsed due to disagreements on immigration policies. Early general elections have been scheduled on 22 November 2023. In accordance with the Monitoring Committee`s practice, no country reports can be debated during the electoral campaign in order to prevent its possible political abuse.

170. The co-rapporteurs intend to meet the authorities once a new government is formed in order to confirm their commitment to address the concerns identified by the Venice Commission.

2.4.3. San Marino

171. On 3 February 2021, San Marino was selected for a periodic review of its honouring membership obligations to the Council of Europe. On 19 April 2021, Mr Andrej Hunko (Germany, UEL) and Mr Viorel-Riceard Badea (Romania, EPP/CD) were appointed as co-rapporteurs for San Marino. On 26 January 2023, the committee appointed Mr Joseph O'Reilly (Ireland, EPP/CD) to replace Mr Badea who had left the Assembly. The report on the honouring of membership obligations to the Council of Europe by San Marino was debated by the Assembly on 6 April 2023, which led to the adoption of Resolution 2497 (2023).

172. In its resolution, the Assembly recognised the unique collegiate governing structures of San Marino which are shared among the citizens of the country for limited terms. These governing structures, adapted to the needs of a changing society, reflect the country's historic democratic heritage and specificity as a micro-State. At the same time, the Assembly noted the concerns regarding effectiveness of the system of checks and balances in the country and vulnerability of its democratic institutions and office holders to corruption and conflicts of interest. The Assembly therefore welcomed the numerous reforms implemented to strengthen the functioning and resilience of the democratic and rule of law institutions in San Marino.

173. The Assembly welcomed the central role of the Great and General Council, the Sammarinese Parliament, in the governance of the country. At the same time, it noted that the Great and General Council is formally a part-time parliament whose members are not receiving a full-time salary for their parliamentary work. The Assembly expressed concern about the lack of legal provisions for employers in the private sector to provide members of the Great and General Council with the necessary time off to pursue their parliamentary work, as is the case for those working in the public sector and recommended the authorities to address this issue. This would also increase the equality of arms between the legislative and executive powers in San Marino, which at this moment is skewed in favour of the executive.

174. San Marino has historically a well-developed institutional and legal system for the protection of fundamental human rights. However, this should not be a reason for complacency, especially as in a number of cases the legal framework for the protection of human rights has run behind the existing developments and acceptance of rights in the Sammarinese society. In that context, the Assembly welcomed implementation of far-reaching reforms of the judiciary with a view to strengthening its independence and resilience against external interference, which had been a point of concern.

175. While welcoming the diverse and pluralistic media environment in San Marino, the Assembly expressed its concern that strict privacy laws and the continuing criminalisation of defamation hindered access to public information and could lead to self-censorship by journalists. It urged the authorities to address these concerns.

Appendix – Dissenting opinion presented by Mr Samad Seyidov (Azerbadjan, EC/DA), member of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), pursuant to Rule 50.4 of the Rules of Procedure

The delegation of Azerbaijan to the Assembly registers its disagreement with the part of the report on "Progress of the Assembly's monitoring procedure (January – December 2023)" concerning Azerbaijan. It is regrettable that a number of issues related to Azerbaijan are not accurately reflected in the report.

Following the order of points addressed in the report, first, we believe that the Law on political parties of 16 December 2022 is wrongly described as having "a chilling effect on pluralism in the country," since this law was elaborated on the basis of extensive consultations with all main political actors of the country and the civil society representatives. We are confident that this law will positively impact on the functioning of the political parties by ensuring transparency and instilling the democratic culture in their functioning.

Second, contrary to what is stated in the report, we are of the view that Azerbaijan has taken further measures to improve the human rights situation in the country during 2023. For instance, according to the law on the Judicial Legal Council (JLC) adopted on 9 June 2023, the formation of the composition of the JLC was profoundly reformed, and consequently, 10 out of 15 members of the JLC are now judges elected by their peers. There is only one representative of the executive branch among the remaining five members of the Council, and the independence of the JLC is ensured by the fact that all its decisions are taken by voting.

Third, the claims on restrictions on the rights to freedom of expression and freedom of association and assembly as well as the alleged use of torture or ill-treatment by law enforcement authorities are not based on sound evidences, but on reports emanating from biased sources.

Finally, regarding the Karabakh region of Azerbaijan, after having waited during three years after the adoption of the Trilateral Statement from November 2020 for withdrawal of the Armenian armed forces from this region, on 19 September 2023, Azerbaijan launched local counter-terror measures to disarm the illegal armed formations and eliminate the imminent threat posed to safety and security of Azerbaijani civilians and military personnel. These measures were limited and proportionate, and were exclusively aimed at neutralising legitimate military targets within the sovereign territory of Azerbaijan. The armed forces of Azerbaijan acted in full compliance with the norms of humanitarian law, and all measures were taken to avoid collateral damage on civilians and civilian infrastructure. Azerbaijan has never forced out the Armenian residents of the Karabakh region, and notwithstanding Azerbaijan's calls to stay, it was their decision to relocate to Armenia and other countries. This comes in fact as the result of Armenia's long-standing statesponsored policy of ethnic hatred against Azerbaijan and Azerbaijanis. Furthermore, the Government of Azerbaijan made formal declarations guaranteeing *inter alia* security of the Karabakh residents as well as safe and prompt return of those who wish to return, and freedom of movement and residence for the persons remaining in the Karabakh region.