



## Resolution 1257 (2001)<sup>1</sup>

# Honouring of obligations and commitments by Georgia

## Parliamentary Assembly

1. The Assembly welcomes the efforts Georgia has made since its accession on 27 April 1999 towards honouring some of its obligations and commitments, which it accepted in [Opinion No. 209 \(1999\)](#).
2. With regard to the signature and ratification of conventions, the Assembly is pleased to note that:
  - 2.1. Georgia has ratified, within the deadlines in [Opinion No. 209](#), the European Convention on Human Rights as well as its Protocols Nos. 4, 6 and 7;
  - 2.2. to date, Georgia is the only member state which has, on 15 June 2001, ratified Protocol No. 12 to the European Convention on Human Rights;
  - 2.3. Georgia has also ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and its Protocols Nos. 1 and 2, the European Convention on Extradition and its protocols, the European Convention on Mutual Assistance in Criminal Matters, the General Agreement on Privileges and Immunities and its protocols, and signed the revised European Social Charter;
  - 2.4. Georgia has also ratified the Geneva Convention relating to the Status of Refugees and the 1967 Protocol thereto.
3. The Assembly nevertheless, regrets that Georgia:
  - 3.1. did not ratify within one year after its accession the Additional Protocol to the European Convention on Human Rights it signed on June 1999, or the Framework Convention for the Protection of National Minorities it signed in January 2000;
  - 3.2. has not signed or ratified the European Charter for Regional or Minority Languages, the European Charter of Local Self-Government, the European Outline Convention on Transfrontier Co-operation and its additional protocols, or the European Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.
4. With regard to domestic legislation, the Assembly recognises that Georgia has adopted laws in many fields, including an electoral code, a law on the Bar, a new law on imprisonment, a general administrative code, a law amending the Law on the Ombudsman and a law amending the Law on Local Self-Government, but is preoccupied by the lack of enforcement and recalls the need for a proper implementation of existing legislation.
5. The Assembly also supports initiatives taken to combat and eradicate endemic and widespread corruption in the country and in this context welcomes the implementation of the National Anti-Corruption Programme.
6. With regard to the implementation of reforms, the Assembly acknowledges that measures have been taken to improve the functioning of the judiciary, especially in respect of the fight against corruption and incompetence in the judiciary, the monitoring of the execution of judgments, and the reform of the prosecutor's

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1. Assembly debate on 25 September 2001 (26th Sitting) (see [Doc. 9191](#), report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe, rapporteurs: Mr Diana and Mr Eörsi). Text adopted by the Assembly on 25 September 2001 (26th Sitting).



office. It also notes positive steps undertaken to reform the penitentiary system, that is, the transfer of the prison administration from the Ministry of the Interior to the Ministry of Justice, the building of a new prison, and measures to fight corruption.

7. In order to solve the persisting problems in the administration of justice, the Assembly calls on Georgia to accelerate these and other reforms under way and to implement them according to Council of Europe standards, in particular as regards the functioning of the judiciary and the conditions of detention in prisons and pre-trial detention centres.

8. With regard to domestic legislation and implementation of reforms, the Assembly urges Georgia to strengthen co-operation with the Council of Europe in order to ensure full compatibility of Georgian legislation with the Organisation's principles and standards, and in particular:

8.1. to co-operate with the Council of Europe legal experts on a number of bills which have been prepared recently, including a new draft law on the police, a draft law amending the law on the prosecutor's office, a draft law on development of alternative punishment and to ensure that they are enacted by the Georgian Parliament by January 2003 at the latest;

8.2. to implement the recommendations made by Council of Europe experts on criminal procedures, the role of the prosecutor's office, police arrest, pre-trial investigation and pre-trial detention;

8.3. in close co-operation with the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, to implement the recommendations made following its visit in May 2001;

8.4. to submit for expertise the newly adopted Election Code to the European Commission for Democracy through Law (Venice Commission) in order to assess whether the current electoral legislation takes full account of recommendations made in 1999 by the Parliamentary Assembly Ad hoc Committee on the Observation of Elections and by the OSCE Office for Democratic Institutions and Human Rights (ODIHR);

8.5. to co-operate with the Congress of Local and Regional Authorities of Europe (CLRAE) in a constructive manner, and in particular:

a. to implement recommendations the Congress made in 1999 to enhance local and regional self-government in Georgia, including the adoption of amendments to existing legislation, new legislation and administrative measures, in accordance with the European Charter of Local Self-Government;

b. to transmit for expertise the text of the law amending the Law on Local Self-Government;

c. to accept assistance in the preparation and observation of the forthcoming local elections;

d. to organise without delay a colloquy on regionalisation which could help to clarify Georgian regional structure and territorial organisation.

8.6. to step up co-operation within the Group of States Against Corruption (GRECO) with a view to applying its recommendations on the fight against corruption;

8.7. to accelerate the work undertaken with the Council of Europe and the UNHCR on the question of the repatriation of the deported Meskhetian population, including ongoing legal expertise of the draft law "on repatriation of persons deported from Georgia in the 1940s by the Soviet regime", with a view to granting them the same status of rehabilitation as that already given to deportees of other ethnicities who were repatriated to Georgia under the Soviet regime.

9. As regards the freedom of the press and mass media, the Assembly calls on Georgia to draft and adopt a law on the electronic media, in order to regulate media activity and to guarantee the independence, pluralism and objectivity of the Georgian electronic media, and to consult the Council of Europe's experts on any new draft legislation.

10. In respect of the Code of Criminal Procedure, the Assembly regrets that the new code which was initially drafted in close consultation with Council of Europe experts was expurgated by numerous amendments adopted by the Georgian Parliament in the weeks following the accession of the country to the Organisation, in May and June 1999, and that a new package of amendments was adopted in June 2001 without previous consultation of Council of Europe experts. It strongly urges the Georgian authorities to substantially improve co-operation with the Council of Europe in this respect.

11. The Assembly regrets that little progress has been made as regards respect for human rights:
  - 11.1. it expresses its deep concern with regard to allegations of ill-treatment or torture of detainees in police custody and pre-trial detention, cases of arbitrary arrests and detentions, the violation of the rights of persons under police arrest or in pre-trial detention – in particular their right to consult a lawyer and to communicate with their family – complaints on violation of procedural rights, cases of intimidation, violation of the right to privacy, phone tapping, and so on;
  - 11.2. it is alarmed by the behaviour of the police and other law enforcement bodies and condemns any disproportionate violence used by security forces against peaceful demonstrators;
  - 11.3. it is also strongly concerned about repeated cases of violence by Orthodox extremists against believers of minority religious groups, such as Jehovah's Witnesses and Baptists.
12. The Assembly urges the Georgian authorities to conduct a proper investigation into all cases of human rights violations and the abuse of power, to prosecute their perpetrators irrespective of their functions, and to adopt radical measures to bring definitively the country into line with the principles and standards of the Council of Europe.
13. The Assembly invites the Georgian authorities to authorise publication of the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on its visit to Georgia in May 2001.
14. In respect of commitments related to the status of the autonomous territories and the settlement of territorial conflicts by peaceful means, the Assembly welcomes progress made in granting autonomous status to Adjara in April 2000, but regrets that no substantial progress has been made on a political settlement of the South Ossetian and Abkhaz conflicts, in spite of the efforts of the Georgian Government.
15. However, the Assembly recognises that the conditions have not been met for the Georgian authorities to fulfil their commitments to enact a legal framework determining the status of the autonomous territories and to elaborate a legal framework for the establishment of a second parliamentary chamber.
16. As regards the Abkhaz conflict, the Assembly:
  - 16.1. calls on Georgian and Abkhaz leaders to continue their talks on the status of Abkhazia and on the return of all displaced persons who wish to do so, to Abkhazia;
  - 16.2. recalls that Georgia must take legislative and administrative measures providing for restitution of property or compensation for property lost by persons forced to abandon their homes in the 1990 to 1994 conflicts.
17. In the light of the above considerations, the Assembly concludes that, although some progress has been made since accession, Georgia is far from honouring its obligations and commitments as a member state of the Council of Europe. The Assembly resolves to pursue the monitoring procedure in respect of Georgia in close co-operation with the Georgian delegation.