



Resolution 1955 (2013)¹

Final version

The honouring of obligations and commitments by the Republic of Moldova

Parliamentary Assembly

1. The Republic of Moldova joined the Council of Europe in 1995. Since then it has shown the political will to honour its commitments and obligations towards the Organisation, notably by ratifying 81 Council of Europe conventions. However, some crucial concerns still need to be addressed in the fields of democracy, human rights and the rule of law.
2. After the adoption of [Resolution 1572 \(2007\)](#) on the honouring of obligations and commitments by Moldova, political life was marked by a high number of elections. The parliamentary elections on 5 April 2009 led to a constitutional deadlock with regard to the election of the President of the Republic with the required majority (namely 61 out of 101 votes of MPs). Early parliamentary elections were held on 29 July 2009 and brought into power the “Alliance for European Integration”. However, the repeated inability of the incumbent parliament to elect a president led to early parliamentary elections on 28 November 2010. On 5 September 2010, a constitutional referendum proposing the direct election of the President of the Republic failed to meet the minimum participation threshold of 33%. All elections and the constitutional referendum were observed by ad hoc committees of the Parliamentary Assembly.
3. The acts of violence which took place during and after the post-electoral protests in April 2009, as well as the constitutional deadlock related to the election of the President of the Republic, prompted the Assembly to adopt [Resolution 1666 \(2009\)](#) on the functioning of democratic institutions in Moldova and [Resolution 1692 \(2009\)](#) on the implementation of Resolution 1666 (2009).
4. The Assembly acknowledges the efforts launched by the authorities to continue the democratisation process with the support of international partners. In this context, the Assembly appreciates the adoption by the parliament in July 2012 of an action plan on the honouring of the Republic of Moldova’s commitments towards the Council of Europe, which reflects the level of the country’s compliance with the commitments undertaken when joining the Council of Europe and highlights the issues that still need to be addressed. The Assembly encourages the authorities to fully comply with the remaining commitments and with the honouring of their obligations, in co-operation with the Council of Europe.
5. The Assembly welcomes the aspirations of the Republic of Moldova to pursue its European integration process and the desire of the Moldovan authorities to initiate an Association Agreement, including a Deep and Comprehensive Free Trade Agreement with the European Union in the framework of the Eastern Partnership, as well as to complete the implementation of the European Union–Republic of Moldova Action Plan on Visa Liberalisation. At the same time, the Assembly notes that economic ties with eastern European countries remain important.
6. The political crisis from January to May 2013, following the “hunting accident” of December 2012, revealed serious dysfunctions of the Prosecutor’s Office and other law-enforcement institutions. It highlighted the need to de-politicise State institutions and ensure a better separation of powers. The Assembly now

1. *Assembly debate* on 2 October 2013 (33rd Sitting) (see [Doc. 13303](#), report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs: Ms Christoffersen and Mr Wach). *Text adopted by the Assembly* on 2 October 2013 (33rd Sitting).



expects all political parties to draw lessons from this political crisis. It calls in particular on the political parties in power to adopt the responsible attitude necessary to ensure the proper functioning of the institutions needed for a democratic society, based on transparency and accountability. This is a prerequisite for securing the rule of law, democracy and human rights, but also for boosting the economy, attracting foreign investment, reducing poverty and working in the interests of the public to ensure better living conditions for all. Democracy implies checks and balances in democratic institutions. State institutions should never serve only one party or one individual's interests.

7. Concerning the functioning of democratic institutions, the Assembly welcomes the election of the President of the Republic by the parliament on 16 March 2012, thus ending nearly three years of political deadlock and re-establishing the separation of powers in accordance with the Moldovan Constitution. The Assembly calls on all political parties to engage in discussion and find the necessary political compromise to revise Article 78 of the constitution (regulating the election process of the president). Such a revision would avoid future political deadlocks and possible repeated early parliamentary elections, thus providing the political stability necessary for pursuing the much-needed reform process. In the long term, the Moldovan authorities should consider a broader revision of the constitution.

8. Based on its observation of elections, the Assembly remains concerned about the shortcomings in the electoral process. It notes with satisfaction the efforts undertaken in 2009 and 2010 to upgrade the electoral process, despite the repeated elections and a referendum in that period. However, the Assembly encourages the Moldovan authorities to fully implement the electoral code adopted in June 2010, including the requirement to set up an electronic voters list and to further decrease the number of electors registered in the supplementary voters lists. It expects the authorities to allocate the necessary funds to equip adequately all polling stations, and to train the members of the electoral boards, in order to secure all the necessary guarantees for free and fair elections. Electoral processes have been a continuous bone of contention between the majority and the opposition. Completion of the electoral reforms should therefore be considered as a priority area for the authorities. The Assembly stresses the need for the Moldovan authorities to respect international standards in electoral matters, particularly the "Code of good practice in electoral matters" of the European Commission for Democracy through Law (Venice Commission).

9. In the framework of the electoral reforms, the Assembly expects in particular the Moldovan authorities to upgrade the legal framework pertaining to the financing of political parties and electoral campaigns in the light of the joint opinions of the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR) and the Venice Commission, adopted on 11 March 2013, and the recommendation made in April 2013 by the Group of States against Corruption (GRECO) on transparency of party funding.

10. The Assembly encourages the Moldovan authorities to pursue the decentralisation process and carry out the necessary consultation on the reorganisation of local authorities. It welcomes the adoption of the National Decentralisation Strategy on 5 April 2012, following the adoption of Recommendation 322 (2012) of the Congress of Local and Regional Authorities of the Council of Europe. The Assembly invites the Moldovan authorities to pursue the implementation of the decentralisation strategy in compliance with the European Charter of Local Self-Government (ETS No. 122). It expects all political parties to remain focused on strengthening the competences and finances of local authorities in order to enhance local democracy and deliver quality services to the Moldovan population. The Assembly acknowledges the latest amendments to the law on public finances and expects these modifications to ensure equitable budget transfers to local authorities. It urges the Moldovan Parliament to adopt the law on public finances as a matter of priority, in order to allow the implementation of the law in 2014.

11. The Assembly encourages the Moldovan authorities and the elected representatives of the Autonomous Territorial Unit of Gagauzia (Gagauz Yeri) to pursue constructive dialogue with a view to harmonising the statute and legislation of this territorial unit with national legislation and ensuring its compliance with international standards and respect for the sovereignty of the Republic of Moldova. It recalls that the Council of Europe is ready to provide expertise on this issue.

12. Concerning the rule of law, the Assembly underlines that a number of reforms are expected from the Moldovan authorities to secure the separation of powers and de-politicise the judicial institutions. In particular, the Assembly invites the Moldovan authorities, in consultation with civil society and in co-operation with the Council of Europe and the Venice Commission, to:

- 12.1. pursue the reform of the justice system and fully implement the action plan on justice reform (2011-16) with adequate funding;

12.2. clarify the competences of the Constitutional Court and the appointment procedures of its members, based on the expertise of the Venice Commission;

12.3. reform the Prosecutor's Office, in compliance with Recommendation Rec(2000)19 of the Committee of Ministers of the Council of Europe on the role of public prosecution in the criminal justice system and Assembly Recommendation 1604 (2003) on the role of the public prosecutor's office in a democratic society governed by the rule of law.

13. The Assembly remains particularly concerned about the level of corruption in the judiciary, the police, and the education and health-care systems, which is seriously undermining the confidence of the citizens in their institutions and the correct functioning of public institutions. The Assembly calls on the Republic of Moldova to take firm action against corruption, implement the remaining recommendations of GRECO, promote a zero-tolerance approach at all levels and make use of the criminal-law provisions related to bribery and trading in influence offences, as highlighted by GRECO.

14. The Assembly stresses that full support must be provided to ensure the effective functioning of the National Anti-corruption Centre (NAC) and the National Commission on Integrity. After the amendment of Law No. 106 transferring the control of the NAC back from the parliament to the government in May 2013, the Assembly expects the NAC to perform its duty independently. It urges the authorities to ensure that no undue political interference undermines the work of the centre, which is essential to prevent and combat corruption.

15. Concerning the respect of human rights, the Assembly welcomes the adoption of the revised version of the national human rights action plan (2011-14) of February 2012 and invites the authorities to implement it in the light of the recommendations of the most recent United Nations Universal Periodic Review and the anti-discrimination issues raised by the Parliamentary Assembly and the Council of Europe Commissioner for Human Rights.

16. The Assembly remains supportive of the efforts made by the Moldovan authorities to comply with the requirements of the European Convention on Human Rights (ETS No. 5, "the Convention") and the rulings of the European Court of Human Rights. In this respect, the Assembly welcomes the launch of a co-operation programme in 2013, funded by the Council of Europe Human Rights Trust Fund, to support a coherent national implementation of the Convention.

17. The Assembly takes note of the reform process undertaken since 2010 by the Minister of the Interior with a view to reforming its subordinated and decentralised institutions (for example the police and the *carabiniers*) and encourages the Republic of Moldova to comply with human rights standards. It reiterates the call made in Resolution 1666 (2009) in order to finalise the transfer of the competence over pre-trial detention centres from the Ministry of the Interior to the Ministry of Justice.

18. The Assembly remains concerned by the fact that prosecutions following the April 2009 events have not yet been finalised. It reiterates the requests made by the Assembly in 2009, inviting the authorities to fully investigate these events, prosecute the perpetrators and ensure accountability for crimes committed by law-enforcement officials, as recalled by the Commissioner for Human Rights during his March 2013 visit to the Republic of Moldova.

19. The question of the media remains a sensitive one in the Republic of Moldova. The Assembly expresses its concern following the lengthy procedure related to the withdrawal of the licence of the NIT channel in 2012. The Assembly urges the authorities to create the conditions necessary to secure media freedom and avoid political interference by clarifying media ownership regulations, de-politicising and de-monopolising the media sector, and addressing the issue of media concentration, which is an issue in most democracies. The Assembly hopes that the parliament will soon adopt the new broadcasting code, which was revised in line with Council of Europe's recommendations.

20. The Assembly notes with satisfaction that the Republic of Moldova was the first member State to ratify the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197) on 19 May 2006. It encourages the Moldovan authorities to further strengthen the fight against trafficking in human beings, in line with the recommendations of the Group of Experts on Action against Trafficking in Human Beings (GRETA) of June 2012. It welcomes the adoption of a new action plan on prevention and combating trafficking in human beings (2012-13) and the drafting of guidelines to improve identification of victims.

21. The Assembly commends the Republic of Moldova for the ratification of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201, “the Lanzarote Convention”) on 12 March 2012 and its active participation in the One in Five campaign. It also welcomes the subsequent amendments to the Criminal Code and the Criminal Procedure Code.

22. The Assembly welcomes the adoption of the anti-discrimination law in 2012 as a first step to ensuring respect of the rights of all citizens and minorities. It hopes that the authorities will allocate sufficient financial and human resources to the Anti-Discrimination Council and that its findings will be taken into account by the authorities to redress possible shortcomings.

23. Combating homophobic prejudice remains a challenge in the Republic of Moldova. The Assembly calls on all political and religious leaders, who bear responsibility as opinion makers, to promote tolerance and refrain from stirring up homophobic attitudes and making statements which have no place in a democracy. Wide awareness-raising campaigns should also be launched, with the firm political support of the authorities.

24. In this context, the Assembly is concerned by the recent adoption of an amended Article 90.1 of the Contravention Code on 24 May 2013, promulgated on 5 July 2013, which punishes “dissemination of information and/or carrying out acts aimed at spreading ... some other relations than those related to marriage and family, in accordance with the Constitution and the Family Code”. Such a provision is clearly in contradiction with European standards on non-discrimination. The Assembly therefore urges the Moldovan authorities to repeal this provision and welcomes the preliminary steps taken by the ombudsman, the Anti-Discrimination Council and the Ministry of the Interior to ensure the correct and uniform application of the amendments until they are repealed.

25. The Republic of Moldova is a multicultural and multilingual society. The Assembly invites the Moldovan authorities to further study the possibility of ratifying the European Charter for Regional or Minority Languages (ETS No. 148), which remains an unfulfilled commitment, and to take advantage of the Council of Europe expertise to assess the feasibility, impact and added value of such ratification.

26. Concerning the Transnistrian region of the Republic of Moldova, the Assembly welcomes the resumption, in 2012, of the 5+2 discussions involving the Republic of Moldova, the *de facto* Transnistrian authorities, the OSCE, the Russian Federation and Ukraine, with the United States of America and the European Union as observers. The Assembly welcomes the progress made on practical issues, notably in the fields of education, environment, transport and telecommunications. It remains concerned, however, by the escalation of tensions in recent months caused by unilateral decisions of the *de facto* authorities in the Transnistrian region. It reiterates its call to all the stakeholders to engage in constructive dialogue to settle the Transnistrian issue, while respecting the sovereignty and territorial integrity of the Republic of Moldova.

27. Recalling paragraph 25 of its [Resolution 1896 \(2012\)](#) on the honouring of obligations and commitments by the Russian Federation, the Assembly reiterates its call on the Russian authorities to complete the withdrawal of the remaining Russian military forces and their equipment from the territory of the Republic of Moldova without further delay.

28. Notwithstanding the settlement of the Transnistrian conflict, the Assembly is particularly concerned about violations of human rights and fundamental freedoms in the Transnistrian region that affect the population in their daily life. It calls on the *de facto* authorities to consider the February 2013 conclusions of United Nations expert Thomas Hammarberg regarding notably the judiciary, compliance with international human rights law, torture and ill-treatment, criminal investigation and prosecution, the penitentiary system, access to housing, health and education rights, the HIV and tuberculosis pandemic, trafficking in human beings and rights of disabled people.

29. The Assembly also calls on the Russian Federation and the *de facto* authorities to implement the ruling of the European Court of Human Rights in the case of *Catan and others v. the Russian Federation and the Republic of Moldova* related to the right to education in Latin-script schools.

30. The Assembly encourages the Moldovan authorities and the *de facto* Transnistrian authorities to continue to co-operate on the confidence-building measures across the Dniestr/Nistru River launched by the Council of Europe, so as to encourage people-to-people contact.

31. In conclusion, the Assembly acknowledges the progress and continued commitment of the Republic of Moldova to comply with Council of Europe standards. However, it points out that a series of fundamental issues still need to be addressed to ensure the sustainability of democratic institutions. In the first place, more

attention should be devoted to promoting a political culture that focuses on separation of powers, respect for checks and balances, de-politicisation of State institutions and law-enforcement agencies, but also on the promotion of human rights and the fight against discrimination.

32. The Assembly believes that the Republic of Moldova's democratisation efforts and aspiration to fully comply with Council of Europe standards should further be supported by the international community. The Assembly therefore invites the Secretary General of the Council of Europe to consider pursuing and strengthening co-operation programmes on the most pressing issues to be addressed by the Republic of Moldova, including the constitutional, electoral and judicial reforms, the fight against corruption, the promotion of human rights, the fight against discrimination and the promotion of good governance at all decision-making levels. The Moldovan authorities are invited to continue to seek the expertise provided by the Organisation and its Venice Commission.

33. In view of the commitments and obligations that still need to be fully addressed, the Assembly resolves to pursue its monitoring procedure of the honouring of obligations and commitments by the Republic of Moldova. Given the progress achieved since 2009, the Assembly remains committed to considering the possibility of moving to a post-monitoring dialogue should the expected reforms be carried out in line with this resolution.