



Doc. 15497 – Compendium of written amendments
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(Final version)

The honouring of obligations and commitments by Georgia

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A. Draft Resolution

1. The Parliamentary Assembly welcomes the continued and marked progress made by Georgia in honouring its membership obligations and accession commitments since the adoption of Resolution 2015 (2014). It particularly welcomes the cordial and constructive co-operation of all Georgia's political forces with the Assembly's monitoring procedure. At the same time, notwithstanding the substantial progress made, a number of concerns and shortcomings remain that need to be addressed for the country to fully honour its membership obligations and accession commitments.
2. The extremely tense and polarised political environment in Georgia is an issue of serious concern. This polarised political environment, driven by zero sum political strategies and a lack of understanding and accommodation by both opposition and ruling majority for their respective position and rightful roles, precludes any constructive co-operation between them. It also affects the implementation of crucial reforms and is a key impediment for Georgia's democratic consolidation. In this regard the Assembly emphasises that the democratic consolidation of the country is the responsibility of all political forces together, not of the authorities or opposition alone. It therefore urges all political forces to place the common good of the nation over any narrow party-political strategies and to co-operate jointly to fully honour Georgia's membership obligations and accession commitments. This is all the more important as much of the required reforms cannot only be legislated but will also require a commensurate change in attitude and behaviour.
3. The Assembly welcomes the constitutional reform implemented in Georgia, which resulted in a much-improved constitutional framework that provides a solid basis for the strengthening of the democratic process and the independence of the judiciary in the country. However, it regrets the lack of consensus and inclusiveness apparent during the drafting of the constitutional amendments, especially with regard to the timeline for the introduction of a fully proportional election system, an issue which has continued to dominate, and has had a detrimental impact on, the political environment in the country.
4. The Assembly reiterates its strong support for a fully proportional election system for parliamentary elections in Georgia. It therefore welcomes that such a fully proportional election system will now be introduced as from the 2024 parliamentary elections. All political forces should now fully commit themselves to the implementation of this system as from the next general elections. The Assembly urges all political forces to ensure that the required changes to the Constitution and electoral legislation to implement this election system are made on the basis of broad consultations and consensus between all political stakeholders.
5. While considering that successive elections in Georgia have in general been conducted in line with European

standards, the Assembly regrets that recent elections have been a source of political tensions and instability. The conduct of elections is an important indicator of the democratic consolidation of a society and the Assembly therefore expresses its concern about recurrent shortcomings in the electoral process. In this regard, reports of the abuse of administrative resources, including pressure on State employees; the use of negative and confrontational campaigning, at times passing the boundaries of hate speech; as well as reports of isolated violent incidents during election campaigns, are of particular concern. The Assembly therefore calls upon the Georgian authorities to:

- 5.1. fully investigate, and where relevant prosecute, any reported violence, pressure on voters, as well as other electoral violations and jointly with all other stakeholders give a clear signal that there cannot be, and will not be, any impunity for electoral violations and malpractice;
- 5.2. revise the legal framework for party and campaign funding in line with the Group of States against Corruption (GRECO) recommendations and standards;
- 5.3. continue to strengthen, in close co-operation with all stakeholders, the independence, impartiality and transparency of the election administration. In this context, the Assembly underscores that the election administration should not only be acting impartially but it should also be perceived as being independent and impartial by all stakeholders;
- 5.4. implement and address all recommendations made by the European Commission for Democracy through Law (Venice Commission) in its opinions on the electoral legislation, as well as those made in the reports of the international election observation missions of the Assembly and the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE/ODIHR) following previous elections.
6. The Assembly welcomes the consensual adoption of the new rules of procedure of the parliament, which are an important instrument to strengthen parliamentary oversight that have already shown positive dynamics. However, further efforts are needed to continue strengthening parliamentary oversight, especially with regard to the security services and their operations. At the same time the Assembly underscores that a well-functioning system of parliamentary oversight depends on a strong parliament, which, in turn, needs strong and diverse political parties that are willing to dialogue and co-operate with each other within the democratic institutional framework.
7. The independence of the judiciary and the impartial and efficient administration of justice have been long standing points of attention for the Assembly in the framework of the ongoing monitoring procedure for Georgia. The Assembly therefore welcomes the clearly present political will to address these issues, and consecutive waves of judicial reforms implemented by the Georgian authorities. Despite the marked and tangible progress achieved by these reforms, a number of concerns remain. The

Assembly therefore calls upon the Georgian authorities to implement a comprehensive and independent evaluation of the first four waves of judicial reforms with a view to identifying areas of success, as well as remaining deficiencies, and to commit itself to addressing the findings and recommendations resulting from this evaluation.

8. Despite improvements in the legal framework, the functioning of the High Council of Justice in Georgia, and reports of internal dependence and control over the judiciary, remain an issue of concern for the Assembly. Further substantial reform of High Council of Justice is needed to ensure proper accountability and transparency of its decision-making processes. This is especially relevant with regard to the appointment of judges and other decisions affecting their careers. The Assembly regrets that the Georgian legislature has not implemented in time the recommendation of the Venice Commission with regard to the appointment of court chairpersons, as the current method is vulnerable for abuse and allows for undue influence by the High Council of Justice over the courts. The Assembly calls upon the Georgian Parliament to adopt the necessary amendments to the Law on the General Courts of Georgia to ensure that the chairpersons of district and appeals courts will be elected directly by and from among the judges of each court for a single non-renewable term.
9. The Assembly regrets the controversy around the recent appointments of Supreme Court judges which underscore the deficiencies in the functioning of the High Council of Justice. Despite the improvements as a result of the, belated, implementation of the relevant Venice Commission recommendations, the appointment process remains vulnerable to politicisation and allows for arbitrary decision making which impede a fully transparent and merit-based selection process. The Assembly regrets that the Georgian authorities decided to continue the appointments of Supreme Court judges on the basis of a deficient process, despite the widespread calls from stakeholders, including the international community, to the contrary.
10. In this context, the Assembly remains concerned about the reports of the instrumentalisation of the justice system for ulterior (political) motivations, as well as attempts to discredit the justice system for the same reasons. It reiterates that political motivations, perceived or real, have no place in the justice system of a democratic country.
11. The Assembly welcomes the reforms adopted to significantly reduce the excessive use of pre-trial detention in Georgia, including alternative methods of restraint such as house arrest and electronic monitoring. However, the number of persons in pre-trial detention per capita is still very high. Further efforts to reduce the use of pre-trial detention should be taken by the Georgian authorities and the control over its use by the courts should be strengthened and improved. In this context, the

Amendment 1

Tabled by Mr Irakli CHIKOVANI, Mr Givi MIKANADZE, Ms Tamar TALIASHVILI, Mr Archil TALAKVADZE, Ms Mariam LASHKHI

In the draft resolution, paragraph 8, delete the last two sentences.

Amendment 2

Tabled by Mr Irakli CHIKOVANI, Mr Givi MIKANADZE, Ms Tamar TALIASHVILI, Mr Archil TALAKVADZE, Ms Mariam LASHKHI

In the draft resolution, paragraph 9, second sentence, after the words "despite the", insert the word "substantial".

Amendment 3

Tabled by Mr Irakli CHIKOVANI, Mr Givi MIKANADZE, Ms Tamar TALIASHVILI, Mr Archil TALAKVADZE, Ms Mariam LASHKHI

In the draft resolution, paragraph 9, second sentence, delete the word ", belated, ".

Assembly calls upon the authorities to promptly execute the Grand Chamber judgment in the case *Merabishvili v. Georgia*.

12. The Assembly expresses its concern about the legal framework for administrative detentions in Georgia. The current Law on Administrative Offences, which dates from the Soviet era, is outdated and several of its provisions have been found to violate the Georgian Constitution. As a result, the current legal framework allows for excessive use of administrative detention, as well as excessively high fines, and is vulnerable to abuse. A new Law on Administrative Offences should be adopted without delay. The Assembly therefore welcomes the clearly expressed intention of the Georgian authorities to present a new draft Law on Administrative Offences in the very near future.
13. The Assembly welcomes Georgia's commitment to fighting corruption and encourages the authorities to continue and, where necessary, step up their efforts, especially with regard to high level corruption. The Assembly regrets that a substantial number of GRECO recommendations from different evaluation rounds remain to be addressed. It calls upon the Georgian authorities to address these remaining GRECO recommendations without further delay.
14. Freedom of expression and freedom of the media are generally well respected in Georgia. The Assembly welcomes the progress made with regard to strengthening the media environment, especially the lowering of the barriers to enter the media market, which is an important condition for a diverse media environment. At the same time it expresses concern about the polarisation of the media environment as well as a number of actions and policies by the authorities that negatively affect its pluralism. The Assembly underscores the importance of a pluralist media environment for the functioning of a democratic society and encourages the authorities to consider and weight the possible effects on media freedom and media pluralism of any policies and actions that affect the media environment and media outlets in the country. With respect to the media the Assembly calls upon the Georgian authorities, inter alia, to:
 - 14.1. strengthen the independence of the Georgian National Communications Commission;

Amendment 4

Tabled by Mr Irakli CHIKOVANI, Mr Givi MIKANADZE, Ms Tamar TALIASHVILI, Mr Archil TALAKVADZE, Ms Mariam LASHKHI

In the draft resolution, paragraph 13, replace the second sentence with the following sentence:

"The Assembly regrets that not all of the GRECO recommendations from different evaluation rounds have been fully implemented".

Amendment 5

Tabled by Mr Irakli CHIKOVANI, Mr Givi MIKANADZE, Ms Tamar TALIASHVILI, Mr Archil TALAKVADZE, Ms Mariam LASHKHI

In the draft resolution, paragraph 14.1, before the words "strengthen the independence", insert the word "further".

- 14.2. strengthen the independence and impartiality of the Georgian public broadcaster, especially during election periods;
- 14.3. develop, in consultation with the relevant Council of Europe departments and the Venice Commission, an adequate legal and regulatory framework to combat hate speech in the media, including in the context of election campaigns;
- 14.4. to re-examine, on the basis of Venice Commission recommendations, the recent amendments in the Law on Electronic Communications that govern the appointment of a special manager in telecommunications companies by the Georgian National Communications Commission.
15. The Assembly is concerned about the intolerance and violent acts against the LGBTIQ+ community in Georgia. These acts have not been satisfactorily tackled by the authorities. The Georgian authorities should step up their efforts to fight intolerance and hate crimes and give a clear signal that there cannot be any impunity for such despicable acts including for those instigating and inciting such heinous actions.
16. The Assembly welcomes the establishment of a dedicated human rights department in the Ministry of Internal Affairs, which, inter alia, monitors and assesses the investigations of hate crimes. With regard to religious minorities, the Assembly notes that there is a need to significantly increase trust in the State Agency for the Religious issues. The authorities need to address this matter.
17. The repatriation of the deported Meskhetian population is a commitment that Georgia took upon itself when acceding to the Council of Europe. The Assembly welcomes that the existing legal framework was complemented by a comprehensive repatriation strategy with a view to facilitating the repatriation process in practice. However, the Assembly notes that a number of practical barriers continue to exist that prevent de facto repatriation, many of them beyond the competence of the Georgian authorities. This has resulted in a still small number of actual repatriations. It is therefore important that the Georgian authorities conduct a comprehensive evaluation of the repatriation framework and strategy, and the results it has achieved, including identifying any unforeseen barriers and hurdles for successful repatriation to take place. If the Georgian authorities formally commit themselves to such an evaluation and addressing those barriers encountered in the process that falls under their competence, the Assembly could consider this commitment honoured.

Amendment 6

Tabled by Mr Irakli CHIKOVANI, Mr Givi MIKANADZE, Ms Tamar TALIASHVILI, Mr Archil TALAKVADZE, Ms Mariam LASHKHI

In the draft resolution, paragraph 14.2, before the words "strengthen the independence", insert the word "further".

Amendment 7

Tabled by Mr Irakli CHIKOVANI, Mr Givi MIKANADZE, Ms Tamar TALIASHVILI, Mr Archil TALAKVADZE, Ms Mariam LASHKHI

In the draft resolution, paragraph 15, second sentence, replace the words "have not been satisfactorily tackled" with the following words:

"have not yet been fully satisfactorily addressed".

18. The Assembly pays tribute to the important role played by the institution of the Public Defender in Georgian society. It calls upon the Georgian authorities and all State actors to continue to give support and work constructively with the Public Defender and her Office, and regrets any actions aimed at undermining and hindering the work of this important institution. In this respect the Assembly urges all political forces to ensure that the successor to the current Ombudswoman, whose term will expire soon, be appointed in a nonpartisan manner based on the broadest possible consensus and support in Georgian society, in the same fashion as was the case in 2017.
19. The Assembly regrets that, to date, Georgia has not signed and ratified the European Charter for Regional or Minority Languages (ETS No. 148), to which it explicitly committed itself when joining the Council of Europe. The Assembly notes that this is most likely the result of a lack of understanding and deeply engrained misconceptions about the Charter and its implications. The Assembly therefore calls upon the Georgian authorities to sign the Charter without further delay and then organise, in co-operation with the relevant Council of Europe departments, a proper awareness raising strategy with a view to its prompt ratification by the Georgian Parliament.
20. The Assembly reiterates its full support for Georgia's sovereignty and territorial integrity within its internationally recognised borders. It deplores and condemns the de facto occupation and creeping annexation by the Russian Federation of the Georgian Regions of Abkhazia and the Tskhinavili region/South Ossetia. The Assembly takes note of the decision of the Grand Chamber of the European Court of Human Rights in the case of Georgia v. Russia (II) that following the active phase of the hostilities in the 2008 war between the Russian Federation and Georgia, the Russian Federation had been in effective control of South Ossetia and Abkhazia. The Assembly welcomes the development of a people-centred reconciliation strategy by the Georgian authorities and calls for the full restoration of freedom of movement of civilians between these two regions and the rest of Georgia.

Amendment 8

Tabled by Mr Irakli CHIKOVANI, Mr Givi MIKANADZE, Ms Tamar TALIASHVILI, Mr Archil TALAKVADZE, Ms Mariam LASHKHI

In the draft resolution, replace paragraph 20 with the following paragraph:

"The Assembly reiterates its full support for Georgia's sovereignty and territorial integrity within its internationally recognised borders. It deplores and condemns the illegal occupation and creeping annexation by the Russian Federation of the Georgian Regions of Abkhazia and the Tskhinvali region/South Ossetia that causes a dire security, humanitarian and human rights situation on the ground with increased illegal militarisation and restrictions to freedom of movement. The Assembly expresses serious concern over the human rights violations in these regions including arbitrary detentions, kidnappings, and discrimination of ethnic Georgians. It urges the Russian Federation to immediate release all illegal detainees."

Amendment 9

Tabled by Mr Irakli CHIKOVANI, Mr Givi MIKANADZE, Ms Tamar TALIASHVILI, Mr Archil TALAKVADZE, Ms Mariam LASHKHI

In the draft resolution, after paragraph 20, insert the following paragraph:

"The Assembly takes note of the decision of the Grand Chamber of the European Court of Human Rights in the case of Georgia v Russia (II) that, following the active phase of the hostilities in the 2008 war between the Russian Federation and Georgia, the Russian Federation

has been in effective control of Tskhinvali region/ South Ossetia and Abkhazia and that therefore the human rights violations on the ground fall under its jurisdiction. The Assembly welcomes the Georgian Government's policy on peaceful conflict resolution, including the people-centered reconciliation strategy. The Assembly calls upon the Russian Federation to fully comply with its international obligations and commitments, including under the EU-mediated Ceasefire Agreement of 12 August 2008, in particular with regard to the withdrawal of military and security forces from the Georgian regions of Abkhazia and Tskhinvali region/South Ossetia and allowing the establishment of international security mechanisms on the ground."

Amendment 10

Tabled by Mr Irakli CHIKOVANI, Mr Givi MIKANADZE, Ms Tamar TALIASHVILI, Mr Archil TALAKVADZE, Ms Mariam LASHKHI

In the draft resolution, after paragraph 20, insert the following paragraph:

"The Assembly strongly condemns the intention of the so-called "president" of the Tskhinvali region to hold the so-called referendum on the matter of "joining" the Russian Federation, which underscores Russia's policy to illegally and completely annex the occupied territories of Georgia, in violation of Georgia's sovereignty and territorial integrity. The Assembly reiterates its position that the so-called elections and referenda in the Georgian regions of Abkhazia and the Tskhinvali region/South Ossetia are neither legal nor legitimate and hinder the peaceful settlement of the conflict, which it deplores."

21. The Assembly resolves to continue its monitoring procedure in respect of Georgia. At the same time the Assembly is convinced that the recommendations contained in this resolution and accompanying report, provide a clear perspective for Georgia's progression towards the commencement of a post-monitoring dialogue. However, it underscores that such progress is only possible if it can count on the full commitment and political will of all political forces, both ruling majority and opposition, and if there is no backsliding or regression in the progress to date.