Parliamentary Assembly
Assemblée parlementaire
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 15682 – Compendium of written amendments
26/01/2023

(Final version)

The progress of the Assembly's monitoring procedure (January-December 2022)

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A. Draft Resolution

1. The Parliamentary Assembly acknowledges 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) 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)". 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), the three countries engaged in a post-monitoring dialogue (Bulgaria, Montenegro and Northern 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 2022 in respect of Hungary, Malta and Romania, and is currently carried out for France, the Netherlands and San Marino.

2. The Assembly notes the committee's continued attention to the developments concerning relations between Armenia and Azerbaijan.

Amendment 1
Tabled by Mr Ruben RUBINYAN, Mr Hayk MAMIJANYAN, Ms Sona GHAZARYAN, Mr Armen RUSTAMYAN, Mr Armen GEVORGYAN , Ms Hripsime GRIGORYAN

In the draft resolution, at the end of paragraph 2, insert the following sentence:

"The Assembly is also monitoring the situation around the Armenian prisoners of war and civilian captives who are still detained in Azerbaijan. The Assembly calls upon Azerbaijan to immediately release all detainees."

Amendment 2
Tabled by Mr Armen RUSTAMYAN, Mr Armen GEVORGYAN , Mr Hayk MAMIJANYAN, Mr Ruben RUBINYAN, Mr Vladimir VARDANYAN, Ms Sona GHAZARYAN, Ms Arusyak JULHAKYAN

In the draft resolution, at the end of paragraph 2, insert the following sentence:

"The Assembly takes note of the most recent urgent notice of the European Court of Human Rights sent to the Committee of Ministers of the Council of Europe calling for the monitoring of Azerbaijan's implementation of its decision of 21 December 2022 regarding the unblocking of the Lachin Corridor, and calls for the immediate and full implementation of the interim measures decided by the ECHR."

Sub-amendment 1 to amendment 2
Tabled by the Committee on the Honouring of Obligations and Commitments by Member

States of the Council of Europe (Monitoring Committee)

In amendement 2, delete the words:

"the unblocking of"

3. It commends the Sub-Committee on Conflicts concerning Council of Europe Member States for the work it has undertaken during the reporting period with regard to the consequences of the war between the Russian Federation and Georgia, and in particular on recent developments in the Georgian regions of Abkhazia and Tskhinvali/South Ossetia as well as on recent developments in the Transnistrian settlement process.

4. It confirms that as a result of the Committee of Ministers' decision of 16 March 2022 to expel the Russian Federation from the Council of Europe with immediate effect, in reaction to the Russian aggression against Ukraine, the monitoring procedure for the Russian Federation was immediately closed as the mandate of the Monitoring Committee is limited to Council of Europe member States.

5. 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, 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. In particular:

6. Regarding countries under a full monitoring procedure:

6.1. with respect to Albania: the Assembly welcomes the return of the main opposition parties to the work of the parliament following the parliamentary elections in 2021. It calls upon the ruling majority and opposition to overcome the deep polarisation and systemic political crisis in the country. The Assembly notes with satisfaction that the parliament has extended the constitutional deadline for the vetting of all judges and prosecutors in the country. It takes note of the proposed new judicial map and encourages all stakeholders to ensure that this new map will not jeopardise the access of citizens to the justice system. The Assembly welcomes the fact that all anti-corruption structures are now fully operational and hopes that this will result in an increased number of convictions for high level corruption, which remains a problem. While welcoming the announcement of the authorities that they intend to remove the so-called anti-defamation package of amendments from the agenda of the parliament, it expresses its serious concern about the deteriorating media environment. It calls upon the authorities to refrain from any actions and policies that could have a negative effect on freedom of expression and media freedom in the country;

6.2. with respect to Armenia: referring to Resolution 2427 (2022), the Assembly welcomes the marked progress in the democratic development of Armenia and calls on the

authorities to complete the reform of the electoral framework, to continue the reform of the judiciary and to strengthen media freedom. The Assembly resolves to continue to closely follow developments with regard to institutional balances and the establishment of a democratic culture;

6.3. with respect to Azerbaijan: the Assembly welcomes the authorities` declared commitment to political dialogue but regrets that in general, the situation in Azerbaijan has not improved and that a number of outstanding concerns with regard to the rule of law, pluralist democracy and human rights remain unaddressed. They include serious concerns with regard to the independence of the judiciary, media freedom and freedom of expression, freedom of association and political freedom, as well as allegations of torture and ill-treatment by law enforcement officials and unsatisfactory detention conditions;

6.4. with respect to Bosnia and Herzegovina: the Assembly takes note of the holding of general elections and calls on the elected officials to proceed without delay with the formation of institutions at State and entity level and to adopt the critical reforms called upon by the European Union, the Group of States against Corruption (GRECO) and the Organization for Security and Co-operation in Europe (OSCE). The Assembly also calls on the newly constituted authorities to undertake the constitutional and electoral reforms to bring the Constitution into line with the European Convention on Human Rights (ETS No. 5), complying with the Sejdić and Finci group of cases;

6.5. with respect to Georgia: with reference to Resolution 2438 (2022), the Assembly welcomes the progress made by Georgia in honouring its obligations and commitments and encourages all political forces to address the remaining recommendations and concerns expressed in this resolution. In that respect it remains concerned about the extreme political polarisation in the country which affects the reforms and stakeholder participation in the reforms needed for further democratic consolidation and Euro-Atlantic integration of the country. The Assembly urges the authorities to implement a thorough, independent evaluation of its reforms of the judiciary with a view to guiding future reforms to ensure a genuine independent judiciary in the country. It takes note of recent developments with regard to the media and concerns expressed in that regard. It encourages the authorities to take all possible steps to reduce the tensions in the media environment. The Assembly reiterates its full support for Georgia’s sovereignty and territorial integrity within its internationally recognised borders and its concern and condemnation of the illegal occupation and creeping annexation by the Russian Federation of the Georgian regions of Abkhazia and Tskhinvali/South Ossetia. It encourages the authorities to address the 12 recommendations of the European Union so that it can be given the candidate status for European Union membership that it rightfully aspires to;

6.6. with respect to Hungary: referring to Resolution 2460 (2022), the Assembly recalls its decision of 13 October to open a monitoring procedure to address the questions pertaining to the rule of law and democracy, including the

excessive concentration of powers and use of special legal orders or cardinal laws, that have remained largely unaddressed. It invites the Hungarian authorities to review their electoral framework in the light of the 2021 opinion of the European Commission for Democracy through Law (Venice Commission) and to improve the media environment, so as to ensure the fairness of the electoral procedure. It calls on the Hungarian authorities to urgently revise the National Security Services Act and to repeal the legislation pertaining to the "dissemination of false information". Taking note of the steps taken to improve the functioning of democratic institutions, strengthen the transparency of the legislative process and improve the anti-corruption framework, the Assembly strongly encourages the authorities to seek the expertise of the Council of Europe to ensure the compliance of these measures with previous Venice Commission and GRECO recommendations;

6.7. with respect to the Republic of Moldova: the Assembly acknowledges that the country has faced considerable new challenges following the outbreak of the war in neighbouring Ukraine, adding to the pandemic, the energy and economic crisis. It applauds the Moldovan authorities for their management of the refugee crisis and the resilience and solidarity shown by the population. The Assembly calls on the authorities to remain committed to the reforms undertaken to restore the rule of law and trust in State institutions in consultation with all stakeholders. It welcomes the constructive co-operation established with the Venice Commission, in particular for the reform of the justice system and the prosecution office. It encourages the authorities to adopt the new Electoral Code in line with the Venice Commission's recommendations. The Assembly refers to Resolution … (2023) "The honouring of obligations and commitments by the Republic of Moldova" and invites the authorities to implement it;

6.8. with respect to Poland: the Assembly underscores the exemplary role played by the country in the context of the Russian aggression against Ukraine, and the extensive assistance provided to that country, including by hosting more than 1.4 million Ukrainian refugees on its territory. At the same time, the Assembly remains seriously concerned with regard to the independence of the judiciary and with the adherence of the judicial system with European rule of law standards and norms. It is deeply concerned about the judgments of the Constitutional Tribunal that consider article 6 (right to a fair trial) of the European Convention on Human Rights incompatible with the Polish Constitution under certain conditions. The Assembly reiterates its position that these judgments are an unacceptable challenge to the supremacy of the Convention and run counter to the obligation of all member States to fully implement the Convention and judgments of the European Court of Human Rights. It calls upon the Polish authorities to unconditionally execute the judgments of the Court, including by amending the Constitution if necessary. The Assembly considers that the lack of independence of the National Council of the Judiciary is a key obstacle for the country to meet its rule of law commitments and calls for

the reform of the National Council of the Judiciary in line with Venice Commission recommendations.

6.9. with respect to Serbia: the Assembly welcomes the adoption in January 2022, by referendum, of the constitutional amendments to depoliticise the judiciary and the preparation of subsequent secondary legislation for their implementation in co-operation with the Venice Commission. It encourages the Serbian authorities to take the Venice Commission's recommendations fully into account. The Assembly welcomes the adoption of amendments to the electoral legislation and the election of a more pluralistic parliament in April 2022 but urges the authorities to address long-standing issues such as: access to media, campaign finance, pressure on voters, and to adopt measures to allow for the public scrutiny and audit of voter lists. Concerning the fight against corruption, the Assembly welcomes the progress noted by GRECO, notably the adoption of a code of conduct for parliamentarians. It encourages the authorities to adopt an anti-corruption strategy and address the deficiencies in corruption prevention amongst persons with senior executive functions. The Assembly remains concerned about the level of violence against journalists and the media environment. Recalling the difficulties faced by the organisers of the Europride parade in September 2022, the Assembly urges the authorities to fully ensure freedom of assembly. In addition, the Assembly expects the Serbian authorities to continue the peaceful dialogue with the Kosovo** 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. with a view to solving all outstanding issues;

6.10. with respect to Türkiye: recalling Resolution 2459 (2022), the Assembly welcomes the decrease of the electoral threshold from 10 to 7%. However it reiterates its concerns regarding the overall electoral environment, including electoral amendments adopted in April 2022 in light of the June 2022 opinion of the Venice Commission, the state of freedom of expression and the media, the independence of the judiciary and the pending procedure aimed at closing the second largest opposition party, the Peoples' Democratic Party (HDP). It calls on the Turkish authorities to put an end to the arrests of journalists and civil society activists, which further undermine the exercise of democratic rights. Concerning the implementation of the judgments of the European Court of Human Rights, it calls on the Turkish authorities to ensure the implementation of the Kavala judgment, his release, and the release of his co-defendants. It strongly encourages the Turkish authorities to co-operate with the Venice Commission to ensure the compliance of the legal and constitutional framework with Council of Europe standards and to implement its recommendations and, at the very least, to implement the electoral legislation in a spirit that will be conducive to ensuring a level playing field;

6.11. with respect to Ukraine: the Assembly notes that as a result of the Russian Federation's military aggression, no normal monitoring of obligations and commitments can

take place. It lauds the Ukrainian authorities for their considerable efforts to ensure the continuing functioning of the democratic and rule of law institutions, in spite of the challenging situation caused by the war. In that respect, the Assembly welcomes the ratification of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (CETS No. 210, "Istanbul Convention") on 18 June 2022. While welcoming the reforms and legislative initiatives that are being implemented, also in support of its EU candidate status, the Assembly urges the authorities to ensure, notwithstanding the difficult situation, democratic and rule of law norms and principles are maintained as much as possible. The Assembly encourages the monitoring co-rapporteurs for Ukraine to continue to closely follow these developments.

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

7.1. with respect to Bulgaria: the Assembly is fully aware that a major political crisis triggered by the corruption scandals with which Bulgaria has been confronted since July 2020 and which have resulted in four consecutive early parliamentary elections, has inevitably had a negative impact on progress with regard to the implementation of recommendations made in the Assembly Resolution 2296 (2019). A solution is needed to solve the electoral impasse and it requires compromise. The Assembly stands ready to assist Bulgaria in this process. It urges the authorities to address the outstanding concerns with regard to high level corruption, transparency in media ownership, human rights of minorities, and hate speech and violence against women. At the same time, it welcomes the smooth organisation of elections with respect for fundamental freedoms;

7.2. with respect to Montenegro: recalling Resolution 2374 (2021), the Assembly commends the developments in the fight against corruption but regrets the failure to carry out the appointments to the Constitutional Court and Judicial Council required to improve the rule of law and the functioning of democratic institutions. The Assembly calls on political parties to proceed with such appointments without delay and to implement the recommendations of the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR) regarding the electoral process before the next presidential and parliamentary elections;

7.3. with respect to North Macedonia: the Assembly welcomes the signature of a bilateral agreement concerning the adoption of a negotiating Framework by the European Union Council in July 2022. The Assembly encourages the political forces in North Macedonia to reach a political compromise to allow the country to pursue its EU integration path. The Assembly also encourages the authorities to pursue the reforms launched to strengthen the rule of law, democracy and human rights, to release all the results of the census and, on the basis of the significant progress identified by the Advisory Committee on the Framework Convention for the Protection of National Minorities, to ensure the practical implementation of the legislation for the protection of national minorities.

In the field of the judiciary, the Assembly encourages the country to implement GRECO's July 2022 recommendations and notably to adopt the new Code of Ethics for MPs and its Guidelines.

8. Regarding the countries that are currently subject to the procedure for the periodic review of membership obligations to the Council of Europe:

8.1. with respect to Malta: with reference to Resolution 2451 (2022), the Assembly reiterates its recommendation that the ruling majority and opposition consider a far-reaching reform of the Maltese Parliament with a view to establishing a full-time parliament that can provide proper parliamentary oversight and regain legislative initiative. The continuing vulnerability of Malta's public sector to corruption remains a point of concern. In that context, the Assembly regrets that the Maltese authorities have not followed its recommendation to abolish the country's "citizenship by investment" programme. While the media environment remains a cause for concern, the Assembly welcomes the establishment of a Committee of experts on Media, headed by the former Chair of the Independent Investigation Commission into the murder of Ms Daphne Caruana Galizia and the government's response to it, which is a signal that the authorities wish to address these concerns;

8.2. with respect to Romania: with reference to Resolution 2466 (2022), the Assembly welcomes the ongoing reform of the judicial system in Romania and expresses its confidence that three draft Justice Laws: on the status of Magistrates; on the Organisation of the Judiciary; on the Superior Council of Magistrates would take into account the Venice Commission's recommendations requested by the Monitoring Committee. It also notes with satisfaction the progress towards compliance with Council of Europe standards in areas crucial for the functioning of democratic institutions, namely the judiciary and the fight against corruption. It deplores, however, that some issues still raise some concerns particularly with regard to media freedom and insufficient transparency concerning the use of public funds by political parties to finance media in order to influence their content;

8.3. with respect to San Marino: the Assembly welcomes the recent reforms to strengthen the system of checks and balances and independence of the judiciary in the country. The Assembly underscores that these reforms should not be considered the end of the road but a starting point for ongoing reforms to ensure the efficient functioning of democratic institutions and to address any concerns with regard to their vulnerability to conflicts of interest and corruption. In this context the Assembly urges the Sammarinese authorities to ensure that laws and reforms are fully and consistently implemented to ensure their efficacity and tangible results in the eyes of the Sammarinese citizens.

9. The Assembly reiterates its support for the efforts of the Monitoring Committee to ensure the monitoring of membership obligations of all Council of Europe member States in the framework of the periodic monitoring reports. It is aware of specific conditions and procedural requirements linked to the preparation of these reports

which mean that a single two-year reference period, in accordance with Article 26 of the Rules of Procedure is insufficient, and it resolves to address this question in the forthcoming general revision of its rules. In this context, the Assembly welcomes the committee's decision to revise its internal working methods with a view to being better able to respond to current events and developments in member States.

10. The Assembly deplores the ongoing issue of the insufficient availability of monitoring rapporteurs. It calls on political groups to ensure that availability to carry out the work of rapporteurs constitutes an important criterion when nominating members to the committee and candidates for rapporteurs and to make more frequent recourse to the circulation of rapporteurs' positions among the groups to alleviate some of the shortages of rapporteurs for vacant positions. At the same time, the Assembly invites the committee to reflect on 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.

11. The Assembly takes note that currently 13 out of 30 rapporteurs and only 28 out of 87 members of the committee are women. The Assembly underscores the need for a more balanced gender representation in the nominations by the groups both for committee membership and rapporteur positions.

12. The Assembly notes with satisfaction the continued excellent co-operation with the Venice Commission which provides the committee with legal expertise on the functioning of democratic institutions in specific countries.

13. The Assembly invites the committee to pursue its reflections on ways to increase the efficiency and impact of its work.