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(Final version)

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

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A. Draft Resolution

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 efficacy. 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 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

Amendment 1

Tabled by Mr Givi MIKANADZE, Ms Khatia TSILOSANI, Mr Titus CORLĂȚEAN, Ms Laura CASTEL, Mr Domagoj HAJDUKOVIĆ

In the draft resolution, paragraph 4.5, replace the second sentence with the following sentence:

"In that respect, it welcomes the recent European Council decision to grant Georgia EU candidate status, which is a clear recognition of the very intensive work done by Georgia and its longstanding aspirations."

Sub-amendment 1 to amendment 1

Tabled by the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)

In amendment 1, delete the following words:

"the very intensive work done by Georgia and"

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** 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;
- 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 (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

Amendment 2

Tabled by Ms Denitsa SACHEVA, Mr Georg GEORGIEV, Ms Marijana BALIĆ, Ms Zdravka BUŠIĆ, Ms Nadejda IORDANOVA, Ms Erten ANISOVA, Ms Dzhenal TOPALOVA-YASHAR, Mr Ivan IVANOV

In the draft resolution, paragraph 5.1, delete the last sentence.

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.