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(Final version)

The honouring of obligations and commitments by Albania

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A. Draft Resolution

1. Albania joined the Council of Europe on 13 July 1995. Upon its accession, it undertook to honour the obligations incumbent on all member States under Article 3 of the Statute of the Council of Europe (ETS No. 1) with regard to pluralist democracy, the rule of law and human rights. In addition, it undertook to honour a number of specific commitments listed in Opinion 189 (1995) "Application by Albania for membership of the Council of Europe", adopted by the Parliamentary Assembly on 29 June 1995. In conformity with the monitoring procedure, as established in Resolution 1115 (1997), the Assembly has regularly assessed Albania's progress with regard to the honouring of its obligations and commitments.
2. The previous report on the honouring of obligations and commitments by Albania was debated by the Assembly on 2 October 2014 and led to the adoption of Resolution 2019 (2014). The Assembly welcomes that many of the recommendations and concerns outlined in Resolution 2019 (2014) were addressed, and that Albania has made considerable and tangible progress in honouring its membership obligations and accession commitments to the Council of Europe. At the same time, the Assembly is cognisant that a number of unresolved issues and concerns remain that the country should strive to address.
3. The Assembly welcomes that the protracted systemic political crisis that has plagued the country for years has recently started to subside, although its root causes have not yet been resolved. Nevertheless, the Assembly remains concerned about the polarised political environment which is the Achilles heel of the democratic consolidation of the country. Constant vigilance in this respect is necessary and all political forces should continue to work incessantly to create a political environment that is truly conducive to democratic interaction and governance.
4. The Assembly welcomes the adoption, in 2020, of a new legal framework for elections that was based on an inclusive process and broad consensus between the political stakeholders. However, it is concerned about the frequent changes to the electoral framework which reflect a tendency to play with the rules instead of by the rules. The Assembly reiterates that stability of electoral legislation is essential to ensure the trust of the stakeholders and wider public in the electoral process and the outcome of the elections. Therefore, while calling on all political stakeholders to address, well before next elections take place, the shortcomings and deficiencies identified during past elections, the Assembly urges them to move away from using constant changes to the Electoral Code as a mechanism to alter the balance of power or alternative to normal political interaction in the framework of the parliament. With regard to the electoral framework, the Assembly calls upon the Albanian authorities and Parliament, based on a broad consensus between all political forces, to:

- 4.1. adopt, and consistently implement, legislation to address the abuse of administrative resources and vote buying that have marred previous elections in the country;
- 4.2. adopt the necessary legislation to ensure that the legal framework for party and campaign financing is fully in line with international standards;
- 4.3. agree on the demarcation of the new electoral districts, as foreseen by the 2020 Electoral Code, based on an inclusive process that fully adheres to international standards;
- 4.4. adopt, as a matter of priority and well before new elections take place, the required legislation to allow out-of-country voting for the sizable Albanian diaspora, in line with the judgment of the Constitutional Court of Albania.
5. The Assembly is concerned that the political polarisation in the country, compounded by inter and intra party antics, is undermining the system of checks and balances and limiting parliamentary oversight. In this context, it regrets that the parliament has not been able to find the required two-third majority to appoint a new Ombudsperson and a new Commissioner for the Protection from Discrimination, whose terms of offices have ended, and has resorted to using anti-blocking mechanisms lowering the required majority for other appointments, including for the election of the President of the Republic. The Assembly calls upon the opposition and ruling majority to ensure the proper functioning of the system of checks and balances, including an efficient and effective parliamentary oversight over the executive, and to respect each other's rightful role and place in the governance of the country. In addition, the Assembly urges the ruling majority and opposition to appoint, on the basis of a broad consensus, a new Ombudsperson and Commissioner for the Protection from Discrimination, which is essential for the democratic legitimacy of these important institutions.
6. The Assembly welcomes the successful completion of the territorial and administrative reform which has considerably reduced the number of municipalities and has strengthened the efficacy of local self-government and the provision of services to their citizens. It notes that adjustments to the territorial administrative map, both to strengthen the efficiency of local self-government and to address some of undesired effects of the reform, are being considered by the different political forces in Albania. It is important that any changes to the number of municipalities or the municipal borderlines should be based on a broad consensus between the different stakeholders, while respecting the logic of the reform to create strong and effective local government providing services that are close to the citizens.
7. In this context, the Assembly is concerned that the territorial and administrative reform has had a direct impact on the enjoyment of minority rights in Albania. A number of municipalities where minorities formed the local majority have been merged into larger municipalities where these minorities no longer form a majority, or even a sizable segment, of the population. This is compounded by the fact that key minority rights, such as the right to education in minority languages and the right to use

minority languages in local government affairs, are only granted at the local level when the minority population in question exceeds 20% of the population in the municipality. This threshold is excessive and is only met in a very limited number of municipalities with sizable minority populations. This should be remedied, in close consultation with the minorities concerned, including in the context of the consideration of possible adjustments to the administrative territorial map.

8. The Assembly takes note of the findings in the report on Albania of the Congress of Local and Regional Authorities of the Council of Europe, adopted on 22 September 2021, including with regard to the allocation of functions and responsibilities between central and local governments as well as the financial autonomy of municipalities. It calls upon the Albanian authorities to fully address the concerns and recommendations contained in this report.
9. The reform of the judiciary, with a view to assuring its genuine independence and the efficient administration of justice, has been a long-standing priority for the Assembly within the monitoring procedure for Albania. The Assembly therefore welcomes the considerable and tangible progress that has been made in this regard by the Albanian authorities. The Assembly in particular welcomes the constitutional amendments of 2016 that allowed, in line with recommendations of the European Commission for Democracy through Law (Venice Commission), for the complete reorganisation of the High and Constitutional Courts and the establishment of a High Council of Justice and a High Prosecutorial Council, as well as specialised judicial institutions to fight the endemic corruption in the country.
10. The constitutional amendments also allowed for the vetting, under international supervision, of all judges and prosecutors in Albania. While being aware of the considerable, albeit temporary, impact of this vetting procedure on the functioning of key judicial institutions in Albania, the Assembly considers the vetting procedure to be a success. The very high number of judges and prosecutors that did not pass the vetting procedure, more than 60% of all positions vetted, underscores both the importance and the necessity of this vetting process.
11. The Assembly welcomes the establishment of a new judicial map, in close consultation with the Council of Europe and European Union, with a view to increasing the quality and efficiency of the justice system and to address the considerable backlog of cases that are before the courts. The judicial map will be evaluated every five years on the basis of recommendations by the High Council of Justice, which should allay and address any possible concerns with regard to the access of citizens to the justice system as a result of this reform.
12. While welcoming the marked and tangible progress made, the Assembly urges the authorities to make all necessary efforts to fully eradicate internal and external interference in the judiciary and to address the still too low clearance rate of cases before the courts.
13. Marked progress has been made with regard to the fight against the still widespread and systemic corruption in

Albania, and the persistent concerns of intertwinement of organised crime with economic and political interests in the country. A Specialised Structure for Anti-Corruption and Organised Crime (SPAK, comprising of the Special Prosecution Office (SPO), the National Bureau of Investigation (NBI) and two Specialised Anti-Corruption and Organised Crime Courts) is now fully operational and starts to produce concrete results, including with regard to cases of high-level corruption. It is important that these tangible results become a non-reversible trend, and that the anti-corruption structures have all the resources they need, to send a clear signal at all levels of society that there is no impunity for corrupt behaviour.

14. Emphasising that SPAK was established to investigate and adjudicate high-level cases of corruption and organised crime, the Assembly considers that the monetary threshold for cases to fall in an obligatory manner within SPAKs mandate – currently around € 500 – is too low and risks inundating SPAK with cases and therefore limit its capacity to fight high-level corruption. It strongly recommends to the authorities to raise this monetary threshold.
15. The Assembly takes note of the compliance report by the Group of States against Corruption (GRECO) for Albania in the framework of its fifth evaluation round on preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies. While welcoming the progress noted by GRECO, it regrets that only 5 of the 24 recommendations made in GRECO's evaluation report have been satisfactorily addressed, while 13 recommendations have only been implemented partially and 6 not at all. The Assembly urges the authorities to fully implement the recommendations made by GRECO as a matter of priority and in particular to:
 - 15.1. address GRECO's misgivings about the Ethics Committee set up to oversee the implementation of, and adherence to, the Ministerial Code of Ethics, by removing members of the government from this committee;
 - 15.2. ensure in law and practice that the Prime Minister is accountable to the Ministerial Code of Ethics;
 - 15.3. ensure that all ministries appoint the integrity coordinators tasked with ensuring compliance with the integrity plans developed by each ministry in consultation with the different stakeholders including civil society;
 - 15.4. ensure that regulations adopted to safeguard the transparency of the interactions of the ministers and persons with top executive functions with lobbyists cover all forms of contact, including by electronic means, and not only physical meetings.
16. With regard to the execution of judgments by the European Court of Human Rights (the "Court"), the Assembly welcomes the decision by the Committee of Ministers to close its supervision of the execution of the set of cases in *Manushaqe Puto and others v. Albania*, indicating a successful resolution of the cases regarding the restitution of properties expropriated by the communist regime that ruled Albania from 1944 to 1992, which had

Amendment 1

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been an important concern of the Assembly. Nevertheless, the number of cases against Albania before the European Court of Human Rights and under supervision by the Committee of Ministers is still too high and additional and consistent efforts are needed to ensure prompt execution of the judgments of the Court, especially with regard to the execution of domestic court judgments and the excessive length of proceedings.

GUTIÉRREZ LIMONES, Mr Iulian BULAI, Mr Bogdan KLICH

In the draft resolution, before paragraph 16, insert the following paragraph:

"The Assembly highlights that the Albanian authorities should focus on the importance of respecting the protection of property, and considers that priority should be given to ensuring the enforcement of final judicial decisions issued by domestic courts on this matter, such as through restitution or compensation, thus avoiding the need for new cases to be brought before the European Court of Human Rights."

17. The Assembly deeply regrets that, despite the overall progress in honouring its obligations and commitments, the media environment has continued to deteriorate in Albania. This backsliding is of serious concern as a free and pluralist media environment is an essential requirement for a well-functioning democracy. The Assembly therefore calls upon the Albanian authorities to:
 - 17.1. refrain from using threats and harsh rhetoric against journalists that affects their physical safety and their capacity to report;
 - 17.2. fully decriminalise defamation, in line with international standards, and cap the disproportionately high fines and excessive amounts of compensation which may be awarded for defamation, which have a chilling effect on journalists and incite self-censorship;
 - 17.3. enact proper legislation to counter the use of strategic lawsuits against public participation (SLAPPs) against journalists, media outlets and civil society organisations.
18. The Assembly pays tribute to the diverse multicultural Albanian society and its historic tradition of interreligious dialogue and tolerance. While recognising that national minorities are – with some exceptions – well integrated in the Albanian society, the Assembly has some concerns with regard to the adequacy of the legal framework for the protection of minority rights. While the adoption of the 2017 Law on the Protection of National Minorities was a major and welcome step forward, the Assembly notes that three essential by-laws that are required to implement the provisions of this law, have still not been adopted. The by-laws that are still lacking concern key aspects for the enjoyment of minority rights including the right to self-identification, the right to education in minority languages and their use in communication with authorities, and the procedure for the recognition of national minorities. In relation to the protection of national minority rights the Assembly urges the authorities to:
 - 18.1. adopt without further delay, and in close consultation with the Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities, the three by-laws to the 2017 Law on the Protection of Minorities governing the right to self-identification, the right to education in minority languages

and their use in communication with authorities, and the procedure for the recognition of national minorities;

- 18.2. lower considerably, and flexibly interpret, the requirement that a national minority needs to amount to more than 20% of the local population before minority rights and services are legally guaranteed at the municipality level.
19. With regard to the situation of LGBTI+ rights, the Assembly welcomes the adoption of the amendments to the Labour Code that prohibit discrimination on the grounds of sexual orientation or gender. At the same time, it notes that Albania still does not allow for the registration of same sex partnerships, contrary to European standards, or allow people to change their name and gender in the civil registry, which prevents these persons from exercising their civil rights. It calls upon the authorities to address these two issues as a matter of priority.
20. The Assembly regrets that Albania has not joined the European Charter for Regional or Minority Languages (ETS No. 148). Given the extended presence of minority languages in Albania, it calls upon the authorities to sign and ratify it as a matter of priority.
21. The Assembly welcomes the clearly expressed political will by the Albanian authorities, as well as all political forces in the country, to address, as a matter of priority and in close co-operation with the Assembly and the relevant Council of Europe bodies, the concerns and recommendations made in this resolution and the accompanying report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee). The Assembly therefore resolves to close the monitoring procedure in respect of Albania and engage in a post-monitoring dialogue with Albania in line with Resolution 2018 (2014) with the objective of addressing the remaining concerns outlined in this resolution.
22. At the same time, should no tangible and concrete progress have been made in addressing the Assembly's concerns and recommendations with regard to the fight against corruption, the protection of minorities, and media freedom and freedom of expression, as expressed in paragraphs 15, 17 and 18 of this resolution, the Assembly expects its Monitoring Committee to consider, already in its first report under the post-monitoring dialogue, whether Albania should be returned to the full monitoring procedure.