



**Doc. 15211**

11 January 2021

## **Progress of the Assembly's monitoring procedure (January-December 2020)**

### **Report<sup>1</sup>**

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

Rapporteur: Mr Michael Aastrup JENSEN, Denmark, Alliance of Liberals and Democrats for Europe

### *Summary*

In its annual progress report, the Monitoring Committee takes stock of its activities since January 2020 and assesses the progress made by the 11 countries under the Assembly's full monitoring procedure, and by the 3 countries engaged in a post monitoring dialogue, in honouring their obligations and commitments to the Council of Europe. It welcomes progress made and expresses concerns at setbacks and addresses specific recommendations to the countries concerned.

In this reporting period, the committee prepared reports on "The functioning of democratic institutions in Poland" on the basis of which the Assembly opened a monitoring procedure with respect of this country; on the "Challenge, on substantive grounds, of the still unratified credentials of the parliamentary delegation of the Russian Federation"; and on the "New crackdown on political opposition and civil dissenting Turkey: urgent need to safeguard Council of Europe standards, under urgent procedure". The committee also initiated a current affairs debate on military hostilities in the Nagorno-Karabakh region.

Moreover, the committee launched its work on the periodic review reports in a new format approved by the Assembly and selected according to the new procedure.

---

1. Reference to committee: [Resolution 1115 \(1997\)](#).



| <b>Contents</b>   | <b>Page</b> |
|---|-------------|
| A. Draft resolution .....   | 3           |
| B. Explanatory memorandum by Mr Michael Aastrup Jensen, rapporteur .....  | 9           |
| 1. Introduction .....   | 9           |
| 2. Overview of the committee's activities .....   | 9           |
| 2.1. General comments .....   | 9           |
| 2.2. Countries under a full monitoring procedure .....  | 11          |
| 2.3. Post-monitoring dialogue .....   | 24          |
| 2.4. Periodic reviews .....   | 28          |
| 2.5. Sub-Committee on Conflicts between Council of Europe member States .....   | 29          |
| 3. Covid-19: impact on the functioning of democratic institutions .....   | 31          |
| 4. Efficiency of the committee's work under Covid-19 restrictions .....   | 32          |
| Appendix – Decision on revised internal working methods for the selection by the Monitoring Committee of countries for periodic review on the honouring of membership obligations ..... | 33          |

## A. Draft resolution<sup>2</sup>

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 monitoring procedure *stricto sensu* (Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, the Republic of Moldova, Poland, the Russian Federation, Serbia, Turkey and Ukraine), and the 3 countries engaged in a post-monitoring dialogue (Bulgaria, Montenegro and North Macedonia) in their efforts to fully comply with the obligations and commitments they entered into upon accession to the Council of Europe, as well as the monitoring of the membership obligations of all other member States through its periodic review process. It recalls that, on 28 January 2020, on the basis of a report presented by the Monitoring Committee, the Assembly adopted [Resolution 2316 \(2020\)](#) on “The functioning of democratic institutions in Poland” in which it decided to open a full monitoring procedure in respect of Poland.

2. The Assembly is aware that the exceptional circumstances caused by the pandemic crisis have affected the monitoring process in 2020 by preventing co-rapporteurs from conducting visits to the countries under their responsibility and maintaining direct political dialogue with stakeholders. Moreover, due to the absence of plenary sessions which are a necessary pre-condition for an in-depth and balanced political debate on regular monitoring reports, no monitoring reports have been prepared under ordinary procedure.

3. It should be commended that despite objective constraints imposed on their work, monitoring co-rapporteurs have closely followed developments in their respective countries using all available means including videoconferences with a view to keeping abreast of developments in the countries under their responsibility as illustrated by numerous public statements they have made over the reference period.

4. In response to the new crackdown on political opposition and civil dissent in Turkey, the Monitoring Committee prepared a report under urgent procedure which was the basis of the Assembly resolution addressing challenges and shortcomings ranging from restrictions of election rights to the weakening of the rule of law or limited freedom of expression and media freedom in Turkey.

5. The Monitoring Committee followed the developments regarding the military hostilities which broke out on 27 September 2020 in the Nagorno Karabakh region between Armenia and Azerbaijan. It initiated a current affairs debate on the subject, organised exchanges of views with the participation of parliamentarians from both sides and monitoring rapporteurs on Armenia and Azerbaijan issued statements calling for the peaceful resolution of the conflict.

6. The Assembly welcomes the adoption and publication by the Monitoring Committee of internal working methods for the selection of countries for periodic review reports thus ensuring an impartial and fully transparent selection process.

7. The Monitoring Committee contributed to the debate on the Covid-19 pandemic which was organised at the Enlarged Standing Committee meeting on 13 October 2020, by preparing an opinion on the report of the Committee on Political Affairs and Democracy on “Democracies facing the Covid-19 pandemic”.

8. The Assembly welcomes the positive developments and the progress made during the reporting period in a number of countries under a monitoring procedure or engaged in a post-monitoring dialogue, in particular in:

8.1. Albania: the agreement between all political stakeholders on electoral reform and the will expressed by the authorities to address, in line with European standards, the serious shortcomings noted in the draft amendments to the Law on Audiovisual Media Service;

8.2. Armenia: progress in the fight against corruption reflected by the improvement in the ranking established by the NGO Transparency International, from 105 to 77 out of 177 countries; the adoption of the 2020-2022 strategy to reform police forces, which foresees creating a new Ministry of Interior responsible for law enforcement agencies; the declared intention of the Armenian National Assembly to increase the transparency of political financing, and the ratification of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201, Lanzarote Convention);

---

2. Draft resolution adopted unanimously by the committee on 11 December 2020.

8.3. Azerbaijan: the acquittal of Mr Ilgar Mammadov and Mr Rasul Jafarov in April 2020 while regretting that it had not been done within the deadline for the implementation of the European Court of Human Rights judgment; the release, on humanitarian grounds of 176 prisoners aged over 65 in need of special care due to their age and state of health, including two prisoners, convicted following the 2015 Nardaran events in unfair trials which raised concerns in the international community, in the context of the Covid-19 pandemic, thus addressing concerns expressed by the Council of Europe Commissioner on Human Rights with regard to the protection of the human rights and health of people detained in prisons in Council of Europe member States during the sanitary crisis;

8.4. Bosnia and Herzegovina: the return of a Bosnian delegation to the Assembly in 2020, after a full year of absence, due to the inability of political forces to reach an agreement on the formation of a government at the State-level; the holding of postponed local elections on 15 November 2020 and the political agreement signed in June 2020 that allowed local elections to be held in Mostar on 20 December for the first time since 2008, a requirement made both by the European Court of Human Rights in its *Baralija* judgment and by the Assembly in its [Resolution 2201 \(2018\) "The honouring of obligations and commitments by Bosnia and Herzegovina"](#);

8.5. Bulgaria: the declared will of the authorities to reform the Constitution with a view to efficiently fighting corruption and ensuring the independence of the judiciary and the rule of law as well as its hitherto co-operation with the European Commission for Democracy through Law (Venice Commission) in this respect;

8.6. Georgia: the political agreement of March 2020 between all political stakeholders on a more proportional election system, which can contribute to a more pluralist and representative composition of the Georgian Parliament;

8.7. Republic of Moldova: the continuous co-operation of the Moldovan authorities with the Council of Europe and the smooth organisation of the presidential election despite a polarised environment and the challenging sanitary context. The Assembly takes notes of the election, on 15 November 2020, of Maia Sandu, the first woman to become President of the Republic of Moldova – with a clear majority of votes;

8.8. Montenegro: the peaceful shift of power following the general elections that took place in August, which constitutes a major political change since the independence, and was made possible thanks to the responsible attitudes shown by both the new majority and the new opposition in the aftermath of the elections;

8.9. North Macedonia: the ability of the four main political parties, despite their diverging views and different ethnic backgrounds, to build consensus in order to postpone the date of the early parliamentary elections (to 15 July) given the Covid-19 pandemic and allow the parliament to fulfil its legislative functions; the revision of the much awaited Law on the Public Prosecutor's Office, aimed at providing a sustainable solution for the cases of the Special Prosecutor for Crimes Related to and Arising from the Content of the Illegal Interception of Communications; the noticeable efforts made by the authorities to revise the legislative frameworks to fight corruption, while expecting a consistent practical application of these new rules;

8.10. Poland: the efforts of all political actors to organise democratic elections despite the Covid-19 pandemic and the, albeit belated, agreement between the stakeholders on the postponement of these elections, including the new dates and the conditions for their organisation under pandemic conditions;

8.11. the Russian Federation: the role played in peace brokering over the Nagorno-Karabakh conflict,

8.12. Serbia: the resumption of the EU-facilitated Belgrade-Pristina dialog after a 20-month halt and the establishment of a mini-Schengen zone to increase co-operation with Albania and North Macedonia;

8.13. Turkey: the intention expressed by the Turkish authorities to expand freedom of expression while preparing the Human Rights Action Plan and the continuous dialogue and co-operation established with the Council of Europe;

8.14. Ukraine: the efforts by the Ukrainian authorities to establish and ensure the functioning of the institutions to fight corruption in the country as well as the cease-fire agreement between the Ukrainian military forces and the illegally armed formations in certain areas of Donetsk and Luhansk, which has led to tangible disengagement along the contact line.

9. At the same time, the Assembly expresses its concern about developments and remaining shortcomings in a number of countries under a monitoring procedure or engaged in a post-monitoring dialogue, and in particular:

9.1. Albania: the delays in establishing a functional Constitutional Court as well as the ongoing deep political polarisation in the country;

9.2. Armenia: the violence that erupted following the signature of the trilateral statement between Armenia, Azerbaijan and Russia on 9 November 2020, which resulted in the storming of institutional buildings and in physical aggression against the President of the National Assembly, that left him hospitalised; the rapid changes in the composition of the Constitutional Court without the opinion of the Venice Commission being fully taken into account;

9.3. Azerbaijan: reports of large-scale repression of government opponents and restrictions on freedom of expression, including internet access, under the pretext of safety measures against the Covid-19 pandemic, other outstanding concerns including, *inter alia*, lack of independence of justice, lack of pluralism, violation of the rule of law and human rights, as well as restrictions put on freedoms of assembly, association, expression, and religion;

9.4. Bosnia and Herzegovina: the continuing verbal attacks against the General Framework Agreement, including threats to declare self-determination by the Republika Srpska; continuous rhetoric questioning the legitimacy of some State-level institutions established under the General Framework Agreement, including the refusal to implement judgements issued by State-level courts; the lack of any progress with regard to the implementation of the *Sedjić and Finci* judgment; the lack of any progress with regard to the implementation of the recommendations made by the European Union's group of experts in the 2019 Priebe report; the lack of any improvement in the field of freedom of expression and in the field of freedom of peaceful assembly in relation to the "Justice for David" movement; the absence of progress in terms of transitional justice and reconciliation;

9.5. Bulgaria: no substantial progress in the main outstanding areas of concern including high-level corruption and media freedom;

9.6. Georgia: the shortcomings noted during the last parliamentary elections while deeply regretting the decision of opposition parties to boycott the newly elected parliament;

9.7. Republic of Moldova: the slow pace of the reform of the judiciary, and slow progress in the fight against corruption, in particular insufficient progress made in the field of corruption prevention in respect of members of parliament, judges and prosecutors, and, in this context, political migration of members of parliament which triggered political instability, notwithstanding allegations of political corruption;

9.8. Montenegro: the limited progress achieved in the four key areas identified by [Resolution 2030 \(2015\)](#): the independence of the judiciary, trust in the electoral process, the situation of the media and the fight against corruption; the re-appointment of presidents of courts for more than the two-terms limit set by the Constitution and the law; the failure to revise the electoral framework before the general elections; no progress with regard to the composition and independence of the Judicial Council, nor in reviewing the disciplinary framework for judges; no substantial progress in the reform of the funding of political parties and electoral campaigns; no improvement in the situation of journalists;

9.9. North Macedonia: the situation of the media which remains unchanged, in particular issues such as the financial sustainability of independent media, self-regulation, transparency of media advertising by state institutions, political parties and public enterprises, and the public service broadcaster's independence;

9.10. Poland: the refusal of the Polish authorities to execute judgements of its domestic courts and of the Court of Justice of the European Union which they do not like, contrary to its international obligations including to the Council of Europe;

9.11. Russian Federation: a number of outstanding concerns, including, *inter alia*, lack of pluralism, independence of the judiciary, restrictive environment for activities of political extra-parliamentary opposition, civil society, human rights activists and journalists, restrictions on freedom of expression, assembly, association and religion as well as a number of problematic laws including the Foreign Agents Law, the Law on Undesirable Organisations or anti-extremist legislation; the lack of progress with regard to implementing the demands of the international community with regard to Eastern Ukraine, Crimea, the occupied Georgian regions of South Ossetia and Abkhazia and the Transnistrian region of the Republic of Moldova;

9.12. Serbia: limited progress, if any, in the outstanding areas of concern; issues raised with regard to general elections held on 21 June 2020 including the boycott by several opposition political parties which resulted, despite a last-minute lowering of the electoral threshold, in the formation of a new parliament without a viable opposition (with the exception of some members from minority parties); the management of the Covid-19 pandemic in times of elections including the lifting of restrictive lockdown measures during the election campaign and their unexpected reintroduction after the repeat election of 1 July which triggered clashes with – and disproportionate use of violence by – the police; restrictions to media freedom and attacks against journalists, as well as financial investigations launched against NGOs and human rights activists;

9.13. Turkey: the new crackdown on political opposition and civil dissent, the restrictions of freedom of expression and media freedom; the dismissal of mayors on alleged terror-related charges and their replacement by government-appointed trustees, the adoption of amendments to the 1969 Attorneyship law which undermine the independence of the bar associations and further deteriorate the rule of law;

9.14. Ukraine: the persistent shortcomings in the reforms of the judiciary and the justice system and the still limited results in the fight against the widespread corruption in the country; the recurrent attacks on journalists.

10. Consequently, the Assembly urges all the countries which are under the monitoring procedure or engaged in a post-monitoring dialogue to step up their efforts to fully honour their membership obligations and accession commitments to the Council of Europe. In particular, it calls on:

10.1. Albania: to foster the freedom of media and to ensure that all Venice Commission recommendations concerning the amendments to the Law on Audio-visual Media are fully addressed; and calls on all political forces to fully implement the new electoral framework which will allow for the conduct of genuinely democratic elections on 25 April 2021;

10.2. Armenia: to continue pursuing the democratic path it has chosen, and to solve the political crisis that followed the signature of the trilateral statement within the framework of a democratic state that respects the rule of law;

10.3. Azerbaijan: to address the outstanding concerns included in past Assembly resolutions, including, *inter alia*, lack of pluralism, violation of the rule of law and human rights as well as the restrictions put on freedoms of assembly, association, expression, and religion; and to refrain from war rhetoric;

10.4. Bosnia and Herzegovina: to refrain from any attack against the General Framework Agreement; to implement the *Sedjić and Finčić* judgment; to implement the recommendations contained in the Priebe report; to end acts of intimidation against journalists, and to respect freedom of peaceful assembly, notably in relation to the 'Justice for David' movement; to engage in a genuine reconciliatory process, in the spirit of the common statement signed by the Collegial Presidency during the 25<sup>th</sup> Anniversary of the General Framework Agreement;

10.5. Bulgaria: to step up its efforts in addressing outstanding concerns identified in [Resolution 2296 \(2019\)](#) "Post-monitoring dialogue with Bulgaria" including high level corruption, media freedom, human rights of minorities, hate speech and violence against women and to make full use of the Council of Europe's legal expertise in the process of the adoption of a new Constitution;

10.6. Georgia: to fully and transparently investigate all allegations of electoral misconduct during the October 2020 parliamentary elections; the Assembly urges all political parties to take up the seats they won in the new parliament and not to undermine its democratic functioning;

10.7. the Republic of Moldova: to ensure that all political stakeholders engage in an inclusive dialogue and make the necessary political compromises to ensure the functioning of democratic institutions in line with Council of Europe standards for the benefit of all citizens; to adopt, without further delay, the expected legal and constitutional amendments, in line with the recommendations of the Venice Commission; to improve the independence, accountability and efficiency of the judiciary; to upgrade the election legislation in line with the August 2020 Venice Commission opinion, in particular to better regulate funding of election campaigns; to take meaningful action to fight corruption and conduct a thorough investigation into the 2014 bank scandal;

10.8. Montenegro: all political stakeholders to demonstrate that Montenegro is not only able to manage a democratic shift of majority, but also capable of confirming its European path and complying with its obligations, notably in the four key areas determined by [Resolution 2030 \(2015\)](#) "The honouring of obligations and commitments by Montenegro";



10.9. North Macedonia: to pursue its efforts to strengthen the independence of the judiciary and the fight against corruption, in line with the recommendations of the Group of States against Corruption (GRECO); to launch the reforms needed to improve the situation of the media with due consultation of all stakeholders; to further implement [Resolution 2304 \(2019\)](#) on the “Post-monitoring dialogue with North Macedonia”, notably to increase the sustainability and functioning of democratic institutions, consolidate the electoral framework and pursue inclusive policies aiming at securing the rights of minorities;

10.10. Poland: to fully implement [Resolution 2316 \(2020\)](#) on “The functioning of democratic institutions in Poland”, in particular regarding the independence of the judiciary and respect for the rule of law; to respect the reproductive autonomy of women and guarantee unhindered and timely access to sexual and reproductive health services;

10.11. Russian Federation: to address, without further delay a number of outstanding concerns, including, *inter alia*, lack of pluralism, independence of the judiciary, restrictive environment for activities of political extra-parliamentary opposition, civil society, human rights activists and journalists, restrictions on freedom of expression, assembly, association and religion as well as a number of problematic laws including the Foreign Agents Law, the Law on Undesirable Organisations or anti-extremist legislation; to implement the demands of the international community with regard to Eastern Ukraine, Crimea, the occupied Georgian regions of South Ossetia and Abkhazia and the Transnistrian region of the Republic of Moldova;

10.12. Serbia: to foster an inclusive dialogue with all political parties in order to ensure pluralism of views when preparing the reforms expected in the framework of the monitoring procedure, in particular the revision of the Constitution to enhance independence of the judiciary; to strengthen the position and action of independent institutions; to review the election legislation on the basis of a consensus of the main political forces in order to build trust in election processes and ensure fair election conditions in the future; to improve the situation of the media, investigate attacks on journalists and create conditions allowing civil society and independent media to express critical views and ensure a sound scrutiny of public institutions leading to the necessary checks and balances in a democratic society; to take a firm stand against hate speech which nurtures hostility against journalists, human activists and political opponents;

10.13. Turkey: to implement [Resolution 2347 \(2020\)](#) “New crackdown on political opposition and civil dissent in Turkey: urgent need to safeguard Council of Europe standards” and notably to: refrain from systematic prosecution and investigation of dissenting voices – including opposition politicians, human rights defenders, journalists, academics – and protect their fundamental freedoms; reinstate the dismissed mayors and make the expected legal changes in the election legislation, in line with the June 2020 opinion of the Venice Commission; to release Osman Kavala and implement the judgments of the European Court of Human Rights; to amend and/or ensure strict interpretation of the Anti-terror Law and the Penal Code so as to ensure that their implementation and interpretation comply with the European Convention on Human Rights (ETS No. 5), as interpreted by the European Court of Human Rights;

10.14. Ukraine: to take all necessary actions to strengthen the structures necessary to fight corruption in the country, including by restoring the effective functioning of the e-declaration system and clarifying the legal status of the National Anti-Corruption Bureau of Ukraine while at the same time refraining from any actions that could have a lasting detrimental effect on the rule of law and the independence of the judiciary in Ukraine; to ensure the effective investigation of all attacks against journalists.

11. With regard to the Nagorno-Karabakh conflict, the Assembly calls on all parties involved to refrain from inflammatory rhetoric hindering political dialogue, Armenia and Azerbaijan to implement as soon as possible the provisions of the trilateral statement related to humanitarian issues, all parties involved to immediately put in action the exchange of prisoners of war and bodies, to respect cultural heritage; it invites the Monitoring Committee to explore avenues to contribute at parliamentary level to an atmosphere conducive to the peace process. The Assembly expresses its serious concern about reports and allegations of violations of humanitarian and human rights law by all sides during this conflict and allegations of degradations to some religious sites and monuments, as well as destruction of private property, and expects these reports to be fully investigated and any violations to be remedied and the perpetrators prosecuted.

12. The Assembly invites the Monitoring Committee to further reflect on possible ways of adapting its working methods to the constraints imposed by the pandemic crisis with a view to improving the efficiency of the parliamentary monitoring procedures under challenging circumstances.

13. The Assembly invites all monitoring rapporteurs to resume visits to the countries under their responsibility as soon as the travel restrictions due to the pandemic are lifted and calls on all countries concerned to facilitate the organisation of such visits without undue delay.



## B. Explanatory memorandum by Mr Michael Aastrup Jensen, rapporteur

### 1. Introduction

1. The basis for the Parliamentary Assembly monitoring procedure is [Resolution 1115 \(1997\)](#) 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)” (as modified by [Resolution 1431\(2005\)](#), [Resolution 1515 \(2006\)](#), [Resolution 1698 \(2009\)](#), [Resolution 1710 \(2010\)](#), [Resolution 1936 \(2013\)](#), [Resolution 2018 \(2014\)](#), [Resolution 2261 \(2019\)](#) and [Resolution 2325 \(2020\)](#)). It defines the mandate of the Monitoring Committee and entrusts it with the task of ensuring “the fulfilment of the obligations assumed by member States under the terms of the Statute of the Council of Europe (ETS No. 1), the European Convention on Human Rights (ETS No. 5) and all other Council of Europe Conventions to which they are parties” as well as ensuring the “honouring of commitments entered into by the authorities of member States upon their accession to the Council of Europe”.

2. In accordance with [Resolution 1115 \(1997\)](#) as amended, the Monitoring Committee is obliged to report to the Assembly, on a yearly basis, on the general progress of the monitoring procedures. In line with established practice, the committee has entrusted me, as its chairperson, with the task of being the rapporteur on the committee’s activities in the period from January to December 2020.

3. In accordance with its mandate, the Monitoring Committee follows all Council of Europe member States with regard to the honouring of their membership obligations, and if relevant, specific accession commitments. Currently, 11 countries are subject to a monitoring procedure *sensu stricto* (Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Republic of Moldova, Poland, Russian Federation, Serbia, Turkey and Ukraine) and 3 countries are engaged in a post-monitoring dialogue (Bulgaria, Montenegro and North Macedonia). 3 countries (Hungary, Malta and Romania) are subject to a periodic review report on the honouring of obligations. The selection process for periodic review reports is discussed in more detail below. The Monitoring Committee also runs a sub-committee on “Conflicts between Council of Europe Member States”.

4. Previous annual progress reports based their country-specific observations on the reports, statements and other public documents prepared by respective co-rapporteurs. This year’s progress report has created an unprecedented challenge in this respect. Due to the exceptional circumstances caused by the Covid-19 crisis, co-rapporteurs have been prevented from conducting visits to the countries under their responsibility. As a consequence and due to the absence of plenary sessions in the physical presence of members which are a necessary pre-condition for an in-depth and balanced political debate on regular monitoring reports, there have been no monitoring reports prepared under ordinary procedure. However, the work of the committee has continued in a remote manner thus allowing progress in the preparation of the reports underway. Here I would like to underline that this year’s country-specific comments have been prepared on the basis of rapporteurs’ statements as well as the discussions in the Monitoring Committee and findings of other Council of Europe monitoring mechanisms. All of them have been checked by with respective rapporteurs before being published.

## 2. Overview of the committee’s activities

### 2.1. General comments

5. The year 2020 has created an unprecedented challenge for the work of the whole of the Council of Europe including its Assembly. The Assembly was only able to meet in the physical presence of its members during its First Part-Session in January 2020, the three others being either cancelled or replaced by remote meetings of the Standing Committee. While from the reglementary point of view, the Standing Committee acts on behalf of the Assembly, it has been customary that ordinary monitoring reports are only debated by the latter with a view to ensuring a wider political balance in respect of sensitive issues.

6. Pan European restrictions imposed on travel have prevented co-rapporteurs from carrying out in person fact-finding visits. While they continued to proceed with the preparation of their reports through remote meetings and exchanges of views with relevant stakeholders and receive information from other sources including national and international civil society, the committee has agreed that direct political dialogue is a key element of the monitoring procedure and as such, cannot be replaced in the framework of the preparation of a report.

7. As a consequence, only four reports and one opinion have been submitted by the committee over the reference period: three of them in January (the progress report, “The functioning of democratic institutions in Poland” and “Challenge, on substantive grounds, of the still unratified credentials of the parliamentary delegation of the Russian Federation”); one under urgent procedure at the meeting of the Enlarged Standing Committee on 23 October 2020 (“New crackdown on political opposition and civil dissent in Turkey: urgent need to safeguard Council of Europe standards”), and the opinion on the report prepared by the Committee on Political Affairs and Democracy on “Democracies facing the Covid-19 pandemic”, debated at the Enlarged Standing Committee meeting on 13 October 2020.
8. The committee also adopted – but has not yet submitted to the Assembly – a report and a draft resolution on the post-monitoring dialogue with Montenegro. The co-rapporteurs for Albania have also prepared an information note which was declassified by the committee.
9. Over the reference period, the Committee met nine times: once in Paris in January, once in Strasbourg during the January part-session of the Assembly and as from May 2020 it held seven remote meetings. Regrettably, the external meeting of the committee, which was supposed to be held at the invitation of the Turkish Parliament in Ankara on 30-31 March 2020, had to be postponed.
10. During these meetings, a number of hearings including on Georgia, Serbia, Ukraine, Poland, Bosnia and Herzegovina, the Russian Federation, Armenia, Turkey, Albania as well as on membership obligations in the context of the Covid-19 pandemic were organised. The committee held exchanges of views with the President of the Assembly on the PACE toolkit on the Guidelines for discussions on the impact of the Covid-19 pandemic, with the Council of Europe Commissioner for Human Rights on transitional justice in Bosnia and Herzegovina and with Ms Marija Pejčinović Burić, Secretary General of the Council of Europe.
11. While a number of planned visits by co-rapporteurs had to be postponed, some of them at the last minute, as a result of the deteriorating sanitary situation (for example a visit to Moscow on 17-18 March 2020, a visit to Ankara on 1-4 April 2020 and to Kyiv on 6-8 April 2020), an increasing number of videoconferences and remote bilateral meetings have been gradually put in place in order to ensure that rapporteurs are kept abreast of the developments in the countries under their responsibility. They included a round table with Russian civil society representatives, exchanges of views with the Head of the Russian parliamentary delegation and with the Head of the Turkish parliamentary delegation, with the Head and the full delegation of Bosnia and Herzegovina, with Montenegrin experts and civil society representatives on the outcome of the general and local elections held on 30 August, with the Ambassador of the European Union delegation to Montenegro, with the Human Rights Defender of the Republic of Armenia, with the acting-Secretary of the Venice Commission on the Constitution of Armenia, with the Chairperson of the Specialised Commission on Constitutional Reforms and Representative of the Republic of Armenia before the European Court of Human Rights, with a Carnegie Foundation expert on the Nagorno-Karabakh conflict, with Albanian experts and civil society representatives on electoral reform; with Polish civil society representatives, and a round table with representatives of civil society and media from Serbia.
12. The committee’s rapporteurs adopted a number of statements with regard to developments in Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Montenegro, North Macedonia, Poland, the Russian Federation, Serbia, Turkey and Ukraine. Memoranda on developments in Serbia and the Republic of Moldova were submitted by the respective rapporteurs to the committee.
13. The committee reacted to the outbreak of military hostilities in the Nagorno-Karabakh region. It initiated a current affairs debate on the subject which was held during the Enlarged Standing Committee meeting on 22 October 2020 and mandated its Sub-committee on Conflicts between Council of Europe member States to consult with the heads of both delegations concerned as a possible follow-up to the discussions in the committee. The rapporteurs for Armenia and Azerbaijan made a number of joint statements with regard to the hostilities.
14. As a result of a long process of reflection, the committee adopted its working methods concerning the procedure on the selection of periodic review reports (see chapter 2.4).
15. The outstanding co-operation with the Venice Commission also continued this year. Exchanges of views were organised with the Chairperson of the Council of Democratic Elections on membership obligations and conduct of democratic elections in the context of the Covid-19 pandemic and with members of the Venice Commission on the amendments to the Georgian Law on the Common Courts with regard to the appointment of Supreme Court judges, the amendments to the Albanian communication laws and the situation of dismissed and replaced mayors in Turkey. On 28 January 2020, the committee requested an opinion from the Venice Commission on the Romanian draft law regarding the modification and completion of law nr 115/2015 on the election of the authorities of local public administration and draft laws amending the law nr 215/2001 on

local public administration and law nr 393/2004 regarding the status of local elections. On 27 May 2020, the committee requested two Venice Commission opinions on constitutional amendments in the Russian Federation and the procedure for their adoption and on the draft law on the bar associations in Turkey. On 13 November 2020, the committee requested the Venice Commission's opinion on the recent amendments to the Law on Electronic Communications and the Law on Broadcasting in Georgia. On 11 December 2020, the committee requested the Venice Commission's opinion on revised draft amendments to the law on Audiovisual Media Service in Albania.

16. Regrettably, the committee also experienced, for various reasons, great fluctuations among its rapporteurs this year. New rapporteurs were appointed to replace the previous ones for North Macedonia, the Russian Federation, Turkey, Albania, Armenia, Montenegro, the Republic of Moldova and Ukraine. For these new co-rapporteurs – as well as for the rapporteurs appointed for new reports (monitoring report on Poland and periodic reviews on Hungary, Malta and Romania) – it is particularly important to visit the countries under their responsibility and establish in-person contacts with a view to conducting a meaningful political dialogue. They have all expressed their wish to carry out the visits as soon as conditions allow.

17. The co-rapporteurs concerned could not take part, in their capacity of *ex-officio* members – in the election observation missions scheduled – and later cancelled due to sanitary situation – in Serbia, North Macedonia, Montenegro and the Republic of Moldova.

18. The question of the modalities of the preparation of monitoring reports, and, more generally of the efficiency of the committee's work during the Covid-19 pandemic, particularly if the present restrictions continue into the next year, was the subject of an internal discussion among the members.

## **2.2. Countries under a full monitoring procedure**

### **2.2.1. Albania**

19. The most recent report<sup>3</sup> on "The honouring of obligations and commitments by Albania" was presented to the Assembly on 2 October 2014 resulting in the adoption of [Resolution 2019 \(2014\)](#). The rapporteurs paid an information visit to Tirana from 28 to 30 October 2019. They presented their findings to the committee on 16 January 2020 in AS/Mon (2020) 01 Rev1. Mr Andrej Hunko (Germany, UEL) whose five year term had ended was replaced as co-rapporteur by Mr Petter Eide (Norway, UEL) on 30 January 2020.

20. One of the major developments in 2020 was the agreement, between all stakeholders, on electoral reform. As mentioned by the co-rapporteurs in their most recent information note, an electoral reform followed by elections is widely considered to be key to resolving the political crisis in Albania. This will allow the political forces to come to a consensus on an electoral framework that can have the full trust of all stakeholders. Such an agreement would allow for new elections, which – in turn – could lead to the return of the opposition to the parliament and hopefully normalisation of the political environment.

21. In a very welcome development, on 14 January 2020, the ruling majority as well as parliamentary and extra-parliamentary opposition agreed on the establishment of a Political Council for Electoral Reform. The ruling majority committed itself to adopting any consensual proposal developed by the Political Council. Following lengthy negotiations, the Political Council reached an agreement on electoral reform on 5 June 2020. However, no agreement could be reached on a new election system, which had been a main request of the parliamentary opposition. The changes to the electoral legislation needed to implement this agreement were adopted on 23 June 2020.

22. On 15 June 2020, a group of 28 parliamentarians (mostly from the parliamentary opposition) tabled a set of amendments to the Albanian Constitution for additional electoral reforms, which mainly aimed to introduce an open list electoral system. This proposal was supported by the ruling majority ensuring its passage through parliament on 30 July 2020. These amendments were decried by the extra-parliamentary opposition which noted that these, in their view controversial, changes had been rejected by the Political Council and therefore went against the 14 January and 5 June 2020 agreements between all political stakeholders. Nevertheless, the parliament adopted the changes to the electoral code necessary to implement the constitutional amendments on 5 October 2020.

---

3. [Doc. 13586](#).

23. Fortunately, the adoption of these constitutional amendments, while initially raising tensions, did not endanger the June agreement on electoral reform and the President of Albania called for parliamentary elections on 25 April 2021. At the same time, reflecting on the controversial nature of the second set of changes to the electoral framework, the President of Albania requested an opinion of the Venice Commission on the amendments to the Constitution of 30 July 2020 and to the Electoral Code of 5 October 2020.

24. The co-rapporteurs have also been closely following the amendments to the Albanian law on the Audiovisual Media Service, which had raised considerable concerns among domestic stakeholders and international community. On 20 January 2020, the committee requested a Venice Commission opinion on these amendments. In its opinion adopted in June 2020,<sup>4</sup> the Venice Commission expressed serious concerns about the amendments in the form they were presented in November 2019 which it considered “are not ready for adoption in their current form”. In a welcome development, the authorities withdrew the draft amendments from parliament and promised to revise them before tabling them again.

25. This revision process is currently on-going with expertise provided by the Council of Europe. An exchange of views with the participation of the drafters of these amendments, the Venice Commission and the Information Society Department (Directorate General I Human Rights and Rule of law of the Council of Europe) was organised by the committee on 13 November 2020. On 11 December 2020, the committee agreed to request an opinion of the Venice Commission on the final draft of the revised amendments before they are adopted in the final reading by the Albanian Parliament.

26. On 27 July 2020, in line with the recommendations of the Venice Commission in its opinion on “the scope of the power of the President to set the dates of elections”<sup>5</sup> the Albanian Parliament voted against the impeachment of President Meta.

27. The interlinked processes of the reform of the judiciary and the strengthening of the mechanisms to fight the widespread corruption in Albania continued in 2020. While progress was made in this respect, a number of issues remain outstanding and should be closely followed by the committee. The High Court became operational on 11 March 2020. Regrettably the Constitutional Court is not yet fully functional, and the appointment of its judges has been entangled in a dispute between the Albanian Government and the President. On 19 June 2020, upon request of the Speaker of the Albanian Parliament, the Venice Commission adopted an opinion on the appointment of judges to the Constitutional Court that should provide the basis for the resolution of this problem.<sup>6</sup>

28. With regard to the special anti-corruption and organised crime structure (SPAK), the Special Prosecutors office is now fully functional and on 30 July 2020 the Director of the National Bureau of Investigations was appointed. In addition, the vetting process of all prosecutors and judges, albeit slow, continues unabated. The high percentage of judges and prosecutors dismissed as a result of the vetting process both underscores its need and is a matter of concern.

### 2.2.2. Armenia

29. The last information note on Armenia dates back to July 2019, following the fact-finding mission to Yerevan by the co-rapporteurs in March 2019.

30. The most significant development in 2020 was the outbreak of military hostilities between Azerbaijan and Armenia over the Nagorno Karabakh region, on 27 September. They caused the deaths of numerous civilians and soldiers on both sides and ended on 10 November 2020 following the trilateral statement by Armenia, Azerbaijan and the Russian Federation, that included a ceasefire.

31. However, the outcome of the military hostilities created political unrest in Armenia. Following the announcement of the trilateral statement, protesters calling for the resignation of the Prime Minister, Mr Nikol Pashinyan, violently stormed the parliament and government buildings, with weak intervention of police forces, and severely assaulted the President of the Parliament, Mr Ararat Mirozian who had to be hospitalised. On the same day, the President of Armenia, Mr Armen Sarkissian, whose role is mostly ceremonial, publicly indicated that he had not been informed of the trilateral statement and he started political consultations to see a way out of the crisis. Deeply concerned by the course of events, that could indicate a violent insurrectional climate, the co-rapporteurs issued a statement on 10 November, in which they

---

4. [CDL-AD\(2020\)013](#).

5. [CDL-AD\(2019\)019](#).

6. [CDL-AD\(2020\)010](#).

condemned the attacks against the symbols of the democratic institutions of the Republic of Armenia, reminded Armenians that they had shown their ability to overcome immense political hurdles peacefully in the past and called them not to deviate from the democratic path they had chosen.

32. At the time of drafting, the situation seemed to have evolved, allowing democratic mechanisms to function, and political solutions to be proposed.

33. In the days following 10 November, extra-parliamentarian parties, together with *Prosperous Armenia*, the major opposition party within the parliament, took part in limited demonstrations (some thousands of protesters) demanding the resignation of the government and the recall of the trilateral statement they perceived as a capitulation and a betrayal. Some participants, including leaders of political organisations were arrested and quickly freed. Criminal procedures could however be initiated against those who participated to the storming of public buildings during the night of 9-10 November. On 16 November, in his address to the Armenian people, President Sarkissian presented the result of his consultations – all his interlocutors pleaded for the termination of the government – and called for a highly qualified Government of National Accord, before early parliamentarian elections could be organised in accordance with the Constitution. After the resignation of some members of his Cabinet and several live addresses to the Armenian people, Prime Minister Pashinyan presented, on 18 November, a road map describing the priorities of the government until June 2021. He also announced that his government would be reshuffled. Although the majority in parliament rejected the holding of an extraordinary session dedicated to the resignation of the government, leading the two opposition factions, Prosperous Armenia and Bright Armenia, to boycott the resuming of the ordinary session, the proposal from Bright Armenia to discuss the lifting of martial law during a special setting on 26 November seemed to have been agreed.

34. The severe political repercussions of the military hostilities occurred in a country deeply hurt by the Covid-19 pandemic, despite sanitary measures being put in place right at the beginning of the year. Apart from these developments, Armenia achieved several results in the three pillars of the Council of Europe and saw one regrettable event.

35. In January 2020, the NGO Transparency International published its Corruption Perception Indicator, a widely used indicator of corruption worldwide, for 2019. Armenia, which ranked 105 out of 177 countries in 2018, now ranked 77, in an area considered as a priority for the government and the co-rapporteurs, as indicated in their last information note.

36. In February 2020, the Ministry of Justice presented its 2020-2022 strategy to reform police forces, that foresees to create a new Ministry of Interior responsible for law enforcement agencies that are currently under the direct authority of the Prime Minister. This creation has been a long-standing recommendation of the Assembly and the co-rapporteurs pleaded for it during their last fact-finding visit.

37. In March 2020, the Venice Commission together with the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE/ODIHR) issued a joint opinion on draft amendments to the legislation concerning political parties at the request of the Armenian Parliament. The opinion on a package dedicated notably to increasing transparency of political financing was rather positive, but the adoption of the amendments was postponed due to the Covid-19 pandemic. The amendments to the legislation concerning political parties were adopted by the parliament in the first reading, on 10 December 2020.

38. In May 2020, Armenia became the 47<sup>th</sup> country to ratify the Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201, the Lanzarote Convention), despite an active and politicised campaign launched by supporters who presented themselves as defenders of “traditional Armenian values”.

39. In September 2020, the appointment of three new members to the Constitutional Court, proposed by three different authorities and endorsed by the parliament, was the last episode of a struggle on the composition of the highest judicial authority, started in 2019. The level of tensions the struggle created between the Prime Minister’s Office and the Presidency of the Constitutional Court led the co-rapporteurs as well as the President of the Venice Commission to call for restraint in separate [statements](#), in January. Due to the Covid-19 pandemic and thanks to the [active dialogue](#) between the Council of Europe and the Armenian authorities, the government decided not to organise the referendum on the replacement of constitutional judges initially planned, to come back to the parliamentarian procedure in order to revise the Constitution and to request the opinion of the Venice Commission on the drafted reform. The Venice Commission issued its opinion in June, recognising the legitimacy of the authorities’ wish to ensure that the composition of the Constitutional Court reflected, within a reasonable time frame, the provisions of the current Constitution, which was not the case at the time. It also recommended to envisage a transitional period which would allow for a



gradual change in the composition of the Constitutional Court, a recommendation that the Armenian authorities did not follow, which led to the termination of three judges and the demotion of the president to a position of a simple judge, who otherwise would have remained president much longer than the six years term set by the current Constitution.

### 2.2.3. Azerbaijan

40. The last report on the functioning of democratic institutions in Azerbaijan was debated in the Assembly in 2017.

41. In February 2020, parliamentary elections, originally scheduled for November 2020, took place. They were observed by the Council of Europe and the OSCE observation missions, which in their conclusions stated that despite the high number of candidates the restrictive legislation and political environment prevented genuine competition in the elections. The ruling New Azerbaijan Party won 72 out of 125 seats (it was later reduced to 70 when the results in two constituencies were annulled). The second largest party, the Civic Solidarity Party won 3 seats.

42. The monitoring co-rapporteurs in their statement of 7 January 2020 expressed their regret and disdain at the non-enforcement by Azerbaijan of the judgment of the European Court of Human Rights with regard to the annulment of the court sentences against Mr Ilgar Mammadov, Head of the Republican Alternative Party (Real), and seven other activists, which prevented them from running in the anticipated parliamentary elections. The deadline for the implementation of the Court's decision expired on 31 December 2019. Mr Mammadov and Mr Rasul Jafarov, lawyer and human rights defender were finally acquitted in April 2020 after having spent respectively 5 and 1.5 years in prison following unfair trials based on trumped-up charges.

43. Since March 2020 there have been numerous reports of large-scale repression of government opponents and restrictions on freedom of expression, including Internet access, under the pretext of safety measures against the Covid-19 pandemic. Over 15 opposition activists and journalists have been sentenced to detention of up to 30 days on charges that include breaking lockdown rules or disobeying police orders. Mr Ali Kerimli, leader of the opposition Popular Front Party, has been placed under *de facto* house arrest and had his internet and telephone lines blocked. The case of opposition activist Agil Khumbatov, who was allegedly placed in an asylum and forced to undergo psychological treatment following critical statements, raised the utmost concern.

44. President Aliyev's speech marking the Nowruz holiday, in which he had proposed the "isolation" of the country's political opposition as a response to the coronavirus pandemic and described his country's legitimate political opposition as a traitorous 'fifth column' was strongly criticised by the international community and the monitoring rapporteurs.

45. On a more positive note, the rapporteurs welcomed the release, on humanitarian grounds, of 176 prisoners aged over 65 in need of special care due to their age and state of health, including two prisoners, convicted following the 2015 Nardaran events in unfair trials which raised the concerns of the international community, in the context of the Covid-19 pandemic thus addressing concerns expressed by the Council of Europe Commissioner for Human Rights with regard to the protection of human rights and health of people detained in prisons in Council of Europe member States during the sanitary crisis.

46. On 18 March 2020, Mr Afgan Mukhtarli, an Azerbaijani investigative journalist and activist detained by the Azeri authorities since May 2017 following his abduction from Georgia was released. However, this welcomed step by the authorities was overshadowed by the arrest of Mr Tofik Yakublu, leading opposition politician, for 'hooliganism'.

47. The lack of independence of the justice illustrated by a long-standing pattern of repression of the government's opponents is a major problem in Azerbaijan, which has a calamitous impact on the democratic process. The troubling pattern of arbitrary arrest and detention of government critics identified by the European Court of Human Rights and the 'structural problem' of misuse of administrative detention, described by the Committee of Ministers, persist. There is a specific report on political prisoners in Azerbaijan prepared by the Committee on Legal Affairs and Human Rights and adopted by the Assembly in January 2020.<sup>7</sup>

48. Other outstanding concerns include, *inter alia*, lack of pluralism, violation of the rule of law and human rights as well as restrictions put on freedoms of assembly, association, expression, (Azerbaijan is ranked 166th out of 180 countries in the Reporters Without Borders Press Freedom Index) and religion.

---

7. [Doc. 15020](#) and [Resolution 2322 \(2020\)](#).

49. The year 2020 was marked by the outbreak, on 27 September, of military hostilities between Azerbaijan and Armenia over the Nagorno Karabakh region which caused the deaths of numerous civilians and soldiers on both sides and ended on 10 November following the ceasefire agreement.

#### 2.2.4. Bosnia and Herzegovina

50. Following the agreement on the Bosnia and Herzegovina Reform Programme, which paves the way forward on BiH-NATO co-operation, and the establishment of a government at the state-level in December 2019, both houses of the Parliamentary Assembly of Bosnia and Herzegovina appointed their members to standing committees and inter-parliamentary delegations in January 2020. That allowed the return of a Bosnian delegation to the Parliamentary Assembly of the Council of Europe after a year of absence and made it possible for the co-rapporteurs to resume their dialogue with their Bosnian counterparts. However, the 14 months delay in the formation of a government at the State-level, an event that already happened in past elections, and the inability of political parties to build a coalition at the entity-level of the Federation of Bosnia and Herzegovina, from October 2018 until now, clearly indicated that both the institutional framework and the political situation are far from being optimal.

51. In 2020, the Covid-19 pandemic prevented the rapporteurs from going to Bosnia and Herzegovina.

52. As indicated by the annual report of the European Commission (SWD(2020) 350 final) issued in October 2020, by the 57<sup>th</sup> (S/2020/345) and 58<sup>th</sup> (S/2020/1052) reports of the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina, and confirmed by the exchange of views between the co-rapporteurs, the Bosnian delegates, and the Commissioner for Human Rights, the overall situation in Bosnia and Herzegovina has either deteriorated or not improved in almost all areas.

53. The main significant and positive development was achieved at the local level. In parallel to the discussions on and the preparation of local elections that were held in the two entities and in the Brčko district, the leaders of the Party for Democratic Action (SDA) and of the Croat Democratic Union (HDZ Bosnia and Herzegovina) signed an agreement in June 2020 to amend the Election Law of Bosnia and Herzegovina. The amendments were passed in July 2020 enabling the holding of local elections in Mostar for the first time since 2008. They took place on 20 December. This landmark achievement was in compliance with the ruling of the European Court of Human Rights in the *Baralija* case by which the Court considered that there was discriminatory treatment of Mostar residents due to the State's failure to enable the conduct of democratic elections. It was also one of the demands by the Assembly in its [Resolution 2201 \(2018\)](#). However, this agreement should not further entrench existing divisions based on belonging to one of the three constituent peoples, something that would contradict the Court judgment in the *Sedjić and Finci* case.

54. Concerning the implementation of this judgement, that dates back to 2009, no progress was made in 2020 and the electoral system of Bosnia and Herzegovina remains discriminatory. On 1<sup>st</sup> October 2020, the [Committee of Ministers](#) reiterated that the retention of this electoral system "constitutes a clear violation of the requirements of the European Convention on Human Rights and a manifest breach of Bosnia and Herzegovina's unconditional obligation under Article 46 of the Convention, and thus also of its undertakings as a member State of the Council of Europe."

55. In the field of democracy, a negative trend continued in terms of verbal attacks against the General Framework Agreement, which celebrated its 25<sup>th</sup> anniversary in November and December 2020. On this occasion, the three members of the Collegial Presidency issued a common statement, as an important sign of reconciliation. These verbal attacks took the form of constant threats to declare self-determination by the Republika Srpska, linking it to the future of the Kosovo\*<sup>8</sup> status, of continuous rhetorics questioning the legitimacy of some State institutions established under the General Framework Agreement, including the refusal to implement judgements issued by State-level courts, of threats made on Serb civil servants at the State-level, and constant critics against the presence of both international judges in the Constitutional Court and the High Representative in Bosnia and Herzegovina. In overall, decision making is slowed down or hindered in some cases by blockages used as a means of political argumentation, and a lack of finding compromise among political players.

56. Concerning the rule of law, the European Commission noted that the "obstruction of justice reform by political actors and from within the judiciary, and the poor functioning of the judicial system continued to undermine the citizens' enjoyment of rights and the fight against corruption and organised crime". In 2019, the decision of the High Judicial and Prosecutorial Council to dismiss the disciplinary case against its president on

---

8. \* All reference to Kosovo in this document, 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.



the ground that he could not be subject to disciplinary responsibility in an alleged corruption case and was therefore above the law undermined further the already low trust in the judiciary. Following this incident, a group of experts mandated by the European Union issued a report (Priebe report) with concrete recommendations to be implemented. In 2020, the Bosnian authorities failed to do so.

57. In the field of human rights, worrying negative trends were still observed.

58. Concerning freedom of expression, the situation did not improve, journalists are still being subject to intimidation, in the form of physical attacks or threats, use of civil suits, or the enforcement of a legislation prohibiting the transmission of information that may cause panic or severely violate public peace and order, as was the case in Republika Srpska from 19 March to 17 April 2020.

59. In relation to the 'Justice for David' movement in Banja Luka, the European Commission noted that "civil society organisations have reported increasing attempts to restrict freedom of assembly, in particular in relation [to this movement], whose activists have been subject to intimidation, fines, and judicial prosecution" and "have been unable to organise gatherings in Banja Luka ever since the violent dispersal by the police in December 2018".

60. On transitional justice and reconciliation, as the exchange of views with the Commissioner for Human Rights held during the meeting of the committee in October 2020 confirmed, no progress was made. Genocide denial, glorification of war criminals, difficulty of domestic courts to exhaust their backlogs of war crime cases were still at work in Bosnia and Herzegovina during the year of the 25<sup>th</sup> anniversary of Srebrenica.

#### 2.2.5. Georgia

61. The co-rapporteurs visited Georgia from 11 to 12 March 2020. They had been preparing to present their monitoring report before the Georgian parliamentary elections in October 2020. Regrettably, this was delayed due to the Covid-19 pandemic. They now hope to present their report in 2021, after a visit to the country has been possible.

62. The political developments in the country in 2020, were dominated by the preparations for the parliamentary elections that were scheduled to take place in October 2020.

63. A political crisis had erupted in the country in November 2019, following the unexpected and sudden renegation by the ruling party on its promise to introduce a fully proportional election system before the 2020 parliamentary elections. This led to increased tensions, not only between the ruling party and the opposition, but also within the ruling party with several leading party members, including the then Chairperson of the Georgian Delegation to the Assembly, Ms Tamar Chugoshvili, leaving the party and the parliamentary faction.

64. Under the joint mediation of the Council of Europe Office, the European Union Delegation and the US Embassy in Tbilisi, a political agreement was reached on 8 March 2020 among all political stakeholders. As part of this agreement the number of majoritarian mandates was reduced from 73 to 30 and the number of proportional mandates increased from 77 to 120. This change implied a rezoning of the majoritarian districts. While this demarcation of electoral districts was done in consensus between all parties it should be noted that the variance in size of 18 of the 30 electoral districts was larger than 15%, which runs counter to European standards and the principle of equality of the vote.

65. The threshold in the proportional elections for political parties was reduced to 1% and a capping mechanism for the number of mandates for each party was set up, whereby the percentage of mandates received by a political party or election bloc could not exceed 25% of the percentage of the votes received in the proportional elections. In addition to their agreement on the elections system all parties pledged to refrain from politicising the electoral process and judiciary.

66. Despite this agreement on the election system the political climate in Georgia remained polarised and contentious.

67. The parliamentary elections took place on 31 October 2020. A second round for majoritarian districts where no candidate obtained 50% of the vote was organised on 21 November 2020. These elections were observed by an International Election Observation Mission (IEOM) of which the Assembly was a part. Reports from the IEOM and main domestic observers from the International Society for Free and Fair Elections and of Transparency international all concluded that the elections were competitive with fundamental freedoms respected and that parties could campaign freely. At the same time, they noted an uneven playing field as a result of the abuse of administrative resources and a blurring of the line between State and ruling party. This

was compounded by weak regulations for campaign financing and transparency which allowed for clear financial advantage in favour of certain parties, including – or especially – the ruling party. Regrettably observers also noted a continuing trend of pervasive allegations of pressure and intimidation of voters and party activists and, for the first time, domestic observers noted inconsistencies in the summary (results) forms of several polling stations (about 8% of the polling stations). Even if observers noted that these irregularities would not affect the overall outcome it is essential that all allegations of electoral misconduct, which were of serious concern, are fully investigated and, if proven, perpetrators prosecuted.

68. Regrettably the opposition parties, alleging widespread fraud, announced that they would boycott the second round and the new parliament. This is especially regrettable given that the results for opposition parties in these elections would give them a strong position to execute parliamentary oversight. Parliament is the place for the conduct of politics and debate and the Assembly has therefore consistently opposed parliamentary boycotts. In the best interest of the country all political parties are therefore urged to take up their parliamentary mandates.

69. The situation around the *de facto* occupied Georgian regions of South Ossetia and Abkhazia has continued to deteriorate, as the creeping annexation of these regions by the Russian Federation continues unabated, which is of serious concern. As a result, contacts between Georgians inside and outside these two regions has become practically impossible. This has severe humanitarian consequences, as it has become increasingly more difficult, if not impossible, for inhabitants in these two Georgian regions to cross the administrative borderline for schooling or for (emergency) medical reasons in the rest of Georgia.

#### 2.2.6. Republic of Moldova

70. In October 2019, in [Resolution 2308 \(2019\)](#) on “The functioning of democratic institutions in the Republic of Moldova”, the Assembly stressed the need to adopt reforms to the judiciary system and the prosecution office to comply with Council of Europe standards and ensure that alleged cases of corruption, interference in the judiciary and matters related to State capture would be duly investigated. The Assembly also urged the authorities to continue their efforts to improve the electoral legislation, fight against corruption and money laundering and shed light on the 2014 bank scandal.

71. Many changes occurred in 2020, marked by political volatility, namely three changes of governments and the signing of a coalition agreement in March 2020 by the Party of the Socialists and the Democratic Party – which have strong diverging views. The Democratic Party eventually withdrew its ministers (7 November) and support to the parliamentary majority (19 November), leaving the parliament without a clear majority after the presidential election. Political migration of members of parliament is a major concern and triggers political instability, notwithstanding allegations of political corruption.

72. The presidential election, held on 1 and 15 November 2020, was a major political and disputed political stake. The amendments to the election legislation assessed by the Venice Commission in its [Opinion](#) of August 2020 failed to be adopted on time for the presidential election. The Incumbent President Dodon, running as an independent candidate supported by the Party of the Socialists, and the leader of the Party of Action and Solidarity, Maia Sandu, reached the second round. The businessman Renato Usaitii, who won nearly 17% of the votes in the first round, appeared however as the kingmaker, called on the voters not to vote for Mr Dodon and demanded early elections to be organised. In the runoff of the election, Maia Sandu won a clear victory (57%), with a massive support (92%) of the voters from the diaspora and was the first woman elected to this position.

73. The Assembly did not observe the elections due to the sanitary context. ODIHR limited its election observation mission, concluded that fundamental freedoms of assembly and expression continued to be respected, but noted the negative and divisive campaigning and polarising media coverage, lack of effective campaign finance oversight, intolerant and divisive rhetoric in the second round, prominent discussions over the role of the Moldovan diaspora, allegations of undue influence on public officials and voters and possible vote-buying and organised transportation of voters on election day.

74. In the justice sector, the strategy for justice reform and its action plan, which had been prepared in cooperation with the Council of Europe, were adopted by the parliament on 26 November 2020. Independence of the judiciary however remains a challenge, as stressed by [GRECO](#). The adoption of the legal and constitutional provisions needed to de-politicise the judiciary was delayed. The Venice Commission assessed positively the draft law amending the Law on the Superior Council of Magistracy (SCM) ([opinion](#) of June 2020) and the draft constitutional amendments ([opinion](#) of June 2020) seen as “generally positive and in line with the applicable international standards” and likely to “improve the independence, accountability and efficiency of the judiciary”.

75. These draft constitutional amendments were submitted to the parliament, but the Constitutional Court, on 22 September 2020, declared that some provision were not in line with the constitution, citing procedural grounds, and considering that the termination of the mandate of the lay members of the SCM (who were elected in March 2020 by the parliament while a constitutional reform affecting the selection of SCM members was in preparation) upon the entry into force of the draft law was a disproportionate thus unconstitutional measure. A revised version of the draft constitutional amendments was submitted to parliament, while the Constitutional Court requested an [amicus curiae brief](#): the Venice Commission concluded in November 2020 that the transitional provisions foreseen by the new draft law “[did] not seem disproportionate” and were “striking a fair balance between the two conflicting interests – the security of the mandate of the lay members of the SCM and the need of maintaining the public order”.

76. In this context, recent nominations made by the SCM raised further questions while the Constitutional Court faced a new crisis after President Dodon called the president of the Constitutional Court prior to the examination of the law of ratification of the loan agreement with the Russian Federation adopted in April 2020 by the parliament (and later declared unconstitutional by the Constitutional Court) which prompted the Constitutional Court members to dismiss their Chair and replace him by judge Domnica Manole.

77. The General Prosecutor, Mr Alexandr Stoianoglo, appointed in November 2019 decided to drop charges in 9 out of 38 criminal cases that had presumably been started based on political reasons which was a request made by the Assembly in [Resolution 2308 \(2019\)](#).

78. Concerning the fight against corruption, in October 2020, GRECO considered that insufficient progress had been made with the authorities in the field of “Corruption prevention in respect of members of parliament, judges and prosecutors”. GRECO reiterated its call for the adoption of a code of conduct for MPs and the abolition of the five-year probation period for judges, welcomed the abandon of a much criticised previous draft law providing for a general vetting of judges and recommended taking new measures to bolster judicial independence. There was no progress concerning a credible investigation on the bank fraud scandal from 2014.

79. The Republic of Moldova had to manage the Covid-19 pandemic and declared the state of emergency in March 2020. This crisis also affected the settlement process with the Transnistrian region of the Republic of Moldova, which had declared a “state of emergency” on 17 March 2020. The “de facto” Transnistrian authorities forbade the entry of non-residents, limited the possibility for local residents to leave Transnistrian territory, and set-up, unilaterally, additional check points and illegal posts in the Security Zone. The Moldovan authorities denounced illegal actions taken by Tiraspol and worrisome developments, especially as regards human rights, schools or travel restrictions.

### 2.2.7. Poland

80. On 27 January 2020, the Assembly adopted [Resolution 2316 \(2020\)](#) on “The Functioning of Democratic Institutions in Poland”. As a clear signal of its serious concerns with regard to the respect for the Rule of Law in Poland, and the deterioration of the independence of the judiciary, the Assembly decided, with a large majority, to open a full monitoring procedure in respect of Poland. On 27 May 2020, the Committee appointed Ms Azadeh Rojhan Gustafsson (Sweden, SOC) and Mr Pieter Omtzigt (Netherlands, EPP/CD) as co-rapporteurs. Both were the rapporteurs for the report on the functioning of democratic institutions in Poland.

81. With regard to the judicial reforms, while recognising the challenges faced by the Polish justice system and judiciary, especially with regard to the efficiency of the administration of justice, the Assembly considered it unacceptable if judicial reforms amounted to bringing the judiciary under the control of the executive or legislature, or even worse, under the political control of the ruling majority. The Assembly therefore expressed its serious concerns about the reforms of the judiciary and justice system in Poland, which in numerous aspects run counter to European norms and standards. These reforms have cumulatively undermined and severely damaged the independence of the judiciary and the rule of law in Poland. Moreover, the reforms have made the judicial system vulnerable to political interference and attempted to bring it under political control of the executive, which challenges the very principles of a democratic State governed by the rule of law.

82. Regrettably no progress has been made with regard to bringing these reforms in line with European standards and norms. In this respect it is especially worrisome that the Polish authorities, have until now refused, in contradiction with their international obligations, to implement the judgments of the Court of Justice of the European Union with regard to these reforms, in particular with regard to the Law on the Common Courts and the Supreme Court. It should be highlighted that questions regarding the independence of the domestic courts in Poland have repercussions far beyond Poland itself and affect all Council of Europe

member States. A case in point was the decision by the international chamber of the Court of Amsterdam to halt extraditions to Poland as a result of questions with regard to the independence of the judiciary and guarantees for a fair trial in Poland. It should be noted that in their report the co-rapporteurs already expressed concern that the deterioration of the independence of the Polish judiciary could lead to a considerable increase in the workload of the European Court of Human Rights.

83. The constitutional crisis with regard to the composition of the Constitutional Court remains unresolved, raising questions about the legality of its benches and the decisions they reach. Indeed, the first cases that challenge the legality of judgments by the Constitutional Court of Poland have already been filed before the European Court of Human Rights and have been declared admissible. The legality of the Constitutional Court's decisions again became an issue with regard to its controversial decision with regard to the abortion in case of foetal deformations.

84. A key issue in 2020, especially in the context of the Covid pandemic, were the presidential election. The presidential election was originally set for 10 May 2020. Following the outbreak of the Covid-19 pandemic, the Polish authorities originally expressed their wish to maintain the elections on the date set, but this position became increasingly controversial not only because of the risk for public safety but also due to the fact that a meaningful election campaign would not be possible under Covid conditions, which would disproportionately benefit the incumbent candidate. At the last moment the election was *de facto* cancelled. While this decision was widely supported by all political stakeholders, questions were raised about the legality of the manner in which they were postponed. This could have led to legal challenges were it not for the wide consensus about the date for the new election and the manner and conditions in which they would be conducted. This election was conducted on 28 June and 12 July 2020 and won, in a close and competitive race, by the incumbent president Duda with 51% of the votes. According to election observers, including from the Assembly, the election was well-organised and competitive. At the same time, they regretted the increasingly polarised and confrontational political climate in which they took place.

85. The political climate in Poland remains very polarised, contentious and confrontational and the political discourse is increasingly harsh and intolerant to others. This is especially true with regard to LGTBI persons who are facing an increasingly intolerant and prejudiced political climate. In this respect the declaration of several municipalities in Poland of being "LGTBI free zones" can only be condemned as an affront to human rights and respect of other human beings. In July 2020 the Polish Minister of Justice suggested that Poland should withdraw from the Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210, Istanbul Convention). His suggestion caused an outcry in the Polish society and is reportedly also controversial among the ruling coalition, which until now has not initiated any actions to this extend. The President of the Assembly jointly with the Monitoring co-rapporteurs and the General Rapporteur on violence against women issued [a statement](#) regretting the mis-representations and deliberate misinformation about the aims and purpose of the Istanbul Convention and their use for narrow ideological purposes and urged the ruling majority not to follow through on the announcement of the Minister of Justice.

86. Following a petition filed by several MPs belonging to the ruling majority, the Constitutional Court of Poland ruled that the legal provisions that allowed abortion in the first 12 weeks of pregnancy for foetal deformations and defects was unconstitutional. This very controversial decision affects 98% of all legal abortions in the country and has resulted in massive and sustained protests in Poland. As mentioned above, this ruling was made by a bench of judges that includes judges, the legality of whose appointment is questionable which added to the controversy. The Commissioner for Human Rights of the Council of Europe, Dunja Mijatović has called the decision "a sad day for women's rights" and stated that "removing the basis for almost all legal abortions in Poland amounts to a ban and violates human rights" Following the public outcry over this decision the Polish authorities have delayed its implementation by not publishing the judgment.

87. A fact finding visit by the rapporteurs to Warsaw had been planned to take place from 25 to 27 November 2020. However, as a result of the rapidly deteriorating Covid-19 situation all over Europe the rapporteurs decided to postpone it to a later date as soon as the conditions allowed.

#### 2.2.8. Russian Federation

88. The last report on the honouring of obligations and commitments by the Russian Federation dates back to 2012. Since the return of the Russian Delegation to the Parliamentary Assembly in June 2019, two reports on the challenge of its still unratified credentials were debated in the Assembly, in June 2019 and January 2020. The co-rapporteurs, appointed respectively in November 2019 and January 2020, committed

themselves to submit a report as soon as the visit to the country takes place. However, due to the Covid pandemic a visit scheduled on 19-20 March 2020 was cancelled a few days before it was supposed to take part. Since then, the sanitary conditions in the Russian Federation have not allowed for organising a new visit.

89. The major development in the Russian Federation during the passing year was the adoption of the constitutional amendments proposed by President Putin in January 2020. Both their content and the procedure for their adoption raised concerns as to compliance with democratic standards. The Venice Commission in its “Opinion on the draft amendments to the Constitution (as signed by the President of the Russian Federation on 14 March 2020) related to the execution in the Russian Federation of decisions by the European Court of Human Rights”<sup>9</sup> concluded that the power of the Constitutional Court of the Russian Federation to declare a judgement non-executable contradicts the obligations of the Russian Federation under the European Convention on Human Rights. These concerns should be seen against the backdrop of the proposed amendment to Article 83 of the Constitution empowering the Council of Federation (Upper Chamber of the Parliament) to dismiss the judges of the Constitutional Court at the request of the President. This makes the Court vulnerable to political pressure.

90. The Monitoring Committee is waiting for the Venice Commission’s opinion on the remaining amendments and the procedure for their adoption which it has requested in May 2020 and which is expected to be delivered in March 2021.

91. The law on the amendments was adopted unanimously by the Duma (which introduced an additional amendment paving way to the possible extension of President Putin’s mandate by two additional terms) on 11 March 2020 and by the Council of Federation on the same day, also unanimously. On 12 and 13 March 2020 the law was approved by the legislative councils of the 85 federal subjects, on 14 March 2020, it was sent to the Constitutional Court which issued, on 16 March 2020 an opinion finding that the amendments were in conformity with the Constitution.

92. While according to the legislation, amendments could have been adopted either by the Duma and legislative councils of the subjects of the Russian Federation or, by means of a referendum, the draft law as submitted in January, provided for a different procedure, completing the adoption in the parliament and in regional parliaments by an “All-Russian vote” which was unprecedented and constituted a sort of a plebiscite and did not meet the requirements for a referendum. It was initially scheduled for 22 April 2020 but due to the Covid-19 pandemic it was postponed to 26 June – 1 July 2020 and spread over the week.

93. The respectful election watchdog, Golos, has been very critical about the campaign, and in particular the lack of safeguards ensuring level playing field for opponents to the amendments. The organisation and administration of the vote itself has also been criticised for giving the authorities more control over elections and not ensuring necessary transparency thus limiting independent observers’ abilities to track voter fraud. The voting lasted a whole week and from the first day of voting, Russians could cast ballots not only in regular polling stations but also in makeshift mobile locations set up on park benches, car trunks and shopping trolleys as evidenced by numerous videos and photos posted on Internet. The ballots were subsequently moved and kept in polling stations overnight which opened up a possibility for mass tampering. In its assessment of the vote, Golos noted “multiple voting, ballot stuffing” and “violating voter secrecy”. It stated that “a significant portion of the votes were collected by voting directly at enterprises and institutions, *de facto* under the control of their leadership”.

94. Soon after the All-Russian vote, on 21 July 2020, the Duma approved an amendment to the Electoral Code that allows voting over as many as three days during future elections. The decision on whether to hold a multiday voting is to be made by electoral officials.

95. The new voting system was used during the regional and local elections in September 2020. Voting started on 11 September and lasted for 3 days, with 13 September as the main election day. Candidates for the ruling United Russia party and their allies won all 20 governorships in the first round. However, the party lost their majority in the regional parliaments of Tomsk, Novosibirsk and Tambov. Elections organised in Crimea were not recognised by the international community as held in violation of international law.

96. Among other developments in the Russian Federation over the last year I should mention demonstrations and protests in Khabarovsk in support of the then Governor, Sergiey Furgal, arrested on the charges which were widely perceived as politicised. On 25 July 2020, an unprecedented demonstration with

---

9. [CDL-AD\(2020\)009](#).



participation of 50 000 (about 1/10 of the city population) was held calling for the Governor's reinstatement and the trial to be held in Khabarovsk and not in Moscow. The demands were not addressed, and a new governor was appointed.

97. The poisoning of Mr Navalny, leader of the Anti-Corruption Foundation on 20 August 2020 in Omsk raised alarm and utmost concern inside and outside the Russian Federation prompting the monitoring rapporteurs to issue a statement calling for full investigation as also demanded by the international community.<sup>10</sup> This issue will be the subject of a separate report under preparation by the Committee on Legal Affairs and Human Rights.

98. There is a number of outstanding concerns which cannot be raised here given the format of the current report, including, *inter alia*, lack of pluralism, independence of the judiciary, restrictive environment for activities of political extra parliamentary opposition, civil society, human rights activists and journalists, restrictions on freedom of expression, assembly, association and religion. A number of problematic laws including the Foreign Agents Law, Law on Undesirable Organisations or anti-extremist legislation raise concern. There is a specific report on political prisoners in the Russian Federation under preparation in the Committee on Legal Affairs and Human Rights.

99. Unfortunately, no progress has been made with regard to implementing the demands of the international community concerning Eastern Ukraine, Crimea, the occupied Georgian regions of South Ossetia and Abkhazia and the Transnistrian region of the Republic of Moldova.

### 2.2.9. Serbia

100. The year 2020 was dominated by the parliamentary, provincial and local elections. The preparation of these elections was marred by the boycott announced by several opposition political parties, which demanded fair election conditions, in particular fair access to media. The "Inter-Party Dialogue" organised from October to December 2019 under the auspices of three current and former MEPs and the National Assembly of Serbia resulted in the drafting of "Conclusions on Improving the Conditions for Holding Parliamentary Elections" and some improvement of election conditions but failed to convince several opposition political parties not to boycott the elections. These issues were discussed by the Monitoring committee at its hearing of 16 January 2020 dedicated to the preparation of the 2020 parliamentary elections.

101. Parliamentary, provincial and local elections were originally scheduled on 26 April 2020. With the outbreak of the pandemic and the declaration of the state of emergency by the President of the Republic, without a debate in the parliament, all electoral activities were suspended on 15 March. The parliament resumed its work in May 2020, amended the electoral legislation in view of the sanitary context, lifted the state of emergency, thus paving the way to the resumption of election activities on 11 May. Some opposition parties eventually decided to compete, given the new circumstances.

102. The elections took place on 21 June, with 21 lists competing, and a turnout nearing 49%. Despite the decision taken unexpectedly by the parliament, on 8 February 2020, to lower the electoral threshold from 5 to 3%, and repeat voting held in over 200 polling stations on 1<sup>st</sup> July, only three mainstream political parties or coalitions: the Serbian Progressive Party (SNS), the "Socialist Party of Serbia (SPS) – United Serbia (JS)" and the "Victory for Serbia" [Serbian Patriotic Alliance] coalition, entered parliament. In addition, four lists of national minorities (the Alliance of Vojvodina Hungarians, the "Party of Justice and Reconciliation (SPP) – Democratic Party of Macedonians (DPM) coalition", the "Albanian Democratic Alternative – United Valley coalition" and Mr Ugljanin's list" entered parliament with 19 seats altogether (out of 250).

103. ODIHR Special Election Assessment Mission concluded on 22 June 2020 that despite challenges posed by the Covid-19 pandemic, the elections were administered efficiently, contestants had been able to campaign, and the fundamental freedoms of expression and assembly were respected outside of the state of emergency. However, the "dominance of the ruling party, including in the media, was of concern. The advantage enjoyed by the governing parties, the decision of some opposition parties to boycott the elections, and limited policy debate narrowed the choice and information available to voters". The Assembly was not able to observe, due to the sanitary context.

104. As a result of the election, President Vučić's ruling party won 75% of the seats in parliament. The two other parties eventually joined the government formed in October 2020, thus leaving the parliament without a viable opposition – with the exception of seven members of parliament from minority parties who declared themselves as opposition. This unprecedented situation raised concerns about the lack of political pluralism

---

10. [Statement by the co-rapporteurs \(2 September 2020\)](#).

and its possible impact on the functioning of democratic institutions. The Monitoring Committee thus resolved to organise a hearing on “democratic challenges in Serbia after the June 2020 elections”, pending the appointment of a new Serbian parliamentary delegation.

105. Following the unexpected reintroduction of restrictive measures and curfews few days after the repeat elections, thousands of persons gathered in front of the parliament and other cities of the country to express their dissatisfaction with the management of the COVID-19 crisis by the government. Some of these demonstrations degenerated in violent clashes with the police on 7, 8 and 10 July 2020 and resulted in the arrest of 100 demonstrators. In their [statement](#), the rapporteurs Ian Iiddell-Grainger (United Kingdom, EC/DA) and Piero Fassino (Italy, SOC) condemned the violence and called for a thorough investigation. The Commissioner for Human Rights, Ms Dunja Mijatović, deplored the violent dispersal of demonstrators, and recalled that disproportionate use of force must never be tolerated, thus urging the Serbian authorities to carry out “effective investigations to establish responsibility and punish the officers responsible”.<sup>11</sup> Several incidents targeted journalists. According to the Safe Journalists Network, at least 16 media workers were assaulted in three days,<sup>12</sup> adding to the tensions that arose under the state of emergency between the authorities and the media pertaining to the flow and control of information and the accuracy of the information provided to the public, especially during the election campaign.

106. Another adverse development concerned the financial investigations launched by the Serbian Administration for the Prevention of Money Laundering against over 50 prominent activists, NGOs and investigative media, prompting the rapporteurs to [react](#) on 30 July 2020. They called on the Serbian authorities to “refrain from any move that could amount to an act of intimidation or lead to the unfounded criminalisation of these organisations” while recalling that civil society and independent media contributed to ensuring a sound scrutiny of public institutions leading to the necessary checks and balances in a democratic society.

107. Due to the election campaign and the sanitary situation, the rapporteurs, who were appointed respectively in April 2019 and September 2019, had not had a chance to pay a fact-finding visit to the country but continued to look at the key areas identified by the Assembly in its 2012 resolution on the honouring of obligations and commitments by Serbia, namely the reform of the judiciary, the fight against corruption, the situation of media and the rights of minorities. The reform of the constitution in the field of judiciary and the upgrading of the election legislation will also remain under scrutiny. Overall the year 2020 was not conducive to major changes. There was limited, if any, progress on the Assembly’s areas of concern, with the exception of the welcomed resumption of the EU-facilitated Belgrade-Pristina dialog after a 20-month halt and the establishment of a mini-Schengen zone to increase co-operation with Albania and North Macedonia.

#### 2.2.10. Turkey

108. The Monitoring Committee continued to closely follow the situation in Turkey after the adoption of [Resolution 2260 \(2019\)](#) in January 2019 on “The worsening situation of opposition politicians in Turkey: what can be done to protect their fundamental rights in a Council of Europe member State?”, where the Assembly expressed its concerns about the deterioration of the situation regarding the rule of law, democracy and human rights in Turkey. In 2020, the co-rapporteurs Mr Thomas Hammarberg (Sweden, SOC) and Mr John Howell (United Kingdom, EC/DA) issued several [statements](#) reflecting the lack of progress and further deterioration, related notably to the situation in prisons under the Covid-19 pandemic, the arrest of opposition members or the situation of human rights defenders. These concerns triggered a debate under urgent procedure held at the meeting of the Enlarged Standing Committee on 23 October 2020. In its [Resolution 2347 \(2020\)](#) “New crackdown on political opposition and civil dissent in Turkey: urgent need to safeguard Council of Europe standards”, the Assembly addressed several challenges and shortcomings ranging from restrictions of election rights to the weakening of the rule of law or limited freedom of expression and freedom of media.

109. The Assembly strongly condemned the dismissal or removal of elected representatives (in the overwhelming majority belonging to the opposition Peoples’ Democratic Party (HDP)) after the March 2019 elections and their replacement by government-appointed trustees. As a follow-up, on 13 November 2020, the committee held an exchange with representatives of the Congress of local and regional authorities, the Venice Commission and the Turkish Ministry of interior on the situation of dismissed and replaced mayors and

---

11. [Facebook post](#) by the Commissioner for Human Rights of the Council of Europe.

12. [SafeJournalists Network](#) asks OSCE, the European Commission and Council of Europe to urgently act regarding attacks on Serbian media workers.



encouraged the Turkish authorities to make the expected legal changes in the election and to bring the anti-terror legislations in line with the Venice Commission [opinion](#) of June 2020, in order to respect the will of the voters and improve the functioning of democratic institutions in Turkey.

110. The Assembly also condemned the arrests of lawyers, their detention on terror-related charges and the criminalization of their activities, recalling that lawyers played a key role in the implementation of rule of law standards and the effective administration of justice. Following the [opinion](#) issued by the Venice Commission in October 2020 at the request of the committee, the Assembly urged the authorities to repeal the July 2020 adopted amendments to the Attorneyship Law of 1969 which undermine the independence of the bar associations. In addition, the issues of lack of separation of powers, lack of independence of the judiciary and insufficient procedural safeguards and guarantees to ensure fair trials remains a challenge, as highlighted by the Council of Europe [Commissioner for Human Rights](#).

111. The Assembly repeated its call for the full implementation of the judgments of the European Court of Human Rights by Turkey. In particular it urged the immediate release of the philanthropist Osman Kavala, who had been in detention for three years despite a final ruling of the Court. The Assembly also asked the Turkish authorities to restore freedom of speech and media freedom and to restrict the interpretation of its anti-terror legislation. The Assembly hoped that the May 2019 strategy of the reform of the judiciary, as well as the Action Plan on Human Rights in preparation, could bring progress, provided there was a genuine political will to effectively improve the independence, impartiality and transparency of the judiciary, strengthen freedom of expression and the media, and ensure that lower courts abide by the rulings of the Constitutional Court. In this respect, the Assembly expressed its concerns about the continued detention of (former) members of parliament and the lifting of their parliamentary immunity. It also asked the Turkish authorities to put an end to the judicial harassment of human rights' defenders. No progress was noted on the front of media freedom (Reporters Without Borders ranked Turkey 154<sup>th</sup> out of 180 countries in its 2020 World Press Freedom Index) and the control over social media was tightened in July 2020.

112. Other human rights concerns raised by the Assembly included the continued restrictive effects on fundamental rights of certain adopted laws that were put in place after the lifting of the state of emergency in 2018 and credible allegations of torture in police and detention centres. In this context, the publication of two reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) by Turkey in 2020 was welcomed. Serious concerns raised with regard to the compliance of Turkey's external actions, including military operations, with Council of Europe obligations would be explored in future monitoring reports.

113. The committee vows to further encourage the authorities to take meaningful steps to comply with Turkey's obligations towards the Council of Europe. As stressed by the Assembly, Turkey has a dynamic political scene and a vibrant civil society with strong aspirations to fully enjoy and exercise its fundamental freedoms, which should be seen as a valuable asset for the country's democracy.

#### 2.2.11. Ukraine

114. The last report on Ukraine was adopted on 25 January 2017<sup>13</sup>. The last fact-finding visit to the country took place from 19 to 21 November 2018. As a result of a combination of factors (parliamentary and presidential elections in Ukraine, the temporary withdrawal of the Ukrainian delegation from the work of the Assembly following the return of the Russian delegation to the Assembly, as well as, in 2020 the Covid-19 pandemic), no visits could be organised in 2019 and 2020. A visit foreseen in Spring 2020 had to be cancelled as a result of the worsening Covid situation in Europe. On 13 November 2020, Mr Birgir Þórarinsson (Iceland, EPP/CD), was appointed as co-rapporteur to replace Ms Dzhema Grozdanova (Bulgaria, EPP/CD), who had left the Assembly.

115. The reform of the judiciary and the closely related fight against the widespread corruption have been important items on the political agenda of the country, in addition to the effects of the ongoing military aggression in Eastern Ukraine.

116. With regard to the military conflict in Eastern Ukraine, after several failed attempts to implement a cease fire in the Donbas region, on 27 July 2020 a full and comprehensive cease fire agreement between Ukrainian military and illegally armed formations in the Donbas region was established following an agreement between President Zelensky and President Putin and supported by the French and German Governments. This cease fire agreement, which is largely holding, is considered a pre-condition for a further summit by the Normandy Group and could pave the way for the implementation of other clauses of the Minsk

---

13. [Resolution 2145 \(2017\)](#).

agreements. In a welcome development, this cease fire agreement has led to the disengagement of Ukrainian and illegally armed formations at several points along the contact line. Regrettably, following the outbreak of the Covid-19 pandemic, the movements of the OSCE monitors to observe the cease fire agreement have been unilaterally restricted by the illegally armed formations, which was condemned in a statement by the co-rapporteurs.

117. In addition, in the context of resolving the conflict in Eastern Ukraine, the authorities are implementing a comprehensive set of decentralisation and administrative territorial reforms, including a new territorial administrative division which reduced the number of districts from 490 to 136. Following the territorial administrative reform, local elections were organised on 25 October 2020. These elections were a setback for the incumbent President, whose party failed to win any of the nine mayoral positions that were up for election and won the majority in only two out of the nine city councils.

118. The reform of the judiciary has been an important priority for the authorities. In that context fighting corruption among the judiciary, which is perceived as widespread, and increasing the public trust in the judicial system have been important objectives of these complex reforms.

119. Marked progress has been made with the establishment of the institutional framework to fight the widespread corruption in Ukraine. The High Anti-Corruption Court, the National Anti-Corruption Bureau of Ukraine (NABU) and the Specialised Anti-Corruption Prosecutor's Office (SAPO) are fully operational and the National Agency for Prevention of Corruption has been rebooted. However, the work of these institutions has been undermined by a series of controversial decisions by the Constitutional Court of Ukraine. These decisions were decried by the Ukrainian Government as well as by the international community. In reaction, the Government of Ukraine initially announced that it would ignore the Constitutional Court decisions and threatened to adopt legislation that would remove the current judges of the Constitutional Court. This would have had a detrimental effect on the independence of the judiciary and respect for the rule of law in the country. The co-rapporteurs adopted a statement in which they called upon the authorities to take all necessary actions to restore the effective functioning of the e-declaration system and to clarify the legal status of the National Anti-Corruption Bureau of Ukraine. At the same time, they urged the authorities to refrain from any actions that would have a lasting detrimental effect on the rule of law and the independence of the judiciary in Ukraine.

### **2.3. Post-monitoring dialogue**

#### **2.3.1. Bulgaria**

120. The last post-monitoring report was debated in the Assembly in June 2019. Following the debate, the Assembly resolved not to terminate the post-monitoring dialogue and invited the rapporteurs to assess, over 2020, the progress made in five specific areas of concern including high-level corruption; transparency in media ownership; human rights of minorities; hate speech; and violence against women (see [Resolution 2296 \(2019\)](#)). The pandemic crisis has prevented the rapporteurs from going to Bulgaria (a visit scheduled for the beginning of April had to be cancelled) and made it impossible to prepare a report.

121. Since July 2020, Bulgaria has been confronted with a major political crisis. Corruption scandals triggered huge street demonstrations as well as the occupation of major crossroads in Sofia and other big cities lasting for many months now. On some occasions, protests have allegedly been met with disproportionate violence from the law enforcement authorities.<sup>14</sup>

122. As the dismissal of five ministers including the Ministers of the Interior and Justice did not appease the protesters, the Prime Minister proposed to call a Grand National Assembly and to reform the Constitution for the first time since 1991. On 20 September 2020 the ruling majority submitted a draft of a new Constitution. The President of the National Assembly officially asked the Venice Commission's President to provide expert support and the issuing of an opinion of the Venice Commission on the draft new Constitution. This urgent opinion was provided on 11 December 2020. The Venice Commission observed that the most important draft constitutional amendments concerning the Bulgarian judiciary made several steps in the right direction but that certain issues still had to be addressed and expressed its readiness to provide assistance to the Bulgarian authorities if the process of the constitutional reform advances further. On 25 November 2020, the motion to call elections for a Grand National Assembly which could discuss the constitutional amendments submitted by the government, was rejected by the parliament.

---

14. [Statement](#) by the co-rapporteurs (4 September 2020).

123. With regard to high level corruption, the situation continues to be worrying. The country has been recently confronted with a number of corruption scandals which contributed largely to the ongoing protests. The new anti-corruption agency started to operate in January 2019. However, it is worrying that there is continuous lack of high-level corruption investigations yielding tangible results although a number of investigations of high-level corruption including cases with cross-border aspects against high-ranking officials and persons of high public interest have been recently opened. Corruption and lack of accountability continue to be pervasive problems in the judiciary. In this context, it is regrettable that the Venice Commission's previous recommendations on the Prosecutor General have not been fulfilled.

124. Bulgaria continues to have the worst media freedom status in the European Union (In 2019, Reporters without Borders ranked Bulgaria 111<sup>th</sup> out of 180 countries). Overall, the situation has deteriorated in recent years, and no improvement has been noted since the adoption of [Resolution 2296 \(2019\)](#). The concentration and lack of transparency in media ownership and newspaper distribution, no safeguards for the independence of the regulatory authority for the Council of Electronic Media, political and State pressure on the media, intimidation and use of the prosecution as an instrument of pressure on journalists and editors remain outstanding concerns. Although there are formal legal provisions for disclosure of media ownership and prevention of undue pressure, the present legal requirements are not effectively implemented in practice.

125. With regard to the human rights of minorities, the Commissioner for Human Rights of the Council of Europe, noted with alarm in her 2020 report on Bulgaria: "the rampant intolerance manifested towards minority groups, affecting especially Roma, Muslims, migrants and asylum seekers, persons identifying as ethnic Macedonians and LGBTI people". The report refers to reported upsurge of hostile acts against minorities including hate crimes and the wave of anti-Roma rallies occurring across Bulgaria, the reported incidents of public incitement to anti-Muslim and anti-Roma hatred, and the attacks against religious sites and institutions such as the synagogue and the Grand Mufti's Office in Sofia in January and July 2019. At the same time, it has to be acknowledged that the Bulgarian authorities have demonstrated political will and made efforts regarding Roma integration elaborating the National Strategy for Roma Integration (2012-2020) and its Action Plan. However, the implementation of the Action Plan has been hindered by the shortage of the financial resources.

126. Concerning hate speech, there have been no reported cases of discriminatory remarks made by the members of the governmental coalition since the last debate in the Assembly but hate speech in the social media remains a problem in the country. In February 2020, the Mayor of Sofia, for the first time since 2003, imposed a ban upheld by the court on the so called "Lukov march", an annual event gathering far right extremists from various European countries. Furthermore, the authorities have initiated the procedure aimed at the dissolution of the Bulgarian National Union Edelweiss, the organiser of the march. In 2018, the Ministry of Foreign Affairs of Bulgaria requested OSCE/ODIHR's opinion on certain provisions of the Criminal Code of Bulgaria pertaining to bias-motivated crime, hate speech and discrimination. In its opinion, the OSCE/ODIHR expressed the overall appreciation of Bulgaria's efforts to tackle these problems but it identified a number of shortcomings as regards the relevant legislation which should be addressed.

127. Concerning violence against women, the issue of ratifying the Istanbul Convention (signed in April 2016) remains unaddressed as a result of the decision of the Constitutional Court which in July 2018 declared the Istanbul Convention unconstitutional. While a set of amendments to the Criminal Code and the Criminal Procedure Code adopted in 2018 has been aimed to safeguard women's rights, material support for women subject to violence is far from satisfactory and civil society organisations deplore insufficient number of shelters, counsellors and assistance available for the victims.

### 2.3.2. Montenegro

128. The last report on Montenegro dates back to 2015. In [Resolution 2030 \(2015\)](#), the Assembly decided to close the monitoring procedure and to engage in a post-monitoring dialogue. It stated that this dialogue could be concluded if Montenegro was to fulfil four requirements: the independence of the judiciary, trust in the electoral process, the situation of the media and the fight against corruption.

129. Due to the Covid-19 pandemic, the report prepared by the co-rapporteurs to be presented during the April part session was discussed during the June meeting of the Monitoring Committee and a draft resolution was adopted with the aim of being debated during the January 2021 part-session.

130. In their report, the co-rapporteurs concluded that in the fields where Montenegro was usually seen as a co-operative partner or a good example for the region (minority rights, the fight against discrimination, among others), the situation continued to improve. This trend was confirmed by the adoption of the same-sex partnership law in July, an achievement to be commended after two previous unsuccessful votes in the parliament on this issue.

131. However, limited progress was achieved in the four key areas identified by [Resolution 2030 \(2015\)](#). Even where improvements could be noted, such as in the independence of the judiciary or in the situation of media for instance, they were counterbalanced by opposing negative trends which could be observed in the course of 2020.

132. The attempt to revise the electoral framework failed, due to the boycott by the opposition of the *ad hoc* parliamentary committee tasked for the reform.

133. Concerning the independence of the judiciary, the re-appointments of Presidents of Courts for more than the two-terms limit set by the Constitution and the law continued, despite previous warnings by the co-rapporteurs, the GRECO and the European Union: on 7 February 2020, the Judicial Council re-appointed a new President of a Court for a fifth term. In November 2020, it re-appointed another new President of a Court for an eighth term, whose reappointment had previously been cancelled by an administrative court.

134. Concerning the fight against corruption, although, on 6 February 2020, the Second Compliance report of GRECO terminated the Fourth Round Compliance procedure in respect of Montenegro, GRECO stated that no progress had been demonstrated as regards the composition and independence of the Judicial Council, nor in reviewing the disciplinary framework for judges. No substantial progress was neither achieved in the reform of the funding of political parties and electoral campaigns.

135. Concerning the situation of media, although the legal framework seemed to have improved with the adoption of two laws on media and the public broadcaster RTCG in July, concerns remained. Therefore, the co-rapporteurs publicly decided to follow the legal proceedings in the case of Jovo Martinović, an investigative journalist convicted on 8 October for the second time on charges of setting up criminal organisation and drug trafficking.

136. As Montenegro seemed to have reached a glass ceiling in the four key areas, it was proposed in the draft resolution not to end the post-monitoring dialogue, and to re-evaluate the situation after the general elections.

137. The two main and intertwined developments that marked 2020 were the continued and massive protests against the Law on Freedom of Religion, especially the part dedicated to the property rights, passed by the parliament in December 2019, and the general elections that took place in August.

138. The protests in which the Serbian Orthodox Church played a significant part happened throughout the country, were mostly peaceful and discontinued due to the Covid-19 pandemic. Tensions rose in May and June when the Church's Metropolitane and some of his priests were arrested for not complying with Covid-19 sanitary measures. A dialogue initiated by the government in February did not come to any breakthrough.

139. The Democratic Front (DF) and the Democrats (DCG) took the opportunity of the debate on the withdrawal of the Law on Freedom of Religion to boycott the work of the *ad hoc* parliamentary committee tasked to reform the electoral framework, making it impossible to reach the quorum. Therefore, this framework remained largely unchanged during the general elections held on 30 August, with the same flaws and limitations that the OSCE/ODIHR kept on advising to address. The elections took place in a very polarised atmosphere on the issue of church and national identity, but remained peaceful, with the notable exception of worrying attacks against minorities, especially Bosniacs, on the day the results were announced. This outburst of violence was immediately condemned by all parties and by the Serbian Orthodox Church, who was deeply involved during the campaign against the ruling majority, according to the NGOs with which the co-rapporteurs had an exchange of views on the elections.

140. Although a widespread abuse of office and State resources gave the ruling party an undue advantage, according to the preliminary findings of the OSCE/ODIHR, these elections with a very high turnout of 76 % saw, for the first time since the independence of Montenegro, a shift of power. President Đukanović acknowledged the defeat of the former ruling majority led by the Democratic Party of Socialists of Montenegro (DPS), and the three main platforms from the opposition, led by the DF, the DCG and United Reform Action (URA) announced on 31 August an agreement on the formation of a government of experts with a Prime Minister to-be who was not affiliated to any political formation. This new government would be supported by a tight majority of 41 seats in the Parliament upon 81. This significant change is an opportunity for all political



stakeholders to demonstrate that Montenegro is not only able to manage a democratic shift of majority, but also capable to confirm its European path and comply with its obligations, notably in the four key areas determined by [Resolution 2030 \(2015\)](#).

### 2.3.3. North Macedonia

141. In October 2019, the Assembly adopted [Resolution 2304 \(2019\)](#) on the “Post-monitoring dialogue with North Macedonia”. It welcomed the achievements reached by the country, notably the name issue being solved by the signing of the Prespa agreement in 2018 and the launch of reforms and called on the authorities to make further progress in increasing the sustainability and functioning of democratic institutions, the independence of the judiciary, the fight against corruption, the consolidation of the electoral framework and the pursuance of inclusive policies aiming at securing the rights of minorities.

142. The European integration process was marked by the decision of the Council of the European Union to open membership negotiations with North Macedonia [and Albania] on 26 March 2020 – a decision the country had been waiting for since 2009. This was [welcomed](#) by the co-rapporteurs for the monitoring of the two countries. The accession negotiations however have not started yet, as Bulgaria is blocking the decision of the European Union Council of Minister to adopt a negotiating framework for North Macedonia: Bulgaria is objecting to the use of the Macedonian language in the negotiating framework and has differing views on their shared history, despite the signing of the Treaty on Good Neighbourly Relations with North Macedonia in 2017.

143. Overall democratic institutions have been functioning well. The parliament was able to ensure constructive political dialogue and to fulfil its legislative functions. The reforms undertaken in 2019 continued, including in the judiciary: the much awaited revised law on the Public Prosecutor's Office was adopted and entered into force in June 2020; it should ensure a sustainable solution for the cases of the Special Prosecutor for Crimes Related to and Arising from the Content of the Illegal Interception of Communications after the former Chief Special Prosecutor was convicted in June 2020, in the first instance, in the so-called ‘racket case’ concerning alleged extortion and abuse of office. The revised Law on the Council of Public Prosecutors was also adopted and there is an ongoing reform of the intelligence services. Progress was noted by the European Commission in the implementation of the judicial reform strategy and the establishment of mechanisms to ensure judicial independence and accountability.

144. While corruption remains prevalent, [GRECO](#) noted in October 2020 the “noticeable efforts made by the authorities to revise the legislative frameworks” but consistent practical application of the new rules remains to be seen, such as for the revised Code of Ethics for MPs. Progress was noted to prevent corruption of lay judges; however the Minister of Justice was not removed from the Judicial Council. GRECO welcomed the substantially strengthened regulation of the terms for the selection, appointment and dismissal of the members of the State Commission for Prevention of Corruption (SCPC) which remained pro-active in preventing corruption, opening cases, including those involving high-level officials from across the political spectrum. and addressing allegations of nepotism, cronyism and political influence in the process of recruitment of public sector employees.

145. The overall situation of media remains unchanged, including previous issues identified, such as financial sustainability of independent media, self-regulation, transparency of media advertising by State institutions, political parties and public enterprises, and the public service broadcaster's independence.

146. The year 2020 was also marked by early parliamentary elections, which were called following a common decision of political parties after the country failed to obtain the opening of the European Union accession negotiations in October 2019. The parliament was dissolved on 16 February 2020, early elections were scheduled on 12 April 2020. However, following the outbreak of the Covid-19 pandemic and the declaration of the state of emergency by the President of the Republic in March 2020 (without a debate in parliament), both the opposition and the ruling majority agreed to postpone the elections until the state of emergency was lifted (in practice, on 23 June 2020). The rapporteur, Ms Lise Christoffersen (Norway, SOC), [stressed](#) that this decision demonstrated the ability of political parties to build consensus despite their divergences, achieved through concerted efforts undertaken by all stakeholders, including the President of the Republic who facilitated the political dialogue. The committee was informed about the preparation of these elections at its hearing on 22 June 2020 on “Membership obligations and the conduct of democratic elections in the context of the Covid-19 pandemic”, held in the framework of the preparation of its opinion.

147. The early elections took place on 15 July 2020. They could not be observed by the Parliamentary Assembly due to the sanitary context. 12 political parties and 3 coalitions, all with a 40% gender quota as required by the law, competed. The turnout was 51%. The final results showed a slight victory for the Coalition

led by the Social Democratic Union of Macedonia (SDSM) with BESA (35,89% of the votes, leading the race by 12 000 votes out of 900 000), while the Coalition led by the Internal Macedonian Revolutionary Organization – Democratic Party of Macedonian National Unity (VMRO-DPMNE) won 34,57% of the votes. The Democratic Union for Integration (DUI) remained the strongest Albanian party (11,48%). The Coalition of the Alliance for Albanians (AfA) with AlternAtivA (8,95%) and the Democratic Party of Albanians (DPA) (1,53%) also entered parliament. For the first time, an openly anti-NATO party, the Left party (Levica), entered parliament (4,1%).

148. ODIHR's Special Election Assessment Mission (with a limited presence) assessed the elections as generally effectively administered and without major incidents or tension: "Legal stability was however undermined by substantial revisions to the Electoral Code and subsequent ad hoc regulations enacted during the state of emergency. The campaign, although negative in tone, was genuinely competitive and provisions regarding paid political advertisement [adopted by the parliament on 22 June 2020] favoured the three largest parties. Isolated cases of ministers from different parties blurring their state functions and political activities were observed." A cyberattack which targeted the State Election Commission and the Ministry of Interior on election day is under investigation. Long-standing recommendations pertaining to the voter register, the revision of electoral district boundaries, universality and equality of the vote in the electoral district abroad, and an effective campaign finance audit remain unaddressed.

149. Following the elections, Talaf Xhaferi (DUI) was re-elected Speaker of the parliament in August 2020. In the same month, the DUI formed a coalition with the SDMS and joined the government set up by the Prime Minister, Mr Zaev, which will remain committed to internal issues, namely the fight against the pandemic, the reform of the justice system and the fight against corruption. These issues will be further explored by the co-rapporteur Ms Lise Christoffersen (Norway, SOC) and Mr Zsolt Csenger-Zalán (Hungary, EPP/CD), appointed in June 2020 as co-rapporteur.

#### **2.4. Periodic reviews**

150. The periodic review reports are a key mechanism for the committee to fulfil its mandate "to ensure and assess the fulfilment of obligations assumed by all member States under the Council of Europe Statute, the European Convention on Human Rights and all other conventions concluded within the organisation to which they are party". Over the last years, the Assembly has continued to further develop and improve these reports and their preparation, based on the experienced gained by the committee. An important development was the decision of the Assembly, in 2019, that from then onwards, the periodic review reports would be presented to the Assembly as individual reports each with their own resolution, and no longer as appendices to the progress report. In addition, the Assembly decided that the order and frequency of the countries selected for periodic review should be established by the committee on substantial grounds, while maintaining the objective of producing, over time, periodic reviews on all Member States.

151. Following a disagreement between the committee and the Bureau of the Assembly on whether the Bureau could alter the list of countries selected by the committee, which the latter felt would politicise the selection process, and affect its impartiality, the Committee on Rules of Procedure, Immunities and Institutional Affairs clarified, in [Resolution 2350 \(2020\)](#) that "in order to ensure that a reference to the Monitoring Committee for report is validated by the Assembly ... [:] ... The Monitoring Committee is seized, in accordance with Rule 26 of the Rules of Procedure, to carry out regular periodic reviews of the compliance of the obligations entered into upon their accession to the Council of Europe by member States that are not already under a full monitoring procedure or engaged in a post-monitoring dialogue. The order and frequency of these reports will be decided upon by the committee in accordance with its internal working methods based on substantive grounds, with the objective of producing, over time, periodic review reports on all member States."

152. In order to ensure an impartial and fully transparent selection process, the committee adopted, at its meeting on 13 November 2020, a revised set of internal working methods for the selection, by the committee, of countries for periodic review reports. These revised internal working methods were declassified by the committee at the same meeting and are attached to this report in the appendix in order to ensure full transparency and provide a clear understanding about this selection process, which concerns all member States of the Council of Europe.

153. The committee had decided to suspend the preparation of the periodic review reports in respect of Hungary, Malta and Romania while the selection process was being clarified by the Committee on Rules of Procedure, Immunities and Institutional Affairs. However, in January 2020 the committee decided to proceed

with the preparation of these reports. On 27 May 2020, it appointed the co-rapporteurs for the periodic review reports on the honouring of membership obligations by Hungary and by Romania and on 22 June 2020 the co-rapporteurs for the periodic review report on the honouring of membership obligations by Malta.

154. As the reports on Hungary, Malta and Romania are the first reports to be prepared in the new format, and with a view to harmonise the format and the preparation process for these periodic reviews, a co-ordination meeting between the six rapporteurs responsible for these countries was organised on 30 November 2020. During this meeting the rapporteurs agreed on the general scope of these reports and the modalities for their preparation. In this context they requested the committee to ask the Bureau of the Assembly to exceptionally grant a six-month extension of the references for their reports to compensate for the time lost as a result of the above mentioned suspension of the preparations of these three reports.

### **2.5. Sub-Committee on Conflicts between Council of Europe member States**

155. The Monitoring Committee decided on 27 January 2020 to re-constitute its Sub-Committee on Conflicts between Council of Europe Members States. The sub-committee met on 30 January and elected by acclamation Mr Egidijus Vareikis (Lithuania, EPP/CD) as its Chair. Regrettably, following the outbreak of the Covid-19 pandemic no further meetings of the sub-committee could be organised.

156. During its meeting on 30 January, the sub-committee agreed that in 2020 it would primarily focus on the Transnistrian settlement process, and pending agreement of the parties concerned, Northern Cyprus and Nagorno Karabakh.

157. The sub-committee has been able to engage constructively with regard to the Transnistrian settlement process, with high level involvement of all relevant parties. In that context the sub-committee agreed it would organise a seminar on the “Human Rights aspects of the Transnistrian settlement process and the role of the Council of Europe” in the same format, and with the same high level participation, as the first meeting of the sub-committee on the Transnistrian settlement process. This seminar was scheduled to take place in April 2020 but was postponed as a result of the pandemic. It will now be organised as soon as the sanitary conditions allow.

158. Regrettably, despite the best efforts of its chairperson, the sub-committee was not able to obtain the agreement of all parties, as it is required to do by its working methods, to start working on the conflicts regarding Northern Cyprus and Nagorno-Karabakh. Following the outbreak of hostilities along the internationally recognised border between Armenia and Azerbaijan in July 2020, the committee invited the Sub-Committee to organise an exchange of views on the mediation process in the framework of the Minsk Group. Regrettably, especially in the context of the developments that followed, no agreement from the parties could be obtained. Nevertheless, several exchanges of views were organised on the Nagorno Karabakh conflict following the outbreak of military hostilities between Armenia and Azerbaijan along the line of contact in September 2020, which I will outline in more detail below.

159. According to the working methods of the sub-committee, it “will only commence work on a given conflict if it has the agreement of the member States that are party to the conflict.” While this is an important safeguard to avoid the possible instrumentalisation of the work of the Sub-Committee by one of the parties to the conflict, its strict interpretation has made it impossible for the sub-committee to even inform itself about a particular conflict between member States without the express agreement of States involved, or explore its own possible role in relation to them without engaging in concrete activities. In the long term this is clearly not sustainable and I invite the sub-committee to reflect on the working methods at its next meeting with a view to ensuring that it will be able to inform itself, and explore its own role, with regard to the ongoing conflicts even if it cannot obtain the express agreement of the member States concerned. To avoid manipulation and instrumentalisation, any practical activities with regard to the conflict should of course continue to be covered by the understanding that the agreement of all parties is necessary for the sub-committee to engage itself.

160. From 12 to 16 July 2020, there was a serious breach of the cease-fire, brokered in May 1994, on the Armenian-Azerbaijani border, resulting in casualties, including civilians. The military hostilities took place on the internationally recognised border between the North-Eastern Armenian province of Tavush and the Azerbaijani Western district of Tovuz. According to the OSCE Minsk Group, “artillery of various calibers reportedly was used by both forces” and both “sides accused each other of initiating the fighting”. Fortunately, the situation did not further escalate, and a relative stability resumed along the Armenian-Azerbaijani border.

161. On 17 July 2020, the co-rapporteurs for Armenia and for Azerbaijan issued a joint statement in which they reminded both countries of their membership obligation to resolve their differences peacefully. They urged them to show restraint and to de-escalate the situation including by refraining from inflammatory



rhetoric. They also called on both countries to resume peace talks in the framework of the OSCE Minsk Group, in the manner indicated by its co-Chairs in their statement of 15 July: creating an atmosphere conducive to the peace process, holding negotiations on a settlement for Nagorno-Karabakh, and allowing the return of OSCE monitors to the region.

162. On 27 September 2020, military hostilities broke out along the line of contact, culminating in Azerbaijani military forces launching a full-scale attack along the line of contact that since the 1994 cease-fire has separated Azerbaijani and Armenian positions in Nagorno-Karabakh and the seven Azerbaijani adjacent districts. The conflict lasted six weeks.

163. It was characterised by high human losses, both civilian and military and by several breaches of humanitarian law. The principle of distinction between civilian and military targets, as well as the principle of proportionality were not respected in many occasions, leading to the targeting of cities in the self-proclaimed Nagorno-Karabakh Republic, as well as in Azerbaijan itself, and reportedly to a lesser extent in Armenia. As a consequence, private properties and civilian infrastructures were hit.<sup>15</sup> Troubling reports on the use of cluster munitions that are in contravention of humanitarian law, as they do not discriminate between civilians and combatants, were made.<sup>16</sup> Credible reports<sup>17</sup> also mentioned the summary execution of prisoners of war. The use of Syrian mercenaries by Azerbaijan, with Turkey's assistance, to shore-up and sustain its military operations in the Nagorno-Karabakh conflict zone, including on the front-line was reported, notably by France and the Russian Federation, as well as by the United Nations.<sup>18</sup> This is denied by Azerbaijan. During the conflict, Turkish authorities repeated on many occasions that they would support Azerbaijan in the field and at the table of negotiations.

164. Manipulation of information, as well as hate-speech were also widespread.

165. The Secretary General of the Council of Europe, the Commissioner for Human Rights, the co-rapporteurs for Armenia and Azerbaijan and myself, on behalf of the Committee, issued several statements, calling for a de-escalation of the situation, recalling that in times of war, fundamental rights are to be protected, and again reminding the parties of the explicit obligation incumbent on member States of the Council of Europe that they should resolve the conflicts between them by peaceful means only. I also underscored that the obligation also means that all member States should refrain from any actions or discourse which encourage or abet belligerent States to resolve their disputes by force, and in that respect, the members of the Monitoring Committee deplored inflammatory rhetoric by Turkey, as well as its reported direct involvement in the conflict.

166. On 9 November 2020, after three failed attempts to broker a cease-fire, and with Azerbaijani forces recapturing four of the seven adjacent districts, and entering into the self-proclaimed Nagorno-Karabakh Republic and re-taking the city of Susha, a trilateral statement was signed under the auspices of the Russian Federation between Armenia, Azerbaijan and the Russian Federation. This trilateral statement: established a cease-fire along the Armenian and Azerbaijani positions on 10 November; organised the deployment of Russian military peace-keepers for an initial duration of five years; instituted a peacekeeping cease-fire control centre; set a calendar for the return to Azerbaijan of the three districts still under Armenian control, excluding the Lachin corridor; and foresaw the opening of all transport communications, including between the western regions of the Republic of Azerbaijan and the Nakhchivan Autonomous Republic under the foresight of the border service of the Federal Security Service of the Russian Federation. The trilateral statement also indicated that internally displaced persons and refugees shall return to Nagorno-Karabakh and the surrounding districts under the control of the Office of the UN High Commissioner for Refugees and that prisoners of war, hostages and other detained persons and bodies are exchanged.

167. According to the Azerbaijani authorities, the outcome of the conflict led to the implementation by force of the four United Nations Security Council (UNSC) resolutions (822, 853, 874 and 884), regarding the withdrawal of "all occupying forces" from "occupied areas of Azerbaijan". In that context it should be noted that this leaves unresolved the other requirement of these resolutions namely: "to continue to seek a negotiated

---

15. [Statement](#) by the United Nations High Commissioner for Human Rights, 9 October 2020.

16. [Statement](#) by the United Nations High Commissioner for Human Rights, 2 November 2020.

17. [BBC](#), "Nagorno-Karabakh conflict: 'Execution' video prompts war crime probe", 24 October 2020.

Investigative website [Bellingcat](#), "An execution in Hadrut", 15 October 2020.

Human Rights Watch, "Azerbaijan: Armenian prisoners of war badly mistreated", 2 December 2020.

Amnesty International, "Armenia/Azerbaijan: Decapitation and war crimes in gruesome videos must be urgently investigated", 10 December 2020.

18. Office of the High Commissioner for Human Rights, "Mercenaries in and around the Nagorno-Karabakh conflict zone must be withdrawn", [UN experts](#), 11 November 2020.

settlement of the conflict within the context of the [O]SCE Minsk process". Although not explicitly mentioned in the trilateral statement, the OSCE Minsk Group should play its part in the negotiations on the status of the Nagorno-Karabakh region, in accordance with UNSC resolutions.

### **3. Covid-19: impact on the functioning of democratic institutions**

168. The Covid-19 pandemic has had, and continues to have, a great impact on the main areas of our Committee's competence. The functioning of democratic institutions in all Council of Europe member States has been to a varying extent affected by emergency measures aimed at increasing health safety with a potential to put at risk democratic processes thus increasing the challenge for our monitoring functions.

169. The committee has welcomed the debate on the Covid-19 pandemic which was organised by the Assembly on 13 October 2020 and to which it contributed by preparing an opinion on the report of the Committee on Political Affairs and Democracy on "Democracies facing the Covid-19 pandemic". The preparation of the opinion created an opportunity for reflection within the committee on improved safeguards for the democratic process under public health emergency conditions. It is the right time to draw the first conclusions, take stock of different ways of dealing with the crisis and identify measures which would allow to better handle future similar crises in the framework of democratic structures.

170. The members of the committee unanimously expressed the conviction that no public health emergency may be used to undermine democratic acquis and that the introduction of any emergency measures should meet clear requirements compatible with democratic standards. At the same time, they stressed the importance of looking at specific contexts in different countries. In particular, they pointed out that in the absence of internationally recognised standards in the area, the assessment of compliance of these measures with democratic standards can only be done against the background of particular legal order and practice in the given country prior to the pandemic. In line with its mandate, the Monitoring Committee follows on permanent basis the situation in Council of Europe member states with regard to the conformity with their commitments and obligations.

171. The committee has committed to devote a special chapter on compliance of emergency measures with democratic standards in all forthcoming reports prepared under the monitoring procedure, in the framework of post-monitoring dialogue and in periodic reviews. In this way it hopes to provide an exhaustive overview of the different ways in which member States reacted to the Covid-19 pandemic, to identify possible shortcomings and to come up with recommendations for the future.

172. The issue of elections as a source of democratic legitimacy in the context of a pandemic and other emergency situations is of utmost importance for the committee's work. Given the particular responsibility of parliaments and elected institutions in times of crisis, it is crucial that their legitimacy cannot be questioned. The assessment of compliance of electoral process with democratic standards is a cornerstone of the monitoring procedure. Therefore, the committee has reflected on the possible consequences of non-observation of elections by the Assembly, should the travel restrictions continue. Indeed, some countries may feel tempted to reject any possible criticism of the electoral process because of the lack of observation by international monitors.

173. In addition, as highlighted in each monitoring procedure, the genuinely democratic nature of an election is determined not only by the conduct of the vote on election day but equally by the pre-electoral political environment and the existence of an equal playing field for all electoral contestants. At the same time, it should be emphasised that a number of measures implemented to allow elections under pandemic conditions, such as the increased use of postal and internet voting, lessen the impact and effectiveness of observation of the voting on election day. This development strengthens the importance of the long-term assessment of election preparation and the political environment in which elections take place, which have been, and continue to be, important areas of attention of the Monitoring Committee.

174. While election observation should continue to be an important tool for the assessment of electoral process, in case it cannot be organised due to emergency measures, it must not be used by the country as a pretext to reject any criticism from the international community. In particular, the monitoring rapporteurs acquire their information on a permanent basis from a variety of sources and have the competence to assess the compliance of electoral process with democratic standards on this basis.

175. That said, the committee stresses the need for the elaboration of appropriate international standards for the functioning of democratic institutions under emergency situations which could guide the countries when confronted with possible future crises to avoid putting at risk democratic acquis in Council of Europe Member States.

#### **4. Efficiency of the committee's work under Covid-19 restrictions**

176. The rapporteurs of the Monitoring Committee have not suspended their work during the Covid-19 pandemic. In particular, they have been closely following developments in their respective countries and made public statements where appropriate. Many of them communicated with the authorities and held exchanges of views with different stakeholders via videoconference.

177. However, the committee's usual activities have been inevitably jeopardised, and probably even more than in the case of other Assembly committees. Indeed, the monitoring rapporteurs rely to a much larger extent on inter-personal communication, and specially dedicated political dialogue with the authorities constitutes a crucial part of their work. The main objective behind the monitoring procedure is to achieve a common understanding between the rapporteurs acting on behalf of the committee and the authorities with regard to democratic standards and functioning of democratic institutions in the country, and this can hardly be done through videoconference. Therefore, visits of rapporteurs are a necessary condition for the preparation of each report.

178. Furthermore, it is difficult to accept that monitoring reports be submitted to the Assembly at virtual sessions. This threatens first and foremost to put the Assembly's unique political dialogue at stake, as well as risking that technical problems may occur and impact the final content of the resolution.

179. However, taking into account the possible long duration of the sanitary crisis, the committee should be prepared to adapt to alternative efficient ways of monitoring dialogue with the countries. On several occasions the committee has reflected on possible working methods in times of crisis. It was pointed out that broader use of electronic means to gather information should be envisaged. Meetings aimed at identifying concerns or establishing facts at parliamentary, governmental or judicial levels could certainly be held by videoconference as illustrated by the recent experiences of some of our rapporteurs. The rapporteurs should continue to make full use of this excellent tool at their disposal in order to advance their work.

180. While I fully appreciate the benefits of remote meetings, I am convinced that they cannot be a substitute for in-person meetings at political level and I am against the rapporteurs preparing a monitoring report under ordinary procedure without a prior visit to the country.

181. However, in some cases, it may be possible for the rapporteurs to tackle specific issues and developments in a country by virtual means only, the results of which could be presented to the committee in the format of an information memorandum, similar to those produced after visits. When integrated in the overall monitoring report they would be covered by the in-person political dialogue.

## Appendix – Decision on revised internal working methods for the selection by the Monitoring Committee of countries for periodic review on the honouring of membership obligations

Prepared by the chairperson of the committee and adopted by the committee on 13 November 2020

1. According to its terms of reference the Monitoring Committee is tasked to ensure and assess the fulfilment of obligations assumed by all member States under the Council of Europe Statute; the European Convention on Human Rights and all other conventions concluded within the Organisation to which they are party. To that extent, the committee shall prepare regular periodic review reports on the honouring of membership obligations for all member States that are not under a full monitoring procedure or engaged in a post monitoring dialogue. In line with [Resolution 2261 \(2019\)](#), the committee shall select the countries for periodic review according to its internal working methods, on substantive grounds, while maintaining the objective of producing, over time, periodic reviews on all member States.
2. The number of countries for periodic review will be determined each year by the committee based on its expected workload and available resources<sup>19</sup>. Each year it will aim to select between two and three countries for periodic review. The exact number will be determined by the chairperson each year prior to the launching of the selection procedure.
3. The selection of countries for periodic review will take place on substantive grounds based on:
  - 3.1. the findings and conclusions of reports of other monitoring bodies of the Council of Europe;
  - 3.2. findings of the Assembly, in particular contained in resolutions and reports prepared by other committees of the Assembly;
  - 3.3. questions raised by members of the committee, international and national civil society and the media regarding developments related to the functioning of democratic institutions as reported.
4. Based on these grounds, the chairperson of the committee will prepare a reasoned draft shortlist of, at least, five member States.
5. This draft shortlist will be sent to all members of the committee at least three weeks before the meeting in which the countries for periodic review is to be selected.
6. All members of the committee may send written proposals with detailed reasoning for additional countries to be included on the short list up to two weeks before the start of the meeting.
7. All members' contributions received up to two weeks before the meeting takes place will be included in a revised short list that will be sent to all members within the reglementary deadlines namely one week before the meeting takes place. In order to ensure the high quality of the selection process, no proposals to that list will be accepted after the deadline.
8. Following a general discussion, a vote<sup>20</sup> will be held on each of these countries. The countries receiving the most votes will be tentatively proposed for inclusion in the final list to be agreed upon by the committee.<sup>21</sup>
9. The committee will confirm the final list as a single package by a majority of votes cast. Rule 25.2 on the requisite of quorum for the adoption of motions for resolution by committees will be applied *mutatis mutandis*. In the event that the committee rejects this list, the process will recommence at the stage mentioned in paragraph 4.
10. In line with [Resolution 1115 \(1997\)](#), the committee shall appoint two co-rapporteurs for each country selected for periodic review. It shall strive to produce the periodic reviews for the countries within a maximum of two years.

---

19. At the time of writing of this memorandum, the effects of the ongoing covid-19 pandemic on the possibilities of the Monitoring Committee to conduct its work should also be taken into account.

20. See Rule 47.2 of the Rules of Procedure which stipulates, *inter alia*, that the Committee shall vote by show of hands except for decisions relating for persons.

21. See Rule 47.6 which stipulates that the chairperson does not participate in the vote except in the case of a tie.