

AS/Mon(2008)14 rev2
18 April 2008
amondoc14r2_2008

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

Honouring of obligations and commitments by Georgia¹

Information note by the co-rapporteurs on their fact-finding visit to Tbilisi (26-27 March 2008)

Co-rapporteurs: Mr Mátyás EÖRSI (Hungary, Alliance of Liberals and Democrats for Europe) and Mr Kastriot ISLAMI (Albania, Socialist Group)

¹ This information note has been made public by decision of the Monitoring Committee dated 15 April 2008.

1. In the framework of the monitoring procedure with respect to Georgia we visited Tbilisi on 26 and 27 March 2008. The main objective of our visit was to assess the political climate and state of democratic reform in the run up to the forthcoming parliamentary elections, which are scheduled for 21 May 2008. In addition, we wanted to be informed about the views of the Georgian authorities with regard to the recent developments in and around Abkhazia and South Ossetia.
2. Little or no improvements in the political climate can be noted since the last Presidential elections. The political climate is still dominated by a lack of trust and absence of constructive dialogue between the authorities and the opposition. In an unwelcome development, the debate has become highly personalised, with mutual recriminations and the opposition calling for the dismissal of several prominent personalities, instead of engaging in a constructive dialogue with them
3. The lack of trust and co-operation is most evident in the failure of the electoral reform that the authorities and the opposition agreed upon in the aftermath of the November 2007 events. More specifically, they had originally agreed to change the election system for the 50 majoritarian seats in Parliament from a first-past-the-post system to a system of regional proportional lists. However, during the discussion on the constitutional amendments in Parliament, the amendments were changed to such an extent that, in the end, not only the first-past-the-post system was maintained for the majoritarian seats, but also the number of majoritarian seats was increased from 50 to 75, at the cost of 25 proportional seats. These constitutional amendments were adopted on 12 March 2008. Taking into account that the ruling party is allegedly likely to gain most majoritarian seats under a first-past-the-post system, this led to allegations that the ruling party intends to maintain a constitutional majority in the new parliament by changing the electoral system in its favour.
4. The authorities and the opposition mutually blame each other for the failure of the electoral reform. According to the authorities, the failure was mainly the result of the opposition's decision to boycott the vote on the amendments. According to the opposition, the ruling party was never sincere about its willingness to change the electoral system and left it no other alternative than to boycott the vote. While the opposition clearly undermined its position by boycotting the vote, the constitutional amendments were adopted without respect for parliamentary procedure and proper public consultation and consensus.
5. On 21 March 2008, the Parliament amended the Election Code to bring it into line with the constitutional changes and to address a number of shortcomings noted during the last Presidential election, on 5 January 2008. The amendments to the Election Code take into account several recommendations made by the Assembly, although a number of other recommendations remain unaddressed.
6. The improvements to the Election Code are *inter alia*: the abolition of the supplementary voters' lists and voter registration on Election Day; the lowering of the threshold from 7% to 5%; the simplification and clarification of the election related complaints and appeals procedures, as well as the introduction of party representation on the District Election Commissions. Regrettably, the amendments, *inter alia*, failed to address concerns regarding the use of CCTV cameras in the polling stations and abolished, contrary to Venice Commission recommendations, the possibility for individual candidatures in the Parliamentary elections.
7. The positive effects of the amended Election Code will largely depend on the implementation of all provisions in good faith, as regards both the letter and the spirit of the law. This will be especially true for the manner in which election complaints and appeals will be dealt with, an issue which was very problematic during the last Presidential election.
8. Taking into account the short period of time before Election Day, it is too late to make further changes to the legal framework for these elections. However, in our opinion, continuous improvements to the manner in which the elections are administered are still possible within the existing framework. The authorities should therefore take all necessary measures to build the trust of the public and all electoral contestants in the conduct of these elections. Failure to do so could lead to a repetition of the incriminations in the aftermath of the Presidential elections.
9. We stressed that repeated messages from the authorities that electoral misconduct would not be tolerated and that all violations would be properly investigated and perpetrators brought to justice, would be crucial to reassure the public that the authorities are serious about a fair election process. We regret, in this respect, that the authorities failed to convince us that they had shown sufficient political will to investigate all violations that occurred during the last Presidential elections.

10. There was a notable change of attitude of the opposition towards the international community in general and the Assembly in particular. Most opposition parties noted that the Assembly's report on the observation of the Presidential elections had been balanced and to the point – even if they did not agree with all of its conclusions - and they no longer questioned the impartiality of the rapporteurs or the Assembly. In addition, a number of opposition parties openly admitted that they had made mistakes and miscalculations in their negotiations with the authorities, which had negatively affected their popular support.

11. The Assembly will observe the Parliamentary elections on 21 May 2008. A pre-electoral mission, of which both of us are members, will visit Tbilisi on 24 and 25 April 2008, in order to assess the political climate and preparations in the run up to these elections. We will report back on the findings of the pre-electoral mission and the observation of the parliamentary elections during the next meeting of the Monitoring Committee.