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

The consequences of the war between Georgia and Russia

Proposal by the Chair on the manner in which the Monitoring Committee should continue its work¹

¹ This proposal has been made public by decision of the Monitoring Committee dated 7 October 2010.

I. Summary of events

1. Directly after the outbreak of the war between Georgia and Russia in August 2008, the Bureau of the Parliamentary Assembly seized the Monitoring Committee for report on the consequences of the war between these two member states of the Council of Europe. The Bureau specified that one of the co-rapporteurs in respect of Russia and one of the co-rapporteurs in respect of Georgia should be appointed rapporteurs on this subject. The Committee therefore appointed Mr Luc van den Brande and Mr Mátyás Eörsi as co-rapporteurs on the consequences of the war between Georgia and Russia.
2. In Resolution 1683 (2009), adopted on 29 September 2009, the Assembly invited the Monitoring Committee to *“monitor the follow-up given by Georgia and Russia to the Assembly demands and to propose any further action to be undertaken by the Assembly as required by the situation and in particular with regard to compliance with paragraph 12 of this resolution”*. In addition, the Assembly resolved *“to return to the issue of the causes and precise circumstances surrounding the outbreak of the war once the international fact-finding mission [established by the European Union] has presented its report”*.
3. In order to fulfil this task, the Monitoring Committee decided, in December 2009, to ask the Georgian and Russian delegations to provide the Committee with written information on the implementation of Resolution 1683 (2009) and, in particular, its paragraph 12, and to prepare a report for debate during the April 2010 part-session, following a fact-finding visit by the rapporteurs to the region.
4. In November 2009, Mr Van den Brande ceased to be a member of the Assembly. After an exchange of views on the subject, the Committee appointed Mr Wilshire to replace him as co-rapporteur on “the consequences of the war between Georgia and Russia” on 26 January 2010.
5. The co-rapporteurs presented a preliminary draft explanatory memorandum at the meeting of the Monitoring Committee in Paris on 17 March 2010. However, at the Committee meeting in April 2010, the co-rapporteurs pointed out that they could not reach agreement on a joint text for a draft report to be presented to the Committee. The Committee accordingly requested the Bureau of the Assembly to withdraw the consideration of the draft report from the agenda of the part-session. In its place, the Committee recommended that the Bureau hold a current affairs debate on the report of the International Fact-Finding Mission on the Conflict in Georgia (IFFMCG), in the presence of, and with a contribution from, Ambassador Tagliavini, former head of the IFFMCG. This recommendation was taken up by the Assembly and a current affairs debate was held.
6. At its meeting in April 2010, the committee discussed a proposal submitted by Ms Brasseur on behalf of a majority of political group leaders (four Chairpersons in favour and one abstention). Contrary to what has been asserted on several occasions, this proposal in no way involved terminating the Committee’s work on this file, but rather suggested suspending the report temporarily in order to conduct a number of verifications and other actions. In order to avoid any misunderstanding of the real content of the proposal, the original text is being appended as it was submitted for voting. However, the proposal did not obtain a majority (16 votes for, 16 against).
7. In view of the deadlock facing the Committee – the inability of the rapporteurs to reach agreement, lack of consensus on the succession of Mr Eörsi (who has left the Parliamentary Assembly of the Council of Europe), and an obvious inability to secure a majority on any other solution – it was decided to ask the Chair to explore possible means of continuing the work in a constructive manner.
8. Since the conflict in August 2008, the Assembly has adopted 3 resolutions (Resolution 1633 (2008), 1647 (2009) and 1683 (2009))² on the basis of reports prepared by the Monitoring Committee. In addition, the Monitoring Committee also produced an information report (Doc. 11876 (2009)), which was debated in the Assembly on 29 April 2009.
9. Moreover, the Assembly adopted, on the basis of reports prepared by the Committee on Migration, Refugees and Population, Resolutions 1648 (2009) and 1664(2009) on the “Humanitarian consequences of the war”. The previously ratified credentials of the Russian delegation were challenged in October 2008 and in October 2009, leading to the adoption by the Assembly of Resolutions 1631 (2008) and 1684 (2009) on the basis of reports prepared by the Monitoring Committee.³

² Resolutions 1633 (2008), 1647 (2009) and 1683 (2009). They were based on the reports Doc. 11724, Doc. 11800 and Doc. 12010 respectively.

³ Doc. 11726 (2008) and Doc. 12045 (2009) respectively

10. In parallel to the work of the Assembly, the Commissioner for Human Rights of the Council of Europe has closely followed the situation in the areas affected by the conflict and published a number of reports, with in-depth recommendations, on the humanitarian and human rights situation in these areas.⁴ A new report is expected soon.

11. The publication of the report of the IIFFMCG, also known as the Tagliavini report, in September 2009 was a crucially important development. This report, the impartiality of which was recognised by both sides, paints a very full picture of the origins of the conflict and is a vital element for a better understanding of what really happened.

12. We should mention that the European Parliament has also adopted a number of resolutions on the conflict and humanitarian consequences of the war between Russia and Georgia.⁵

13. The Secretary General of the Council of Europe has been reporting on a regular basis to the Committee of Ministers on the human rights situation, as well as Council of Europe activities, in the areas affected by the conflict. The latest report (SG/Inf(2010)8) was presented to the Committee of Ministers on 3 May 2010. In this report, in addition to the ongoing activities related to the consequences of the conflict, the Secretary General proposed to extend some of the actions of the Council of Europe on the ground to the territories under control of the de facto authorities of South Ossetia and Abkhazia. In his communication to the Bureau of the Parliamentary Assembly of the Council of Europe, the Secretary General reported on new initiatives and recent contacts with the Georgian and Russian authorities, without going into detail.

14. On 16 and 17 September 2010, the Committee on Legal Affairs and Human Rights held a meeting in Tbilisi. The Duma deputy, Mr Sergei Markov, a committee member, was refused a visa on the grounds that he had visited Abkhazia and South Ossetia. The other Russian member of the committee, Mr Valeriy Fedorov, decided not to come to Georgia because of this refusal.

II. Personal considerations

15. An armed conflict between two member States is an exceptionally serious development. The war between Georgia and Russia and its consequences obviously constitute a priority for the Parliamentary Assembly of the Council of Europe, and for the Council of Europe in general. The Parliamentary Assembly of the Council of Europe intervened rapidly, and our thanks go to the Rapporteurs for the enormous energy which they devoted to their work.

16. The deadlock in the work of the Rapporteurs and the Committee shows not only the extreme difficulty of the whole issue, but also reflects the strong emotions elicited by any discussion of this problem. The split between two opposing camps is an objective obstacle to achieving a dispassionate analysis of the situation and seeking a satisfactory solution.

17. We might wonder whether the appointment of two co-rapporteurs who were already involved in monitoring both these countries was really the right solution: the Presidential Committee has in fact already come down against this dual role. We might also ask ourselves whether it is expedient for the co-rapporteurs to simultaneously chair political groups.

18. Following this conflict, a whole series of steps have been taken by the various Council bodies and other European authorities. The impression is one of some confusion, or at least of a lack of co-ordination and knowledge of what all those involved are actually doing. At all events the impact on the ground has been minimal.

19. The Parliamentary Assembly of the Council of Europe should endeavour to achieve results capable of having a practical effect on the ground. Clashing by means of resolution and recommendation paragraphs which have no effect on the situation of individuals who are still suffering the consequences of this conflict is an exercise which hardly strengthens the Organisation's credibility. Therefore, we must endeavour to reduce

⁴ CommDH(2008)22, CommDH(2008)30, CommDH(2008)33, CommDH(2008)37 and CommDH(2009)22

⁵ 3 September 2008: Situation in Georgia : <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2008-0396+0+DOC+XML+V0//EN>

24 November 2009: Macro-financial assistance to Georgia : <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2009-0071+0+DOC+XML+V0//EN>

20 May 2010: The need for an EU strategy for the South Caucasus : <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2010-0193+0+DOC+XML+V0//EN>

as far as possible the emotional impact which – regrettably, although to some extent understandably – is affecting this issue. This can be done by adhering to the facts and the reality *in situ*. This necessitates, in this particular case, a high degree of knowledge of the situation by all Committee members, not just the Rapporteurs, as is the general rule. For example, everyone is talking about the Tagliavini report, but very few people have actually read it. It is absolutely vital to grasp the many facts set out in this essential document if we are to improve our understanding of the problem and direct our work more effectively.

20. Lastly, we must recall that the Assembly is not empowered to implement coercive measures. It expresses opinions and recommendations. If these are to have any real impact, confrontation must give way to dialogue.

21. Relations between the two delegations to the Parliamentary Assembly of the Council of Europe are obviously strained. Working in the same Assembly and sharing the same values, we must implement appropriate mechanisms to ensure proper and potentially constructive dialogue between both parties. Without the active involvement of both sides it will be difficult, if not impossible, to achieve practical results.

22. We might remember that the President has not been instructed to change the Rapporteurs' report, or to replace it with another text, or to conduct mediation between the parties. The task at hand is to attempt to suggest a procedure for reinitiating the work that has been assigned to us, with a guarantee on the co-operation of the parties and as broad a consensus as possible.

III. Proposals

23. The Committee should as soon as possible organise a whole day of hearings geared to ascertaining the current situation, including the situation on the ground and the current action being taken by the various bodies involved. The following should, *inter alia*, be heard:

- the President of the Assembly,
- the Commissioner for Human Rights,
- the Secretary General,
- the representative of the Committee of Ministers,
- the Head of Mission of the EUMM,
- the EU and UN co-chairs of the Geneva talks,
- Ambassador Heidi Tagliavini,
- the ICRC,
- the rapporteur of the Committee on Migration, Refugees and Population,
- a representative of the European Parliament,
- representatives of the Russian and Georgian governments.

24. On the basis of this information, the Committee will, if necessary, define its mandate more precisely, submitting it to the Bureau.

25. The Committee will decide:

- whether it should incorporate the terms of reference on the conflict and its consequences into the ordinary monitoring procedure in hand for both countries;
- or whether it should, on the contrary, appoint one or two *ad hoc* rapporteur(s), and if so, whether they should be chosen from among the co-rapporteurs responsible for monitoring the two countries.

26. The Committee suggests that the Bureau take any necessary steps to establish dialogue between both delegations.

27. The hearings should take place before the end of the year, or at the latest in January 2011; the new terms of reference and follow-up, should be decided on at the first part-session in 2011.

28. The Committee Chair is authorised to make contact with both States in order to attempt to draw up a catalogue of practical questions which might be discussed and rapidly settled, as well as a roadmap to address the humanitarian situation and the assessment of the situation with regard to the implementation of Resolutions 1633 (2008), 1647 (2009) and 1683 (2009) with a view to facilitating the subsequent work of the rapporteur(s).

APPENDIX

Proposal as rejected in April 2010

The Committee:

1. decides to suspend work on the report, ask its country co-rapporteurs on Georgia and Russia to monitor the implementation of the Assembly's resolutions and review whether a further general report might be helpful when both pairs of co-rapporteurs have reported on progress;
2. invites the Assembly's Bureau:
 - i. to reconstitute the Bureau Ad-Hoc Committee that sought to facilitate inter-parliamentary dialogue;
 - ii. to ask the Political Affairs Committee (through its conflict prevention sub-committee) that it considers what lessons can be learned from this conflict.