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GEORGIA

Compliance with obligations and commitments

Regular report prepared by the Directorate General of Democracy and Political Affairs (January 2010)

Executive summary

The present report covers the period from spring 2008 to December 2009. It analyses achievements, challenges and shortcomings of the reform process in the country and fixes the agenda for co-operation between the Council of Europe and Georgia for the coming months. This report focuses on the internal situation in the country and does not specifically deal with conflict-related issues, since these are currently covered under a separate reporting procedure, which was set in motion by the Committee of Ministers following the conflict in Georgia in August 2008.

Notwithstanding all the hardships experienced as a result of the conflict, as well as challenges of the post-conflict recovery and related high political tensions, notable progress has been achieved in such areas as the judiciary, law enforcement and the fight against corruption, as well as initiatives to improve the functioning of democratic institutions. There has also been significant progress regarding the return of the population deported in 1940-1944 (Meskhetians), which brings Georgia closer to fulfilling this particular accession commitment.

The authorities should significantly intensify their efforts, in co-operation and with the support of the Council of Europe, in order to ensure the speedy signature and ratification of the European Charter for Regional or Minority Languages. More generally, the policy towards national minorities should remain in the focus of the Government's attention. The remaining issues of concern include the promotion of constructive political dialogue between the Government and the opposition. The issue of allegedly politically-motivated targeted judicial proceedings will remain on the agenda and should be closely followed in the future.

The Council of Europe stands ready to provide further assistance to the Georgian authorities in the following areas: ongoing reform of the judiciary, and in particular the implementation of the newly-adopted Code of Criminal Procedure, as well as the adoption and implementation of the new Imprisonment Code; possible targeted electoral assistance in view of the upcoming local elections; broader electoral and constitutional reforms; combating ill-treatment and impunity, and prison reform; support to civil society, including in the post-conflict context.

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I. Introduction

1. In accordance with the decision of the Committee of Ministers (826th meeting, 5 February 2003, item 2.1 a), the Secretariat was instructed to proceed with a regular assessment of the progress achieved by Georgia in fulfilling its commitments and obligations as a member state of the Council of Europe. By its decision of 8 July 2004 (892nd meeting, item 2.1 a), the Committee of Ministers focused the regular monitoring on the following priority areas:

- functioning of democratic institutions at all levels (including the situation in the breakaway regions);
- functioning of the judiciary and law-enforcement agencies;
- the fight against corruption and organised crime.

2. The last regular Secretariat report was published on 26 March 2008 (doc. SG/Inf (2008) 7). The next Secretariat report was due in the spring 2009. However, the conflict in Georgia in August 2008 and subsequent efforts by the Government to address its consequences, including its humanitarian consequences (in particular the wave of new IDPs), made it impossible for the Secretariat to prepare the report at that time.

3. The present report has been prepared on the basis of information gathered during the Secretariat visits to Tbilisi in October and December 2009 (the programme of the December visit is appended). The Office of the Special Representative of the Secretary General in Georgia also provided regular information on the developments in the country. Ambassador Zurab Tchiaberashvili, Permanent Representative of Georgia to the Council of Europe, took part in the official meetings. Tribute should be paid to the spirit of openness and co-operation of all Georgian institutions and authorities visited, including at the highest level.

II. Political context and functioning of democratic institutions, including ongoing constitutional and electoral reforms

4. Apart from the August 2008 conflict and its consequences, the period under review has been marked by several important developments in the political life of the country, such as the parliamentary elections of May 2008, the elections to the Parliament in the Autonomous Republic of Adjara of November 2008 and the spring 2009 opposition protests. Needless to say, the military conflict in August 2008 undoubtedly had a major impact on the life of the country. More than 130 000 persons became displaced following the hostilities and approximately 30 000 of them are still not able to return to their original places of residence, mainly in the South Ossetia region, Georgia¹.

¹ This report does not provide detailed information on the situation following the August 2008 military conflict and its consequences for the population residing in the areas affected by the conflict, since this is largely covered under the regular human rights reporting. For more detailed information on this, see SG/Inf (2009)7, SG/Inf (2009)9 and SG/Inf (2009)15 final.

5. Following the parliamentary elections which took place in Georgia on 21 May 2008, the ruling United National Movement obtained 119 seats in Parliament (71 of them in single-mandate constituencies and the rest by proportional vote); the electoral block, “The Joint Opposition” (National Council and New Rights), 17 seats (including two in single-mandate constituencies); the Christian Democrats, six seats; the Labour Party, six seats; and the Republican Party, two seats (both in single-mandate constituencies). Several opposition forces declared that these elections were rigged and for that reason twelve elected opposition representatives refused to take up their mandates in the Parliament. However, after the relevant constitutional amendments were passed by Parliament in September 2009², one of those opposition representatives, Mr Konstantine Gamsakhurdia, regained his seat in Parliament³.

6. On 3 November 2008, the elections to the Legislative Assembly of the Autonomous Republic of Adjara took place. A delegation of the Congress of Local and Regional Authorities observed these elections. The delegation noted that several recommendations by the Congress, following the 2001 and 2004 Adjara elections, had been implemented. However, reported irregularities showed that further consolidation of the democratic processes is necessary. There were reports of inadequacies in a number of polling stations, including as regards the voter lists, the vote count and the transmission of the results.

7. The protest actions by the extra-parliamentary opposition began on 9 April 2009. The main demand of the protestors was the resignation of the President of Georgia, Mikheil Saakashvili. Between 25 000 and 60 000 people participated in the demonstrations at the beginning of the protests; however, the number of participants dropped significantly in the following days. The participants used the tactics of blocking the main streets in Tbilisi with metal structures symbolising prison cells and started picketing the entrance to the buildings where the governmental institutions, as well as the Public Broadcaster were situated. The protests lasted until mid-June.

8. In the aftermath of the protests, President Mikheil Saakashvili pledged to implement a series of political reforms, as part of the “second wave of democratic reforms”, aiming to increase the opposition’s involvement in the country’s political life. He also announced the launch of large-scale dialogue with citizens throughout Georgia, which has been seen by some experts as the first stage of the electoral campaign for the 2010 local elections. Furthermore, on 8 June President Saakashvili issued Order No. 388, setting up the constitutional commission charged with preparing a draft of the new Constitution⁴, providing for a more balanced distribution of powers between the executive and legislative branches⁵.

² This was part of the initiatives to promote a dialogue between the Government and the extra-parliamentary opposition.

³ After the Parliament decided to set up a commission to inquire into the death of his father, Mr Zviad Gamsakhurdia, President of the Republic of Georgia in 1991-1992.

⁴ At the time of the Secretariat’s visit, it had not yet been decided in which way the new Constitution would be adopted (via referendum, plebiscite and/or in the Parliament).

⁵ After the Commission was established, there appeared to be certain controversy related to its mandate and functioning, since in the meantime some of the amendments to the current Constitution have been

9. The draft project of the new Constitution is expected to be ready by autumn 2010. The Commission also plans to prepare alternative proposals to the most important constitutional provisions, notably those related to the distribution of powers, which could then be put to a vote.

10. In his address to the Parliament in July 2009, President Saakashvili proposed to hold local elections in May 2010 and cited the end of 2009 as the deadline for the revision of the electoral code. The Georgian Parliament passed amendments to the electoral code, providing that the local elections should take place no later than 1 June 2010, as well as introducing provisions on the direct elections of the mayor of Tbilisi, instead of the current practice whereby a mayor is elected by members of the elected City Council (Sakrebulo)⁶. Other proposals included the appointment of the new Chairman of the Central Election Commission, through broad agreement among the key political groups⁷.

III. Functioning of the judiciary, law enforcement and prison system

11. In its Resolution 1603 (2008), the Parliamentary Assembly of the Council of Europe called on the Georgian authorities (para. 21.1-3) to complete the reforms and to adopt the new comprehensive Code of Criminal Procedure (CPC), elaborated in co-operation with the Council of Europe. The new Code of Criminal Procedure was adopted on 9 October 2009 and will enter into force on 1 October 2010. This reform is important for the implementation of several judgments of the European Court of Human Rights, in particular concerning the right to liberty and security (violation of Article 5).

12. Further reforms and initiatives in the criminal justice field will be guided by the Criminal Justice Reform Strategy, which was also adopted in 2009, and its Action Plan. The general time frame for the implementation of the Strategy and the Action Plan will be four to five years, i.e. 2009-2013. If need be, the Strategy and the respective Action Plan may be updated to reflect the changed circumstances. The Strategy covers the following spheres: criminal procedural legislation, legislation on administrative offences, juvenile justice, the penitentiary, the probation service, the legal aid service, the prosecution, the police, the judicial system, legal education and professional training, and the public defender. The Council of Europe could provide further assistance and expert advice related to the implementation of the above-mentioned Strategy and the Action Plan.

introduced by the Parliament, reportedly without prior consultation with the Commission. However, by the time of the drafting of this report, this issue seems to have been resolved.

⁶ For more detailed information, see the chapter on local democracy and upcoming elections.

⁷ A new Chairman of the CEC was elected on 15 January 2010 by the Parliament after the opposition members of the CEC refused to support any of the three candidates selected by the President on the basis of a list of fourteen candidates proposed by NGOs. Several representatives of the civil society subsequently criticised the selection process, whereby the candidate with the widest support of the NGOs was not shortlisted.

Criminal procedure

13. The reform in relation to the criminal procedure legislation is directed towards the strengthening of an adversarial principle in the Georgian justice system. The reform of the criminal procedure is based on a number of fundamental principles and focuses on the following topics: 1) general provisions of the CPC, 2) defendant, 3) defence counsel, 4) special measures for the protection of witness and victim, 5) pre-trial investigation, 6) issues related to the restriction of freedom of the defendant, 7) pre-trial hearing, 8) main trial and passing of the sentence, 9) jury trial, 10) appeal and 11) cassation.

Legislation on administrative offences

14. The legislative problems in the current Code of Administrative Offences of Georgia are connected with the procedural, executive, material and legislative spheres of the legislation on administrative offences and also with issues of fundamental human rights and freedoms. The draft Code of Administrative Offences of Georgia aims to improve the legislation on administrative offences and harmonise it with the requirements of the contemporary Georgian legislation, to create unified and effective legislation on administrative offences, which will provide high standards in terms of the protection of fundamental human rights and freedoms. In the draft Code of Administrative Offences of Georgia, many legislative innovations are considered.

Judicial system

15. One of the most important steps for the formation of an independent judiciary is the political will of appointing judges for life. In view of this, the strategy provides for measures for legislative amendments (including constitutional amendments). Furthermore, the strategy broaches the following main topics: gradual occupation of the judges' vacant positions, modernisation of the judicial system, High School of Justice and professional training for judges, computer network and public awareness. During its visit, the Secretariat was also informed that further legal provisions aimed at strengthening the existing safeguards for excluding any possible outside interference with the work of the judges (ex parte communication), were under consideration and should be approved in the near future.

Prosecution

16. From a constitutional perspective, the Office of the Prosecutor of Georgia is part of the executive structure. It is headed by the Chief Prosecutor; he/she is nominated by the Minister of Justice and appointed by the President of Georgia. The resignation of the Government does not entail his/her resignation. An independent body – the Council of the Prosecution Office – will be set up. Members of the Council of the Prosecution Office will be representatives of the executive, the judiciary, legislature, academies and NGOs. The main task of the Council will be to organise a competition for individuals to be assigned to the position of Prosecutor, and also to support the General Prosecutor of Georgia in the effective administration of the prosecution system.

Prison system

17. At the request of the Georgian authorities, the Council of Europe provided an expert opinion on the latest version of the draft Imprisonment Code and handed it over to the Ministry of Justice in October 2009. When the report was being drafted, the draft Imprisonment Code was under consideration in the Parliament.

18. The newly-established Ministry for Penitentiary, Probation and Legal Assistance has embarked on a plan of reconstruction and refurbishment of prisons. To this end, a number of new prisons have been opened (i.e. Geguti 8 was opened in February 2009 and the first block of Rustavi 1 in March 2009; a new prison No. 2 was opened in Kutaisi on 16 October 2009), and at least two others are planned to open in the near future.

19. A prison reform component has been integrated into Denmark's Caucasus Programme "Increasing the capacity of the judicial system of Georgia". Its implementation is expected to start at the beginning of 2010. The prison part focuses on three areas: training of prison staff, health care provision in prisons and the functioning of the Probation Service. In autumn 2009, Georgia applied to the Council of Europe Development Bank for the financing of the construction of a new prison.

20. In October 2009, the newly-elected Public Defender sent a human rights report, covering the first half of 2009, to the Parliament. According to this report, the penitentiary system continues to be one of the most problematic areas for Georgia. The report lists the following concerns: overcrowded cells in several prisons; poor health care for inmates, as well as ill-treatment of inmates in some prisons. The report mentions that "the excessive use of force by the police, as well as the investigation of cases of torture, inhuman and humiliating treatment of detainees still remain a problem". According to the report, these issues already represent a systemic problem, because cases which are promptly and effectively investigated are extremely rare.

Police reform

21. Since 2005, a comprehensive police reform has been carried out in the country and is broadly regarded as one of the most successful achievements of the Government, in particular in relation to the fight against corruption. Recent opinion polls demonstrate that the police enjoy a high degree of trust within Georgian society. Apart from the rotation of personnel and the introduction of new rules and procedures for the functioning of the police service and training, this success has also been achieved as a result both of substantial investments made to ensure that the police are equipped in line with the modern standards, and of design and investment in the construction of new police stations⁸.

⁸ The design of the new police stations – glass walls – is meant to underline the transparency in the work of the police.

22. Following the events of November 2007⁹, the capacity of the police to maintain order during mass protest actions has improved and its behaviour has become more professional, as was demonstrated during the spring 2009 protests of the opposition. Nevertheless, there have been several reported incidents of attacks and beatings of participants in opposition protests by unidentified assailants. A proper and timely investigation of such cases is of the utmost importance and the perpetrators should be brought to justice without delay. There were also reports of attacks against the law enforcement officers, as well as journalists during the protests.

Combating ill-treatment and impunity

23. There has been progress in combating ill-treatment by police in the course of pre-trial detention in Georgia, and the European Committee for the Prevention of Torture and other Degrading or Inhuman Treatment or Punishment (CPT) has noted positive changes. However, further efforts are needed, in particular to combat ill-treatment at the time of arrest of suspects, as well as in the police stations.

24. Georgia benefits from the activities implemented under the EC/CoE Joint Programme “Combating ill-treatment and impunity” (01/01/2009 – 31/12/2010)¹⁰. The programme addresses key issues covered in the case law of the ECtHR, the CPT findings and the country reports of the Commissioner for Human Rights, as regards the effective investigation of complaints against police concerning allegations of ill-treatment and the structures and processes which should be in place in all member States of the Council of Europe to respond to any allegations of ill-treatment. As part of the programme, a report with recommendations on the improvement of the regulatory and procedural framework in Georgia, for combating ill-treatment by police in the course of pre-trial investigation, has been completed and sent for comments to the Ministries of Justice and of the Interior.

Allegations of possible targeted judicial proceedings against the representatives of the opposition and/or their relatives

25. On the occasion of a visit in October 2009, the Secretariat met with the leaders of the extra-parliamentary opposition, as well as a number of human rights NGOs who complained about what they qualify as “political prisoners” or “targeted criminal investigations” against political leaders and their relatives. The Secretariat was provided with the lists of persons - members of the opposition political parties, their relatives and/or persons otherwise associated with the opposition - who have been imprisoned or are subject to criminal investigations. These lists vary in length and contain the names of up to some 80 people. The charges against these people are most often linked to drug trafficking or consumption, or illegal possession of weapons. The extra-parliamentary opposition leaders claim that most of these charges are forged by the authorities, in order

⁹ The reference is made to a violent dispersal of the demonstration on 7 November 2007.

¹⁰ The programme includes a research and regulatory/legislative component, as well as training and awareness activities for key groups of professionals to apply the European standards in their daily work focusing on judges, prosecutors, the police and advocates.

to undermine the position of their political opponents. They called for the Council of Europe's assistance in dealing with these cases.

26. In the course of its visit in December, the Secretariat raised this issue with the authorities. Their reply was the following:

- membership of a political party or relations with a political personality is not sufficient criteria to qualify as a “political prisoner”;
- there is no specific or targeted investigation against the members of the opposition parties. Statistics show that there are proportionally more members of the ruling party than of the opposition who are in prison or incriminated with this type of criminal charges;
- unfortunately drug consumption, and trafficking linked to this, are a major phenomenon in Georgia. Up to one-third of the penitentiary population is linked to drug-related criminal charges.

27. The Secretariat had neither the mandate nor the competences to examine in more detail this question, which clearly poisons the political climate in Georgia and represents one of the major challenges for promoting constructive dialogue between the Government and the extra-parliamentary opposition. However, the Secretariat recalled that:

- a few years ago, Council of Europe experts elaborated clear criteria on the definition of the concept of “political prisoners”;
- Georgia is Party to the European Convention on Human Rights and any person who claims a violation of his/her fundamental rights can introduce a complaint to the European Court of Human Rights after exhaustion of all domestic remedies.

28. The Office of the Public Defender is currently looking into the claims of trial irregularities reported, at least in some of the cases which potentially fall under this category, and is planning to draw up a list of recommendations, based on the findings of this inquiry. Taking into account the delicate nature of this issue, should there be a broad agreement on the international involvement and the relevant request by the Georgian Government, the Council of Europe could consider providing expert assistance to look into the issues at stake, in close co-operation with the national institutions, notably the Office of the Public Defender. This should be done without possible prejudice to the cases which may one day be dealt with by the European Court of Human Rights.

Fight against cybercrime

29. Georgia signed the Council of Europe Convention on Cybercrime in April 2008, but has not yet ratified it. The Ministry of Justice and the Ministry of Internal Affairs of Georgia, the European Union and the Council of Europe have agreed to implement the Project on Cybercrime in Georgia between 1 June 2009 and 31 May 2010. The purpose

of the project is to help Georgia develop a consistent policy on cybercrime, with a view to implementing the Convention on Cybercrime¹¹.

30. As part of the project implementation, the legislative gaps on cybercrime and data protection, from the perspective of their compliance with international standards, have been identified and concrete recommendations for amendments have been made. A Working Group for drafting amendments to cybercrime legislation was established by a Decree of the Minister of Justice. This Decree set 15 December 2009 as the deadline for the Working Group to present to the Minister the draft laws fully implementing the Convention on Cybercrime. The same deadline applied to the already existing Working Group on data protection legislation. A high-tech crime unit has also been established recently within the Ministry of Internal Affairs.

31. The strengthening of the cybercrime and data protection legislation is essential in this context.

IV. Fight against corruption and money laundering

32. Georgia has been evaluated twice by the Council of Europe's Group of States against Corruption (GRECO). The Second Round Evaluation Report contained fourteen recommendations for improvements and the country has been assisted with the implementation of these recommendations by the Project against Corruption in Georgia (GEPAC)¹². The [Compliance Report](#) on the Progress made in implementing these recommendations was adopted by GRECO at its 42nd Plenary Meeting (11-15 May 2009) and made public on its website.

33. The report concluded that, after two-and-a-half years, Georgia had implemented satisfactorily or dealt with in a satisfactory manner just over half of the recommendations in the Second Round Evaluation Report. It made noticeable efforts to comply with a number of GRECO recommendations, in particular through several legislative projects, for example constitutional changes aimed at strengthening the independence of the judiciary; amendments to the Criminal Code with regard to criminal liability of legal persons and with regard to corruption as a predicate offence for money-laundering; the adoption of a new law on the Chamber of Control; and amendments to the Law on Conflicts of Interest and Corruption in the Public Service, including measures for protecting public officials who report suspicions of corruption, in good faith. Georgia is still working on further improvements such as pursuing the reform of the judiciary and amending the Public Service Law.

¹¹ The project activities are focused on legislative changes, the training of law enforcement authorities, prosecutors and judges regarding the investigation, the prosecution and adjudication of cybercrime; institution building, law enforcement/internet service provider, co-operation in the investigation of cybercrime.

¹² The GEPAC Project is funded by a voluntary contribution of the Ministry for Development Co-operation of the Netherlands and aims to strengthen Georgian institutions' capacities in their anti-corruption efforts through the implementation of the Anti-Corruption Strategy and Action Plan.

34. The Georgian authorities have now to ensure that the existing legislation is vigorously implemented in practice. GRECO concluded by urging the authorities to persist in their efforts to make sure that the outstanding recommendations are dealt with in an effective manner. This will be examined in the course of 2011 in an addendum to the Compliance Report.

35. Transparency International 2009 Corruption Perception Index suggests that the level of corruption in Georgia has slightly fallen. The index ranks Georgia 66 out of 180 countries and gave it a score of 4.1 as opposed to 3.9 in 2008.

36. As regards money laundering, the Third Round Mutual Evaluation Report of Georgia was adopted by MONEYVAL on 22 February 2007. Georgia submitted the first progress report on 23 July 2008, which included detailed information on measures taken by the Georgian authorities in order to address the recommendations formulated in the Third Round Evaluation Report and in the light of the progress made, the report was adopted by MONEYVAL on 23 July 2008. Georgia is expected to submit a second progress report in March 2010.

V. Other important matters

a. Execution of ECtHR's judgments

37. There are currently twenty-three judgments of the European Court of Human Rights against Georgia before the Committee of Ministers for control of execution. They concern:

- the lack of effective investigations into complaints of torture or ill-treatment in police detention/custody;
- inhuman and degrading conditions of detention, including degrading treatment due to the lack of appropriate medical treatment in detention;
- right to free elections;
- failure of enforcement of final domestic judgment;
- freedom of expression on the one hand, and the right to respect private and family life on the other hand;
- right to liberty and security;
- right to a fair trial;
- complaints on inhuman and/or degrading treatment inflicted on a number of members of one congregation;
- extradition procedure.

38. In cases where a procedural violation of Article 3 is found, there is a continuing obligation to conduct investigations into the facts at issue. The Georgian authorities are expected to provide accurate and timely information on the steps undertaken in this respect, as well as to make sure that the information on the execution of the Court's decisions in all the other cases pending before the Committee of Ministers is provided on time.

b. National minorities

39. Upon its accession to the Council of Europe, Georgia committed itself to signing and ratifying the European Charter for Regional or Minority Languages. Until now, Georgia has yet to sign the Charter. In June 2009, a meeting for high-level representatives of the Georgian Government and Parliament was organised by the Council of Europe and the European Centre for Minority Issues (ECMI), under Denmark's Caucasus Programme 2008-2009 "Enhancing good governance, human rights and the rule of law in Georgia". Following a request by the authorities, a document in the form of Frequently Asked Questions (FAQs) has been developed by the ECMI in order to inform the public about this important CoE instrument and to promote the idea of a speedy signature and ratification of the Charter. However, no significant progress has been registered since the last report.

40. The first [Opinion](#) of the Advisory Committee on the Framework Convention on National Minorities was adopted in March 2009 and made public, together with the [comments of the Georgian authorities](#), on 10 October 2009¹³. The preparation of the related Committee of Ministers' Resolution is scheduled to start at the beginning of 2010.

41. A number of positive developments have been noted with regard to the situation of minorities. In particular, the National Concept for Tolerance and Civic Integration was adopted in April 2009. It should form the basis for policies concerning national minorities. An inter-agency commission on minority issues (headed by the Ministry for Reintegration), with a view to providing support to the co-ordination of minority policies, has been set up. It is in charge of implementing the above-mentioned National Concept. On 30 December 2009, the Office of the State Minister for Reintegration issued a report on the implementation of the above-mentioned Concept.

42. There are no plans to adopt a separate law on national minorities (accession commitment). However, several pieces of legislation have been amended or are under consideration - to take into account the specific needs of national minorities. As an example, efforts were made in 2009 to ease access to higher education of persons belonging to national minorities who do not have an adequate command of the Georgian language (reform of the entry examination to university). Further steps are planned to increase access of persons belonging to national minorities to quality teaching of the Georgian language.

43. Despite these positive developments, the authorities should continue to pay due attention to the situation of the minorities in the Samtskhe-Javakheti region. Recently, some tension has been reported there after one activist of the local Armenian community was arrested in 2008 and convicted to a prison term, following a trial which has allegedly been marred by irregularities¹⁴. Such incidents could possibly lead to the deterioration of the situation in the region and lower the impact of other positive measures that have

¹³ The Georgian authorities should be commended for having agreed to the anticipated publication of the Opinion.

¹⁴ The case of Vahagn Chakhalyan

recently been taken to improve the situation of minorities living there, including in the field of infrastructure development (construction of roads, railway, etc).

44. ECRI's third report on Georgia is due to be published in May 2010, following a visit which took place in October 2009.

c. Repatriation of the Meskhetian population

45. On 22 June 2007, the "Law on Repatriation of Persons forcefully sent into exile from Georgia by the former USSR in the 1940s of the 20th century" was adopted. The deadline for submissions of the applications for return was initially set up for 31 December 2008. In January 2009, the deadline for applications was extended by the Parliament to 30 June 2009 and then once again extended until 31 December 2009.

46. Following an initiative of the Council of Europe Secretary General and the OSCE High Commissioner on National Minorities (and the meeting held in Strasbourg in August 2009 under the chairmanship of the Deputy Secretary General), representatives of international organisations and relevant Georgian ministries met in Tbilisi on 5 October to discuss implementation modalities of the Georgia Law on repatriation and ways to address possible shortcomings. As a follow-up to this meeting, the Georgian Parliament adopted a set of amendments to the above-mentioned Law which covered an extended deadline for submitting additional documents for incomplete applications, including a health certificate and guarantees against the risk of statelessness.

47. The capacity of the Ministry for Refugees and Accommodation to deal efficiently with the applications is a subject of concern. This problem and possible remedies – in particular in respect to the staff resources - should be examined during the next meeting between representatives of the relevant international organisations and the Georgian authorities which will take place in Tbilisi in March 2010.

d. Media freedom

48. The legal framework for freedom of expression and freedom of the media is generally considered to be adequate. The unresolved issues seem to be the transparency of media ownership and protection of whistleblowers. In its recent report "Television in Georgia – Ownership, Control and Regulation", published in December 2009, Transparency International maintained that the Georgian media were less free and pluralistic than before 2003. According to the report, "Georgia's current regulatory system has proven insufficient to ensuring a transparent media ownership regime and promoting a competitive television market". Transparency International further recommends amending the licence ownership regulation, in order to ensure that off-shore companies can no longer own shares in media outlets and that sufficient information about the shareholder structure of licence-holders and their owners is reported to the Georgian National Communications Commission and made accessible to the public.

49. As part of a “second wave of democratic reforms”, the reform of the Board of Trustees of the Georgian Public Broadcaster has been envisaged. In his speech in Parliament in July 2009, the President of Georgia suggested to extend the membership of the Board and compose it as follows: out of fifteen members, seven would be nominated by the opposition, including opposition parties non-represented in the Parliament, seven by the ruling political majority, and one would be named by the civil society. The mandate and oversight powers of the Board would be strengthened. When the report was being drafted, the Georgian Parliament approved the composition of the new Board.

50. The Secretariat was informed that the setting up of a second public channel – parliamentary – is envisaged in the near future.

e. Freedom of religion

51. There have been no new developments in the reporting period on the question of the legal status of religious denominations. The Concordat between the Government and the Georgian Orthodox Church was signed on 14 October 2002. According to the Civil Code, the only possibility for other religious denominations operating in the country is to register as private law entities. Those Churches who have refused to do so are in a complete legal vacuum. This creates problems in terms of access to properties and legal action in general.

52. In its recent [Opinion](#), the Advisory Committee on the Framework Convention for the Protection of National Minorities expressed concern about increased religious tensions, which are particularly affecting persons belonging to national minorities. It has called upon the authorities to make every effort to combat this phenomenon and, in general, all forms of intolerance based on ethnic or religious affiliation.

f. Ombudsman institution

53. The mandate of the previous Public Defender, Sozar Subari, came to an end in September 2009. George Tugushi, the newly-appointed Public Defender, has been a member of the Council of Europe Committee for the Prevention of Torture since December 2005. In addition to its core activities, the Office of the Public Defender will pay particular attention to children’s rights, rights of the disabled, human rights in detention centres, rights of internally-displaced persons; promotion of tolerance and property rights. This year the Public Defender’s Office has been provided with additional budgetary resources to implement its activities.

g. Local democracy and upcoming local elections

54. In his address to the Parliament in July 2009, the President of Georgia offered to reform the system of local self-governance and to introduce direct elections of mayors (currently mayors are elected by the City Council). Subsequently, this was narrowed to discussions on direct election of the mayor of Tbilisi, but not in other self-governing cities. These discussions took place mainly in the framework of the working group on

electoral reform (ERWG), composed of representatives of different political parties (including some representatives of the extra-parliamentary opposition). The participants in the group failed to reach an overall consensus, due to the differing position over the threshold required for the election of the mayor of Tbilisi¹⁵.

55. In December 2009, the Parliament of Georgia adopted amendments to the electoral legislation, which the majority of the participants in the working group agreed to¹⁶. Due to the time constraints and the length of negotiations in the ERWG, the amendments were not sent to the Venice Commission for expertise before their approval in Parliament, as previously agreed. Nevertheless, during its visit to Tbilisi the Secretariat was assured that the adopted text would be submitted to the expertise of the Venice Commission without any delay and that every effort would be made to accommodate any subsequent recommendations before the local elections. The work on the further revision of the electoral legislation will continue after the local elections.

56. On 15 June 2009, the agreement establishing the “EuroCaucasus” Euroregion was signed by the Communities Association of Armenia (CAA) and the National Association of Local Authorities of Georgia (NALAG). This new Euroregion consists of the Shirak, Lori and Tavush border regions of Armenia and the Ninosminda, Dmanisi, Bolnisi and Marneuli border municipalities of Georgia. The “EuroCaucasus” aims at economic, social, ecological and cultural co-operation and exchange between municipalities, the population and NGOs located across the Armenia-Georgia border.

57. The Congress of Local and Regional Authorities co-organised, with the Association of Local Democracy Agencies, a “Networking and co-operation conference of Local Authorities Association of the South Caucasus” (Kutaisi, 29-30 October 2009), to strengthen local and regional democracy and to support the work of the Kutaisi Local Democracy Agency. This action was a direct follow-up to Resolution 272 (2008) adopted by the Congress on the “Local consequences in the conflict zone in the South Caucasus: support from European local and regional authorities”.

VI. Conclusions and recommendations

58. Functioning of democratic institutions and political dialogue between the Government and opposition leaders will remain in the focus of political debate in the coming months. The local elections, due to take place in spring 2010, will be an important test for the maturity of the democratic institutions. The participation of the opposition parties in this contest will, in particular, be an important sign of and contribution to strengthening the democratic institutions and processes in the country.

¹⁵ While the Alliance for Georgia representative within the ERWG advocated for a threshold which would be no lower than 45%, others did not oppose the idea of a 30% threshold proposed by the ruling party.

¹⁶ The amendments provided for direct elections of the mayor in Tbilisi, but not in other self-governing cities (Batumi, Poti, Kutaisi, Zugdidi) where an old system of election of mayor by a city council will apply. Other amendments increased the number of seats in the Tbilisi City Council to fifty (twenty-five councillors will be elected through a single ballot majority system (one candidate elected in each of the 25 municipal electoral constituencies), and 25 through a proportional representation system).

The Council of Europe stands ready to provide targeted assistance to the authorities, in order to ensure that the elections take place in line with international standards. Furthermore, the Council of Europe will continue its engagement in, and support to, the ongoing constitutional and electoral reform process.

59. The situation regarding the regions of Abkhazia, Georgia, and South Ossetia, Georgia, will continue to have a profound impact on the political life of the country in the foreseeable future. It is important to ensure, however, that it does not become an obstacle, or be used as a pretext for delaying further reforms in the country.

60. During the period covered by this report, Georgia has made further noticeable progress towards fulfilling its commitments to the Council of Europe. Signature and ratification of the European Charter for Regional or Minority Languages remains an outstanding commitment and should be addressed as soon as possible. The issue of the integration of national minorities, including integration of the returning Meskhetian population, should be closely followed and addressed by the authorities.

61. Further support to the institution of the Public Defender should be envisaged. Local and regional democracy and support to civil society should remain on the agenda of co-operation between the Council of Europe and Georgia.

VII. Decisions

1079th meeting, 10 March 2010

Decisions adopted

(...)

Item 2.1 bis

Current political questions -

a. Activities for the development and consolidation of democratic stability

(...)

Concerning Georgia

In the light of the report of the Secretariat on the state of the progress achieved by Georgia in fulfilling its commitments and obligations as a member state of the Council of Europe (document [SG/Inf\(2010\)1](#)),

6. welcomed the progress made by Georgia in fulfilling its commitments to the Council of Europe with regard to the implementation of reforms which aim to promote the protection of human rights, the rule of law and the functioning of democratic institutions;

7. reiterated the importance for the local elections, due to take place in May 2010, to be carried out in conformity with the relevant European and international standards and, in this context, welcomed the invitation to the Congress of Local and Regional Authorities of the Council of Europe to observe the elections;

8. called on the Georgian authorities to continue their efforts with regard to the different issues identified in the conclusions and recommendations of the Secretariat's report, in particular with regard to the functioning of democratic institutions and the promotion of political dialogue between the government and the opposition;

9. invited the Georgian authorities to make full use of the Council of Europe's assistance in carrying out further reforms and initiatives in areas such as electoral and constitutional reforms; the judiciary; prison reform; policy towards national minorities, including accession to the European Charter for Regional or Minority Languages;

10. welcomed the steps taken by the Georgian authorities towards fully honouring their commitment on the return of the deported Meskhetian population and invited them to make further use of the Council of Europe's assistance in the implementation of the "Law of Georgia on the repatriation of forcefully deported persons from Georgia by the former USSR in the 40s of the 20th century";

11. invited their Rapporteur Group on Democracy (GR-DEM) to follow progress made in the implementation of the above-mentioned decisions and invited the Secretariat to prepare an overview of the ongoing and possible future co-operation activities in the

fields covered by the report of the Secretariat, for consideration by the GR-DEM at one of its forthcoming meetings;

(...)

**Visit of Mr Jean-Louis LAURENS,
Director General of Democracy and Political Affairs, Council of Europe**

**Regular Monitoring Mission
Tbilisi, 2-5/12/2009**

2/12/2009

- 13:00-14:10** Meeting with Mr Temur YAKOBASHVILI, State Minister for Reintegration
- 14:30-15:00** Meeting with the CoE staff
- 15:00-16:00** Meeting with NGOs (Georgian Young Lawyers' Association; Human Rights Information and Documentation Centre; Public Movement – “Multinational Georgia”)
- 16:30-17:30** Meeting with the International Crisis Group
- 18:00-19:00** Meeting with Liberty Institute
- 20:00-22:00** Dinner with representatives of the international organisations:
- Ms Inita PAULOVICA (*Deputy HoM UNDP*)
 - Mr Gilles JANVIER (*Deputy HoM EUMM*)
 - Mr Kaupo KAND (*EUSR*)
 - Mr Hailu MAMO (*Political Adviser to the UN Representative for the Geneva Process*)

3/12/2009

- 08:30-09:30** Working breakfast with Mr Kent LOGSDON, Chargé d’Affaires ad interim, US Embassy
- 10:15-10:45** Meeting with Ms Nino BURJANADZE, Chairman of the United Democratic Movement-Georgia
- 12:00-13:00** Meeting with Mr Dimitry SHASHKIN, Minister of Corrections and Legal Assistance
- 13:00-15:00** Meeting with Mr Ivane MERABISHVILI, Minister of the Interior, Ms Eka ZGULADZE, First Deputy Minister of Internal Affairs, and Mr Zurab ADEISHVILI, Minister of Justice

- 16:00-16:50** Meeting with Mr Konstantin KUBLASHVILI, Chairman of the Supreme Court
- 17:00-17:40** Meeting with Mr Alexander NALBANDOV, First Deputy Minister for Foreign Affairs
- 17:00-17:40** Meeting with Ms Tata KHUNTSARIA, Deputy Ombudsman
- 18:00-19:00** Meeting with H.E. Mr Mikheil SAAKASHVILI, President of Georgia
- 20:00-22:00** Dinner with a group of Ambassadors

4/12/2009

- 8:45-9:40** Meeting with Mr Avtandil DEMETRASHVILI, Chairman of the Constitutional Commission
- 10:00-11:00** Meeting with Mr Per EKLUND, Head of the EU Delegation
- 11:30-12:30** Meeting with Mr David BAKRADZE, Speaker of Parliament
- 15:00-16:00** Meeting with NGOs dealing with electoral issues:
- a) International Society for Fair Elections and Democracy;
Mr Mikheil KETCHAKMADZE (*Programme Manager*)
 - b) International Foundation for Electoral Systems;
Ms Ketevan MAISURADZE (*Deputy Chief of Party*)
 - c) National Democratic Institute;
Mr Luis NAVARRO (*Country Director*)
- 16:30-17:30** Press Conference
- 18:00** Meeting with Mr Giorgi UGULAVA, Mayor of Tbilisi
- 18:30** Speech at the Launch Event of the Georgian Charter of Journalistic Ethics
- 19:30** Departure for Bakuriani

5/12/2009

- 9:00-11:30** Speech at the seminar of the Tbilisi School of Political Studies