



Parliamentary Assembly
Assemblée parlementaire

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COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

2021 ORDINARY SESSION

Second part

19-22 April 2021

TEXTS ADOPTED BY THE ASSEMBLY

Provisional versions

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Recommendations
2198 to 2202



Recommendation 2198 (2021)¹

Provisional version

Preserving national minorities in Europe

Parliamentary Assembly

1. The Parliamentary Assembly refers to its [Resolution 2368 \(2021\)](#) “Preserving national minorities in Europe”, in which it calls on Council of Europe member States to strengthen their commitment to the Framework Convention of the Protection of National Minorities (ETS No. 157, “the Framework Convention”) and to implementing its standards, which form an integral part of the international protection of human rights.
2. The Assembly recalls that dialogue between the representatives of national minorities and the authorities, as well as between the authorities and the monitoring mechanism set up under the Framework Convention, is a crucial means of achieving the aims of this convention, and emphasises the importance of continuous multilateral engagement in this field.
3. The Assembly therefore calls on the Committee of Ministers to:
 - 3.1. encourage States Parties to invest renewed efforts in implementing fully the recommendations of Council of Europe monitoring bodies as a way of preserving linguistic, ethnic and cultural diversity and building societies in which minorities are not merely tolerated but respected and perceived as an equal and integral part;
 - 3.2. step up its efforts to ensure the rapid adoption of its resolutions to conclude the monitoring cycle with respect to each State Party, in accordance with the procedure set out in Resolution CM/Res(2019)49 on the revised monitoring arrangements under Articles 24 to 26 of the Framework Convention for the Protection of National Minorities, adopted by the Committee of Ministers on 11 December 2019;
 - 3.3. examine ways to ensure regular and formal co-operation between the Advisory Committee of the Framework Convention and the European Commission for Democracy through Law (Venice Commission) when assessing the compliance with Council of Europe norms and standards of domestic legislation related to the protection of national minorities in member States;
 - 3.4. consider establishing a more multi-faceted co-operation with civil society through the establishment of a public online platform that would enable more data to be collected and would allow serious concerns about the rights of persons belonging to national minorities to be detected at an earlier stage, along similar lines to the Platform for the Protection of Journalism and Safety of Journalists already put in place by the Council of Europe.

1. *Assembly debate* on 19 April 2021 (9th sitting) (see [Doc. 15231](#), report of the Committee on Equality and Non-Discrimination, rapporteur: Ms Elvira Kovács). *Text adopted by the Assembly* on 19 April 2021 (9th sitting).





Recommendation 2199 (2021)¹

Provisional version

The Assembly's vision on the strategic priorities for the Council of Europe

Parliamentary Assembly

1. The Parliamentary Assembly deems it its duty to contribute to the ongoing reflection on strategic priorities for the coming years for the Council of Europe, so as to enable it to play fully its statutory role and to help to use the potential of Europe's oldest and largest treaty-based organisation, as formulated in the Statute.
2. To this purpose, the Assembly calls on the Committee of Ministers to take into account, in its discussions on the eve of the forthcoming ministerial session in May 2021, the views contained in [Resolution 2369 \(2021\)](#) "The Assembly's vision on the strategic priorities for the Council of Europe".
3. The Assembly will continue its strategic reflection on the future of the Council of Europe and the ways to further increase its political relevance, preserve and reaffirm its own identity as an independent forum for a comprehensive and inclusive political dialogue and co-operation, and ensure that it remains the pillar of democratic security and successful and effective multilateralism in Europe as well as a cornerstone of the European political architecture. It stands ready to engage in a constructive institutional dialogue with the Committee of Ministers on this matter.

1. *Assembly debate* on 20 April 2021 (10th sitting) (see [Doc. 15252](#), report of the Committee on Political Affairs and Democracy, rapporteur: Mr Tiny Kox). *Text adopted by the Assembly* on 20 April 2021 (11th sitting).





Recommendation 2200 (2021)¹

Provisional version

Urgent need for electoral reform in Belarus

Parliamentary Assembly

1. The Parliamentary Assembly refers to its [Resolution 2371 \(2021\)](#) “Urgent need for electoral reform in Belarus”. It invites the Committee of Ministers to:

- 1.1. continue to closely follow the situation in Belarus;
- 1.2. adopt measures to complement the [Council of Europe Action Plan for Belarus 2019-2021](#) with targeted action of primary importance for constructing transparent and democratic institutions in Belarus, including an electoral reform with a view to putting the electoral legislation in line with European and international electoral standards, with the involvement of the Venice Commission and the Assembly;
- 1.3. implement the above-mentioned measures as soon as it becomes feasible following a clear commitment of the Belarusian authorities to engage in a democratic transition process.

1. *Assembly debate* on 21 April 2021 (12th sitting) (see [Doc. 15253](#), report of the Committee on Political Affairs and Democracy, rapporteur: Lord David Blencathra). *Text adopted by the Assembly* on 21 April 2021 (12th sitting).





Recommendation 2201 (2021)¹
Provisional version

Human rights violations in Belarus require an international investigation

Parliamentary Assembly

1. Referring to its [Resolution 2372 \(2021\)](#) “Human rights violations in Belarus require an international investigation”, the Assembly invites the Committee of Ministers to:
 - 1.1. examine the scope of universal jurisdiction with a view to its use by Council of Europe member States to combat impunity for perpetrators of serious human rights violations;
 - 1.2. invite Belarus to accede to the European Convention for the prevention of torture and inhuman or degrading treatment or punishment (ETS No. 126);
 - 1.3. make the expertise of the Council of Europe available to the co-ordination platform launched within the European Parliament, particularly in the sphere of combating torture and protecting freedom of expression, association and the media;
 - 1.4. demand, in its dealings with Belarus, the immediate release of all political prisoners and the ceasing of the campaign of repression against protesters and their families and make any technical co-operation and any movement towards the possible accession of Belarus to the Council of Europe subject to that requirement;
 - 1.5. explore ways for the Council of Europe to serve as a mediation platform for the dialogue between the authorities and the opposition.

1. *Assembly debate* on 21 April 2021 (12th sitting) (see [Doc. 15256](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Ms Alexandra Louis). *Text adopted by the Assembly* on 21 April 2021 (12th sitting).





Recommendation 2202 (2021)¹

Provisional version

The arrest and detention of Alexei Navalny in January 2021

Parliamentary Assembly

1. The Parliamentary Assembly refers to its [Resolution 2375 \(2021\)](#) “The arrest and detention of Alexei Navalny in January 2021”.
2. The Assembly welcomes the prioritisation by the Committee of Ministers of its supervision of the execution of the judgment of the European Court of Human Rights in the case of *Navalnyy v. Russia*. It invites the Committee of Ministers to use all the tools at its disposal, including those under article 46 of the European Convention on Human Rights (ETS No. 5), to ensure full and prompt execution and in particular the immediate release of Mr Navalny.

1. *Assembly debate* on 22 April 2021 (14th sitting) (see [Doc. 15270](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Jacques Maire). *Text adopted by the Assembly* on 22 April 2021 (14th sitting).



Resolutions
2368 to 2376



Resolution 2368 (2021)¹

Provisional version

Preserving national minorities in Europe

Parliamentary Assembly

1. Over twenty-five years ago, in 1995, the Framework Convention for the Protection of National Minorities (ETS No. 157, “the Framework Convention”) was opened for signature. This crucial instrument is based on the shared understanding that preserving stability, democratic security and peace in Europe requires protecting national minorities; that a pluralist and genuinely democratic society should not only respect the ethnic, cultural, linguistic and religious identity of each person belonging to a national minority, but also create appropriate conditions enabling them to express, preserve and develop this identity; and that a climate of tolerance and dialogue must be created in order to enable cultural diversity to be a source and a factor, not of division, but of enrichment for each society. Importantly, the Framework Convention also recognises that the protection of the rights and freedoms of persons belonging to national minorities forms an integral part of the international protection of human rights, including the right to full and effective equality.

2. The Framework Convention has been ratified by 39 Council of Europe member States and signed by four more. Since it came into force in 1998, its implementation, through the adoption of important legislative and policy measures, has benefited national minorities in States parties and helped to maintain their linguistic, ethnic and cultural identities.

3. Today, however, a number of challenges are endangering the capacity to protect the rights of persons belonging to national minorities in Europe. Support for the human rights agenda is eroding in many quarters, and attention to minority rights has diminished. Intra- and interstate tensions, and at times conflicts, have shaken the stability of both States and European institutions. This has regrettably led to minorities again at times being perceived, as in the past, as a threat to the security and territorial integrity of States, and to the instrumentalisation for political ends of the rights of persons belonging to national minorities. Increasing tensions have also been observed around the use of minority languages and teaching in and of these languages.

4. In parallel, extreme nationalist discourse, populism, hate speech and hate crime are on the rise throughout Europe, often focusing on exclusive nation-building while stigmatising diversity and targeting anyone who is perceived as different. Such discourse endangers social cohesion and democratic stability, while designating persons belonging to national minorities as scapegoats. These dynamics are often aggravated where broader social, economic or political problems or divisions are present.

5. The Parliamentary Assembly notes that both national minorities themselves and societies as a whole are diverse and constantly changing. Migration flows both within and between States, for example, have had a profound impact on persons belonging to national minorities and on the implementation of their rights. This constant evolution creates a need for continuous dialogue between the authorities and minorities, in order to adapt rapidly to the changing needs of the latter.

6. The Assembly underlines that the persons belonging to national minorities can only exercise their rights effectively where they are able to participate meaningfully in cultural, social and economic life and in public affairs in the country where they live. It is therefore essential to build inclusive and democratic societies, in

1. *Assembly debate* on 19 April 2021 (9th sitting) (see [Doc. 15231](#), report of the Committee on Equality and Non-Discrimination, rapporteur: Ms Elvira Kovács). *Text adopted by the Assembly* on 19 April 2021 (9th sitting).

See also [Recommendation 2198 \(2021\)](#).



which persons belonging to minorities have an opportunity to engage actively and to influence decisions that affect them. Changing media landscapes may create new opportunities for expression in minority languages, but also new challenges, and States must ensure that these dynamics do not arbitrarily hinder the freedom of expression of persons belonging to national minorities or their access to information.

7. Given the multiplication of challenges currently faced in the implementation of minority rights in Europe, the Assembly considers that mainstreaming minority rights is crucial to keep minority protection working. The impact of all government policies and decisions on the rights of persons belonging to national minorities, needs to be assessed before they are adopted and implemented. This includes areas that may go beyond the specific provisions of the Framework Convention, such as housing policy or the privatisation of public services, which may indirectly affect the capacity of persons belonging to national minorities to enjoy the collective dimension of their rights.

8. The Assembly reaffirms its support for the Framework Convention. Respect for linguistic, ethnic and cultural diversity, based on the recognition of the fundamental rights to equality and human dignity, is a cornerstone of the system of human rights protection in Europe, and crucial to preserving pluralistic and inclusive democracies. It emphasises the importance of the multilateral monitoring system set up under this convention, and stresses that for the Framework Convention to fulfil its purpose as a living instrument, both institutional commitment from the Council of Europe and political will from its member States are required.

9. In the light of these considerations, the Assembly urges all Council of Europe member States that are not yet parties to the Framework Convention, to complete the process of signing and ratifying it, in line with the Assembly's [Recommendation 1766 \(2006\)](#) "Ratification of the Framework Convention for the Protection of National Minorities by the member States of the Council of Europe" and [Resolution 2262 \(2019\)](#) "Promoting the rights of persons belonging to national minorities", and encourages those not parties to the European Charter for Regional or Minority Languages (ETS No. 148) also to ratify this instrument.

10. The Assembly calls on States Parties to the Framework Convention to strengthen their efforts to promote it and implement it in practice, and in particular, to:

10.1. ensure that the standards enshrined in the Framework Convention are effectively incorporated into domestic legislation and given effect in practice, by refraining from withdrawing already acquired minority rights and by completing wherever necessary the adoption of comprehensive legislative frameworks for the protection of the rights of persons belonging to national minorities, in full consultation with their representatives;

10.2. consider, in the case of States Parties which have ratified the Framework Convention while entering restrictive declarations and/or reservations, withdrawing these declarations and/or reservations;

10.3. foster pluralistic and inclusive societies, in which persons belonging to national minorities are able to express both their multiple identities and their loyalty to democratic constitutional principles, thereby contributing to a Europe united in diversity;

10.4. strengthen their dialogue with persons belonging to national minorities and place it on a continuous footing, notably by setting up permanent consultation mechanisms, where this has not yet been done, bearing in mind that the composition and functioning of such structures must enable the full and effective participation of national minorities on all issues that may affect their rights, and afford them the opportunity to influence outcomes tangibly;

10.5. ensure that policies and practices with respect to national minorities take into account the diversity existing within minorities and the intersectional issues that may affect them, in order that all persons belonging to national minorities may enjoy full and effective equality as guaranteed by the Framework Convention;

10.6. seriously consider the threats posed by hate speech promoted by State actors as well as parliamentarians, which dehumanises persons belonging to minorities and makes them more vulnerable to stigmatisation, discrimination and violence, call on representatives of the State and politicians to refrain from hate speech and instigate additional measures to combat hate speech or hate crimes perpetrated against persons belonging to minorities;

10.7. systematically consult and engage with the representatives of national minorities on the best means of implementing the recommendations addressed to the State Party under the monitoring mechanism of the Framework Convention, and implement them rapidly on the basis of these consultations;

10.8. consider developing indicators to help measure and evaluate outcomes in this field, in particular as regards societal integration;

10.9. develop additional outreach strategies for communicating about the Framework Convention and disseminating to the public the findings of its Advisory Committee, including in the State language and the languages of national minorities; these strategies should take full advantage of the increasing availability of new technologies.

11. It further calls on States that are not Parties to the Framework Convention to implement measures in line with those set out in paragraphs 10.2, 10.3, 10.4 and 10.5 above, in order to strengthen their own dialogue with persons belonging to national minorities within their territory and promote their full and effective equality.

12. The Assembly invites all member States to strengthen their multilateral dialogue on the protection of the rights of minorities and place it on a more continuous footing. It recalls in this context the important role that can also be played by complementary mechanisms existing in this field, notably the conflict prevention role of the High Commissioner on National Minorities of the Organization for Security and Co-operation in Europe. Given the close relationship that exists between respect for human rights and the proper functioning of the rule of law and of democratic institutions, existing synergies with the European Union in this field could also be strengthened.

13. The Assembly invites member States to explore all means to ensure that Council of Europe standards are effectively incorporated into domestic legislation and implemented in practice, by assisting European institutions to develop their regulation with a view to safeguarding Europe's national minorities.

14. Finally, bearing in mind that the rights of persons belonging to national minorities cannot be properly implemented without a strong framework in place for protecting and promoting full and effective equality, the Assembly urges those member States that are not yet parties to Protocol No. 12 to the European Convention on Human Rights (ETS No. 177) to complete the process of signing and ratifying it without delay.



Resolution 2369 (2021)¹

Provisional version

The Assembly's vision on the strategic priorities for the Council of Europe

Parliamentary Assembly

1. The Council of Europe's aim is "to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress" (Article 1.a) of the 1949 Statute of the Council of Europe, ETS No. 1).
2. In the course of seven decades, the Council of Europe has become Europe's largest treaty-based organisation, in which all European States (except for Belarus and the Holy See) are represented. All member States have committed themselves to the European Convention of Human Rights (ETS No. 5, "the Convention"), thus indeed contributing to a greater unity as formulated in Article 1 of the Statute. Over 220 Council of Europe conventions have been concluded during the past seven decades within the scope of Article 1 of the Statute, to the benefit of member States and citizens, including the European Social Charter (ETS No. 35). This unique legally binding conventional system must be further promoted and enhanced as the best basis of democratic public legal order in Europe, now and in the future. The European Court of Human Rights was created "to ensure the observance of the engagements undertaken by the High Contracting Parties in the Convention and the Protocols thereto" (Article 19 of the Convention) and several other mechanisms have been set-up to monitor implementation of commitments in these conventions as well as to identify priority areas for action.
3. All member States are obliged to be represented in both statutory organs of the Organisation – the Committee of Ministers and the Parliamentary Assembly – to discuss "questions of common concern" and develop "agreements and common action" in the further realisation of the aim of the Organisation, as formulated in Article 1 of the Statute. Consequently, the Assembly deems it its duty to contribute to the ongoing reflection on strategic priorities for the coming years for the Council of Europe, so as to enable it to play fully its statutory role and to use the potential of Europe's oldest and largest treaty-based organisation.
4. The Assembly refers to its relevant recent work – in particular [Resolution 2277 \(2019\)](#) "Role and Mission of the Parliamentary Assembly: main challenges for the future", [Resolution 2186 \(2017\)](#) "Call for a Council of Europe summit to reaffirm European unity and to defend and promote democratic security in Europe", and [Recommendation 2114 \(2017\)](#) "Defending the acquis of the Council of Europe: preserving 65 years of successful intergovernmental co-operation" – based on wide consultation with national delegations and in which strategic priorities for the Assembly, in particular, as well as for the Council of Europe in general, were identified.
5. The Assembly also takes into account the political guidance delivered by the Heads of State and Government at the 3rd Summit (Warsaw, May 2005), the policy decisions by the Committee of Ministers at its 129th session in Helsinki (May 2019) and the Athens Declaration by the Committee of Ministers Presidency (November 2020).

1. *Assembly debate* on 20 April 2021 (10th sitting) (see [Doc. 15252](#), report of the Committee on Political Affairs and Democracy, rapporteur: Mr Tiny Kox). *Text adopted by the Assembly* on 20 April 2021 (11th sitting).
See also [Recommendation 2199 \(2021\)](#).



6. The Assembly particularly welcomes the reaffirmed commitment to unity in Europe and to greater solidarity among nations, as well as the unwavering commitment to the principles of the rule of law and the enjoyment by all persons within member States' jurisdiction of human rights and fundamental freedoms, as stated in the Athens Declaration.
7. The Council of Europe's overall priority is to remain the pillar of democratic security, the guarantor of human rights and rule of law, as well as platform for genuine multilateralism in Europe and to preserve and reaffirm its own identity as an independent forum for a comprehensive and inclusive political dialogue and co-operation. Effective and sustainable co-operation with other multilateral organisations, both in Europe and globally, should be further developed, thus strengthening the role of the Council of Europe as a cornerstone of the European political architecture.
8. Human rights must remain at the very core of the Council of Europe's strategic framework with the implementation of the Convention in all member States its top priority. To support member States to do so, the Organisation must prioritise its implementation programmes and bring together experience and promising practice. The authority of the European Court of Human Rights must be upheld by all member States and by the Council of Europe as a whole, its effectiveness must be further improved, notably by enhancing the execution of its judgements by all member States. This is particularly vital in times of crisis, such as pandemics.
9. The accession of the European Union to the Convention is a strategic priority. It will strengthen the credibility of the European Union and the relevance of the Council of Europe and the Convention for all its citizens and its member States.
10. Echoing to the decisions of the Committee of Ministers session in Helsinki in May 2019, the Assembly highlights the need to put a stronger emphasis on the protection of social and economic rights in the work of the Council of Europe.
11. The Assembly further joins the Committee of Ministers in calling on member States that have not yet done so to consider signing and/or ratifying the Revised European Social Charter (ETS No. 163) and its Additional Protocol Providing for a System of Collective Complaints (ETS No. 158), as well as the Turin Protocol (ETS No.142). It also considers it of great importance to promote the European Union accession to the European Social Charter system.
12. The Council of Europe must prioritise achieving genuine equality, inclusion and respect of human dignity. It must continue to champion equality and eliminate discrimination based on racism, anti-Semitism, neo-Nazism, xenophobia, islamophobia or any other grounds. It possesses ground-breaking standards and tools to do so, notably through the Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210) – the gold standard –, the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197), its standards in the area of non-discrimination, including minorities, combined with independent monitoring bodies and multi-disciplinary expert committees to translate these standards to national policies. The Organisation's position as a unique leader in this area globally must be further reinforced. In this respect, the Assembly strongly regrets any attempts to weaken the international framework to protect human rights put in place by the Council of Europe conventions.
13. The Organisation's role in building a Europe for and with children must be reinforced, notably by ensuring best interest of the child, and with a special focus on providing all our children a life free from violence, particularly through the Council of Europe Convention of the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201).
14. The Council of Europe has to address existing and emerging threats to democratic societies and democratic security, by promoting a contemporary and holistic vision of human rights, including new generation rights such as the right to a safe, healthy and sustainable environment, and by assessing the impact of the inherent relationship between human rights and development. As a recognised international standard-setter in the field of human rights protection, the Council of Europe should focus on devising common replies and establishing new standards to protect human rights vis-à-vis new and evolving challenges.
15. Increasing challenges to freedom of expression and freedom of assembly need to be responded with firm action, as without that meaningful dialogue, including with those who do disagree, is not possible.

16. In this context, the Assembly stresses the strategic importance of providing adequate responses to challenges related with the emergence of new technologies, in particular artificial intelligence (AI), so as to enhance its contribution for progress in our societies but also to prevent the potential negative and amplifying impact that its use may have on human rights, the rule of law and democracy. It refers to its relevant resolutions and recommendations adopted in October 2020 – [Resolution 2341 \(2020\)](#) and [Recommendation 2181 \(2020\)](#) “Need for democratic governance of artificial intelligence”; [Resolution 2342 \(2020\)](#) and [Recommendation 2182 \(2020\)](#) “Justice by algorithm – The role of artificial intelligence in policing and criminal justice systems”; [Resolution 2343 \(2020\)](#) and [Recommendation 2183 \(2020\)](#) “Preventing discrimination caused by the use of artificial intelligence”; [Resolution 2344 \(2020\)](#) and [Recommendation 2184 \(2020\)](#) “The brain-computer interface: new rights or new threats to fundamental freedoms?”; [Recommendation 2185 \(2020\)](#) “Artificial intelligence in health care: medical, legal and ethical challenges ahead”; [Resolution 2345 \(2020\)](#) and [Recommendation 2186 \(2020\)](#) “Artificial intelligence and labour markets: friend or foe?”; [Resolution 2346 \(2020\)](#) and [Recommendation 2187 \(2020\)](#) “Legal aspects of “autonomous” vehicles”; and reiterates its view that the Council of Europe is in a strategic position to provide the necessary guidance and support, in close co-operation with other European and international institutions and organisations, for creating a global regulatory framework for AI.

17. The Assembly is aware of the threat to the democratic principles of the Council of Europe posed by global IT companies, which often neglect the right of citizens to access and disseminate legal information in favour of their market policies, and expresses readiness to discuss conventional mechanisms to counter such approaches.

18. The Assembly supports the conclusion in the Athens Declaration that life and well-being on our planet is contingent on humanity’s collective capacity to guarantee both human rights and a healthy environment for future generations. It welcomes the signing of the 2015 Paris Agreement of Parties to the United Nations Framework Convention on Climate Change by all 47 member States, thus committing themselves to strengthening the global response to the threat of climate change which puts at risk the exercise of human rights. It deems it of high importance to work towards new legal instruments aimed at ensuring the right to a safe, healthy and sustainable environment for present and future generations, and making it a legal obligation.

19. The Assembly further reiterates its firm support to achieving the Sustainable Development Goals (SDGs), as set out in United Nations 2030 Agenda for Sustainable Development, and welcomes the important contribution by the Council of Europe to that end, including by the Assembly and national parliaments. Referring to its relevant texts – [Resolution 2271 \(2019\)](#) and [Recommendation 2150 \(2019\)](#) “Strengthening co-operation with the United Nations in implementing the 2030 Agenda for Sustainable Development” and [Resolution 2272 \(2019\)](#) “Implementation of the Sustainable Development Goals: synergy needed on the part of all stakeholders, from parliaments to local authorities” – it points to the need for the United Nations and the Council of Europe to enhance their co-operation, within their respective mandates, to accelerate the pace of the implementation of the SDGs towards fulfilling the 2030 Agenda.

20. The Assembly fully shares the German Presidency of the Committee of Ministers’ priority as regards the need to bring the Organisation closer to the people. In this context, it strongly supports the Committee of Ministers’ decision to examine further options for strengthening the role and meaningful participation of civil society organisations, and national human rights institutions, in the Organisation. It also believes that specific emphasis should be made on engaging in a meaningful way with the young people and children.

21. The Council of Europe must also – in line with Article 1 of the Statute – continue to keep high on its strategic agenda the search for common responses to societal problems challenging the rule of law, notably corruption, money laundering, terrorism and violent extremism, by means of effective implementation of relevant legal instruments and mechanisms or by establishing new ones if appropriate. Furthermore, the Assembly stresses the need to ensure proper protection of parliamentarians and journalists.

22. The Assembly reiterates its call, backed by the Committee of Ministers in Helsinki (May 2019), for a stronger and more structured co-ordination between the monitoring activities of the Assembly, the Committee of Ministers, the Secretary General and the Commissioner for Human Rights, as well as of the various specialised monitoring and advisory bodies and mechanisms of the Organisation, without prejudice to their independence. More broadly, it deems it worth considering ways of co-ordinating more efficiently monitoring activities with other international organisations, including the United Nations, in order to achieve more synergy, avoid unnecessary duplication and alleviate the reporting burden for member States. It stands ready to engage in a constructive institutional dialogue on this matter and will evaluate its own monitoring activities.

23. The Assembly highlights the importance of consolidating the role of the Council of Europe as a pillar of co-operative regional order in Europe, promoting the outreach of its legal instruments beyond European borders and enhancing partnerships with States and organisations in both geographical neighbourhood and political proximity.

24. The role of the Assembly in promoting the key Council of Europe conventions and the Organisation's core values, as well as in supporting their effective implementation in Council of Europe member States, must be better recognised and further enhanced. Furthermore, local and regional authorities as well as civil society organisations play an important role in translating international commitments into reality for everyone. The Congress of Local and Regional Authorities and the Conference of International Non-Governmental Organisations of the Council of Europe need to be further strengthened and supported.

25. The Assembly sees it as a strategic priority to carry out its work independently but, where possible, in effective complementarity with the activities of the Committee of Ministers and the intergovernmental part of the Organisation, to increase impact of each other's action. The further development of a regular, meaningful and effective 'trialogue' between the Committee of Ministers, the Secretary General and the Assembly should be considered as a means of ensuring the strategic relevance of the Organisation. Recommendations of the Assembly to the Committee of Ministers need to be addressed in a transparent and meaningful way.

26. The Assembly underlines the importance of the new complementary joint procedure, which it adopted in January 2021, enabling the Council of Europe's statutory organs, to act together in case of a blatant violation by a member State of its obligations under the Statute.

27. The Assembly considers it necessary to make more visible the meaning of the Council of Europe membership, both in terms of advantages for both a given member State and all its citizens, and that of obligations of all member States. Protecting and promoting the rule of law, human rights and democracy is clearly to the advantage of all member States and all their citizens.

28. The Assembly reiterates its call on the governments of member States to consider all options to guarantee the financial sustainability of the Organisation so as to enable it to remain fully effective and politically relevant. It welcomes the commitment of member States to "zero real growth" policy for the current biennium – even if this does not imply a "growth", but it reiterates its long-standing position that member States should invest more in democratic security, as embodied by the Council of Europe, and therefore ensure a better funding of it.

29. The Assembly expresses support to a future-oriented four-year strategic outlook as proposed by the Secretary General of the Council of Europe which should allow a prospective approach in programming the Organisation's activities while providing necessary flexibility to adapt to new emerging challenges.

30. The Assembly resolves to continue its strategic reflection on the future of the Council of Europe and the ways to further increase its political relevance and prominent position as a leading European political institution.



Resolution 2370 (2021)¹
Provisional version

Fighting fiscal injustice: the work of the OECD on taxation of digital economy

Parliamentary Assembly

1. The Parliamentary Assembly of the Council of Europe, enlarged to include the delegations of national parliaments of the Organisation for Economic Co-operation and Development (OECD) member States which are not members of the Council of Europe and a delegation from the European Parliament, underlines that the ability of governments to raise funds through taxation necessary for the funding of public services is a fundamental anchor for democracy and social justice. The Enlarged Assembly welcomes the signing of an updated co-operation agreement (Memorandum of Understanding) between the Council of Europe and the OECD in December 2020, which confirms both Organisations' mutual interest in promoting shared values and objectives, inter alia, in relation to sustainable development and tax matters.
2. The digitisation of the economy and the rise of tech giants (including GAFA, namely Google, Amazon, Facebook, Apple), the aggressive tax planning, tax avoidance and artificial profit shifting practices, adopted by numerous multinational corporations, the increased awareness of the general public to these practices and the worsening state of public finances caused by the 2008 global economic crisis and the Covid-19 pandemic have made the need for internationally co-ordinated policy responses more urgent than ever before.
3. While most value in the digital economy is created through virtual and stateless platforms, the Enlarged Assembly considers that it is necessary for States to be provided with a broader tax base again to cover their public financing needs, in particular by moving away from the concept of "permanent establishment" that underpins the traditional model for the distribution of the international tax base.
4. The Enlarged Assembly welcomes the OECD's work on the Inclusive Framework on Base Erosion and Profit Shifting (BEPS). It notes that the first of the many actions in the Inclusive Framework concerns policy responses for the tax challenges arising from the digital economy, and endorses the breakdown of the policy proposals into two pillars: the first Pillar addresses the broader issues of taxation of the digital economy and focuses on how taxing rights are determined (namely nexus) and how taxable profits are allocated among jurisdictions. The second Pillar tackles the remaining BEPS issues related to tax planning, through the establishment of a global minimum tax.
5. It welcomes the OECD's instrumental role in this context and the progress made in the work on Pillar 1 and the adoption of a joint statement outlining the general framework of the discussions for the two pillars. It encourages the participating States to continue this work with a view to a consensus-based agreement on both pillars.
6. The Enlarged Assembly also supports the OECD's work in promoting global standards for collecting value-added tax from online sales of goods, services and digital products, including as regards international exchanges through the platform economy. It furthermore welcomes the OECD's guidance on taxing virtual currencies and crypto-assets aimed at developing a new tax reporting framework by the end of 2021.

1. *Assembly debate* on 20 April 2021 (11th sitting) (see [Doc. 15251](#), report of the Committee on Political Affairs and Democracy, rapporteur: Mr Georgios Katrougkalos; and [Doc. 15266](#), opinion of the Committee on Social Affairs, Health and Sustainable Development, rapporteur: Ms Selin Sayek Böke). *Text adopted by the Assembly* on 20 April 2021 (11th sitting).



7. The Enlarged Assembly stresses that multilateralism, provided that it is genuinely inclusive, is the best means of achieving tangible results. It considers that achieving consensus at international level is the best way to reform the international tax system, to restore stability to the international tax framework and to avoid the risk of further unco-ordinated, unilateral tax measures which could trigger trade sanctions.

8. To ensure fair taxation of global corporate profits, the Enlarged Assembly urges the OECD and member States to:

8.1. further support and promote the Inclusive Framework on Base Erosion and Profit Shifting (BEPS) in reaching a consensus-based agreement comprising Pillars 1 and 2 within the envisaged timelines and, if necessary, seal off the areas where a broad multilateral consensus has been reached by concluding an interim agreement by mid-2021;

8.2. facilitate the application of the agreed multilateral instrument to existing tax treaties;

8.3. avoid and reverse a race to the bottom of national tax systems, which could undermine governments' legitimate financing abilities in maintaining sound public finances and high-quality social services for all;

8.4. implement rules on transparency and automatic exchange of information for tax purposes between all countries in order to ensure tax fairness and compliance by both corporate entities and individuals and push for public country-by-country reporting by enterprises;

8.5. develop mandatory disclosure rules regarding aggressive or abusive transactions, arrangements or structures;

8.6. propose measures for countering harmful tax practices more effectively, with a priority on improving transparency, including compulsory spontaneous exchange of rulings relating to preferential regimes (fiscal rulings) and on requiring substantial activity for the granting of any preferential regime;

8.7. promote international coherence in corporate profit taxation, so that the design of tax policy is better informed by the increasing interconnectedness of economies and the gaps that can be created by interactions between domestic tax laws;

8.8. do more to take account of the needs and interests of developing countries in the design of a new post-BEPS international tax system that is multilateral and at least as inclusive as the proposed Inclusive Framework.



Resolution 2371 (2021)¹
Provisional version

Urgent need for electoral reform in Belarus

Parliamentary Assembly

1. The Parliamentary Assembly stresses that free and fair elections constitute the very foundation of democratic government and a cornerstone of representative democracy. It deeply regrets that elections in Belarus have never met international standards of freedom and fairness and that this failed electoral system has been a driving factor behind the current political, economic and human rights crisis affecting the country since the presidential election of 9 August 2020.

2. For more than two decades, the Assembly, the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR), the European Commission for Democracy through Law (Venice Commission), as well as the civil society in Belarus have been pointing to the systemic problems in the electoral system and recommending, to no avail, that the electoral legislation and practice be amended.

3. The Assembly recalls that, for reasons beyond its control, it had to decline the invitation to observe the presidential election of 9 August 2020. However, based on the evaluation of independent local observers who concluded that gross violations of international standards for democratic elections had taken place and knowing that the electoral system which has earned Belarus criticism in the past remains unchanged, the Assembly also concludes that the 2020 presidential election was neither free nor fair.

4. The Assembly firmly believes that a fully-fledged electoral reform, geared towards implementing all previous Assembly, OSCE/ODIHR and Venice Commission recommendations, remains essential for setting the basis for future democratic, free and fair elections which can meaningfully reflect the will of the people of Belarus and allow them to regain confidence in the electoral process. Not only a reform of the legal framework but also the implementation of the legislation in good faith, by an independent and impartial election administration that enjoys public trust, are paramount in this context.

5. In light of the above, the Assembly urges the Belarusian authorities to conduct a comprehensive reform of the electoral system taking into account the full set of recommendations of the Assembly, the OSCE/ODIHR, and the Venice Commission, in close consultation with all relevant stakeholders, in particular the civil society. In this context, it urges them to bring the electoral law and practice in conformity with international standards for democratic elections, and in particular to:

5.1. guarantee the independence and impartiality of the electoral administration by making it adequately representative and setting the basis for a politically balanced membership of election commissions at all levels, starting by the Central Election Commission (CEC), including by:

5.1.1. introducing a requirement for the CEC to include representatives nominated by key political stakeholders, including different political parties and civil society representatives, with full voting rights;

1. *Assembly debate* on 21 April 2021 (12th sitting) (see [Doc. 15253](#), report of the Committee on Political Affairs and Democracy, rapporteur: Lord David Blencathra). *Text adopted by the Assembly* on 21 April 2021 (12th sitting). See also [Recommendation 2200 \(2021\)](#).



- 5.1.2. establishing clear rules governing the process by which members of elections commissions below the CEC level are appointed by the local authorities, including a requirement to include commission members nominated by all contestants;
 - 5.2. create a publicly available national voter list with a view to increasing the transparency and accountability of the voter registration process;
 - 5.3. regulate early voting in a comprehensive way by introducing measures to guarantee its integrity, transparency and exceptional nature, including by:
 - 5.3.1. specifying in detail clear mechanisms for ensuring the safety and security of the ballot boxes through early voting;
 - 5.3.2. limiting the number of polling stations for early voting;
 - 5.3.3. authorising early voting only in specific cases and to those voters who can prove that they cannot be present at the place of residence on the election day;
 - 5.4. take measures to ensure the transparency of the vote counting, including by introducing a requirement that each ballot paper as well as the results of the election in each polling station be announced publicly and displayed;
 - 5.5. allow national and international observers to carry out their work effectively and without impediment, including by clearly authorising them to:
 - 5.5.1. approach members of the polling station to verify electoral rolls and signatures, and to observe the counting of the votes in a direct and effective way, including through direct and visual access to ballot papers;
 - 5.5.2. be present during the verification of signatures submitted for the nomination of candidates;
 - 5.5.3. have access to storage of ballots and ballot boxes during early voting, including outside working hours;
 - 5.6. subject the registration of candidates to clear, comprehensive and transparent criteria and less restrictive conditions;
 - 5.7. subject any decision of electoral commissions, including election results, to review, including a possibility of a judicial review of all administrative decisions.
6. The Assembly is aware of the calls from national and international actors for holding snap elections on the basis of the current electoral system and stresses that such elections could be deemed reasonably free and fair, only if a genuinely independent and impartial CEC can ensure, through the use of regulations, ordinances, circulars or instructions, that the requirements listed above are fulfilled to the greatest extent possible, and national and international observers can properly monitor the entire electoral process.
7. The Assembly stresses that democratic elections are not possible without respect for human rights, in particular freedom of expression, freedom of assembly and association. It condemns in strongest terms the unprecedented wave of violence, mass arrests, intimidation and prosecution of political opponents, human rights defenders, journalists, media workers, independent election observers and citizens of Belarus following the 2020 presidential election.
8. This violent repression is not only an outright disregard for the core values upheld by the Council of Europe but also a major obstacle to any meaningful reform in the country, including an electoral reform. Referring to its Resolution ... (2021) "Human rights violations in Belarus require an international investigation", the Assembly urges the Belarusian authorities to put an immediate halt on all violence.
9. Recalling that the integration of Belarus to the Council of Europe on the basis of the Organisation's values and principles remains a strategic objective, the Assembly calls on the Belarusian authorities and all relevant stakeholders, including all opposition representatives and civil society, to urgently conduct a broad-based and inclusive national dialogue to ensure a peaceful way out of the current crisis and opening the door for necessary reforms benefiting all Belarusian citizens. The Assembly – together with the Venice Commission – reiterates its readiness to offer practical and technical guidance to Belarusian authorities with a view to an electoral reform. It firmly believes that this and other necessary reforms will pave the way for a new Belarus that is based on human rights, democracy and rule of law.



Resolution 2372 (2021)¹

Provisional version

Human rights violations in Belarus require an international investigation

Parliamentary Assembly

1. The Parliamentary Assembly recalls that the peaceful protests against the falsification of the results of the presidential election in Belarus of 9 August 2020 were brutally put down by the regime of Alexander Lukashenko, with many protesters arrested and tortured in detention. A great many leaders of the citizens' movement are being prosecuted for crimes which are vaguely defined but incur long prison sentences, while others were forced into exile.
2. In February 2021, a new wave of arrests and prosecutions was launched against opposition activists who had not yet been detained. Those prosecuted included human rights defenders, journalists, lawyers, trade unionists and representatives of the "Coordination Council", the political opposition's flagship body.
3. According to Freedom House, the number of political prisoners, including human rights defenders, journalists, activists, representatives of youth organisations and political parties, has reached 300, with fabricated cases against them; in March 2021 there were attempted suicides of two political prisoners and three hunger strikes in protest by Igor Losik, Igor Bantser and Dmitriy Furmanov.
4. The Assembly considers the persons referred to above as political prisoners, following the definition of this term in [Resolution 1900 \(2012\)](#). These persons are in administrative or pre-trial detention or serving prison sentences for merely participating in peaceful protests or publishing information on those protests and their unjustified repression by the law enforcement agencies.
5. The Assembly notes that the perpetrators of these serious and repeated human rights violations committed on a massive scale when repressing the protests against the falsification of the presidential election results have not been troubled in the slightest by any criminal proceedings at national level, despite the fact that torture and inhuman or degrading treatment are also crimes in Belarusian law. Where international anti-torture instruments are concerned, Belarus is not a contracting party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126) or to the Optional Protocol to the United Nations Convention against torture (OP-CAT) or to the Rome Statute of the International Criminal Court.
6. The Assembly stresses the great importance of combating impunity for the perpetrators of serious human rights violations, out of principle and also to deter others from perpetrating human rights violations, reiterating its [Resolutions 2252 \(2019\)](#), [2157 \(2017\)](#), [2134 \(2016\)](#) and [1966 \(2014\)](#). It notes that the criminal legislation of several Council of Europe member States provides for "universal jurisdiction" for their courts for certain crimes of a particularly serious nature, including acts of torture, even committed abroad, by foreign nationals and against foreign nationals. It also notes that a number of States have passed "Magnitsky laws" under which targeted sanctions may be imposed on perpetrators of serious human rights violations.

1. *Assembly debate* on 21 April 2021 (12th sitting) (see [Doc. 15256](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Ms Alexandra Louis). *Text adopted by the Assembly* on 21 April 2021 (12th sitting). See also [Recommendation 2201 \(2021\)](#).



7. The Assembly welcomes the initiative taken by human rights activists in Belarus who have successfully compiled a substantial body of evidence of torture and inhuman or degrading treatment and identified presumed perpetrators.

8. It welcomes the initiative launched by the European Parliament in collaboration with other international stakeholders, in the spirit of the follow up to the recommendations of the Moscow Mechanism of the Organization for Security and Co-operation in Europe (OSCE), setting up an international advisory platform, the Belarus Accountability Platform, tasked with gathering evidence of serious human rights violations in Belarus and assessing it with a view to making it available to the competent authorities of member States, so that they can prosecute Belarusian nationals having perpetrated these crimes, committed in Belarus against Belarusian victims. The Assembly also supports the creation of an ad hoc working group within the Council of Europe tasked with monitoring the human rights situation in Belarus and contributing to the aforementioned Belarus Accountability Platform.

9. The Assembly considers that the information gathered by human rights activists in Belarus and the evidence assessed by the platform launched within the European Parliament will be able to serve as a basis for criminal proceedings lodged on the basis of universal jurisdiction and for the imposing of targeted sanctions under "Magnitsky laws".

10. It welcomes the prosecutions already initiated by Lithuanian courts on the basis of universal jurisdiction and the commitment of some member States, notably the Baltic countries, Poland and Ukraine, which have taken in victims of repression forced into exile and support civil society in Belarus.

11. The Assembly calls upon:

11.1. the Belarusian authorities to:

11.1.1. engage in dialogue with the opposition as the only way to cease the violence, human rights violations and to hold new democratic elections this year to resolve the political crisis;

11.1.2. release political prisoners without delay;

11.1.3. immediately put a stop to all acts of torture or inhuman and degrading treatment committed against opponents of the regime, whether in public, citizens' homes or any places of detention;

11.1.4. prosecute all the perpetrators of such acts in accordance with the Belarusian Criminal Code;

11.1.5. co-operate with the European Commission for Democracy through Law (Venice Commission) with a view to reforming the Criminal Code in order to decriminalise the exercise of freedom of expression, assembly and association;

11.1.6. sign and ratify the United Nations Optional Protocol to the Convention against torture and other cruel, inhuman or degrading treatment or punishment (OP-CAT) and the Rome Statute establishing the International Criminal Court and ask the Council of Europe Committee of Ministers to invite their country to accede to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;

11.1.7. take all necessary measures to ensure the right to a fair trial, including access to a lawyer;

11.1.8. cease all restrictions on media freedom and freedom of assembly;

11.1.9. implement all recommendations of the European Commission for Democracy through Law (Venice Commission) in its opinion of 20 March 2021 on the Compatibility with European Standards of certain Criminal Law Provisions used to prosecute peaceful demonstrators and members of the "Coordination Council";

11.1.10. abolish the death penalty as soon as possible, starting with a moratorium;

11.2. the member States of the Council of Europe to:

11.2.1. explore mechanisms for facilitating dialogue between the authorities and the opposition for resolving the political crisis;

- 11.2.2. demand, in their dealings with the Belarusian authorities, at all levels, the immediate release of all political prisoners and the ceasing of the campaign of repression against protesters and their families and make any economic, financial and political co-operation conditional on this;
 - 11.2.3. support the ongoing efforts at international level to call to account the perpetrators of serious human rights violations committed in Belarus by State officials who enjoy impunity, including by exercising the universal jurisdiction provided for in their criminal legislation or, where applicable, by introducing this possibility in their legislation;
 - 11.2.4. continue to take in the victims of repression who have been forced into political exile and support Belarusian civil society, including political prisoners' families, and provide study grants for Belarusian students who have been expelled from their faculties;
 - 11.2.5. use their "Magnitsky laws" which make it possible to impose targeted sanctions on perpetrators of human rights violations and also presumed perpetrators of such violations in Belarus, and pass such laws where necessary;
- 11.3. the competent institutions of the European Union to:
- 11.3.1. demand, in their dealings with Belarus, at all levels, the immediate release of all political prisoners and the ceasing of the campaign of repression against protesters and their families, and make any economic and financial co-operation conditional on this;
 - 11.3.2. strengthen their co-operation with Belarusian civil society, give support to political prisoners' families and provide study grants for Belarusian students who have been expelled from their faculties;
 - 11.3.3. support the initiative developed within the European Parliament aimed at creating a co-ordination platform federating efforts at international level to combat impunity for the perpetrators of human rights violations in Belarus, by gathering, analysing and assessing relevant information and tip-offs, with a view to these being used to help national law enforcement authorities exercise universal jurisdiction and to impose targeted sanctions via the "Magnitsky mechanisms" that exist or are to be created; strengthen personalised sanctions against those perpetrating human rights violations, including police, prosecutors and judges.



Resolution 2373 (2021)¹

Provisional version

Discrimination against persons dealing with chronic and long-term illnesses

Parliamentary Assembly

1. Chronic and long-term illnesses are non-communicable diseases that often require long and expensive treatment for the community. They are the main causes of general and premature mortality. They alter the lives of at least a third of the European population. This percentage increases with age as these diseases strike the most vulnerable more frequently. They are more common in women than in men and are particularly frightening when children are concerned. The prevalence of multi-morbidity is increasing due to the ageing of the population, but also to the combined effects of poverty, pollution and global warming.
2. Chronic and long-term illnesses are obstacles to dignity, well-being and self-fulfilment. Often difficult to diagnose, they can be particularly disabling in their most critical expressions, when they are not fatal. They are a source of multiple discrimination and hinder the affected who may be deprived of their autonomy, their participation and their full integration into society. Because of their direct and indirect effects, they harm the “full and equal enjoyment of all human rights and all fundamental freedoms”, fall within the scope of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) and involve obligations on the part of the States Parties to the convention.
3. Through their various public policies (health, social, research, employment, education, etc.), the authorities are able to limit the number and consequences of chronic and long-term illnesses. The CRPD offers an innovative vision of disability and disabilities. It makes full and effective participation and inclusion in society a priority. Some countries have indeed taken up this challenge, applying different strategies. Others have chosen to deny the existence of these diseases, at the risk of leaving patients to face their vulnerabilities alone and maintaining inequalities.
4. Neither are chronic and long-term illnesses the result of a reasoned choice. It is thus not acceptable that they are considered by certain actors in society as risk factors. In order to fight against the arbitrariness suffered by patients, it is necessary not only to adopt the paradigm shift proposed by the CRPD, but also to systematically tackle the obstacles and discrimination caused by these diseases, which prevent patients from living their lives, and to rally around a common objective: the preservation of their dignity and well-being. The voice of patients must be heard throughout the preparation, implementation and evaluation of public policies related to chronic and long-term diseases. Patients cannot be satisfied with equality when their wish is primarily to preserve their right to well-being and self-fulfilment. It is not for them to adapt to society, but for society to adapt to them, with due regard for reasonable accommodation and the principles of equality and non-discrimination.
5. Each individual is called to contribute to the general well-being, without hindrance. In order to remedy the profound social disadvantage and discrimination experienced by people with chronic and long-term illnesses, the Parliamentary Assembly reminds Council of Europe member States of their commitments made on the occasion of the ratification of the CRPD. It invites them to continue their efforts in the fight against

1. *Assembly debate* on 21 April 2021 (13th sitting) (see [Doc. 15208](#), report of the Committee on Social Affairs, Health and Sustainable Development, rapporteur: Ms Martine Wonner; and [Doc. 15230](#), opinion of the Committee on Equality and Non-Discrimination, rapporteur: Ms Béatrice Fresko-Rolfo). *Text adopted by the Assembly* on 21 April 2021 (13th sitting).



exclusion, by adopting strategies that revive the spirit that marked the birth of our public health systems and are aimed at strengthening the role of the welfare State, in order to improve the effectiveness and resilience of health systems, and ensuring universal access to health. The current health crisis has reminded us that administrations must be prepared to respond to the unexpected while being attentive to changes in society and eliminating obsolete regulations. The Assembly invites Liechtenstein to accede to the CRPD so that no European country remains outside this framework, which is innovative and adapted to the needs expressed by people encountering obstacles in their immediate social and physical environment.

6. The Assembly urges member States, on the basis of the provisions contained in the CRPD and examples of good practice resulting from co-operation between peers:

6.1. to strengthen the capacities of screening and prevention concerning chronic and long-term illnesses and to adopt a holistic approach, which is regularly reviewed and adjusted, and involves all sectors of the administration for the well-being of individuals, the fight against inequalities and the taking into account of vulnerabilities. The authorities must fight against diagnostic delays so that, after a certain period, which should not be longer than one year, each patient is able to exercise their rights again without hindrance;

6.2. to support and develop the offer of care and services allowing the preservation of well-being and self-fulfilment, while allocating sufficient resources and funds to achieve this objective, which is legitimate for everyone within the jurisdiction of the European Court of Human Rights, in particular when it comes to the professional sphere, by strengthening the resources of occupational medicine, which is often the patient's first interlocutor at the time of diagnosis or return to work. Adaptation of the workstation should be offered where possible. The Assembly calls once again on the national authorities to establish access to universal health care;

6.3. to ensure that the obstacles preventing chronic and long-term patients from exercising their legitimate right to dignity, well-being and self-fulfilment are subject to sufficiently dissuasive sanctions to enable patients to exercise their rights to well-being and fulfilment, in their professional or private life;

6.4. to conduct, in partnership with civil society, evidence-based and effective awareness-raising campaigns on chronic and long-term illnesses among the general public, ensuring the right to a normal life through the full enjoyment of human rights and fundamental freedoms;

6.5. to involve all stakeholders in policy development, evaluation and implementation, including people with chronic and long-term illnesses and their families, including by sharing the results of impact evaluations. The real consequences of certain diseases still seem too little-known (Lyme disease, etc.).

7. The Assembly suggests that member States do more to control the removal of obstacles to the rights of patients living with chronic and long-term illnesses, in order to encourage actors in the private sector to share the same approach with a view to fighting against discrimination suffered by patients because of their status. It calls on the national authorities not only for the adoption of a clear definition of the right to be forgotten but also for the effective and uniform implementation of this protection. It recommends the evaluation of patient protection systems.

8. The Assembly stresses the important role of parliaments. It invites them to promote the principles contained in the CRPD, to adopt legislation in line with the convention, to ensure the allocation of sufficient budgetary resources, to encourage the public authorities to adopt appropriate national strategies and action plans, and to demand accountability for their effective implementation. It also encourages parliamentarians to contribute to awareness-raising actions on an individual basis.

9. The Assembly recognises that people with chronic and long-term illnesses and their families are severely and disproportionately impacted by the measures taken to combat the novel coronavirus during the current pandemic. Thus, it calls on member States to pay particular attention to their needs, in view of these circumstances, including after their recovery, insofar as Covid-19 could be the cause of chronic illnesses.

10. Finally, in the context of the Covid-19 pandemic and in anticipation of the revision of Directive 2000/78/EC, the Assembly encourages the European Union to accede to the European Social Charter (revised) (ETS No. 163) before extending its powers in the area of health, in order to monitor and improve the state of health in the European Union. It also reiterates its encouragement to the remaining Council of Europe member States to sign and ratify, as soon as possible, the revised European Social Charter.



Resolution 2374 (2021)¹

Provisional version

Post-monitoring dialogue with Montenegro

Parliamentary Assembly

1. Montenegro joined the Council of Europe in 2007. It was subject to the full monitoring procedure until 2015. The Parliamentary Assembly refers to its [Resolution 2030 \(2015\)](#) on the honouring of obligations and commitments by Montenegro, in which it decided to close the monitoring procedure and to open a post-monitoring dialogue on four key issues, namely the independence of the judiciary, the trust in the electoral process, the fight against corruption and the situation of media. The Assembly also mandated itself to follow up on developments in the field of the rights of minorities and the fight against discrimination, as well as in the field of the situation of refugees and internally displaced persons.

2. The Assembly commends the Montenegrin authorities for demonstrating their sustained political will and commitment to fully respecting their obligations, as confirmed by their continued co-operation with Council of Europe monitoring mechanisms, legal experts and the European Commission for Democracy through Law (Venice Commission). The Assembly also welcomes the level of their involvement in the post-monitoring dialogue.

3. The Assembly reiterates that Montenegro continues to play a positive role in the stabilisation of the region and is a reliable and constructive partner, involved in several regional and multilateral initiatives.

4. In light of the developments that have occurred since 2015, the Assembly has assessed progress made in the four key areas and other outstanding fields of concern identified in 2015.

5. As regards the independence of the judiciary, the Assembly:

5.1. welcomes the implementation by the Montenegrin authorities of constitutional amendments related to the judiciary, which were adopted in July 2013, and the setting up of a comprehensive legal framework regulating the courts, the State prosecutors' offices, the Judicial Council and judges, the Prosecutorial Council, and the Constitutional Court; acknowledges the important scale of the changes that this framework introduced in the judiciary, and that they were mostly implemented in line with the recommendations of the Venice Commission;

5.2. commends the Montenegrin authorities for the genuine improvement of the training for judicial professions, notably thanks to the Centre for Training in Judiciary and State Prosecution, which should have long-lasting effects on the professionalism of new magistrates, and thereby on the efficiency of the justice system;

5.3. deeply regrets the re-appointments by the Judicial Council in 2019 and 2020 of several Presidents of basic courts and the President of the Supreme Court, who already served two terms or more. The limitation of elections to two terms, which was enshrined in the Constitution since 2013 and in the law, and which was aimed at preventing the over-concentration of powers within the judiciary, has been violated in its spirit, if not in its letter;

1. *Assembly debate* on 21 April 2021 (13th sitting) (see [Doc. 15132](#), report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) and [Doc. 15132 addendum](#), co-rapporteurs: Mr Damien Cottier and Mr Emanuelis Zingeris). *Text adopted by the Assembly* on 21 April 2021 (13th sitting).



- 5.4. notes that, after wrong signals were sent in 2018 with regard to the transparency of judges' selection and appointments, the Judicial Council seemed to have improved its procedure of selection in 2020;
- 5.5. deeply regrets, as the European Commission and the Group of States against Corruption (GRECO) also did, that no progress has been made in reviewing the disciplinary framework for judges and prosecutors.
- 5.6. commends the decision of the Montenegrin authorities to request the opinion of the Venice Commission on the draft laws amending the Law on the State Prosecutor's Office and the Law on the Prosecutor's Office for Organised Crime and Corruption and to suspend their adoption until after the opinion is issued; and calls on them to fully implement the recommendations formulated by the Venice Commission and, in particular, not to ignore those related to the security of tenure and the risk of politicisation of lay members of the Prosecutorial Council.
6. As regards trust in the electoral process, the Assembly:
- 6.1. is concerned that, apart from the voters' register, no progress has been made in the implementation of the five requirements set by [Resolution 2030 \(2015\)](#);
- 6.2. strongly emphasises that the parliament is the arena where political competition should take place, that boycotting its work does not comply with the European way to compete, and that reforming the legal framework on electoral campaigns cannot take place in an inclusive manner, if major parties from the opposition do not take part in it;
- 6.3. recalls that every political group in the parliament shares the responsibility to create an atmosphere and a culture of parliamentary democracy.
- 6.4. commends the political maturity demonstrated by both the new majority and the new opposition in the immediate aftermath of the elections held in August 2020, that allowed for a peaceful shift of power and urges them to continue on this positive trend; at the same time, regrets that the electoral legal framework remained largely unchanged during the last general elections, despite the repeated recommendations of the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR) to address its flaws and limitations, and that practices contrary to OSCE/ODIHR principles were once again observed during these elections, notably in the fields of abuse of State resources, independent media coverage and campaign financing.
7. As regards the fight against corruption, the Assembly:
- 7.1. takes note of the implementation of the Law on Prevention of Corruption and the Law on Prevention of Conflict of Interests, as well as of preventive policies set up by the Agency for the Prevention of Corruption;
- 7.2. regrets that the Law on the Financing of Political Entities and Election Campaigns had limited effects on the prevention and the sanction of illegal donations, as stated by the ad hoc Committees of the Bureau of the Assembly for the observation of the parliamentary elections in 2016 and the presidential election in 2018;
- 7.3. welcomes the passing of the Law on the Special Public Prosecutor's Office, which is tasked with fighting corruption and organised crime, the continuous increase of its means, as well as those of the Special Police Unit, and the recent results obtained against Montenegrin crime groups thanks to the increased participation in international police co-operation;
- 7.4. takes note of the 'initial track record', as stated by the European Commission, of investigations, prosecution and final convictions in corruption cases;
- 7.5. congratulates the Montenegrin authorities for having satisfactorily implemented 12 out of 14 recommendations made by GRECO in the Third Evaluation Round on transparency of party funding, and 8 out of 11 in the Fourth Evaluation Round on corruption prevention in respect of members of parliament, judges and prosecutors, concluded in December 2019;
- 7.6. is however concerned with the assessment by the European Commission that the criminal justice system appears generally lenient, with sentences, fines and asset recoveries disproportionately low compared with the gravity of the crime.

8. As regards the situation of media, the Assembly:
- 8.1. welcomes the visible efforts of both the prosecutors and the judges to address the attacks against journalists; moreover welcomes the efforts by the police forces to arrest the perpetrators and suspects of such attacks, as well as the public support by the government to the Commission for monitoring actions of the competent authorities in the investigation of cases of threats and violence against journalists, assassinations of journalists and attacks on media property, and the recent and adequate involvement of the parliament in debating the reports of this Commission;
 - 8.2. remains very concerned, however, by the threats and violence against journalists, recently demonstrated in several cases;
 - 8.3. strongly welcomes the ongoing efforts by the Montenegrin authorities to revise the legal framework on media in close co-operation with the Council of Europe;
 - 8.4. regrets the dismissals in 2017 and 2018 of members of the Councils of the national public broadcasting (RTCG) and the Agency for Electronic Media, by the parliament following investigations led by the Agency for the Prevention of Corruption for they could be seen as political interferences;
 - 8.5. is particularly worried by the tendency of public entities to restrict access to public documents, that contradicts the acute need for transparency in Montenegro and the access to information for the media; the Assembly fully recognises that the freedom of expression needs to be regulated but it stresses that this regulation must be in line with European standards and that the concept of 'abuse of the right of information' is not appropriate.
9. As regards the rights of minorities and the fight against discrimination, the Assembly:
- 9.1. welcomes the implementation of the mechanism for the prevention of torture under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the United Nations and the mechanism for the protection against discrimination under the Convention on the Elimination of All Forms of Racial Discrimination. It also notes that, for the latter, the competencies of the Protector of Human Rights and Freedoms (Ombudsman) were clarified in 2017;
 - 9.2. welcomes the adoption in 2017 of the Law on Minority Rights and Freedoms, that complied with four out of five recommendations of the Venice Commission;
 - 9.3. expresses its satisfaction at the very positive opinion on Montenegro of the Advisory Committee on the Framework Convention for the protection of national minorities from the Council of Europe in March 2019 and calls upon the Montenegrin authorities to undertake urgent efforts towards Roma and Egyptians mentioned in the opinion;
 - 9.4. commends Montenegro for setting a good example for the whole region when it comes to the level of protection provided to LGBTI persons, and welcomes the adoption of the law on life partnership of same-sex partners by the parliament in July 2020.
10. As regards the situation of refugees and internally displaced persons, the Assembly takes note of the positive opinion of the Advisory Committee on the progress made by Montenegro in resolving the issue of displaced persons, mostly Roma and Egyptians, arrived in Montenegro in the late 1990s and almost completing the regularisation of their legal status.
11. As regards the Law on Freedom of Religion or Belief and the Legal Status of Religious Communities (Law on Freedom of Religion) passed in December 2019, the Assembly:
- 11.1. emphasises that the regulation of religious communities is a matter of national sovereignty, that should be exercised without any foreign interference;
 - 11.2. regrets that the part of the Law related "to property rights" created a very divisive climate, while most of the provisions constitute a genuine progress compared to the previous legal framework, as stated by the Venice Commission in its opinion on the draft law;
 - 11.3. is fully aware of the understandable concerns of members of the Serbian Orthodox Church, given the large extent of possible transfers of property from the Church to the Montenegrin State, on the ground of 'culture heritage', which means possibly most of all religious properties built before 1918;

- 11.4. welcomes the adoption of amendments to the law on 28 December 2020, as a solution that both respects democracy and the rule of law, and focuses on the controversial provisions, while retaining those that constitute a genuine progress; at the same time, regrets that the consultation of all religious communities on these amendments was not fully inclusive.
12. In this context, the Assembly resolves to continue a post-monitoring dialogue with Montenegro in the following areas:
13. As regards the independence of the judiciary, the Assembly will closely monitor:
- 13.1. the implementation of recommendation v. of GRECO's Fourth Evaluation Round, and in particular the implementation of the spirit of the constitutional and legislative changes regarding the limitation of two-terms for Presidents of Courts; this last implementation could be achieved by a change in the legal framework, or by a change of practice initiated by the judiciary itself;
- 13.2. whether the transparency in the selection of magistrates and in their appointments continues to be applied;
- 13.3. whether the enforcement of the code of ethics and disciplinary accountability for magistrates are enhanced.
14. As regards trust in the electoral process, the Assembly will monitor progress in re-starting, just after the elections, a comprehensive and inclusive process on reforming the electoral framework, in line with the recommendations of OSCE/ODIHR and the Venice Commission, and in line with the recommendations of the Congress of Local and Regional Authorities, especially when it comes to holding local elections in a single day and at least six months from parliamentary elections.
15. As regards the fight against corruption, the Assembly will monitor progress in:
- 15.1. addressing the loopholes in the criminal justice system, that makes it appear as generally lenient;
- 15.2. addressing the risks pointed out both by the Venice Commission and by the European Commission of *de facto* control of the executive power in investigations led by the Special Police Unit under the supervision of the Special Public Prosecutor's Office, given the hierarchical link between the Special Police Unit members, including its head, and the Police Directorate;
- 15.3. building on the initial track records in the fight against corruption and organised crime.
16. As regards the situation of media, the Assembly will closely monitor progress in:
- 16.1. changing irreversibly the climate of impunity around attacks against journalists, by continuing to address them directly, but also by enforcing transparency in cases where competent authorities failed to investigate properly and in due time;
- 16.2. refraining from restricting access to information;
- 16.3. revising the mechanisms that are currently addressing political interferences in the media, including the composition of the RTCG and the Agency for Electronic Media.
17. As regards the Law on Freedom of Religion, the Assembly will monitor whether the implementation of the law will be in line with European standards, as well as the recommendations of the Venice Commission.
18. As regards the situation of minorities, the Assembly will closely monitor the investigations into allegations of hate crimes and ethnically and religiously motivated attacks that took place since the announcement of the August elections results.
19. The Assembly resolves to assess the progress made in the aforementioned areas after the general elections held in 2020.



Resolution 2375 (2021)¹
Provisional version

The arrest and detention of Alexei Navalny in January 2021

Parliamentary Assembly

1. Alexei Navalny is a Russian opposition politician and anti-corruption campaigner. On 17 January 2021, he returned to Russia from Germany following treatment for alleged poisoning. He was arrested on arrival under a warrant issued for having breached the terms of a suspended sentence passed in 2014 in the so-called Yves Rocher case. On 2 February 2021, the Simonovskiy District Court of Moscow converted the suspended sentence into a sentence of two years and eight months in prison. Since 12 March 2021, Mr Navalny has been held at Penal Colony no. 2 in Pokrov, east of Moscow.

2. The Parliamentary Assembly recalls that in its 2017 judgment in the case of *Navalnyy v. Russia*, the European Court of Human Rights held that the conviction of Mr Navalny (and that of his brother) in the Yves Rocher case had violated the prohibition on punishment without law (article 7 of the European Convention on Human Rights, ETS No. 5), as the relevant offences had been “extensively and arbitrarily construed”, inconsistent with the essence of the offence; and violated his right to a fair trial (article 6), since the domestic courts had acted so arbitrarily as to fundamentally undermine the fairness of the trial. The Court called for the criminal proceedings to be reopened, and for the domestic courts to be obliged to remedy the aforementioned violations.

3. The Assembly notes that in April 2018, the Russian Supreme Court reopened the criminal proceedings but found no grounds to quash or change Mr Navalny’s conviction, asserting that the relevant offences had been fully established and all procedural requirements had been met. It further notes that the Russian Government has claimed that the *Navalnyy* judgment has been fully executed, referring to the Supreme Court’s decision and its own payment to Mr Navalny of the just satisfaction and legal costs and expenses awarded by the European Court of Human Rights.

4. It recalls that the European Court of Human Rights has ultimate jurisdiction over all questions of interpretation and application of the European Convention on Human Rights. It further recalls that States parties to the Convention are obliged to execute in full the judgments of the Court.

5. The Assembly notes that, in March 2021, the Committee of Ministers adopted a decision on the implementation by the Russian Federation of the *Navalnyy* judgment of the European Court of Human Rights. The Committee of Ministers expressed “grave concern” that the reopening of the proceedings had not remedied the violations and “profound concern” that Mr Navalny’s suspended sentence had been converted into a prison sentence. It urged the authorities to take “all possible measures to quash” Mr Navalny’s conviction and to release him without delay. It further decided to return to the case at its next meeting in June 2021, when it would consider adopting an interim resolution should Mr Navalny not by then have been released.

1. *Assembly debate* on 22 April 2021 (14th sitting) (see [Doc. 15270](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Jacques Maire). *Text adopted by the Assembly* on 22 April 2021 (14th sitting).
See also [Recommendation 2202 \(2021\)](#).



6. It recalls that the Committee of Ministers is competent under the European Convention on Human Rights to supervise the execution of the judgments of the European Court of Human Rights, including by determining when a respondent State has implemented all the necessary measures. It further recalls the procedural tools available to the Committee of Ministers under article 46 of the Convention, should there be a problem of interpretation of a judgment or should a respondent State refuse to execute it.

7. The Assembly notes that in February 2021, the European Court of Human Rights granted an interim measure requiring the Russian Government to release Mr Navalny with immediate effect, “having regard to the nature and extent of the risk to [Mr Navalny’s] life ... and seen in the light of the overall circumstances of [his] current detention”. The Assembly, recalling its [Resolution 1991 \(2014\)](#) “Urgent need to deal with new failures to co-operate with the European Court of Human Rights” reaffirms that interim measures are legally binding.

8. The Assembly notes with grave concern that Mr Navalny’s medical condition is said to have deteriorated significantly since he was detained. It notes that the prison medical service has diagnosed Mr Navalny as suffering from multiple herniated spinal discs, and that an independent medical specialist has stated that Mr Navalny’s current treatment by the prison medical service – which Mr Navalny has largely declined to accept – is “contraindicated, undesirable and ineffective” and could cause further serious health problems. Mr Navalny’s requests to be examined by a specialist of his choice have not been granted. Mr Navalny has been on hunger strike since 31 March 2021. The Assembly considers that despite the Russian authorities’ claim that Mr Navalny’s current health condition is “satisfactory”, the apparent failure to provide Mr Navalny with adequate medical care in prison may raise issues under article 3 of the European Convention on Human Rights (prohibition on inhuman treatment or punishment).

9. The Assembly considers that further issues under the European Convention on Human Rights may be raised by other aspects of Mr Navalny’s detention conditions, including that he is reportedly disturbed by prison guards repeatedly during the night, causing cumulative sleep deprivation; he is reportedly strip-searched prior to meeting his lawyers; and his lawyers have complained of extensive limitations on their access to their client. The Assembly considers that the broadcasting of videos of Mr Navalny in detention, including one made by a prison monitor accompanied by a film crew from a State-funded media outlet and others apparently recorded by prison guards and prison surveillance cameras, may raise issues under article 8 of the European Convention on Human Rights (respect for private life).

10. The Assembly notes that Mr Navalny has been categorised as an escape risk, despite having returned to Russia voluntarily; and has been cited for numerous disciplinary infractions in prison but has reportedly been denied access to his personal file, despite having a right to contest these citations. The Assembly notes with concern that these two considerations may result in Mr Navalny being denied early release, for which he may become eligible in the near future.

11. The Assembly notes that Mr Navalny and his lawyers have repeatedly written to the relevant authorities, including the prison administration, the federal service for the execution of sentences, the prosecutor general, and the human rights ombudsman. It notes that only the ombudsman has replied to any of these letters, refuting all complaints about Mr Navalny’s medical and detention conditions on the basis of information from the prison service, a prison monitor who had accused Mr Navalny of faking his symptoms, and a prison monitor whose confrontational meeting with Mr Navalny was broadcast on State-funded media. The Assembly considers that these circumstances raise questions about the effectiveness of the domestic mechanisms for addressing complaints concerning Mr Navalny’s medical condition and conditions of detention.

12. The Assembly therefore:

12.1. expresses its full support for the position of the Committee of Ministers as set out in its March 2021 decision;

12.2. calls on the Russian Federation:

12.2.1. to intensify its co-operation with the Committee of Ministers in order to achieve full implementation of the *Navalnyye* judgment;

12.2.2. further to the Committee of Ministers’ decision and the interim measure granted by the European Court of Human Rights, to release Mr Navalny immediately and in any event before the next ‘human rights’ meeting of the Committee of Ministers in June 2021;

- 12.2.3. pending his release, to provide Mr Navalny with all necessary medical care, including examination and treatment by a doctor of his choice, and to ensure that his rights under the European Convention on Human Rights and domestic law are fully respected;
- 12.3. invites the Committee for the Prevention of Torture or Inhuman or Degrading Treatment or Punishment (CPT) to conduct a monitoring visit to the detention facility where Mr Navalny is being held; calls on the Russian Federation to authorise promptly the publication of any report resulting from such a visit;
- 12.4. calls on the Russian delegation to the Assembly to co-operate fully with the rapporteur in the exercise of his mandate to ensure follow-up to the present resolution, in accordance with the Assembly's Rules of Procedure;
- 12.5. resolves to continue to follow closely the situation of Mr Navalny.



Resolution 2376 (2021)¹
Provisional version

The functioning of democratic institutions in Turkey

Parliamentary Assembly

1. Since Turkey was put under the parliamentary monitoring procedure in April 2017, the Parliamentary Assembly has been closely following the developments in this country in a spirit of dialogue and co-operation with the authorities. Regrettably, a number of issues of concern have remained unaddressed by the Turkish authorities despite the recommendations based on the findings of the Council of Europe monitoring mechanisms. Notably, the European Commission for Democracy through Law (Venice Commission) had identified structural deficiencies encompassed in the constitutional amendments that established the presidential system in 2017. The most serious issues of concern include the lack of independence of the judiciary, the lack of sufficient safeguards for the separation of powers and checks and balances, restrictions on freedom of expression and the media, the abusive interpretation of the anti-terror legislation, non-execution of judgments of the European Court of Human Rights, restrictions applied to the protection of human and women's rights and infringement of the fundamental rights of politicians and (former) members of parliament from the opposition, lawyers, journalists, academics and civil society activists.

2. In the past years, the Assembly has been concerned about the constant deterioration of the rights of opposition politicians and of their ability to exercise their elected mandates, thus seriously undermining the functioning of democratic institutions in Turkey. The Assembly resorted to organise three urgent procedure debates entitled "The worsening situation of opposition politicians in Turkey: what can be done to protect their fundamental rights in a Council of Europe member State?" ([Resolution 2260 \(2019\)](#) of January 2019), the "New crackdown on political opposition and civil dissent in Turkey: urgent need to safeguard Council of Europe standards" (See [Resolution 2347 \(2020\)](#) of October 2020) and the present debate on "The functioning of democratic institutions". This debate was triggered by worrying developments over recent months, notably the lifting of parliamentary immunities, the attempt to close the Peoples' Democratic Party (HDP) and the decision to withdraw from the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence ([CETS No.210](#), the Istanbul Convention) announced by the President.

3. On 20 March 2021, the President of the Republic signed a presidential decision withdrawing from the Istanbul Convention. This convention was opened for signature during the Turkish Presidency of the Committee of Ministers in Istanbul ten years ago. The Grand National Assembly was the first parliament in Europe to ratify it in 2012 by a unanimous vote, thus playing a pioneering and leading role in promoting this convention across Europe, which has become the gold standard in the fight against violence against women and domestic violence. In Turkey, the ratification of the convention was a push factor leading to the adoption of Law No. 6284 on Protection of Family and Prevention of Violence Against Women in 2012 by the Turkish parliament.

4. The Assembly deeply regrets that this presidential decision was taken without any parliamentary debate and on account of misleading narratives which run counter to the very objective of the Istanbul Convention. It underlines that it is urgent to hold a discussion on the Istanbul Convention that is based on facts – not on politically motivated misconceptions and myths. The Assembly stresses that parliaments are the place where societal and human rights issues must be debated in Council of Europe member States. The Istanbul

1. *Assembly debate* on 22 April 2021 (14th sitting) (see [Doc. 15272](#), report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs: Mr Thomas Hammarberg and Mr John Howell). *Text adopted by the Assembly* on 22 April 2021 (14th sitting).



Convention has therefore ensured that parliaments are directly involved in the monitoring of the convention, as well as its implementation. In respect to Turkey, the Assembly notes that all major opposition parties, including the Republican People's Party (CHP), the Peoples' Democratic Party (HDP) and the Good Party (İYİ), women's organisations and individual citizens have expressed their attachment to being part of the Istanbul Convention by seizing the State Council to annul the presidential decision of 20 March 2021.

5. Without prejudice to the decision of the State Council, the Assembly encourages the Turkish Grand National Assembly to engage in a meaningful debate in parliament, liaise with civil society organisations active in this field, remain committed to the fight against violence against women and domestic violence and ensure that all measures are taken to protect the victims, prosecute the perpetrators, prevent violence against women and promote gender equality, as required by the positive obligations of member States under the European Convention of Human Rights (ETS No. 5). In this respect it welcomes the creation, on 9 March 2021, of an ad hoc parliamentary committee on "Researching the causes of violence against women to determine the necessary policies".

6. The Assembly underlines that even though the Turkish national legislation may be sufficient to combat violence against women, withdrawing from the Istanbul Convention implies that Turkey can no longer benefit from its provisions relating to international co-operation in criminal matters and seek co-operation from other States parties to bring the perpetrators of crimes against women to justice. The withdrawal also sends a message to the international community about a deprioritisation of the fight against violence against women. The Assembly sincerely hopes that a way will be found for Turkey to reintegrate the convention.

7. The Assembly recalls that violence against women is widespread in all societies and cannot be justified on any grounds. It concerns all segments of society, beyond political and societal lines. Recalling its Resolution 2289 (2019) on The Istanbul Convention on violence against women: achievements and challenges, the Assembly reaffirms for its part its commitment to promote the ratification and implementation of the Istanbul Convention in Europe, and beyond, notably through its "Network of Women free from violence" and reiterates its full support to civil society organisations promoting and protecting women's rights. For the Assembly, withdrawing from a human-rights based convention (unanimously) ratified by the parliament constitutes a step backwards for the country. At the European level, it weakens the multilateral co-operation promoted by the 47 Council of Europe member States and prevents the country benefiting from the added-value of an independent monitoring mechanism (the Group of Experts on Action against Violence against Women and Domestic Violence – GREVIO).

8. The Assembly notes with concern that the unilateral decision of the President to withdraw from an international treaty without any consultation of the parliament or the society has triggered speculative debates about possible withdrawals from other international treaties, including the European Convention of Human Rights. This could affect the country's legal stability and predictability. While the ratification and denunciation of treaties are a matter of national sovereignty, the Assembly notes that the unprecedented withdrawal from a major Council of Europe convention has raised many questions and concerns about its democratic processes. In light of these developments, a reflection should be launched about standards that should govern the ratification and withdrawal from international treaties in democratic societies, beyond the minimal legal and constitutional conditions. The Assembly therefore asks the Venice Commission to prepare a comparative study and possible guidelines about the modalities that should govern the ratification and withdrawal from Council of Europe conventions.

9. Another adverse development relates to the weak framework for the protection of parliamentary immunity in Turkey, already highlighted in previous Assembly resolutions. The Assembly notes with concern that one third of the parliamentarians are currently targeted by legal proceedings and could see their immunity lifted. Opposition parliamentarians are overwhelmingly concerned by these procedures, and parliamentarians from the HDP Party are disproportionately targeted – they account for 75% of the proceedings, mostly under terrorism-related charges. Three members of the HDP lost their mandates in 2020 and 2021 following final convictions for terrorism, while nine HDP parliamentarians currently face aggravated life sentences for their alleged organisation of the "Kobane protests" in October 2014.

10. On a positive note, the Assembly welcomes the return to the parliament of CHP parliamentarian Enis Berberoğlu following two rulings of the Constitutional Court which found that his rights to be elected and engage in political activities had been violated. The Assembly recalls that in a country governed by rule of law, lower courts must abide by rulings of the Constitutional Court. It deplores however the new proceedings which were launched in the meantime to again strip Mr Berberoğlu's immunity.

11. At the same time, the Assembly is appalled by the conviction of HDP parliamentarian Ömer Faruk Gergerlioğlu to 2,5 years in prison for “making propaganda for a terrorist organisation” after re-tweeting a news article – who was not incriminated – in August 2016. This conviction was upheld by the Supreme Court of Cassation in February 2021 and the execution of the sentence was not suspended until the end of Mr Gergerlioğlu’s mandate – contrary to customary practice. As a result, Mr Gergerlioğlu lost his mandate after the sentence was read out in parliament on 17 March 2021 and he was detained on 27 March 2021.

12. The Assembly regrets that the Constitutional Court did not have the possibility to review the pending individual application lodged by Mr Gergerlioğlu before the execution of the sentence became effective, thus resulting in a loss of parliamentary mandate with immediate effect. The Assembly asks the Turkish authorities to ensure harmonised judiciary practice pertaining to the execution of convictions of MPs with due respect to their parliamentary immunity and to ensure a speedy examination of individual applications by the Constitutional Court which, in the past, has been instrumental in redressing the violation of rights of parliamentarians and allowed their return to parliament.

13. The Assembly is concerned that opposition parliamentarians seem to be subject to a possible stripping of immunity on a routine basis for their statements or publications. The Assembly notes with great concern that one third of the parliamentarians, including the leaders of the two main opposition parties in parliament, are subject to such procedures. This is highly problematic and creates prejudice to ensuring the sound functioning of a parliament. In addition, it has a chilling effect discouraging dynamic debate, which is essential for a properly functioning democracy. The Assembly therefore urges the Turkish authorities to put an end to the judicial harassment of parliamentarians and refrain from submitting numerous summaries of proceedings seeking the undue lifting of their immunity which gravely impedes the exercise of their political mandate.

14. The Assembly cannot but reiterate its concerns about restrictions to freedom of expression, which impedes the exercise of political mandates. It regrets that no progress was made regarding the interpretation of the anti-terrorism legislation which is not in line with the case-law of the European Court of Human Rights. As a result, a high number of convictions are pronounced based on a too wide interpretation of this legislation or of controversial provisions of the Criminal Code. The Assembly urges the Turkish authorities to address the “pervasive problems regarding [the] independence and impartiality” of the judiciary system noted by the Committee of Ministers in March 2021 – and prevent politically motivated rulings that contradict Council of Europe standards.

15. The Assembly underscores the primordial role played in a democratic regime by political parties. It is therefore extremely concerned about the steps taken by the Supreme Court of Cassation, at the request of the Nationalist Movement Party (MHP), to close the second largest opposition party in Turkish Parliament and to ban 687 HDP members for their alleged ties to the Kurdistan Workers' Party (PKK). The Assembly notes that the indictment of 17 March 2021 was returned by the Constitutional Court to the Supreme Court of Cassation for serious deficiencies on 31 March 2021.

16. The Assembly recalls that it had opposed the closure of the ruling party (namely the AK Party) in its [Resolution 1622 \(2008\)](#) “Functioning of democratic institutions in Turkey: recent developments” in which it had stressed that “the dissolution of political parties should be regarded as an exceptional measure to be applied only in cases where the party concerned uses violence or threatens civil peace and the democratic constitutional order of the country”.

17. The Assembly also recalls that political parties enjoy the freedoms and rights enshrined in Article 11 (freedom of assembly and association) and Article 10 (freedom of expression) of the European Convention of Human Rights. Closures of political parties are a drastic measure which should only occur as a last resort in strictly defined situations. The Assembly remains confident that the Constitutional Court will be guided by the strict regulations governing the closure of political parties in Turkey, the case-law of the European Court of Human Rights – where exceptions set out in Article 11 need to be strictly construed, with a limited margin of appreciation of Contracting States – and by the 1999 Guidelines on prohibition and dissolution of political parties and analogous measures of the Venice Commission.

18. Whatever the outcome of this pending procedure, the Assembly underscores that the launch of a lawsuit against the second largest opposition party combined with continuous harassment and arrests of its members, elected representatives and leaders is an alarming signal in itself reflecting the difficulties faced by the opposition. This seriously undermines the functioning of democratic institutions and political pluralism at national and local levels. In this respect, the Assembly regrets the lack of any progress in the re-instatement of the 48 dismissed mayors (out of 59) from the HDP elected in March 2019, in contradiction with the Council of Europe standards, or in revising the legislation so as to ensure its compliance with the European Charter of Local Self-Government (ETS No.122).

19. The Assembly recalls that the proper functioning of democratic institutions in a representative democracy requires fair election procedures, a sound legal basis and safe environment for the functioning of political parties, guaranteed freedom of expression and media that allow for the expression of opposition viewpoints and for democratic transitions of power. The Assembly notes that reforms of the Law on the political parties and electoral legislation are envisaged. It encourages the Turkish authorities to seize this opportunity to address the long-lasting issues of concerns raised by the Assembly and the Venice Commission in previous years:

19.1. concerning the electoral law, the Assembly welcomes the intention expressed by the authorities to lower the election threshold (presently 10%) which is the highest in Europe. This has been a long-lasting request from the Assembly. The Assembly asks the Turkish authorities, when revising the election legislation, to take into account the need to ensure fair electoral processes conducted in an environment conducive to freedom of expression and freedom of the media;

19.2. at the same time, the Assembly recalls that a genuinely pluralistic democracy requires that parties across the political spectrum are able to operate and reflect the opinions of the voters in their diversity, including minorities;

19.3. in order to increase good governance and a level playing field in politics, the Assembly encourages the Turkish authorities, in line with the recommendations contained in the two compliance reports published by the Group of States against Corruption (GRECO, Third and Fourth Rounds of Evaluation) in March 2021, to improve the legal and regulatory framework and in particular to:

19.3.1. take resolute action to strengthen transparency in the financing of political parties and election campaigns, where considerable progress is yet to be made;

19.3.2. improve the prevention of corruption in respect of members of parliament, judges and prosecutors, in particular by adopting a law on ethical conduct for members of parliament, enhancing the transparency of the legislative process;

19.3.3. introduce structural changes which would ensure judicial independence, including the revision of the composition of the Council of Judges and Prosecutors which does not comply with European standards with regard to the independent self-governing body of the judiciary, and allows the executive to have a strong influence on a number of key matters regarding the running of the judiciary.

20. The Assembly recalls the concerns already highlighted with respect to freedom of expression and the media, and to the situation of journalists. The Assembly remains concerned about the high number of journalists who remain in prison, are prosecuted for working as journalists or resolve to self-censorship. In this context, the Assembly draws attention to some meaningful developments:

20.1. the Assembly welcomes the decision of the Constitutional Court of 8 April 2021 repealing a statutory decree article that set the basis for the closures of media outlets on the ground of "posing a threat to national security" and reversing a provision that paved the way for the seizure of the properties that were shut down;

20.2. the Assembly welcomes two Chamber's rulings (not final) of the European Court of Human Rights of 13 April 2021 related to the cases *Ahmet Hüsrev Altan v. Turkey* and *Murat Aksoy v. Turkey*, concerning two journalists arrested after the failed coup due to their publications, their alleged membership to the Gülen Movement and their alleged preparation of a coup. While Murat Aksoy has been released from pre-trial detention in 2017, renowned journalist and novelist, Ahmet Altan, has been in jail since 2016. The Court found, notably, a violation of their rights to freedom of expression, liberty and security of the two plaintiffs due to lack of evidence, lack of reasonable suspicion and lack of access to their files. The Assembly welcomes the swift decision taken by the Supreme Court of Cassation to release Ahmet Altan on the following day.

21. The Assembly expect the Turkish authorities to undertake the necessary reforms to address the above-mentioned concerns. It takes good note of the launch of the Human Rights Action Plan on 2 March 2021 prepared in consultation with Council of Europe and other relevant international bodies. It aims notably at strengthening the right to a fair trial, protecting and strengthening freedom of expression, association and religion and promoting legal predictability and transparency. The Assembly encourages the authorities, to fine-tune the scope of this action plan so as to address pressing human rights and rule of law issues, including the strengthening of the independence of the judiciary, the revision of the too widely interpreted anti-terror law and the protection of human rights defenders, in co-operation with the Council of Europe. The Assembly also invites the authorities to ensure that the action plan will be accomplished by a detailed roadmap with specific actions to be taken to achieve its goals.

22. In the meantime, the Assembly expects the Turkish authorities to take concrete and meaningful steps and thus abide by its Council of Europe obligations. The Assembly in particular urges the immediate release of former HDP co-chair Selahattin Demirtaş and philanthropist Osman Kavala in application of the rulings of European Court of Human Rights of 2020 and subsequent decisions of the Committee of Ministers which is supervising their implementation. The Assembly recalls that the Court ruled that there was, in both cases, a violation of article 18 of the Convention and that the sentences were pursuing an ulterior purpose: Mr Demirtaş's detention sought to stifle pluralism and limit freedom of political debate, while Mr Kavala's detention aimed at silencing him and acted as a dissuasion to other human rights defenders.

23. The Assembly also insists that civil society activists need to be able to operate in a safe and free environment. The Assembly remains concerned by on-going procedures targeting human rights activists, and calls upon the authorities to:

23.1. drop the charges against the members of the "Büyükkada trial", Öztürk Türkdoğan, Chair of the Human Rights Association and, in general, ensure that human rights activists, including LGBT and women's activists, can exercise their freedom of expression and assembly without undue judicial pressure;

23.2. refrain from incriminating, prosecuting and arresting peaceful demonstrators, students and LGBT people, in particular those protesting the appointment of the rector of Boğaziçi University or the withdrawal from the Istanbul Convention;

23.3. repeal or revise, in line with the relevant recommendations of the Venice Commission, the provisions contained in the 2020 "Law on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction", providing for the possible temporary suspension of NGO leaders facing terror-related investigations and their replacement by government-appointed trustees, which further restrict NGOs activities and freedom of association in the name of counter-terrorism, as highlighted by the Council of Europe Commissioner for Human Rights.

24. The Assembly strongly reiterates its call on the Turkish authorities to put an end to laws and practices that contravene democratic standards, to revise its legislation and constitutional framework in order to ensure the separation of powers, to restore freedom of speech and media freedom, to restrict the interpretation of its anti-terror legislation, and to implement the judgments of the European Court of Human Rights.

25. The Assembly strongly encourages the Turkish authorities to make use of the Council of Europe expertise in order to elaborate and implement the reforms needed to restore the independence of the judiciary, reinstate proper checks and balances which are an essential condition in a democratic society governed by the rule of law. The Assembly expects the Turkish authorities to live up to the democratic aspirations of its vibrant civil and political society, genuinely committed to democracy, to act and speak out freely and safely.

26. The Assembly also resolves, in the framework of the monitoring procedure for Turkey, to follow the developments in the country concerning democracy, rule of law and human rights. It urges the Turkish authorities to engage in a meaningful and constructive dialogue and to assess progress made in a comprehensive monitoring report to be presented in the course of a future part-session of the Assembly.