

RESOLUTION 1123 (1997)¹ ON THE HONOURING OF OBLIGATIONS AND COMMITMENTS BY ROMANIA

1.

The Assembly observes that Romania has made considerable progress towards the fulfilment of her obligations and commitments since joining the Council of Europe on 7 October 1993.

2.

In particular, it welcomes Romania's ratification, on 20 June 1994 with immediate effect, of the European Convention on Human Rights and all protocols thereto, including Protocol No. 11, with recognition of the right of individual petition (Article 25) and the compulsory jurisdiction of the European Court of Human Rights (Article 46).

3.

It also welcomes the fact that Romania ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and its protocols on 4 October 1994 and was the first country to ratify the Framework Convention for the Protection of National Minorities on 11 May 1995.

4.

The Assembly takes note of Romania's intention to ratify as soon as possible the conventions which she has signed, particularly in the field of criminal law, and by the third quarter of this year the European Charter of Local Self-Government and the European Charter for Regional or Minority Languages which she signed on 4 October 1994 and 17 July 1995 respectively.

5.

The Assembly also takes note of the intention of the Romanian authorities to speed up the ratification process, currently under examination, of the European Social Charter with a view to aligning their labour and social legislation with European standards.

6.

It takes note of the Romanian authorities' resolve to further the rights of national minorities and especially to amend the 1995 Education Act so as to allow mother tongue instruction for members of national minorities.

7.

The Assembly observes that Romania has honoured a significant number of her commitments. Nonetheless, a few problems have still to be solved if Romania is to comply with the obligations deriving from the Statute of the Council of Europe and the European Convention on Human Rights.

8.

Firstly, the Assembly urges Romania to ensure that the independence of the judiciary is upheld and asks that Article 19 of Judiciary Act No. 92/1992 be revised accordingly. It

¹ Assembly debate on 24 April 1997 (14th Sitting) (see Doc. 7795, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Jansson).

notes that the role of the Public Prosecutor's office is still very pronounced and urges Romania to continue reform in this area.

9.

It also notes that certain provisions of the Penal Code now in force are unacceptable and seriously imperil the exercise of fundamental freedoms, especially Article 200 on homosexual acts and Articles 205, 206, 238 and 239 relating to insult and defamation, which interfere with the freedom of the press.

10.

The Assembly draws attention to the existence of deplorable conditions in Romanian prisons and regrets that the country has made all too few efforts to improve these conditions and to end overcrowding.

11.

Regarding the situation of abandoned children in state orphanages, the Assembly encourages Romania to pursue, as a matter of priority, a preventive policy concerning the abandonment of children and a policy on family placement as an alternative to institutionalisation, and to improve both the material and the childcare conditions in orphanages. In addition, it considers that the relevant legislation should be clarified forthwith so as to assist the adoption of these children in Romania and abroad.

12.

The Assembly encourages Romania to settle the matter of return of confiscated or expropriated real estate, in particular to the churches, to political prisoners or to certain communities, with due regard to the principle of restitution in integrum or, failing that, to pay just compensation and secure free access to the court system for complainants.

13.

Lastly, it wishes Romania to be firmly committed to fighting racism, xenophobia and intolerance, particularly in respect of the Rom population, while committing itself to basing its policy regarding the protection of minorities upon the principles laid down in Recommendation 1201 (1993).

14.

The Assembly therefore earnestly requests that the Romanian authorities:

i.

amend without delay the provisions of the Penal Code and the Judiciary Act, which are contrary to fundamental freedoms as set forth in the European Convention on Human Rights;

ii.

improve conditions of imprisonment forthwith and amend the legislative provisions permitting abuse of detention on remand;

iii.

improve legal, physical and childcare conditions for children abandoned in state institutions, amend the country's legislation so as to assist their adoption, and carry on a determined campaign against the abandonment of children;

iv.

amend the legislation relating to the return of confiscated and expropriated property, particularly Act No. 18/1991 and Act No. 112/1995, so as to provide for the restitution of such property in integrum or fair compensation in lieu;

v.

promote a campaign against racism, xenophobia and intolerance and take all appropriate measures for the social integration of the Rom population.

15.

Considering that Romania has honoured her most important obligations and commitments, the Assembly hereby decides to close the monitoring procedure under Order No. 508 (1995). However, it could decide to reopen the procedure, in accordance with its Resolution 1115 (1997), should the conditions stated in the preceding paragraphs not be fulfilled within a year after the adoption of this resolution, or if it considers that Romania is not honouring her obligations and commitments as a member state of the Council of Europe.

Text adopted by the Assembly on 24 April 1997 (14th Sitting).