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## COMPLIANCE WITH MEMBER STATES' COMMITMENTS: THE COMMITTEE OF MINISTERS' MONITORING PROCEDURES

Secretariat memorandum prepared  
by the Monitoring and Co-ordination Department  
of the Directorate of Strategic Planning\*

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\* This document replaces document Monitor/Inf(2004)5 of 23 September 2004. It is also available on the following Internet sites:  
<http://dsp.coe.int/monitoring> and <http://www.coe.int/cm>.

## Introduction

1. Since the adoption of its 1994 Declaration on compliance with commitments, the Committee of Ministers has developed three distinct, and sometimes inter-related, monitoring procedures: monitoring in application of the 1994 Declaration, thematic monitoring and specific post-accession monitoring.

2. The 1994 Declaration may be perceived as a special mechanism that enables the Committee of Ministers to examine any situation or subject related to the implementation of commitments in the fields of democracy, human rights and the rule of law and to take specific action, when required.

3. Thematic monitoring is a Committee of Ministers' tool which permits the executive organ of the Organisation to verify the implementation of commitments accepted by member States from the angle of specific subjects. This procedure can lead to the re-adjustment of co-operation and assistance programmes and intergovernmental work, where appropriate. Specific action, in application of the 1994 Declaration, may also be taken to this effect.

4. The Committee of Ministers has also set-up country specific post-accession monitoring procedures in order to closely follow progress achieved and difficulties encountered by certain member States with respect to their specific obligations and commitments.

## PART I. MONITORING IN APPLICATION OF THE 1994 DECLARATION ON COMPLIANCE WITH COMMITMENTS

### A. Seizure of the Committee of Ministers (*paragraph 1 of the Declaration and paragraphs 5 and 6 of the 1995 Procedure for implementing the Declaration*)

5. By virtue of paragraph 1 of the Declaration, "*questions of implementation of commitments concerning the situation of democracy, human rights and the rule of law in any member State*" may be brought before the Committee of Ministers by member States, by the Secretary General, or on the basis of a recommendation from the Parliamentary Assembly. To-date, the Committee of Ministers has been seized twice on the basis of this paragraph. On both occasions, this concerned the specific situation in the **Chechen Republic of the Russian Federation**. This was done for the first time by the Secretary General, in June 2000, and a second time by the Parliamentary Assembly in April 2003 in its Recommendation 1600 (2003).

6. Likewise, by virtue of paragraphs 5 and 6 of the 1995 Procedure for implementing the 1994 Declaration, any Delegation within the Committee of Ministers or the Secretary General may ask to put the situation in any member State on the agenda of a special (*in camera*) monitoring meeting, on the basis of its own concerns or with reference to a discussion in the Parliamentary Assembly. The request should be accompanied by specific questions. These paragraphs were used once by the Secretary General in early 2002 concerning the situation in **Moldova**.

### B. Specific action (*paragraph 4 of the Declaration*)

7. In accordance with paragraph 4 of the Declaration, the Committee of Ministers, "*in cases requiring specific action, may decide to:*

- *request the Secretary General to make contacts, collect information or furnish advice;*
- *issue an opinion or recommendation;*
- *forward a communication to the Parliamentary Assembly;*
- *take any other decision within its statutory powers."*

8. In January 2000, the Committee of Ministers forwarded a communication to the Parliamentary Assembly on the basis of its thematic monitoring on the **functioning of democratic institutions**<sup>1</sup>.

<sup>1</sup> See document CM/Monitor(2000)2 (also issued as AS/Inf(2000)01). See also Resolution 1308 (2002) on *restrictions concerning political parties in the member States of the Council of Europe* adopted by the Assembly in November 2002, as well as, for instance, Assembly Resolutions 1280 (2002), 1358 (2004) and 1363 (2004) on the functioning of democratic institutions in Azerbaijan, Moldova and Georgia.

9. From June 2000 to March 2004, the Secretary General was instructed by the Committee of Ministers, on a number of occasions, to make contacts, collect information or furnish advice:

- on the basis of thematic monitoring on **freedom of expression and information**<sup>2</sup>, notably consisting of *in loco* visits to 4 member States in 2000 and 2001 (*Albania, Russian Federation, Turkey and Ukraine*) and to 9 member States in 2002 and 2003 (the 4 States previously mentioned as well as *Azerbaijan, Georgia, Moldova, Romania* and “*the former Yugoslav Republic of Macedonia*”)<sup>3</sup>;

- in response to concern expressed, in particular, by the Parliamentary Assembly, notably consisting of *in loco* visits to **Ukraine** in 2001 and 2004, **Georgia**<sup>4</sup> in 2001 and 2002 and **Moldova** in 2002. These visits have led to the adoption of specific cooperation programmes.

10. In its Recommendation 1600 (2003), the Parliamentary Assembly also recommended that this paragraph be used with respect to the situation in the Chechen Republic (Russian Federation).

## PART II. THEMATIC MONITORING

11. Thematic monitoring was set up in 1996. It applies to all member States.

12. In the years 1996-2004, ten themes have been dealt with by the Committee of Ministers, namely: *Freedom of expression and information, Functioning and protection of democratic institutions; Functioning of the judicial system; Local democracy; Capital punishment; Police and security forces; Effectiveness of judicial remedies; Non-discrimination, with emphasis on the fight against intolerance and racism; Freedom of conscience and religion and Equality between women and men.* Work on these themes has now been terminated.

13. On the basis of a new thematic monitoring procedure, in effect as of 2005 (see doc. Monitor/Inf(2004)4, an outline of which is provided in Appendix III to the present document), the theme “freedom of association” will be dealt with this year.<sup>5</sup>

## PART III. SPECIFIC POST- ACCESSION MONITORING

### A. *Ad hoc* monitoring with respect to Armenia and Azerbaijan

14. Since **Armenia** and **Azerbaijan** joined the Council of Europe in 2001, an *ad hoc* Ministers’ Deputies Monitoring Group (GT-SUIVI.AGO) has reviewed democratic developments in both countries through dialogue and *in loco* visits. Progress reports are discussed by the Committee of Ministers on a regular basis<sup>6</sup>.

15. Independent Experts appointed by the Secretary General, and assisted by the Monitoring Department, DSP, have also examined cases of alleged political prisoners in both countries; as from July 2001 this procedure concerned only Azerbaijan. It is understood that all prisoners considered to be political prisoners by the Independent Experts have been released or have been/will be re-tried<sup>7</sup>.

### B. Regular monitoring of Bosnia and Herzegovina, Georgia and Serbia and Montenegro on the basis of, *inter alia*, Secretariat reports

16. Regular monitoring procedures have been instituted with respect to **Bosnia and Herzegovina’s**, **Georgia’s**<sup>8</sup> and **Serbia and Montenegro’s** obligations and commitments. Secretariat reports, which are submitted on a quarterly basis with respect to Bosnia and Herzegovina and Serbia and Montenegro and on a six-monthly basis with respect to Georgia, are examined by the Ministers’ Deputies’ Rapporteur Group on Democratic Stability (GR-EDS) and subsequently made public and placed in the Secretary General’s Internet site ([www.coe.int/sq](http://www.coe.int/sq); also on <http://dsp.coe.int/monitoring>).

<sup>2</sup> See also thematic monitoring procedure in Part II of the present document.

<sup>3</sup> The reports concerning Georgia, Moldova and Ukraine are available on the Organisation’s Internet site and on <http://dsp.coe.int/monitoring>. See also CM/Monitor(2003)8 final 2.

<sup>4</sup> See also specific past-accession monitoring procedures in Part III of the present document.

<sup>5</sup> See CM/Del/Dec(2004)907, item 2.7.

<sup>6</sup> See fourth GT-SUIVI.AGO’s progress report (document CM(2004)22).

<sup>7</sup> For more information, see documents SG/Inf(2001)34 and Addenda and SG/Inf(2004)21 and Addendum ([www.coe.int/sq](http://www.coe.int/sq) or <http://dsp.coe.int/monitoring>).

<sup>8</sup> See also specific action with respect to Georgia, Ukraine and Moldova in Part I of the present document.

As these monitoring procedures are linked to specific programmes of cooperation, the Secretariat reports also provide indications as to the state of the co-operation programmes' implementation. Also, GR-EDS delegations sometimes visit countries in question before a report is transmitted to the Committee of Ministers.

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17. Finally, although not classified as a 'monitoring' procedure, a stock-taking of the situation in **Moldova** has been undertaken to identify how best co-operation programmes, including a joint programme with the European Commission, should be implemented<sup>9</sup>.

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<sup>9</sup> See doc. SG/Inf(2004)29 final and Addendum, accessible on <http://dsp.coe.int/monitoring>. Information about Joint Programmes with the European Commission can be found on <http://jp.coe.int>.

**APPENDIX I****COUNCIL OF EUROPE  
COMMITTEE OF MINISTERS**

## DECLARATION

**ON COMPLIANCE WITH COMMITMENTS  
ACCEPTED BY MEMBER STATES OF THE COUNCIL OF EUROPE**

*(Adopted by the Committee of Ministers on 10 November 1994  
at its 95th Session)*

The Committee of Ministers,

Bearing in mind:

- the vocation of the Council of Europe to promote the reinforcement of democratic security in Europe, as stressed by the Vienna Summit (October 1993), where heads of state and government also resolved to ensure full compliance with the commitments accepted by all member states within the Council of Europe;
- the commitments to democracy, human rights and the rule of law accepted by the member states under the Council's Statute, the European Convention on Human Rights and other legal instruments;
- the importance of the strict compliance with these commitments by every member State;
- the statutory responsibility incumbent upon itself for ensuring full respect of these commitments in all member states, without prejudice to other existing procedures, including the activities of the Parliamentary Assembly and conventional control bodies;
- the need to facilitate the fulfilment of these commitments, through political follow-up, carried out constructively, on the basis of dialogue, co-operation and mutual assistance,

Decides as follows :

1. The Committee of Ministers will consider the questions of implementation of commitments concerning the situation of democracy, human rights and the rule of law in any member State which will be referred to it either:
    - by member states,
    - by the Secretary General, or
    - on the basis of a recommendation from the Parliamentary Assembly.
- When considering such issues the Committee of Ministers will take account of all relevant information available from different sources such as the Parliamentary Assembly and the CSCE.
2. The Secretary General will forward to the Committee of Ministers to this end information deriving from contacts and co-operation with member states that are liable to call for the attention of the Committee of Ministers.
  3. The Committee of Ministers will consider in a constructive manner matters brought to its attention, encouraging member states, through dialogue and co-operation, to take all appropriate steps to conform with the principles of the Statute in the cases under discussion.
  4. The Committee of Ministers, in cases requiring specific action, may decide to:
    - request the Secretary General to make contacts, collect information or furnish advice;
    - issue an opinion or recommendation;
    - forward a communication to the Parliamentary Assembly;
    - take any other decision within its statutory powers.
  5. The Committee of Ministers will continue to seek greater efficacy in its procedures with a view to ensuring compliance with commitments, in the framework of a constructive dialogue.

**APPENDIX II****COUNCIL OF EUROPE  
COMMITTEE OF MINISTERS**

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**PROCEDURE FOR IMPLEMENTING THE  
DECLARATION OF 10 NOVEMBER 1994  
ON COMPLIANCE WITH COMMITMENTS ACCEPTED  
BY MEMBER STATES OF THE COUNCIL OF EUROPE**

*(Adopted by the Committee of Ministers on 20 April 1995  
at the 535th meeting of the Ministers' Deputies)*

In the Declaration adopted on 10 November 1994 on compliance with commitments accepted by member States of the Council of Europe, the Committee of Ministers decided to seek greater efficacy in its procedures with a view to ensuring compliance with commitments, in the framework of a constructive dialogue. It has agreed on the following:

1. The dialogue will be based on the principles of non-discrimination and co-operation. It will not affect existing procedures arising from statutory or conventional control mechanisms.
2. At least three meetings of the Ministers' Deputies at A level, fixed in advance, shall be devoted every year to this question.
3. At the first meeting and subsequently every second year, unless otherwise decided, the Secretary General shall present a factual overview of the compliance with the commitments accepted by member States. The overview should be based on information from member States and all relevant information as set out in paragraph 1 of the Declaration.
4. If, during the deliberations, a need to continue the discussion on the situation in a member State is voiced, the matter will be put on the agenda of the next meeting, referred to in paragraph 2 above.
5. By request made a month before each of these meetings, any Delegation or the Secretary General may ask to put the situation in any member State on the agenda of that meeting, on the basis of its own concerns or with reference to a discussion in the Parliamentary Assembly.
6. The request should be accompanied by specific questions, to enable the Delegations concerned to obtain relevant information.
7. In accordance with Article 21 of the Statute, the discussions should be confidential and held in camera, to encourage a constructive dialogue with the member States concerned. The presence of senior officials from the capitals should be encouraged.
8. Conclusions of the meeting may be followed up in accordance with paragraph 3 of the Declaration. If needed, appropriate assistance may be provided to the member States concerned. Progress may be reviewed at subsequent meetings.
9. The Clerk of the Parliamentary Assembly may be invited to be present to provide information on any discussions in Assembly bodies on the States concerned.
10. Nothing in the preceding paragraphs precludes the Ministers' Deputies from taking decisions in accordance with paragraph 4 of the Declaration of 10 November 1994, after a question has been on the agenda for a reasonable number of meetings.

## APPENDIX III

## OUTLINE OF THE COMMITTEE OF MINISTERS' NEW THEMATIC MONITORING PROCEDURE\*

<i>FIRST STAGE</i>		
<b>Proposal of themes</b>	By <b>member states' delegations</b> and/or the <b>Secretary General</b>  [consultation/contacts, as necessary, with other Council of Europe bodies and institutions]	<i>September of year X</i>
<b>Selection of theme</b>	By the <b>Committee of Ministers</b>	<i>October of year X</i>
<i>SECOND STAGE</i>		
<b>Distribution of thematic report to delegations:</b> analysis of major issues within the scope of the theme on the basis of work undertaken by existing Council of Europe monitoring mechanisms	To be prepared by the <b>Secretary General</b> or, if necessary, <b>other Council of Europe organ/institution</b> designated by the <b>Committee of Ministers</b>	<i>May of year X+1</i>
<b>Discussion of the report and decisions on follow-up action regarding possible:</b>  - co-operation and assistance programmes; - readjustment of intergovernmental work, including mandate to Council of Europe mechanisms, notably Steering Committees, to work on areas in which gaps have been identified; - other specific action deemed appropriate.	By the <b>Committee of Ministers</b>	<i>June of year X+1</i>  (in time for inclusion of relevant decisions in the Council of Europe Programme of Activities for year X+2)
<b>Ad hoc decision on declassification of the report and/or on other means ensuring increased awareness of the outcome of the monitoring exercise, in particular of the operational follow-up</b> (e.g. organisation of seminars/conferences, transmission of the report to Council of Europe bodies/institutions with competence in the operational follow-up, etc.).	By the <b>Committee of Ministers</b>	<i>June of year X+1</i>
<i>THIRD STAGE</i>		
<b>Review of operational follow-up to identify progress and decisions on further follow-up</b>	By the <b>Committee of Ministers</b>	<i>October of year X+2 and then every second year</i>

\* For more details see doc. Monitor/Inf(2004)5, <http://dsp.coe.int/monitoring>.