

Opinion 188 (1995)¹

Application by Moldova for membership of the Council of Europe

Parliamentary Assembly

1. Moldova applied to join the Council of Europe on 20 April 1993. The Committee of Ministers asked the Parliamentary Assembly to give an opinion, in accordance with Statutory Resolution (51) 30 A.
2. Declarations of sovereignty (23 June 1990) and independence (21 August 1991) marked the start of the process of transition in the Republic of Moldova towards a framework of parliamentary democracy.
3. Following the visit of an Assembly delegation from 20 to 22 July 1992, "special guest" status was granted to the Moldovan Parliament on 5 February 1993.
4. Parliamentary elections were held on 27 February 1994. Observers of the Assembly concluded that they were held "... under the best conditions possible, despite the boycott imposed by Transnistria".
5. The process of transition to democracy has further been facilitated by intensive consultations with the Council of Europe on the preparation of a new constitution (adopted by parliament on 29 July 1994), an organic law granting special legal status to Gagauzia (adopted by parliament on 23 December 1994), as well as legislation on the organisation of the judiciary and on minorities.
6. Prospects for the settlement of the Transnistrian question have improved. In the parliamentary elections of 27 February 1994, advocates of reunification with Romania - the prospect of which had generated the secessionist movement in Transnistria - won only 7,5% of the votes. In the "consultative referendum on the future status of Moldova" of 6 March 1994, 95% of the voters (in a 75% turn-out) voted for an independent republic. With these outcomes, the Transnistrian leadership seems more ready to negotiate a settlement within the republic's existing internationally recognised borders. In parallel with the emergence of this settlement, the Russian 14th Army should be withdrawn, on the basis of the agreement signed in Moscow on 21 October 1994 and still to be ratified by Russia.
7. A report by two eminent jurists confirming the prospect of improvement in the compatibility of Moldovan legislation and of the legal system with the principles of the Council of Europe was released by the Bureau of the Assembly on 20 October 1994. The Assembly welcomes the setting-up by the Moldovan Government of a special interministerial committee to keep this matter under political review.
8. The following commitments have been entered into by the Moldovan Parliament:
 - a. Articles 54 and 55 of the Moldovan Constitution will not be applied in a manner restricting fundamental human rights, contrary to international standards;
 - b. the role and functions of the Prosecutor's Office will change, transforming this institution into a body which is in accordance with the rule of law and Council of Europe standards;
 - c. potential legal consequences of inadequate knowledge of the official language will be minimised and a significant extension of the time required for the learning of this language will be granted;

1. Assembly debate on 27 June 1995 (18th Sitting) (see [Doc. 7278](#), report of the Political Affairs Committee, rapporteur: Lord Finsberg; [Doc. 7325](#), opinion of the Committee on Legal Affairs and Human Rights, Rapporteurs: MM. Columberg and Jeszenszky; and [Doc. 7331](#), opinion of the Committee on Relations with European Non-Member Countries, Rapporteur: Mrs Durrieu). Text adopted by the Assembly on 27 June 1995 (18th Sitting).



- d. the responsibility for the penitentiary system will be transferred from the Ministry of the Interior to the Ministry of Justice in autumn 1995;
 - e. a new Criminal Code and Code of Criminal Procedure in conformity with Council of Europe standards will be adopted within a year of accession;
 - f. Article 116, paragraph 2, of the constitution will be modified in such a way as to ensure the independence of the judiciary in conformity with Council of Europe standards within a year of accession;
 - g. the country's laws and practice in the sphere of local self-government will be reformed in accordance with the European Charter of Local Self-Government.
9. Assembly committees and their rapporteurs have paid several visits to the country, including the region of Transnistria - most recently from 10 to 14 January 1995. Their conclusion is that membership of the Council of Europe at this juncture should strengthen the cause of democracy and the rule of law, improve the protection of human rights and freedoms and enhance political and economic stability in the region.
10. Accordingly, on the basis of:
- 10.1. Moldova's participation in various Council of Europe programmes;
 - 10.2. Moldova's co-operation under several conventions and partial agreements;
 - 10.3. the participation of a "special guest" delegation from the Moldovan Parliament in its proceedings since 5 February 1993, the Assembly considers that Moldova, in the prospect of gaining full control of its territory, is able and willing, in the sense of Article 4 of the Statute, to fulfil the provisions for membership of the Council of Europe as set forth in Article 3: "Every member of the Council of Europe must accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms, and collaborate sincerely and effectively in the realisation of the aim of the Council."
11. Therefore, the Parliamentary Assembly, on the understanding that Moldova shares its interpretation of commitments entered into as spelt out in paragraph 8, and now intends:
- a. to sign the European Convention on Human Rights at the moment of accession;
 - b. to ratify the European Convention on Human Rights and Protocols Nos. 1, 2, 4, 7 and 11 within a year from the time of accession (subject to a declaration, if necessary, which would exclude the responsibility of the state of Moldova for any acts committed by organs which are de facto not under its control);
 - c. to sign and ratify Protocol No. 6 of the European Convention on Human Rights on the abolition of the death penalty in time of peace within three years of accession, and to uphold the moratorium on executions until total abolition of capital punishment;
 - d. to recognise, pending the entry into force of Protocol No. 11, the right of individual application to the European Commission and the compulsory jurisdiction of the European Court (Articles 25 and 46 of the Convention);
 - e. to withhold ratification of the CIS² Convention on Human Rights until the implications of the co-existence of that convention and the European Convention on Human Rights, especially as far as the control mechanisms are concerned, have been clarified by the Council of Europe; and furthermore not to ratify the said CIS convention without the prior agreement of the Council of Europe;
 - f. to sign and ratify within a year from the time of accession the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;
 - g. to sign and ratify within a year from the time of accession the Framework Convention for the Protection of National Minorities and to conduct its policy towards minorities on the principles laid down in Assembly [Recommendation 1201 \(1993\)](#) on the question of an additional protocol to the European Convention on Human Rights on the rights of national minorities and incorporate it into the legal and administrative system and practice of the country;

2. Commonwealth of Independent States

- h.* to sign and ratify, within a year from the time of accession, the European Charter of Local Self-Government, and to study, with a view to ratification, the Council of Europe's Social Charter and the European Charter for Regional or Minority Languages;
- i.* to study, with a view to ratification, and to apply the central principles of other Council of Europe conventions - notably those on extradition, on mutual assistance in criminal matters, on the transfer of sentenced persons, and on laundering, search, seizure and confiscation of proceeds from crime;
- j.* to sign and ratify within a year from the time of accession the General Agreement on Privileges and Immunities (and its protocol);
- k.* to seek to settle international, as well as internal, disputes by peaceful means, as an obligation incumbent on all member states of the Council of Europe;
- l.* to confirm complete freedom of worship for all citizens without discrimination, and to ensure a peaceful solution to the dispute between the Moldovan Orthodox Church and the Bessarabian Orthodox Church;
- m.* to co-operate in the implementation of the Assembly's procedure on the honouring of commitments entered into at the time of accession to the Council of Europe on issues related to the Organisation's basic values and principles, as well as in monitoring processes established following the Committee of Ministers' Declaration of 10 November 1994 (95th session),

Recommends that the Committee of Ministers:

1. invite Moldova to become a member of the Council of Europe;
2. allocate five seats to Moldova in the Parliamentary Assembly.