



Opinion 222 (2000)¹

Azerbaijan's application for membership of the Council of Europe

Parliamentary Assembly

1. The Republic of Azerbaijan applied to join the Council of Europe on 13 July 1996. In Resolution (96) 32 of 11 September 1996 the Committee of Ministers invited the Parliamentary Assembly to give an opinion on this request in accordance with Statutory [Resolution 51 \(30A\)](#).
2. The Parliament of the Republic of Azerbaijan obtained Special Guest status with the Parliamentary Assembly of the Council of Europe on 28 June 1996. This application was considered in the light of the adoption of [Recommendation 1247 \(1994\)](#) on the enlargement of the Council of Europe, in which the Assembly stated that "in view of their cultural links with Europe, Armenia, Azerbaijan and Georgia would have the possibility of applying for membership provided they clearly indicate their will to be considered as part of Europe".
3. Assembly delegations observed the general election in November 1995 and the presidential election in October 1998. A delegation from the Congress of Local and Regional Authorities of Europe (CLRAE) observed the first municipal elections in December 1999 and in March 2000. Serious shortcomings in some elections were noted. Thus, the Assembly should observe the forthcoming parliamentary elections.
4. Since 1996 Azerbaijan has been taking part in various Council of Europe activities through the intergovernmental co-operation and assistance programmes, and in the work of the Assembly and its committees through its Special Guest delegation.
5. Azerbaijan is already a party to the European Cultural Convention and to the Convention on the Recognition of Qualifications concerning Higher Education in the European Region, as well as to the Open Partial Agreement on Prevention of, Protection against and Organisation of Relief in Major Natural and Technological Disasters. In March 2000, the country deposited the instruments of ratification to eight other European conventions to which it will shortly become a party. Further requests by Azerbaijan to accede to Council of Europe conventions are currently under consideration.
6. The Assembly considers that Azerbaijan is moving towards a democratic, pluralist society in which human rights and the rule of law are respected, and, in accordance with Article 4 of the Statute of the Council of Europe, is able and willing to continue the democratic reforms initiated in order to bring its entire legislation and practice into conformity with the principles and standards of the Council of Europe.
7. To its great satisfaction, the Assembly has been informed that Azerbaijan abolished the death penalty in 1998.
8. In asking the Assembly for an opinion on the membership application, the Committee of Ministers reiterated that "a closer relationship between the Caucasian countries and the Council of Europe would demand not only the implementation of substantial democratic reforms, but also their commitment to resolving conflicts by peaceful means".

1. Assembly debate on 28 June 2000 (21st Sitting) (see [Doc. 8748](#), report of the Political Affairs Committee, rapporteur: Mr Baumel, and [Doc. 8757](#), opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Clerfayt). Text adopted by the Assembly on 28 June 2000 (21st Sitting).



9. The Parliamentary Assembly considers that the accession of both Azerbaijan and Armenia could help to establish the climate of trust needed for a solution to the Nagorno-Karabakh conflict.
10. The Assembly considers that the OSCE Minsk Group is the optimum framework for negotiating a peaceful settlement to this conflict.
11. The Assembly takes note of the letter from the President of Azerbaijan reiterating his country's commitment to a peaceful settlement of the Nagorno-Karabakh conflict and stressing that Azerbaijan's accession to the Council of Europe would be a major contribution to the negotiations process and stability in the region.
12. The frequency of the meetings between the presidents of the two countries has been stepped up. The speakers of the parliaments of Azerbaijan, Armenia and Georgia have decided to institute regional parliamentary co-operation, consisting in particular of meetings of the speakers of the parliaments and parliamentary seminars to be held in the capitals of the three countries and in Strasbourg. The first meeting in the region, which was held in Tbilissi in September 1999, made it possible to establish an atmosphere of trust and détente between the parliamentary delegations of Azerbaijan and Armenia.
13. The Assembly calls on the Azerbaijani and Armenian authorities to continue their dialogue with a view to achieving a peaceful settlement of the Nagorno-Karabakh conflict and giving new impetus to regional co-operation.
14. The Parliamentary Assembly takes note of the letters from the President of Azerbaijan, the speaker of the parliament, the Prime Minister and the chairmen of the political parties represented in Parliament, and notes that Azerbaijan undertakes to honour the following commitments:
 - 14.1. as regards conventions:
 - a. to sign, at the time of its accession, the European Convention on Human Rights (ECHR) as amended by Protocols Nos. 2 and 11 thereto, and Protocols Nos. 1, 4, 6 and 7;
 - b. to ratify the ECHR and Protocols Nos. 1, 4, 6 and 7 thereto during the year following its accession;
 - c. to sign and ratify, within one year of its accession, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and its protocols;
 - d. to sign and ratify, within one year of its accession, the Council of Europe's Framework Convention for the Protection of National Minorities;
 - e. to sign and ratify, within one year of its accession, the European Charter for Regional or Minority Languages;
 - f. to sign and ratify, within one year of its accession, the European Charter of Local Self-Government;
 - g. to sign and ratify, within two years of its accession, the European Outline Convention on Transfrontier Co-operation between Territorial Communities and Authorities and its additional protocols and the Council of Europe conventions on extradition, on mutual assistance in criminal matters, on laundering, search, seizure and confiscation of the proceeds from crime, and on the transfer of sentenced persons, and in the meantime to apply the fundamental principles contained therein;
 - h. to sign the European Social Charter within two years of its accession and ratify it within three years of its accession, and to strive forthwith to implement a policy consistent with the principles contained in the Charter;
 - i. to sign and ratify, within two years of its accession, the Criminal Law Convention on Corruption and the Civil Law Convention on Corruption;
 - j. to sign the General Agreement on Privileges and Immunities of the Council of Europe and the additional protocols thereto at the time of its accession, and to ratify these within one year of its accession;
 - 14.2. as regards the resolution of the Nagorno-Karabakh conflict:
 - a. to continue efforts to settle the conflict by peaceful means only;

- b. to settle international and domestic disputes by peaceful means and according to the principles of international law (an obligation incumbent on all Council of Europe member states), resolutely rejecting any threatened use of force against its neighbours;
- 14.3. as regards domestic law:
- a. to revise legislation on elections, particularly the Law on the Central Electoral Commission and the Electoral Law, taking account of the recommendation put forward by the international observers during previous elections, so that the next general elections in autumn 2000 can confirm definitively the progress made and their results can be accepted by the majority of the political parties that will participate in the elections, and can be considered as free and fair by international observers;
 - b. to amend, before the next local elections, the current legislation governing the powers of local authorities so as to give them greater responsibilities and independence, taking into account the recommendations made in this respect by the Congress for Local and Regional Authorities in Europe (CLRAE);
 - c. to continue the reforms aimed at strengthening the independence of the legislature vis-à-vis the executive, so that the former can exercise the right to put parliamentary questions to members of the government;
 - d. to adopt, within one year of its accession, the Code of Criminal Procedure, taking account of the observations by the Council of Europe experts;
 - e. to adopt, within one year of its accession, the law on the Ombudsman;
 - f. to adopt, within one year of its accession, a law on combating corruption and, within two years of its accession, a state programme on combating corruption;
 - g. to adopt, within two years of accession, a law on alternative service in compliance with European standards and, in the meantime, to pardon all conscientious objectors presently serving prison terms or serving in disciplinary battalions, allowing them instead to choose (when the law on alternative service has come into force) to perform non-armed military service or alternative civilian service;
- 14.4. as regards human rights and fundamental freedoms:
- a. to sign an agreement with the International Committee of the Red Cross (ICRC) guaranteeing unrestricted and unreserved access by the latter to prisoners;
 - b. to release or to grant a new trial to those prisoners who are regarded as “political prisoners” by human rights protection organisations, especially Mr Iskander Gamidov, Mr Alikram Gumbatov and Mr Raqim Gaziyeu;
 - c. to prosecute members of the law-enforcement bodies who have infringed human rights (particularly the prohibition of torture) in the course of their duties;
 - d. to guarantee freedom of expression and the independence of the media and journalists, and particularly to exclude the use of administrative measures to restrict the freedom of the media;
 - e. to re-examine and amend the law on the media, within two years of its accession at the latest;
 - f. to turn the national television channel into a public channel managed by an independent administrative board;
 - g. to adopt, within three years of its accession, a law on minorities which completes the provisions on non-discrimination contained in the constitution and the penal code and replaces the presidential decree on national minorities;
 - h. to re-examine and amend, at the latest within one year of its accession, the rules governing registration of associations and appeals procedures;
- 14.5. as regards the monitoring of commitments:
- a. to co-operate fully in the implementation of Assembly [Resolution 1115 \(1997\)](#) on the setting up of an Assembly Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee); and
 - b. to co-operate fully in the monitoring process established pursuant to the declaration adopted by the Committee of Ministers on 10 November 1994 (95th session).

15. The Parliamentary Assembly notes that Azerbaijan shares fully its understanding and interpretation of the commitments entered into, as spelt out in paragraph 14 and intends:

15.1. to re-examine and amend the law on the Bar, at the latest within three years of its accession;

15.2. to re-examine the conditions of access to the Constitutional Court and grant access also to the Government, the Prosecutor General, courts at all levels and – in specific cases – to individuals, at the latest within two years of its accession;

15.3. to re-examine and amend the procedures for appointing judges and the duration of their term of office, at the latest within three years of its accession.

16. On the basis of these commitments, the Assembly is of the opinion that, in accordance with Article 4 of the Statute of the Council of Europe, Azerbaijan is able and willing to fulfil the provisions of Article 3 of the Statute, setting forth the conditions for membership of the Council of Europe: "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 (of Europe)."

17. With a view to ensuring compliance with these commitments, the Assembly has decided to monitor the situation in Azerbaijan closely, with immediate effect from the date of accession, pursuant to its [Resolution 1115 \(1997\)](#).

18. On the understanding that the commitments set out above are firm and will be fulfilled within the stipulated time limits, the Assembly recommends that the Committee of Ministers:

18.1. invite Azerbaijan to become a member of the Council of Europe;

18.2. allocate six seats to Azerbaijan in the Parliamentary Assembly;

18.3. and requests that the necessary additional resources be made available.

19. Furthermore, in order to enable Azerbaijan to honour its commitments and obligations as a member state, the Assembly also recommends that the Committee of Ministers support the specific co-operation and assistance programmes required for implementation of the obligations and commitments entered into by this country.