Parliamentary Assembly
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**Resolution 1456 (2005)**[1]

# Functioning of democratic institutions in Azerbaijan

Parliamentary Assembly

1. In November 2005, Azerbaijan will hold parliamentary elections. The Parliamentary Assembly considers them to be a decisive test for the democratic credibility of the country. It recalls that all previous ballots held since Azerbaijan's accession to the Council of Europe in 2001 failed to meet basic democratic standards. The Assembly refers in this respect to its Resolutions 1358 (2004) and 1398 (2004).

2. The Assembly welcomes the Presidential decree of 11 May 2005 calling on the authorities to ensure that the parliamentary elections will be held in accordance with the Electoral Code of the Azerbaijani Republic and allowing exit polls by independent organisations. It takes note of the assertion that the violations that have occurred in the past were only due to the incompetence and irresponsibility of some officials and cannot be attributed to the Azerbaijani leadership.

3. However, the decree only reiterates principles that are already enshrined in the relevant legislation of Azerbaijan. It is therefore their implementation that will determine to what extent the November elections will be qualified as free and fair.

4. Since the 2003 presidential elections, marred by fraud and violence, the stability in the country has been maintained at the expense of respect for fundamental human rights such as freedom of assembly, freedom of expression and the right to a fair trial. Until June 2005, no opposition rallies had been allowed, and the electronic media are still under tight government control. The arbitrary arrests of opposition supporters continue. Although the seven political leaders imprisoned following the October 2003 events were pardoned by the President on 20 March 2005, they remain deprived of their civil rights after the Supreme Court upheld their convictions.

5. It is totally inadmissible that permissions for rallies are refused under the pretext of maintaining law and order and with the presumption that any rally would result in violence. There is often a lack of understanding of the role and responsibility of police during mass events. A stable democracy can only be achieved through free and open political debate in the public sphere, something which is clearly lacking for the moment in Azerbaijan. The first rallies allowed, on 4 and 18 of June 2005, proved that peaceful political demonstrations are possible, both on the side of the authorities and the opposition.

6. The political dialogues held recently between the ruling parties and the opposition therefore deserve strong encouragement.

7. The Assembly welcomes the decision to transform the second state television channel (AzTV2) into a public service broadcaster, takes note of the first steps taken with the confirmation of a board by parliament, the subsequent election of its director and the allocation of the necessary premises, and expects it to start operating nationwide as soon as possible. It regrets that the first state television channel (AzTV1) will only be partially privatised and that the controlling share remains in state hands. In Azerbaijan, television is the main source of information for the majority of the population. With political pluralism on the airwaves being put on hold and with the authorities retaining total control of content, it is unlikely that the media will be able to fulfil its function of allowing voters to make well-informed decisions.

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1. Assembly debate on 22 June 2005 (21st Sitting) (see Doc. 10569, report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs: Mr Gross and Mr Herkel). Text adopted by the Assembly on 22 June 2005 (21st Sitting).

8. The Assembly strongly condemns the murder of Elmar Huseynov, editor of the weekly magazine Monitor, and the climate of fear that this murder has spread amongst the opposition press. It deplores the legal and administrative harassment to which opposition newspapers continue to be subjected and the difficulties in setting up and operating independent and critical television channels.

9. The Assembly is concerned that in the present political climate, the electoral code and other relevant legislation may not provide sufficient guarantees for fair elections. It regrets that the discussions regarding amendments to the electoral code between the Azerbaijani authorities and the European Commission for Democracy through Law (Venice Commission) on the one hand and the Office for Democratic Institutions and Human Rights (ODIHR) on the other hand, did not lead to the adoption of some of the most politically important recommendations, such as those regarding the composition of the electoral commissions. Some amendments proposed by the Venice Commission, especially regarding the lowering of the registration fee for candidates, and the issuing of voting cards in order to prevent double voting, have been taken into account by the Azerbaijani authorities. Legal provisions concerning NGOs and venues for rallies also need to be improved.

10. The Assembly also doubts whether key state institutions have been sufficiently reformed so as to perform their functions in full compliance with democratic standards in the election process. In the Ministry of the Interior, for example, recent revelations about the criminal activities of a senior official only led to mild sanctions; the presidents of the Supreme and Appeals Courts have been recently dismissed; and the President has ordered the dismissal of local administrators after criticising them for their lack of effectiveness.

11. Furthermore, the Assembly notes that Azerbaijan still has an insufficient number of lawyers and that serious irregularities have marred the recent constitutive assembly of the Bar Association. The Assembly therefore welcomes the recent amendments to the law on advocates and advocacy and hopes that these amendments will improve the exercise of the rights of the defence which must be afforded to any person accused of a criminal offence, including in cases brought during and after the elections.

12. The inauguration of the Baku-Tbilisi-Ceyhan pipeline on 25 May 2005 offers prospects for considerable economic and social development in Azerbaijan. However, the significant revenues it will generate might tempt some officials and politicians to bypass democratic process, especially during the forthcoming parliamentary elections. The Assembly therefore insists on the assurances given by the President that stable economic and social development of the country will be impossible unless democratic institutions are formed on the basis of free and fair elections.

13. The Assembly therefore calls on the Azerbaijani authorities and opposition to recognise the importance of the forthcoming elections for the democratic future of the country and to commit themselves publicly and officially to non-violence and respect for basic human rights.

14. The Assembly calls on the Azerbaijani authorities to:

*ensure immediately full respect of freedom of assembly and freedom of expression;*

*more specifically, with regard to freedom of assembly, urgently comply with European standards and practice as regards the organisation of rallies and the keeping of law and order by the police and stop the practice of arbitrary arrests of opposition supporters based on the presumption that they are potential trouble makers;*

*with regard to media pluralism, accelerate the opening for operation of public television, endow it with appropriate resources and means of operation and abstain from any direct and indirect interference with its functioning and content; speed up the privatisation of AzTV1 and ensure a transparent and fair procedure, make provisions for eventual full privatisation and, in the meantime, give it a public service remit ensuring balanced, unbiased news coverage and guaranteeing the opposition's right to media access;*

*with regard to freedom of expression, guarantee the free functioning of independent and opposition media and stop the practice of legal and administrative harassment, and shed full light upon the murder of Elmar Huseynov;*

*with regard to the electoral code and other related legislation, amend it in full compliance with the joint Venice Commission/ODIHR recommendations, namely with regard to the composition of the electoral bodies, further reduce the amount of the registration fee for candidates, allow foreign-funded NGOs as observers and continue to allow the holding of rallies;*

*pursue political dialogue with all opposition parties before, during and after the elections.*

15. The Assembly further invites the authorities of Azerbaijan to:

*step up the reform of the judiciary and, in particular, ensure that the qualification exams for new judges are held according to the planned timetable and in accordance with the law, and ensure that future exams for lawyers are held in full compliance with European standards;*

*with regard to the right to a fair trial, fully comply with Resolution 1457 (2005) on the follow-up to Resolution 1359 (2004) on political prisoners in Azerbaijan;*

*with regard to economic and social development, engage in a public parliamentary and extra-parliamentary political forces, about the most important economic and social issues related to the distribution of the future oil revenues to the benefit of all the population, including the numerous refugees and internally displaced persons, and pursue efforts to combat corruption and comply with international commitments in this respect.*

16. The Assembly deeply appreciates the open and frank dialogue with the Azerbaijani parliamentary delegation and believes that this constructive co-operation will be essential in the run-up to the elections.

17. It hopes that the forthcoming parliamentary elections will be held in a democratic and transparent manner, so as to cast no doubt over the credentials of the new delegation.

18. The Assembly therefore resolves to:

*observe the November 2005 parliamentary elections in close co-operation with the Organization for Security and Co-operation in Europe (OSCE) Parliamentary Assembly and the European Parliament and send an important number of observers;*

*provide the parliamentary assistance which joint discussions with the Azerbaijani delegation identify as essential, such as training seminars for parliamentarians on the functions of a democratic parliament, the role of the opposition and the rules of procedure of parliament, and organise exchanges of views with the participation of the political groups represented in the Assembly in order to share their experience of political dialogue in a democratic society with Azerbaijani parliamentarians and leading extra-parliamentary opposition members;*

*co-ordinate its action in this field with the OSCE and the European Union.*