



## Resolution 1545 (2007)<sup>1</sup>

# Honouring of obligations and commitments by Azerbaijan

Parliamentary Assembly

1. Azerbaijan joined the Council of Europe on 25 January 2001 and, since its accession, has been subject to a Parliamentary Assembly monitoring procedure, which has led to the adoption of Resolutions 1305 (2002), 1358 (2004), 1398 (2004) and 1456 (2005).

2. Furthermore, in [Resolution 1505 \(2006\)](#) on the implementation of [Resolution 1480 \(2006\)](#) on the challenge of credentials of the parliamentary delegation of Azerbaijan, the Assembly instructed its Monitoring Committee to continue to follow closely developments in the country and report back to it, at its spring 2007 part-session, on progress in the honouring of obligations and commitments by Azerbaijan, including those related to electoral reform.

3. The aftermath of the November 2005 elections was marked by a further weakening of the opposition both inside and outside parliament and the public's limited interest in the political life of the country. Despite Assembly calls to the contrary, a number of opposition members have refused to take their seats in parliament or boycotted the May 2006 partial re-run elections. Subsequent splits within the opposition have further weakened its position. Dialogue urgently needs to be established between the ruling majority and the opposition both inside and outside parliament if the political climate in the country is to be improved.

4. Situated at the crossroads between Europe and Asia and with a booming economy, Azerbaijan is becoming a major strategic actor in the region. Holding the world record for economic growth, 25% of Azerbaijan's population nevertheless lives in poverty. Ever-increasing corruption risks jeopardising its economic development.

5. In the field of European integration, an action plan was signed on 14 November 2006 with the European Union, in the framework of the European Neighbourhood Policy. The Assembly welcomes the fact that the action plan refers to the country's international commitments, including towards the Council of Europe, in the fields of democracy, the rule of law and human rights.

6. With regard to Azerbaijan's obligations and commitments in the field of democracy:

6.1. the Assembly notes that, since accession to the Council of Europe, the Parliament of Azerbaijan has reinforced its role as a forum for political debate and an instrument for pushing forward democratic reforms. However, much remains to be done to strengthen parliamentary control over the executive and improve the checks and balances in a state governed by a strong presidential system. Therefore, the Assembly invites the authorities of Azerbaijan to consider in due course the possibility of revising the constitution to improve the balance of power and strengthen the role of the parliament, with the assistance of the European Commission for Democracy through Law (Venice Commission);

6.2. the Assembly would also like the work of parliamentary committees to be further developed. Important matters, such as those related to the honouring of commitments undertaken upon accession to the Council of Europe, should be regulated by laws elaborated and discussed within the parliament and its committees rather than by presidential decrees;

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1. Assembly debate on 16 April 2007 (11th Sitting) (see [Doc. 11226](#), report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs: Mr Herkel and Mr Lloyd). Text adopted by the Assembly on 16 April 2007 (11th Sitting).



6.3. the Assembly notes that, at present, political groups must have at least 20% of the vote to form parliamentary factions. It therefore invites the Parliament of Azerbaijan to consider significantly lowering this percentage through a revision of its internal rules, if need be with Council of Europe assistance or in the framework of the Assembly's interparliamentary co-operation programme;

6.4. noting that, since the country's accession to the Council of Europe, not a single election held in Azerbaijan has been deemed fully free and fair, the Assembly attaches particular importance to the forthcoming presidential elections in 2008 and expects the public broadcasting service to ensure equal and unbiased coverage of the campaign for all presidential candidates;

6.5. the Assembly welcomes the ongoing co-operation with the Venice Commission on the revision of the Electoral Code. It reiterates that, for the next presidential elections to comply fully with European standards in terms of democratic elections, it is essential that, beyond purely technical improvements, the Electoral Code be amended at the latest by the beginning of 2008 in order to provide for an election administration which enjoys the confidence of the electorate and of all the stakeholders and a better procedure for the efficient handling of election-related complaints and appeals. The composition of the Central Electoral Commission should also be completed without further delay;

6.6. noting that, following the November 2005 parliamentary elections, few criminal proceedings were instituted for electoral violations, which resulted in the imprisonment of only one person and the dismissal of others, the Assembly warns that more resolute action is needed to discourage future violations. It urges the Azerbaijani authorities to pass on a clear message at the highest political level that electoral fraud will not be tolerated in the next presidential elections;

6.7. with regard to local self-government, the Assembly:

6.7.1. welcomes the recent establishment in Azerbaijan of three municipal associations (for cities, rural towns and settlements) and encourages them to work together;

6.7.2. urges the Azerbaijani authorities to implement the recommendations made by the Congress of Local and Regional Authorities of the Council of Europe in order to bring the relevant legislation and its implementation in line with the constitution and the European Charter of Local Self-Government (ETS No. 122). In particular, the authorities should take all necessary measures to grant municipalities a substantial share of public responsibilities, ensure that sufficient means are provided for their implementation and, with respect to Baku and other large cities, set up a city council directly elected by the citizens to run local public administration acting at overall city level.

7. With regard to Azerbaijan's obligations and commitments in the field of the rule of law :

7.1. the Assembly has repeatedly insisted on the need to reform and train the Azerbaijani judiciary, eradicate corruption among judges and improve its present negative image. It therefore welcomes the efforts undertaken by the authorities to achieve these goals, in co-operation with the Council of Europe, and calls for the effective implementation of adopted measures;

7.2. the Assembly notes in particular that presidential decrees issued in 2006 provide for an increase of the number of appellate courts and judges throughout the country as well as for the establishment of an academy of justice in charge of training professionals in the justice field. The Assembly considers that this new institution should be placed under the authority of the Judicial Legal Council in order to guarantee its independence from the executive. It also notes with satisfaction that examinations to recruit new judges have been organised on the basis of a fair and transparent selection procedure elaborated in co-operation with the Council of Europe;

7.3. the Assembly is concerned by the low number of defence lawyers currently practising in the country and especially in the regions. It notes that the establishment of a strong defence bar is critical in preventing human rights abuses and protecting the rights of criminal defendants;

7.4. while welcoming the recently organised bar examinations, the Assembly urges the competent authorities to reform the system of selection of defence lawyers, ensure that their number and quality of their services are increased and take appropriate measures to encourage young lawyers to join the defence bar. The Council of Europe could offer assistance and in particular training;

7.5. the Assembly underlines that the creation of an independent and well-trained judiciary and criminal defence bar could ultimately put an end to allegations that persons are convicted in proceedings which do not respect the fundamental guarantees of a fair trial and thus allegations of politically motivated prosecutions, as well as allegations regarding ill-treatment during police custody and pre-trial detention;

7.6. in its [Resolution 1457 \(2005\)](#) on the implementation of [Resolution 1359 \(2004\)](#) on political prisoners in Azerbaijan, adopted in June 2005, the Assembly:

7.6.1. concluded that “it [could] not consider the issue of political prisoners to have been finally resolved” and asked the Azerbaijani authorities to take a number of measures in order to find “a speedy and permanent solution to the issue of political prisoners and presumed political prisoners”;

7.6.2. welcomed the setting up of a task force comprising representatives of the authorities and of human rights NGOs for the purpose of adopting a single position on the issue; the representatives of the authorities have in particular committed themselves to make use of every legal remedy (amnesty, review of cases by higher-instance courts, conditional release, release for health reasons, pardon) to settle this problem and agreed to work on the basis of two lists referred to in [Resolution 1457 \(2005\)](#);

7.7. the Assembly notes that the Task Force on which much hope had been placed in June 2005 has remained inactive for more than a year and met only on the occasion of rapporteurs’ visits. Moreover:

7.7.1. no concrete action has been taken as to the proposal of passing an amnesty law by the parliament;

7.7.2. on 11 appeals to the Supreme Court by persons mentioned on the lists of the Task Force and sentenced prior to the ratification of the European Convention on Human Rights (ETS No. 5), 8 were declared inadmissible on procedural grounds; since no review on the merits of their case took place, this prevents them from lodging an application with the European Court of Human Rights;

7.7.3. legislation on conditional release was not applied in all cases concerned;

7.7.4. the presidential pardon decree of October 2006 led to the release of two journalists, but covered only two of the persons mentioned on the lists of the Task Force;

7.8. welcoming the fact that since November 2006 the work of the Task Force has been reactivated and that four meetings have been held since then, the Assembly urges it now to produce concrete results and prove its efficiency;

7.9. the Assembly welcomes in this respect as an important step forward the presidential decree of 19 March 2007 which led to the pardoning of 14 persons appearing on the lists drawn up by the NGOs participating in the Task Force. As a result, 11 persons were released and one person’s sentence was reduced from life to 25 years’ imprisonment. Furthermore, the suspended sentence inflicted on Mr Said Nuri, one of the leaders of the Yeni Fikir Youth Movement, was annulled. The Assembly hopes that this decree will encourage the Task Force to continue its work and produce further results. As a priority, the Task Force should now:

7.9.1. update the June 2005 lists indicating how many cases have since been resolved and how the remaining cases will be solved;

7.9.2. establish which cases still require consideration, including on humanitarian grounds;

7.9.3. review the cases of still-imprisoned relatives, employees or acquaintances of persons who have meanwhile been pardoned or released;

7.9.4. consider the proposals to extend its mandate to cover trial monitoring and to include representatives of the judiciary among its members. The Assembly welcomes the fact that a representative of the judiciary was included among the members of the Task Force;

7.10. the Assembly draws particular attention to the cases of Mr Natiq Efendiyev, who had been considered as a political prisoner by the independent experts of the Secretary General, released subsequently by a presidential pardon decree in March 2005 and re-arrested on 15 October 2005, a few weeks prior to the parliamentary elections and Mr Rasim Alekperov, an elderly man considered to be a national hero and who suffers from serious health problems;

7.11. with regard to the prison sentences inflicted on the other two leaders of the Yeni Fikir Youth Movement, Mr Ruslan Bashirli and Mr Ramin Tagiyev, the Assembly hopes that the Supreme Court will fully examine the reported violations of fair trial in the procedure before the lower courts as well as the allegations of ill-treatment during police custody made by Mr Bashirli;

7.12. the Assembly expects the trial of the former Minister for Economic Development, Mr Farhad Aliyev, who has been kept in pre-trial detention since October 2005, to start without further delay; it hopes that the trial court will duly examine allegations of any procedural violations which might have occurred during the pre-trial investigation; Mr Farhad Aliyev should also be allowed to receive treatment by doctors of his choice with respect to his heart problems;

7.13. the Assembly also draws attention to concerns over the fairness of the recent arrest of Mr Huseyn Abdullayev, a member of parliament, and on the trial of Mr Ali Insanov, former Minister for Health;

7.14. the Assembly reiterates that the Criminal Code of Azerbaijan should be amended in line with recommendations made by Council of Europe experts in December 2005 as regards in particular its compatibility with the European Convention on Human Rights and the case law of the European Court of Human Rights, as well as with Council of Europe standards in the criminal field. The Assembly welcomes the fact that a meeting on the Criminal Code was held between Azerbaijani and Council of Europe experts in Baku on 3 and 4 April 2007 and that draft amendments in line with European standards were prepared as a result of their co-operation;

7.15. as regards the fight against corruption, despite commendable efforts made by the authorities and Council of Europe assistance, corruption remains a major problem in Azerbaijan affecting all levels of society and threatening the economic, social and political development of the country. The Assembly urges the Azerbaijani authorities to implement the recommendations made by the Group of States against Corruption (GRECO), improve accordingly domestic legislation and effectively implement adopted measures. The Assembly welcomes the fact that the Azerbaijani authorities are preparing a national strategy for increasing transparency and combating corruption, in co-operation with their international partners.

8. With regard to Azerbaijan's commitments and obligations in the field of human rights:

8.1. concerning freedom of expression and of the media, the Assembly recalls the serious concerns it expressed in its [Resolution 1505 \(2006\)](#) about violent incidents directed against journalists. Regrettably, instead of improving, the general environment for the independent media in Azerbaijan has since deteriorated;

8.1.1. despite the President's political moratorium on defamation, launched in March 2005, the number of civil and criminal defamation proceedings brought against opposition journalists and newspapers by public officials has recently increased, leading to intimidation and self-censorship;

8.1.2. Mr Nijat Huseynov, correspondent for the newspaper Azadliq, was attacked on 25 December 2006 in broad daylight; Mr Einullah Fatullayev, editor-in-chief of Realni Azerbaijan, which recommenced publication in December 2006 after a two-month closure, has recently received death threats;

8.1.3. the well-known poet and satirical journalist Sakit Zahidov was convicted to a three-year prison sentence in October 2006, which has been denounced as being politically motivated and based on no credible evidence by local and international human rights organisations;

8.1.4. on 24 November 2006, Azadliq, the most vocal opposition newspaper, was evicted from the premises it had occupied free of charge in the centre of Baku since 1992 following a court decision which found the agreement with the then Mayor of Baku to be illegal; special forces executed the eviction within an hour;

8.1.5. on the same day the most watched independent television channel in Azerbaijan, ANS, was silenced following a decision taken by the National Television and Radio Council (NTRC) not to extend its licence on the basis of alleged violations of the relevant legislation; the channel was allowed to recommence broadcasting three weeks later pending the decision on the winner of a new tender;

8.2. while welcoming the release of two journalists in October 2006 by a presidential decree, the Assembly urges the Azerbaijani authorities to consider a legal reform aimed at the decriminalisation of defamation; relevant civil law provisions should also be revised to ensure respect of the principle of proportionality; the Assembly encourages Council of Europe assistance in this field as well as efforts undertaken by the Organization for Security and Co-operation in Europe (OSCE), which have led to the

elaboration of a draft law on defamation; it also encourages efforts aimed at improving the professional standards and ethics of journalists in Azerbaijan and notes that Council of Europe assistance could be sought for this purpose;

8.3. the Assembly urges the Azerbaijani authorities to properly investigate attacks and threats against journalists; the perpetrators should be found, tried and punished;

8.4. the Assembly notes that Azadliq is now functioning in the Azerbaijan Publishing House, also situated in the centre of Baku, and hopes that the new premises allow the newspaper to operate normally;

8.5. seriously concerned that the issue of a licence for the ANS TV and Radio has not yet been resolved, the Assembly insists firmly that a definitive solution be found without further delay; it welcomes the fact that the Law on Radio and Television Broadcasting has now been sent to the Council of Europe for an expert review, so as to avoid similar situations in the future;

8.6. violations of the freedom of assembly in Azerbaijan have been repeatedly and strongly denounced by the Assembly, especially prior to or after elections, most recently after the parliamentary elections of November 2005;

8.7. the Assembly notes that two demonstrations were recently staged by the opposition and no incidents were reported; it welcomes the fact that the authorities of Azerbaijan have shown the political will to amend the 1998 Law on Freedom of Assembly and have requested the assistance of the Venice Commission; it urges them to amend the law now in line with the recommendations made by the latter and take appropriate measures to ensure that the implementation of the relevant legislation respects the guarantees of Article 11 of the European Convention on Human Rights as interpreted by the European Court of Human Rights; violations of the freedom of assembly and excessive use of force by law-enforcement agents should be stopped; ongoing training efforts in this respect are most welcome;

8.8. prison conditions in Azerbaijan remain harsh despite continuing improvements to infrastructure; the situation in the Gobustan prison gives rise to particular concerns in view of the number of deaths and suicides among inmates;

8.9. the Assembly urges the authorities to ensure a case-by-case review of life sentences which were the result of the abolition of the death penalty and allow the persons concerned to benefit from the retroactive application of the more favourable criminal law provisions adopted in 2000;

8.10. the Assembly welcomes the ambitious programme of prison reform currently being implemented with Council of Europe and European Commission assistance; it also welcomes the fact that access to prisons has been granted to the ombudsperson, local and international NGOs and human rights defenders;

8.11. however, persistent allegations of torture or ill-treatment, carried out mostly by law-enforcement agents during police custody or pre-trial investigation, as well as within the army, harm the image of the country especially as long as they are not properly investigated and sanctioned; these problems have recently been highlighted in the judgment of 11 January 2007 of the European Court of Human Rights in the case of Mammadov (Jalaloglu) v. Azerbaijan;

8.12. the Assembly urges the Azerbaijani authorities to act energetically to prove that they do not tolerate torture or ill-treatment within public institutions and the army and thus put an end to the strong perception of impunity; ongoing training for police officers and prison staff, with Council of Europe assistance, should be further encouraged;

8.13. the Assembly urges the Azerbaijani authorities to implement the recommendations made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and authorise the publication of the CPT reports on its 2004 and 2005 visits to the country;

8.14. the Assembly welcomes the fact that work on a draft law on alternative civil service to replace military service has started with Council of Europe expert assistance; it urges the authorities of Azerbaijan to take into account the recommendations of the experts and adopt the law without further delay in line with their accession commitment;

8.15. Azerbaijan is home to many national minorities who have lived together peacefully for centuries. The Advisory Committee on the Framework Convention for the Protection of National Minorities (ETS No. 157) has commended Azerbaijan's efforts to open up the personal scope of application of the framework convention to a wide range of minorities, while enumerating a number of shortcomings in the relevant legislation;

8.16. the Assembly urges the authorities to implement the recommendations made by the Advisory Committee and in particular to adopt a law on national minorities in line with their accession commitment; it also urges them to ratify the European Charter for Regional or Minority Languages (ETS No. 148) as soon as possible, noting Azerbaijan's commitment to do so within one year of its accession to the Council of Europe;

8.17. the Assembly urges the Azerbaijani authorities to implement:

8.17.1. Assembly [Resolution 1497 \(2006\)](#) on refugees and displaced persons in Armenia, Azerbaijan and Georgia;

8.17.2. [Resolution 1544 \(2007\)](#) on the situation of women in the South Caucasus, as regards in particular the participation of women in public and political life, non-discrimination in employment, women's health and violence against women, in particular domestic violence, human trafficking, the situation of refugee and displaced women, as well as female prisoners; the Assembly welcomes measures taken by the Azerbaijani authorities to combat human trafficking;