Parliamentary Assembly
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Resolution 1505 (2006)[1]

Implementation of Resolution 1480 (2006) on the challenge of credentials of the parliamentary delegation of Azerbaijan

Parliamentary Assembly

1. At the opening of the first 2006 part-session of the Parliamentary Assembly, the still unratified credentials of the delegation of Azerbaijan were challenged on substantial grounds under Rule 8 of the Assembly's Rules of Procedure in connection with the parliamentary elections that took place on 6 November 2005. The latter, despite some improvements in the pre-electoral period, were marred by serious irregularities and failed to meet a number of international standards for democratic elections.

2. In Resolution 1480 (2006) on the challenge of still unratified credentials of the parliamentary delegation of Azerbaijan on substantial grounds, adopted on 25 January 2006, the Assembly concluded that the conduct of the November 2005 parliamentary elections in Azerbaijan indeed fell within the provisions of Rule 8.2.b of the Assembly's Rules of Procedure concerning "persistent failure to honour obligations and commitments". Since the results in 10 constituencies (out of 125) were invalidated and partial re-run elections were scheduled for 13 May 2006, the Assembly, in paragraph 9 of Resolution 1480 (2006), listed a series of measures which needed to be taken urgently by the Azerbaijani authorities in order to ensure that the re-run elections in the 10 constituencies would fully abide by democratic principles, namely that:

2.1. investigations into electoral fraud should be conducted in a totally impartial and professional way, without any political or administrative pressure;

2.2. the results of these investigations should be made public and justice should be administered in an equally impartial and professional way, without any political or administrative pressure;

2.3. the newly elected parliament should amend the electoral legislation in line with the recommendations of the European Commission for Democracy through Law (Venice Commission), in particular with regard to the composition of the electoral commissions;

2.4. freedom of assembly should be fully guaranteed;

2.5. media pluralism in the electronic media and freedom of expression should also be fully guaranteed.

3. The Assembly decided to:

3.1. ratify the credentials of the parliamentary delegation of Azerbaijan;

3.2. observe the re-run elections on 13 May 2006;

3.3. examine at its June 2006 part-session, on the basis of a report by its Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe on the progress made in the five areas mentioned in paragraph 9 of its Resolution 1480 (2006), whether to reconsider the previously ratified credentials on substantial grounds by virtue of Rule 9 of the Rules of Procedure.

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1. Assembly debate on 26 June 2006 (16th Sitting) (see Doc. 10959, 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 26 June 2006 (16th Sitting)

4. The pre-electoral delegation of the Assembly that visited Azerbaijan on 27 and 28 April 2006 expressed concern over the lack of signs of progress in the areas mentioned in Resolution 1480 (2006). Some positive developments have occurred since and the Assembly observers who followed the partial re-run elections of 13 May concluded that there was progress in the conduct of voting on election day, although control over, and interference with, the electoral process by third parties, including representatives of local executive power, as well as economic pressure, remained an issue of concern.

5. The Assembly observers also underlined that, although electoral fraud was officially recognised to have changed the outcome of the November 2005 elections in only 10 constituencies, the results of the latter in a significant number of other constituencies could also be questioned. Therefore, the assessment of the conduct of the partial re-run elections should be seen as an integral part of the overall assessment of the parliamentary elections in Azerbaijan.

6. At the same time, the fact that only 10 out of a total of 125 constituencies were at stake significantly limited the importance of the re-run elections in domestic political life. It is therefore all the more regrettable that a number of incidences of fraud also occurred during the partial re-run elections, despite a number of technical improvements.

7. The Assembly regrets that, despite its calls to the contrary, some opposition parties decided to boycott the partial rerun elections, thus reducing the choice of the electorate on election day.

8. The partial opposition boycott, the low stakes in these elections, but also the lack of public confidence in the electoral process after the November 2005 elections are all factors which can explain the low visibility of the electoral campaign and the little interest shown by the public and the media.

9. More specifically, with respect to the five areas mentioned in paragraph 9 of its Resolution 1480 (2006), the Assembly notes that:

9.1. investigations into electoral fraud have only resulted in a very limited number of prosecutions and in an even smaller number of convictions. However, the Assembly welcomes the fact that, for the first time in the history of the country, electoral fraud and violations of the electoral code have to some extent been prosecuted and punished according to the law;

9.2. the prosecutor's office and the Central Electoral Commission have published figures with respect to the appeals received and the results of investigations carried out into violations of the law in the course of the electoral process. The Assembly urges the Azerbaijani authorities to continue their efforts to give full disclosure to the public and the international community regarding the handling of appeals and the process of investigations, also with respect to the irregularities which have reportedly taken place in the course of the re-run elections;

9.3. the electoral legislation has not been amended in line with the recommendations repeatedly made by the Venice Commission. However, the Assembly welcomes the fact that the Azerbaijani authorities have now requested, albeit at a late stage, the assistance of the Venice Commission with the reform of the Election Code of Azerbaijan. The Assembly reiterates that such a reform is a crucial prerequisite for elections in Azerbaijan to take place in accordance with Council of Europe standards and the country's commitments. In particular, the Assembly urges the authorities of Azerbaijan to:

9.3.1. amend the provisions regarding the composition of the electoral commissions at all levels so as to establish an election administration which enjoys the confidence of the electorate and of all electoral stakeholders;

9.3.2. further develop the procedure for an efficient handling of election-related complaints and appeals, with the assistance of the Venice Commission;

9.4. there have been no violent incidents and only a few impediments to the exercise of the freedom of assembly have occurred in contrast to the November 2005 elections. However, due to the overall low-key electoral campaign and the boycott by some opposition parties, it cannot be concluded that the limitations on freedom of assembly were really put to the test:

9.4.1. no amendments were introduced to the law on freedom of assembly, which thus continues to give disproportionate discretion to local executive authorities in accepting or not requests for holding rallies and deciding on their venues;

9.4.2. the Assembly therefore urges the Azerbaijani authorities to amend without delay the law on freedom of assembly and welcomes the fact that in their request for assistance addressed to the Venice Commission reference is explicitly made to this law;

9.5. no significant changes have been observed since the November 2005 elections in the field of media pluralism. Again, due to the low stakes in the re-run elections, limited coverage was given to the electoral campaign in the electronic media, while most electronic media continued to show bias in favour of the ruling party in their prime time news and current affairs programmes:

9.5.1. the Assembly underlines the importance of ensuring respect for media-related provisions of the Election Code during electoral campaigns, including ensuring equitable news coverage of political parties and candidates, and calls on the competent authorities, in particular the Central Electoral Commission, to take prompt and effective action against violations in this domain;

9.5.2. the Assembly is also extremely preoccupied with recent violent incidents directed against journalists: on 6 March 2006, the Azadlig newspaper correspondent Fikret Huseynli was kidnapped and beaten up; on 3 May the Russianlanguage Zerkalo newspaper sport correspondent Rustem Makayilli was also beaten up. Following a brutal assault on 18 May, the Deputy Chairman of the Popular Front party of Azerbaijan and editor of the Bizim Yol newspaper, Mr Bahaddin Haziyev, is currently in intensive care in a Baku hospital. There has been no progress in bringing to justice those who are responsible for the murder of Elmar Huseynov, the editor-in-chief of the Monitor magazine who was gunned down in March 2005;

9.5.3. the Assembly recalls that a free press is one of the backbones of any functioning democracy. It is therefore of utmost importance that attacks on journalists be promptly and thoroughly investigated and the perpetrators brought to justice. 10. In lig

10. In light of the above, the Assembly concludes that most of the requirements mentioned in paragraph 9 of its Resolution 1480 (2006) have not yet been met. Despite some recent indications of the authorities' will to further reform the relevant legislation and practice, strong political will is still needed to ensure that the next presidential election in 2008 will fully meet Council of Europe standards.

11. The Assembly underlines that the necessary electoral reform should be carried out well in advance of the 2008 presidential election, not simply to satisfy a demand by the international community, but most of all in order to restore the confidence of the people of Azerbaijan in the electoral process and, more generally, the democratic process in the country.

12. The Assembly considers that co-operation between the Council of Europe and Azerbaijan remains essential for the development of democracy, the rule of law and respect for human rights in the country. Such co-operation must continue for the purpose of preparing the 2008 elections, in order for the progress achieved so far to be consolidated. The Assembly thus decides not to reconsider, at this stage, the credentials of the parliamentary delegation of Azerbaijan. The Assembly instructs its Monitoring Committee to follow closely the 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.