



## Parliamentary Assembly Resolution 1361 (2004)<sup>1</sup> on Honouring of obligations and commitments by Armenia

1. Armenia has been a member of the Council of Europe for three years. On 26 September 2002, the Parliamentary Assembly considered its first report on Armenia's progress in honouring its obligations and commitments. It concluded in its Resolution 1304 (2002) that "since its accession to the Council of Europe, Armenia has made substantial progress", while regretting that it had not honoured some fundamental commitments within the time-limits previously agreed upon.
2. The year 2003 was a busy electoral year for Armenia, and as a result no further progress has been made in the current reforms. Nevertheless, since September 2003, Armenia's undeniable efforts show that it is once more committed to making progress towards honouring its obligations and commitments.
3. The Assembly notes that Armenia has honoured all of its commitments with regard to conventions, and welcomes the fact that it has ratified Protocol No. 6 to the European Convention on Human Rights, the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities, the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and the Revised European Social Charter.
4. It considers that the ratification of the Revised European Social Charter will permit positive social progress in Armenia and asks the Armenian authorities to launch a comprehensive debate on how social rights should be effectively promoted in the country.
5. The abolition of the death penalty as a result of the ratification of Protocol No.6 to the European Convention on Human Rights in September 2003 constitutes essential progress in the honouring of commitments and is a positive, strong and symbolic signal.
6. In this connection, the Assembly welcomes the adoption, in April 2003, of a new Criminal Code that no longer includes the death penalty; it takes note of the Armenian authorities' assurances that the law concerning the implementation of the Criminal Code, which was adopted at the same time and maintained the death penalty for a number of serious crimes, has become obsolete following the entry into force of Protocol No. 6.
7. It notes that the presidential decree of 1 August 2003 commuting the death sentences of forty-two persons to life sentences has raised strong protests from some of them. It believes that this issue should be dealt with on a case-by-case basis and urges the authorities concerned to re-examine as soon as possible the cases of those who have asked for a change of sentence or a retrial.
8. As regards domestic legislation, the Assembly acknowledges the significant law-making activity achieved since September 2003. It particularly welcomes the adoption of a new Criminal Code, the Law on the Ombudsman, the Law on Alternative Service, the Law on the Media and the Law on Radio and Television Broadcasting.
9. The Assembly notes that a number of legislative commitments – increased local self-government, introduction of an independent ombudsman, establishment of independent regulatory authorities for broadcasting, modification of the powers of and access to the Constitutional Court, reform of the Judicial Council, etc. – are still subject to a revision of the Armenian Constitution. The rejection of constitutional reform in the referendum held in May 2003 has caused a delay in the entry into force of these fundamental reforms, most of which were to be completed by specific deadlines, stipulated in the Assembly's Opinion No. 221 (2000) on Armenia's application for membership of the Council of Europe; these deadlines have now expired.
10. The Assembly considers that these commitments must not be deferred any longer and invites the Armenian authorities to speed up the revision of the constitution. It takes note of the authorities' resolve to

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<sup>1</sup> *Assembly debate* on 27 January 2004 (3rd Sitting) (see Doc.10027, report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs: Mr André and Mr Jaskiernia).

*Text adopted by the Assembly* on 27 January 2004 (3rd Sitting).

genuinely involve the opposition parties and civil society in discussions about the future of the country's institutions. Nevertheless, it expects the Armenian authorities to establish and keep to a detailed timetable and to rapidly prepare draft amendments to the constitution and to present them to the Council of Europe for expertise by the end of April 2004, so that a referendum can be held as soon as possible, and in any case not later than June 2005.

11. The Assembly notes that the Law on the Ombudsman, adopted in October 2003, stipulates that, pending the revision of the constitution, the ombudsman shall be appointed by the President of the Republic. It expressly recalls its Recommendation 1615 (2003) on the institution of ombudsman, and believes that the planned method of appointment does not provide sufficient guarantees of the independence of the ombudsman, who must have citizens' full confidence. It urges the Armenian authorities to set up a transparent and credible interim procedure enabling the Armenian National Assembly, including the opposition parties, to examine and give their opinion on candidatures, while officially preserving the President's right to nominate the successful candidate.

12. With regard to the right to free and fair elections, the Assembly cannot but express its profound disappointment at the conduct of the elections – the presidential election in February and March 2003 and the parliamentary elections in May 2003 – which gave rise to serious irregularities and massive fraud, and led the international observers to conclude that the electoral process as a whole had not complied with international standards. It invites the Armenian authorities:

i. to revise the Electoral Code in close co-operation with the Council of Europe and the Organisation for Security and Co-operation in Europe (OSCE)/ Office for Democratic Institutions and Human Rights (ODHIR), especially the provisions concerning the composition of electoral commissions, the role and status of observers and the transparency of vote counting and the totalling of the results;

ii. to conduct a thorough investigation into the electoral fraud and put an end to the judicial impunity of those responsible for it by the end of 2004.

13. The Assembly is alarmed that the fundamental reforms concerning the judicial system and the independence of the judiciary have still not been completed. It urges the Armenian authorities to:

i. present by April 2004 a precise timetable for the effective implementation of these reforms;

ii. adopt the law on the status of judges, the law on the Judicial Council and the law on the judiciary by the end of 2004, taking account of the Council of Europe's recommendations and expert opinions.

14. The Assembly is shocked by the scandalous use that continues to be made of the arbitrary procedures concerning administrative detention provided for in the Administrative Code, which is totally incompatible with its strongly worded statement in Resolution 1304 of September 2002 that the Armenian authorities should no longer make use of these procedures. It firmly condemns the arrest and conviction of over 270 people – members of the opposition parties, sympathisers and office-holders – between the two rounds of the presidential election and at the end of the second round. It expects the Armenian authorities to discuss by February 2004 the issue of administrative detention provided for in the Administrative Code in co-operation with Council of Europe experts and to send the draft amendments for the Council of Europe's expertise by April 2004.

15. The Assembly asks the Armenian authorities to immediately begin examining, in co-operation with the Council of Europe, the question of the balance to be struck between freedom of assembly and demonstration and respect for public order, and to adopt a law on demonstrations and public meetings in full compliance with Council of Europe principles and standards.

16. As regards criminal legislation, the Assembly:

i. is alarmed at the fact that on 5 November 2003 the Armenian National Assembly adopted amendments to the Criminal Code excluding persons serving life sentences from amnesty or conditional release and observes that these provisions are entirely contrary to Committee of Ministers Recommendation Rec(2003)22 on conditional release (parole). It urges the Armenian authorities to repeal them without delay;

ii. asks the Armenian authorities to start work on revision of Articles 135, 136 and 318 of the Criminal Code by March 2004, in co-operation with Council of Europe experts, to remove any possibility of making insult and defamation subject to a prison sentence;

iii. urges Armenia to undertake the revision of the Code of Criminal Procedure without delay, in co-operation with the Council of Europe experts and with due regard for the recommendations already made and those yet to be made.

17. The Assembly expects the Armenian authorities to make further efforts to improve conditions of detention, which includes speedily implementing the recommendations of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT).

18. It also asks the authorities to take resolute and more active steps to remedy misconduct by law enforcement officials, especially acts of violence, ill-treatment, corruption and bribery, which remain commonplace. It expects the authorities to revise the Law on the Police by March 2004 in compliance with the Council of Europe's recommendations.

19. As regards freedom of expression and media pluralism, the Assembly is concerned at developments in the audiovisual media in Armenia and expresses serious doubts as to pluralism in the electronic media, regretting in particular that the vagueness of the law in force has resulted in the National Television and Radio Commission being given outright discretionary powers in the award of broadcasting licences, in particular as regards the television channel A1+. However, it notes the adoption in December 2003 of the Law on the Mass Media and a law amending the Law on Radio and Television Broadcasting.

20. As regards local self-government, the Assembly:

i. takes note of Recommendation 140 (2003) of the Congress of Local and Regional Authorities of Europe (CLRAE) on local democracy in Armenia;

ii. expects the Armenian authorities to draw up by April 2004, and adopt by the end of the second quarter of 2004, in full co-operation with the Congress and Council of Europe experts, a law on the status of Yerevan, a law on the territorial administration of the state, a law on municipal staff and a law amending the law on local self-government;

iii. asks the Armenian authorities to submit by April 2004 a specific and definitive timetable for the implementation of these reforms.

21. The Assembly is concerned at the scale of corruption in Armenia, which has reached intolerable proportions. It expects the Armenian authorities to undertake a genuine change of attitude and express a real political will to take effective action against corruption. The Assembly :

i. welcomes Armenia's membership of the Council of Europe's Group of States against Corruption (GRECO);

ii. welcomes the Armenian Government's adoption of the national anti-corruption strategy and the action plan for its implementation, and its transmission to the Council of Europe for opinion;

iii. asks the Armenian authorities to co-operate closely with the Council of Europe's experts;

iv. expects the Armenian authorities to speedily draw up a modern and comprehensive law on the fight against corruption;

v. expects the Armenian authorities to ratify the Criminal Law Convention on Corruption and to sign and ratify the Civil Law Convention on Corruption as soon as possible.

22. The Assembly welcomes the adoption of the law introducing an alternative military and civilian service broadly consistent with Parliamentary Assembly Recommendation 1518 (2001) on exercise of the right of conscientious objection to military service in Council of Europe member states. However, it considers the length of the alternative civilian service, set at forty-two months, unacceptable and excessive and asks that the law should be amended on this point, reducing the length of service to thirty-six months before it comes into force on 1 July 2004.

23. It points out that Armenia undertook on joining the Council of Europe to pardon conscientious objectors serving prison terms. It expresses its indignation at the fact that twenty or so young people who

refuse to perform military service are still in prison. It therefore demands that they be released immediately by presidential pardon pending the entry into force on 1 July 2004 of the law on alternative civilian service.

24. As regards freedom of religion, the Assembly:

i. notes that, despite the commitment made and the Assembly's repeated appeals, Jehovah's Witnesses are still not registered as a religious organisation. It asks that this registration be done without delay, after their statute has been brought into conformity with the legislation in force;

ii. takes note of the assurances given by the Armenian authorities that Order No.551-A issued by the Minister of the Interior, which leads to serious discrimination and infringement of freedom of conscience and religion, has indeed been repealed;

iii. asks the Armenian authorities to set up a truly independent body representing all Armenia's religious organisations and communities.

25. The Assembly also calls on the Armenian authorities to take effective steps, in co-operation with the international organisations concerned, to prevent and combat trafficking in women and minors for prostitution purposes.

26. As regards the settlement of the conflict in Nagorno-Karabakh, the Assembly:

i. notes that there has been no progress in the negotiations on a settlement of the conflict over Nagorno-Karabakh and the occupied territories of Azerbaijan;

ii. calls on the Armenian and Azerbaijani authorities to intensify top-level contacts in order to reach a peaceful settlement of this issue as soon as possible;

iii. is disturbed at the serious incidents that took place in the north-east border area in July and August 2003, which are reported to have caused fifteen deaths.

27. Recalling that in its Opinion 221 (2000) the Assembly considered that the simultaneous accession of Armenia and Azerbaijan could help to establish the climate of trust and *détente* needed for a peaceful solution to the Nagorno-Karabakh conflict, and noting its call on the Armenian and Azerbaijani authorities to continue their dialogue to give new impetus to regional co-operation which could contribute to this climate; the Assembly calls on the Bureau of the Assembly to consider how regional parliamentary dialogue and co-operation involving the speakers of parliaments, that had been established, can be restored and progress as soon as possible.

28. The Assembly expresses satisfaction at its excellent co-operation with the Armenian authorities, their open-minded attitude and the quality of the ongoing dialogue on compliance with obligations and commitments.

29. The Assembly recognises that Armenia has recently made considerable efforts to honour the obligations and commitments entered into. However, given the obligations and commitments that remain to be honoured, particularly those concerning pluralist democracy, the Assembly decides not to end the current monitoring procedure until Armenia has made further substantial progress on its outstanding commitments, and notably has proved that it is able to organise the next presidential and parliamentary elections in compliance with international democratic standards.