

Provisional edition

Honouring of obligations and commitments by Armenia

Resolution 1374 (2004)¹

1. Since the end of March 2004, a series of protests were organised by the opposition forces in Armenia, calling for the holding of a “referendum of confidence” in President Kocharian. The possibility of such a referendum was first mentioned by the Armenian Constitutional Court following the presidential elections in February and March last year. The Constitutional Court later clarified its proposal and the authorities qualify the opposition demands and protests as an attempt to seize power by force.
2. The demonstrations, while announced, have not been authorised by the authorities who threatened their organisers with criminal prosecution. Following the demonstrations on 5 April, the prosecutor general opened criminal investigations in connection with the rally of the opposition parties against several members of the opposition and many more were arrested. On the same occasion, several journalists and politicians were beaten up by unknown persons while the police were standing by taking no action.
3. New demonstrations took place on 9, 10 and 12 April in Yerevan. In the early morning of 13 April, the security forces violently dispersed some 2000 -3000 protesters who were attempting to march towards the presidential palace, calling for President Kocharian’s resignation. The police reportedly used truncheons, water cannons and tear gas, causing dozens of injuries. A number of protesters were arrested, including members of parliament, some of whom are members of the Assembly, and some were allegedly mistreated during their custody by the police. The security forces also assaulted and arrested several journalists who were covering the opposition rally.
4. The tensions in Armenia continue to run high; new protests are planned for the week of 26 April. For the time being, there seems to be little room for dialogue between the authorities and the opposition, even if some offers have been made and some members of the ruling majority – and notably the Speaker of the Armenian parliament – have begun criticising the heavy-handed crackdown on demonstrators.
5. With regard to the conduct of the authorities, the Parliamentary Assembly recalls that its actions are contrary to the letter and the spirit of the recommendations formulated in its Resolution 1361 (2004) adopted last January. It is particularly concerned with the fact that:
 - i. arrests, including on the basis of the Administrative Code, ignored the demand to immediately end the practice of administrative detention and change the Administrative Code used as a legal basis for this practice;
 - ii. the authorities refused to authorise opposition rallies for reasons not permitted under the European Convention on Human Rights. Moreover the new draft law on the procedure of conducting gatherings, meetings, rallies and demonstrations, currently in the parliamentary procedure, was evaluated as excessively restrictive by experts of the Venice Commission;
 - iii. persons detained during the recent events were reportedly subjected to ill-treatment by police and security forces, in spite of Assembly’s demands to take resolute and more active steps to remedy misconduct by law enforcement officials;

¹ *Assembly debate* on 28 April 2004 (13th Sitting) (see Doc. 10163, report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), Co - Rapporteurs: MM André and Jaskiernia). *Text adopted by the Assembly* on 28 April 2004 (13th Sitting).

- iv. freedom of expression continues to be seriously curtailed and several acts of violence against journalists, which took place during the recent events, were carried out or were allowed to happen by the police and security forces.
6. With regard to the conduct of the opposition, the Assembly stresses that they should do their utmost to avoid any future violence.
7. As to their demands for the holding of a “referendum of confidence” and the resignation of President Kocharian, the Assembly stresses that:
 - i. both the presidential, and the parliamentary elections which followed in May last year were severely criticised by the international community, including by the Assembly delegations. The electoral process as a whole had not complied with international standards and the irregularities observed notably included biased media coverage, detention of opposition proxies and campaign staff, falsification of results, intimidation of observers as well as generally inadequate performance of the elections administration.
 - ii. although the fraud, in spite of its magnitude, did not decisively change the outcome of the elections nor invalidate their final results, in its report on the honouring of obligations and commitments by Armenia, adopted in January 2004 (Resolution 1361), the Assembly expressed profound disappointment at the conduct of the elections and called for a thorough investigation into electoral fraud and an end to the judicial impunity for those responsible for it.
8. While insisting that the Armenian authorities must fully comply with its recommendations concerning last year’s flawed elections, the Assembly considers that the opposition, while entitled fully to enjoy its constitutional right to peaceful assembly, should strive to achieve its goals within the constitutional framework.
9. The Assembly calls upon the Armenian authorities to:
 - i. allow peaceful demonstrations and refrain from any further action which would legally, or in practice, lead to unjustified restrictions to the freedom of assembly guaranteed by the European Convention on human rights;
 - ii. guarantee freedom of movement within Armenia;
 - iii. immediately investigate – in a transparent and credible manner - the incidents and human rights abuses reported during the recent events, including assaults of journalists and human rights activists, and inform the Assembly of their findings and possible legal actions against persons responsible;
 - iv. immediately release the persons detained for their participation in the demonstrations and immediately end the practice of administrative detention and amend the Administrative Code to this effect;
 - v. take note of the fact that the immunities of PACE members are valid during the whole year (PACE Resolution 1325 (2003) and Recommendation 1602 (2003)); accordingly it invites the competent Armenian authorities to henceforth inform as soon as possible the President of the PACE when Armenian members of that Assembly are prosecuted or detained;
 - vi. create fair conditions for the normal functioning of the media, notably as regards the issuing of broadcasting licences to television companies, particularly to television channel A1+;
 - vii. send a written report to the Assembly, before the opening of the June 2004 part-session, on the steps it has taken with regard to sub-paragraphs 9.i to 9.vi.
10. The Assembly calls upon the authorities and the opposition to refrain from any action which may lead to further violence and to engage in a dialogue without preconditions, with a view to resolving the present conflict in accordance with Council of Europe standards and European democratic practice.

11. The Assembly believes that the recent events have added a measure of urgency to its demands for Armenia's full and unconditional compliance with their obligations and commitments. It resolves to instruct the Monitoring Committee to send its rapporteurs to Armenia to present a report on the situation, particularly on the follow-up of the recommendations set out in sub-paragraphs 9.i to 9.vi, as soon as appropriate, and well before the opening of the September 2004 part-session. If no progress with regard to sub-paragraphs 9.i to 9.vi is made by the opening of the September 2004 part-session, it resolves to reconsider the credentials of the Armenian delegation in accordance with Rule 9 of the Rules of Procedure.