



Provisional edition

Constitutional reform process in Armenia

Resolution 1458 (2005) ^[1]

1. The Parliamentary Assembly recalls that the revision of the Constitution is a pre-condition for the fulfilment of some of the most important commitments that Armenia undertook upon its accession to the Council of Europe. These include the reform of the judicial system, local self-government reform, the introduction of an independent ombudsman, the establishment of independent regulatory authorities for broadcasting and the modification of the powers of and access to the Constitutional Court. The deadlines for the completion of these commitments, stipulated in the Assembly's [Opinion No. 221 \(2000\)](#) on Armenia's application for membership of the Council of Europe, have now long expired.

2. The Assembly therefore is deeply concerned that the delay in agreeing and adopting the constitutional amendments is holding back Armenia's progress towards European democratic norms and standards in key areas of political life.

3. The present Constitution, adopted in 1995, has played an essential role in the development of democracy and its irreversibility and has allowed Armenia to become a member of the Council of Europe. However, its practical day-to-day implementation has increasingly revealed serious conceptual shortcomings which have become an obstacle for the further democratic development of the country. In the first place, the Constitution endows the President with excessive prerogatives and does not provide for clear separation and balance of powers within the state structures. Equally serious is the lack of constitutional guarantees for basic human rights, of independence of the judiciary and of local self-government in conformity with European standards.

4. The Assembly recalls the failure of the first referendum on constitutional amendments of 25 May 2003 and the fact that the authorities at the time had not committed themselves to a campaign in support of the reform as parliamentary elections were held in parallel. The subsequent deadline fixed by the Assembly in Resolutions [1361](#) and [1405 \(2004\)](#) for the holding of a new constitutional referendum – not later than June 2005 – has been missed.

5. The Assembly recalls that in 2001, the Armenian authorities and the European Commission for Democracy through Law (Venice Commission) had arrived at a mutually acceptable draft Constitution in line with European standards. This draft, however, underwent

significant changes during its examination and adoption by Parliament and the text submitted to referendum in May 2003 represented an important step back. The Assembly therefore insists that such a scenario must not be repeated with the new draft.

6. The Assembly notes with approval the renewed active and intensive co-operation between the Armenian authorities and the Venice Commission since 2004. It regrets, however, that after several expertises of different subsequent drafts and after the first reading in Parliament on 11 May 2005, the draft still needs substantial revision, according to the Venice Commission. In its second interim opinion of 13 June 2005, the Venice Commission expressed deep disappointment with the lack of satisfactory results, deploring the fact that the recommendations, notably concerning the balance of powers between the President and the Parliament, the independence of the judiciary and the election of the Mayor of Yerevan (instead of his/her appointment by the President), had not been taken into account.

7. The Assembly welcomes the memorandum on further co-operation signed between the Venice Commission working group and the Armenian authorities on 2 June 2005. It commends the Armenian authorities on presenting an improved version of the text within the deadlines agreed in the memorandum. However, the Assembly insists that the final proposed amendments do comply with all the recommendations of the Venice Commission and are finally voted as such by the National Assembly.

8. The Assembly underlines that the new constitutional referendum can only succeed on the basis of a very broad public consensus. In addition to the political significance of such an act, the consensus is also needed for technical reasons – the constitutional amendments must be approved by more than 50% of the votes but not less than one third of all registered voters. It is therefore important that the voters' lists are updated so that the necessary quorum can be achieved.

9. The Assembly deplores the breakdown of dialogue between the ruling coalition and the opposition. It regrets that the ruling coalition has not yet been able to agree on the three key requests of the opposition which coincide with the recommendations of the Venice Commission: separation and balance of powers, independent judiciary and a real local self-government. It equally regrets the fact that the opposition resorted to a boycott of parliamentary sittings. The Assembly therefore strongly hopes that an agreement on the three points will lead to the opposition returning to Parliament.

10. The Assembly points out that a proper awareness-raising campaign in favour of the constitutional reform can only start after agreement has been reached on the remaining problematic areas. If the latest deadline for holding the referendum – November 2005 – is respected, any further delay in reaching a political consensus can jeopardise the chances of the draft being accepted by the population.

11. The Assembly reiterates its previous concerns with regard to media pluralism and balanced political coverage in the electronic media. The media, and television in particular, should play a major role in allowing the public to make a well-informed choice in the referendum. One of the main reasons for the present unsatisfactory situation resides in the shortcomings of the Constitution with regard to the appointment of members of the broadcasting regulatory bodies.

12. The Assembly strongly believes that, for the sake of its own people and for the sake of its further European integration, Armenia cannot afford another failure of the constitutional

referendum. It supports the expert advice of the Venice Commission as a clear indication of the direction to follow and believes that if it is backed by political will and democratic maturity, the necessary ingredients for a successful constitutional reform would be in place.

13. The Assembly therefore calls on the Armenian authorities and the parliamentary majority to:

- i. fully implement the recommendations of the Venice Commission;
- ii. undertake clear and meaningful steps in order to resume an immediate dialogue with the opposition;
- iii. adopt the text at second reading without altering the agreement reached with the Venice Commission on the above-mentioned points and no later than August 2005;
- iv. provide live broadcasting of the parliamentary sittings where the constitutional amendments will be discussed and voted;
- v. start a well-prepared and professional awareness-raising campaign immediately after the adoption of the text at the second reading;
- vi. implement without delay the Assembly recommendations with regard to media pluralism in order to guarantee the broadest possible public debate;
- vii. urgently update voters' lists;
- viii. hold the referendum no later than November 2005;
- ix. and to provide for the coming into force of the constitutional reform as soon as reasonably possible.

14. The Assembly calls on the opposition to stop its parliamentary boycott and do everything possible to promote the recommendations of the Council of Europe with regard to the constitutional reform.

15. The Assembly expresses its support for the adoption of a draft Constitution fully complying with the Council of Europe standards and calls on all political forces and civil society to assure the success of the constitutional reform.

16. The Assembly resolves to observe the constitutional referendum and, in the meantime, declares its readiness to provide any assistance that might be needed for its preparation.

[1] Doc. 10601