

Provisional edition

The functioning of democratic institutions in Armenia

Resolution 1677 (2009)¹

1. In its [Resolution 1643](#) (2009) adopted on 27 January 2009 on the “implementation by Armenia of Assembly [Resolutions 1609](#) (2008) and [1620](#) (2008)”, the Parliamentary Assembly considered that, although it remained dissatisfied with, and seriously concerned by, the situation of the persons deprived of their liberty in relation to the events of 1 and 2 March 2008, recent initiatives by the authorities and, in particular, the initiative of the National Assembly of Armenia to revise Articles 225 and 300 of the Criminal Code in line with Council of Europe standards, should be seen as an indication of the readiness of the Armenian authorities to address the demands of the Assembly contained in earlier resolutions. The Assembly decided to remain seized of the matter and invited its Monitoring Committee to follow closely the implementation of the relevant Assembly resolutions and to propose any further action to be taken by the Assembly as required by the situation.

2. The Assembly considers that the demands and recommendations contained in its earlier [Resolutions 1609](#) (2008), [1620](#) (2008) and [1643](#) (2009) form a concrete and realistic roadmap to resolve the political crisis that ensued in Armenia after the Presidential election in February 2008. These demands and recommendations therefore remain fully valid.

3. The Assembly welcomes the adoption, on 18 March 2009, of the amendments to Articles 225 (mass disorders) and 300 (usurpation of power) of the Criminal Code of Armenia, which, in the opinion of the European Commission for Democracy through Law (Venice Commission), generally represent an improvement over previous provisions in that they reduce their scope for overbroad and abusive interpretation. It takes note of the important impact of these changes on the cases of persons deprived of their liberty in relation to the events of 1 and 2 March 2008 that are still under consideration by the courts. However, it notes that these changes do not have any impact on other cases that are considered of serious concern by the Assembly, such as the cases of persons charged, or convicted, solely on the basis of police testimony, without substantial corroborating evidence.

4. In the view of the Assembly, the release of all persons deprived of their liberty in relation to the events of 1 and 2 March 2008 who did not personally commit grave acts of violence would alone provide the necessary basis for the start of the dialogue and reconsolidation that is needed to overcome the political crisis that ensued after the Presidential election of February 2008. In addition, their release would meet the concerns and demands of the Assembly in this respect.

5. The Assembly therefore welcomes the proposal for a general amnesty submitted by the President of Armenia to the National Assembly on 16 June 2009 and its prompt adoption by the National Assembly on 19 June 2009. In relation to this amnesty, the Assembly:

5.1. welcomes that it explicitly covers those persons deprived of their liberty in relation to the events of 1 and 2 March 2008 who were not charged with violent crimes or who were not convicted to prison sentences of more than 5 years. For the remaining cases, the sentences yet to be served will be reduced by half;

5.2. notes that, under this amnesty, most, but not all, persons deprived of their liberty in relation to the events of 1 and 2 March 2008 will be released; it will follow the developments with regard to the remaining cases;

5.3. notes that for those persons who may be convicted to prison sentences of more than 5 years the amnesty will only apply to those persons whose cases have been adjudicated by the courts and that the amnesty will also apply to those persons charged in relation to the events of 1 and 2 March 2008 who are currently in hiding, after the completion of their trials, if they present themselves to the authorities before 31 July 2009. The Assembly urges the authorities, in view of a possible application of the amnesty after completion of their cases in the courts, to allow the persons concerned to remain free pending the duration of their trial if they present themselves to the authorities before 31 July 2009.

6. The Assembly calls upon the political forces in Armenian society, both parliamentary and extra-parliamentary, to seize the new opportunity and to engage in an open, constructive and serious dialogue on the reforms demanded by the Assembly.

7. The Assembly notes that civil claims of legal responsibility against those convicted in relation to the events of 1 and 2 March 2008, especially those convicted of organising mass disorder, could still be filed. In this respect, it is concerned that the filing of civil suits by public authorities could undermine the purpose of the amnesty and calls upon the authorities to ensure that no such suits by civil authorities are filed.

8. With regard to the independent, impartial and credible investigation into the events of 1 and 2 March 2008, and the circumstances that led to them, the Assembly regrets the breakdown of the work of the independent expert group to establish the facts in relation to these events (fact-finding group), as a result of the insurmountable tensions between its members and the politicising of its work by members of both sides. In this respect, the Assembly:

8.1. calls upon the members of the fact-finding group to present their findings and conclusions, possibly in the form of individual reports, to the Ad hoc Parliamentary Inquiry Committee, and calls for these combined findings and conclusions to be published, as foreseen in the Presidential decree setting up the fact-finding group;

8.2. considers that an independent, impartial and credible investigation into the events of 1 and 2 March and its circumstances, is still necessary in line with the criteria outlined by the Assembly, notwithstanding the breakdown of the fact-finding group and therefore considers that the final report by the Ad hoc Parliamentary Inquiry Committee will determine whether the criteria of impartiality and credibility have been met and whether further investigations are necessary.

9. The Assembly is seriously concerned about the fact that the investigation by the Prosecutor General into the 10 deaths that occurred has not yet led to any concrete results and considers it essential that this investigation is satisfactorily concluded without any further delay. In this respect, it welcomes the decision of the President of Armenia to ask the Prosecutor General to provide a full report of his investigations for review by the Ad Hoc Parliamentary Inquiry Committee.

10. Despite positive changes in the Law on Conducting Meetings, Assemblies, Rallies and Demonstrations, the Assembly notes that requests to organise rallies are still often rejected by the authorities on technical grounds, or that undue restrictions are placed on them. It therefore reiterates its call for the authorities to respect the principle of freedom of assembly in practice, and to implement any recommendations resulting from the project being carried out jointly by the Council of Europe and the Organization for Security and Co-operation in Europe (OSCE) to monitor the implementation of the amended law on rallies and demonstrations.

11. With regard to the reform of the media, the Assembly welcomes the adoption, on 28 April 2009, of amendments to the Law on Radio and Television, which were elaborated in close consultation with the Council of Europe and are aimed at ensuring the independence of the media regulatory bodies in Armenia. With regard to these amendments, the Assembly:

11.1. notes that the appointment procedure for the members appointed by the President of Armenia on the National Television and Radio Commission and the Public Television and Radio Council is not regulated by law and recommends that the President of Armenia issue a Presidential Order to establish an appointment procedure that mirrors the procedure applied for the appointments by the National Assembly. The Assembly considers that, despite the positive changes to the law, these bodies cannot be held fully independent until such time as all members are appointed through a politically neutral procedure;

11.2. reaffirms its position in [Resolution 1609](#) (2008) that the composition of these two media regulatory bodies should reflect the Armenian society;

11.3. recommends that serving politicians be barred from being members on these bodies.

12. As to the holding of an open, fair and transparent tender for broadcasting licenses, the Assembly notes the ongoing discussions between the Armenian authorities and the Council of Europe on the basis of a report prepared by an independent spectrum analyst. It reaffirms its position that the technical implications of the introduction of digital broadcasting in Armenia should not be used to delay unduly the holding of such a tender and thus the execution of the judgment of the European Court of Human Rights in the case concerning the denial of a broadcasting license to the television channel A1+.

13. With regard to the election of the Yerevan City Council on 31 May 2009, the Assembly notes the conclusions of the observer mission of the Congress of Local and Regional Authorities of the Council of Europe. However, the numerous allegations that fraud and violations were widespread during these elections demonstrate that public trust in the electoral process is still very low in Armenia. This, as well as the shortcomings and violations noted, underscores the fact that electoral reform should now be a priority for the authorities. Therefore, further electoral reforms are needed, in particular with a view to strengthening post-election control mechanisms for the disclosure of voting irregularities, including, but not limited to, multiple voting practices.

14. The Assembly, reiterating its demands expressed more than a year ago in its [Resolution 1609 \(2008\)](#), urges the Armenian authorities to implement without delay further reforms of the police, including the establishment of a proper public oversight mechanism, as well as of the judiciary, with a view to ensuring its independence.

15. Through the adoption of a general amnesty for the persons deprived of their liberty in relation to the events of 1 and 2 March 2008, the Armenian authorities have complied with a crucial demand of the Assembly with regard to the political crisis that ensued after the Presidential election of February 2008. This, as well as the assurances given by the authorities that they intend to conduct and conclude an impartial and credible investigation into these events and the circumstances that led to them, in line with the demands of the Assembly, is a clear indication of the willingness of the authorities to overcome the political crisis and its consequences, and to turn to a new page in Armenia's democratic development.

16. The Assembly strongly supports the process of democratic consolidation in Armenia and therefore considers that the assessment of Armenia's compliance with the remaining demands made by the Assembly in [Resolutions 1609 \(2008\)](#), 1620 (2008), 1643 (2009) should take place in the framework of the ongoing regular monitoring procedure of the Assembly with respect to Armenia. The Assembly invites its Monitoring Committee to consider as a priority, within this framework, the compliance by Armenia with the above mentioned resolutions as well as with this resolution.

¹ *Assembly debate* on 24 June 2009 (23rd Sitting) (see [Doc. 11962](#), report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs: Mr Colombier and Mr Prescott). *Text adopted by the Assembly* on 24 June 2009 (23rd Sitting).