



TEXTS ADOPTED

P8_TA(2018)0294

Negotiations on the EU-Azerbaijan Comprehensive Agreement

European Parliament recommendation of 4 July 2018 to the Council, the Commission and the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy on the negotiations on the EU-Azerbaijan Comprehensive Agreement (2017/2056(INI))

The European Parliament,

- having regard to Articles 2, 3 and 8 and to Title V, in particular Articles 21, 22 and 36, of the Treaty on European Union, as well as to Part Five of the Treaty on the Functioning of the European Union (TFEU),
- having regard to the launch on 7 February 2017 of negotiations between the European Union and Azerbaijan on a new comprehensive agreement which ought to replace the 1999 Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Azerbaijan, of the other part¹,
- having regard to the Council's adoption on 7 November 2016 of the negotiating directives for this agreement,
- having regard to the Memorandum of Understanding on a Strategic Partnership between the EU and Azerbaijan in the field of energy of 7 November 2006,
- having regard to the main results of the 15th Cooperation Council meeting between the European Union and Azerbaijan of 9 February 2018,
- having regard to the Commission report of 19 December 2017 on EU-Azerbaijan relations in the framework of the revised ENP (SWD(2017)0485),
- having regard to the Euronest Parliamentary Assembly Bureau message to the Heads of State or Government of 30 October 2017,
- having regard to its recommendation of 15 November 2017 to the Council, the Commission and the European External Action Service (EEAS) on the Eastern

¹ OJ L 246, 17.9.1999, p. 3.

Partnership, in the run-up to the November 2017 Summit¹,

- having regard to its resolution of 13 December 2017 on the annual report on the implementation of the Common Foreign and Security Policy²,
 - having regard to the joint declarations of the Eastern Partnership summits, including that of 24 November 2017,
 - having regard to the Commission and EEAS publication of June 2016 on the ‘Global Strategy for the European Union’s Foreign and Security Policy’, and in particular the key principles therein,
 - having regard to its resolution of 15 June 2017 on the case of Azerbaijani journalist Afgan Mukhtarli³, and to other resolutions on Azerbaijan, in particular those concerning the human rights situation and the rule of law,
 - having regard to the statement of 14 January 2018 of the Spokesperson for Foreign Affairs and Security Policy/European Neighbourhood Policy and Enlargement Negotiations on the sentencing of journalist Afgan Mukhtarli in Azerbaijan,
 - having regard to the resolution of 11 October 2017 of the Parliamentary Assembly of the Council of Europe on the functioning of democratic institutions in Azerbaijan,
 - having regard to the launch of infringement proceedings on 5 December 2017 by the Committee of Ministers of the Council of Europe due to the Azerbaijani authorities’ continued refusal to implement the *Ilgar Mammadov v. Azerbaijan* judgment from the European Court of Human Rights (ECtHR),
 - having regard to the Organisation for Security and Cooperation in Europe Office for Democratic Institutions and Human Rights (OSCE/ODIHR) Needs Assessment Mission report of 2 March 2018 on Azerbaijan’s early presidential election,
 - having regard to Rules 108(4) and 52 of its Rules of Procedure,
 - having regard to the report of the Committee on Foreign Affairs and the position in the form of amendments of the Committee on International Trade (A8-0185/2018),
- A. whereas the Eastern Partnership (EaP) is based on a shared commitment between Armenia, Azerbaijan, Belarus, Georgia, Moldova, Ukraine and the European Union to deepen their relations and adhere to international law and core values, including democracy, the rule of law, good governance, the respect for human rights and fundamental freedoms; whereas the new agreement between the EU and Azerbaijan should advance the interests of the Union in the region as well as promote its values;
- B. whereas Parliament favours a deepening of relations with all Eastern Partnership members in so far as they respect these core values; whereas, within the EaP policy, the attractive longer-term ‘EaP+’ model proposed by Parliament in its resolution of 15 November 2017 on the Eastern Partnership, which could eventually lead to them joining

¹ Texts adopted, P8_TA(2017)0440.

² Texts adopted, P8_TA(2017)0493.

³ Texts adopted, P8_TA(2017)0267.

the customs, energy and digital unions and the Schengen area, among others, should also be open to countries that do not have an association agreement with the EU – such as Azerbaijan – once they are ready for such enhanced commitments and have made significant progress towards implementing mutually agreed reforms;

- C. whereas EU-Azerbaijan relations are currently regulated by the 1999 Partnership and Cooperation Agreement; whereas the EU is Azerbaijan's first trading partner and its biggest export and import market, representing 48,6 % of Azerbaijan's total trade and constituting its largest source of foreign direct investment; whereas Azerbaijan is a strategic energy partner for the EU, allowing for a diversification of the EU's energy sources; whereas, however, Azerbaijan's economy relies on oil and gas for around 90 % of its exports, thus making it vulnerable to external shocks and fluctuations in global oil prices; whereas Azerbaijan is not yet a member of the WTO, giving rise to serious tariff and non-tariff barriers hampering trade and business relations with the EU;
- D. whereas the EU and Azerbaijan underlined in the Joint Declaration of the Eastern Partnership Summit of 24 November 2017 that 'in a differentiated way, the EU will continue to jointly discuss with each of the partner countries, including Armenia, Azerbaijan and Belarus, attractive and realistic options to strengthen mutual trade and encourage investment to reflect common interests, the reformed investment policy as regards investment protection, as well as international trade rules and trade-related international standards, including in the area of intellectual property, and contribute to the modernisation and diversification of economies';
- E. whereas the new agreement is expected to have a positive impact on Azerbaijan in terms of promoting democratic standards, growth and economic development; whereas such prospects are particularly important for Azerbaijan's young people in terms of fostering a new generation of educated Azerbaijani citizens, with a view to upholding our core values and modernising the country; whereas a fully functioning civil society is a vital precondition for securing economic diversification;
- 1. Recommends the following to the Council, the Commission and the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy:

General principles, core values and commitment to conflict resolution

- (a) to ensure that the deepening of relations between the EU and Azerbaijan is conditional on it upholding and respecting the core values and principles of democracy, the rule of law, good governance, respect for human rights and fundamental freedoms, including freedom of expression and association, the rights of minorities, and gender equality in the interest of both parties and in particular their citizens;
- (b) to remind the Azerbaijani authorities of Parliament's position as expressed in its recommendation of 15 November 2017 on the Eastern Partnership, which calls for Azerbaijan to comply with its international commitments and which unambiguously states that no comprehensive agreement will be ratified with a country that does not respect the EU's fundamental values and rights, in particular with regard to the failure to implement decisions by the ECtHR and with respect

to harassment, intimidation and persecution of human rights defenders, NGOs, opposition members, lawyers, journalists and environmental activists; to ensure that all political prisoners and prisoners of conscience in Azerbaijan are released – as was announced by its authorities – before any new EU-Azerbaijan agreement; to ensure that a dedicated suspension mechanism with clear provisions on respect for the rule of law, human rights and fundamental freedoms is included in the new agreement;

- (c) to remind the Azerbaijani authorities of Parliament's position expressed in the same recommendation according to which the ratification of new agreements between the EU and each of the parties to the Nagorno-Karabakh conflict must be made conditional on meaningful commitments to and substantial progress towards the peaceful resolution of the conflict such as maintaining the ceasefire and supporting the implementation of the OSCE 2009 Basic Principles and the efforts of the OSCE Minsk Group Co-Chairs; to reiterate the need to involve both Armenian and Azerbaijani civil society in any negotiation process;
- (d) to ensure that the future agreement with Azerbaijan is ambitious, comprehensive and forward-looking, compatible with the aspirations of both the EU and Azerbaijan on the basis of shared values and interests, and aligned with the 2030 Agenda for Sustainable Development, and that it will deliver tangible and concrete benefits to both sides, not only for large companies, but also taking into account the specific characteristics of SMEs, and for the citizens of the EU and of Azerbaijan;
- (e) to ensure speedy and steady progress in the negotiations, with the objective of signing this new agreement before the next Eastern Partnership summit in 2019, in so far as the abovementioned conditions are fulfilled;
- (f) to actively and clearly communicate about the aims and conditionality of the new agreement and the ongoing negotiation process in order to improve transparency and public awareness, both in Azerbaijan and in the EU, and about the expected opportunities and benefits that would arise from its conclusion, thereby countering all disinformation campaigns;

Political dialogue and regional cooperation

- (g) to provide for regular and in-depth political dialogue in order to encourage strong reforms aimed at bolstering institutions and strengthening the separation of powers between them, in order to make them more democratic and independent, to uphold human rights and media freedom and to develop a regulatory environment in which civil society can operate without undue interference, including in the reform process;
- (h) to establish specific measures aimed at implementing the recommendations by the OSCE/ODHIR and the Council of Europe's Venice Commission with a view to ensuring progress towards inclusive, competitive and transparent elections and referenda that guarantee a free and fair expression of Azerbaijani citizens' views and aspirations;

- (i) to fully support the preliminary conclusions by the OSCE and Council of Europe's election observation mission as regards the early presidential elections on 11 April 2018 according to which the 'election lacked genuine competition' due to the 'restrictive political environment' 'a legal framework that curtails fundamental rights and freedoms', 'an absence of pluralism, including in the media', 'widespread disregard for mandatory procedures, lack of transparency and numerous serious irregularities, such as ballot box stuffing';
- (j) to aim for provisions that enhance cooperation in promoting peace and international justice, and in particular to insist that Azerbaijan adhere to its international obligations, including as a member of the Council of Europe, that it abide by the decisions of the ECtHR; to urge Azerbaijan to sign and ratify the Rome Statute of the International Criminal Court (ICC); to also seek strong cooperation measures in countering the proliferation of weapons of mass destruction, as well as in tackling illicit trade in small arms and light weapons;
- (k) to provide for closer cooperation in foreign, defence and security matters so as to ensure as much convergence as possible, in particular as regards responses to global threats and challenges, including terrorism, conflict prevention, crisis management and regional cooperation, while also taking into account Azerbaijan's diversified foreign policy; to support the signing of a Framework Participation Agreement (FPA) between the EU and Azerbaijan to provide a legal and political basis for cooperation in common security and defence policy (CSDP) missions and operations;
- (l) to ensure that high priority is given to dialogue between Azerbaijan and Armenia and to enhanced EU participation in peacefully solving the Nagorno-Karabakh conflict in line with the OSCE 2009 Basic Principles, and notably with the support of the OSCE Minsk Group Co-Chairs, promoting all initiatives conducive to peace-building such as a observance of the ceasefire by all sides, dialogue at all levels, including high-level talks, curbing hate speech, genuine confidence-building measures, a substantial increase in OSCE international observers and deeper exchanges between Armenian and Azerbaijani civil society, including between religious and cultural figures, in order to prepare Armenian and Azerbaijani societies for peaceful co-existence; to express deep concern at the military build-up and the disproportionate defence-spending in the region;
- (m) to put in place specific provisions to support the authorities' important efforts in aiding the large number of refugees and internally displaced persons, and to support civilians living in conflict areas within Azerbaijan's internationally recognised borders; to insist that the rights of all persons living within the border of Azerbaijan, whether temporarily or permanently, are respected; to contribute in particular to upholding their right to return to their homes and property and to be awarded compensation in line with the rulings of the ECtHR by all parties to the conflict;

The rule of law, respect for human rights and fundamental freedoms

- (n) to provide support for reform of the judiciary aimed at ensuring its impartiality and independence from the executive and at strengthening the rule of law; in

particular, to ensure the independence of legal professionals by removing any undue interference in the work of lawyers, to allow independent practising lawyers to represent clients under the notarised power of attorney and to put an end to the Azerbaijani Bar's arbitrary powers to disbar lawyers and deny admissions of new members;

- (o) to also provide support to develop a strong framework for the protection of human rights, fundamental freedoms and gender equality; to underline the importance of representation of women at all levels of government, including their equal, full and active participation in the prevention and resolution of conflicts and to urge Azerbaijan to sign the Istanbul Convention on preventing and combating violence against women and domestic violence;
- (p) to put in place specific provisions to support Azerbaijan in fighting economic crime, including corruption, money laundering and tax evasion; to promote greater transparency with respect to the beneficial owners of companies and trusts, as well as to large companies' financial activities in terms of profits realised and tax paid; to support investigations into laundering schemes, in particular the 'Laundromat affair' and to set up specific supervision and control mechanisms, such as restricted access to the European banking system for those involved in money laundering and fraud schemes;
- (q) to allow for increased cooperation and to support Azerbaijan in the fight against terrorism, organised crime and cybercrime, and in the prevention of radicalisation and cross-border crime; to work together, in particular, in combating recruitment drives by terrorist organisations;
- (r) to include provisions on the implementation of penal law in Azerbaijan related to the protection of human rights and fundamental freedoms and aimed at ending political prosecutions and abductions, arbitrary travel bans, the targeting of political dissidents, including through defamation, and of independent journalists, human rights defenders, NGO representatives and the most vulnerable members of society, such as members of some minority groups, including the LGBTQI community; to ensure that specific references to these groups are included in the agreement; to reiterate that these practices are unacceptable for any potential partner country of the EU; to set up a reinforced forum for an effective and result-oriented human rights dialogue between the EU and Azerbaijan in consultation with the main international and genuinely independent Azerbaijani NGOs and for which progress should be assessed annually against concrete benchmarks;
- (s) to insist on the adoption of relevant amendments in the law to enable civil society's legitimate activities, the removal of undue restrictions to their registration requirements, operations and access to registration for foreign funding and grants, and to put an end to undue criminal investigations, unnecessary reporting to various government agencies, office raids, freezing of accounts, travel bans and persecution of their leaders;
- (t) to ensure, before the conclusion of the negotiations, that Azerbaijan releases its political prisoners and prisoners of conscience, including, among the most emblematic cases, Ilgar Mammadov, Afgan Mukhtarli, Mehman Huseynov, Ilkin Rustamzada, Seymur Haziyeu, Rashad Ramazanov, Elchin Ismayilli, Giyas

Ibrahimov, Beyram Mammadov, Asif Yusifli and Fuad Gahramanli, that it lifts their travel bans once released, including those of journalist Khadija Ismayilova and lawyer Intigam Aliyev, and that it fully implements the decisions of the ECtHR, notably as regards Ilgar Mammadov; to secure the release and improvement of the situation of these individuals, including their reinstatement, and that of their families via the judiciary and the application of the rule of law and to protect Azerbaijani dissidents in the EU; to condemn the fact that, contrary to the announcements of the Azerbaijani authorities, none of the political prisoners listed above were released, and further individuals were detained for peacefully exercising their constitutional rights, including members of the opposition parties and human rights lawyer Emin Aslan; to demand the immediate release of human rights lawyer Emin Aslan from his administrative detention and that he be fully cleared of the dubious charges of ‘disobedience towards the police’; to ensure that Azerbaijan ends the use of administrative detentions to silence government critics;

- (u) to ensure that Azerbaijan respects the right to freedom of peaceful assembly, that it refrains from restricting this right in ways that are not compatible with its obligations under international law, including the European Convention on Human Rights (ECHR), and that it promptly and effectively investigates all cases of excessive use of force, arbitrary arrest and wrongful detention of peaceful protesters, including in connection with the sanctioned opposition rallies in September 2017 and March 2018, and brings the perpetrators to justice;
- (v) to seek, before the conclusion of the negotiations, a commitment on the part of the Azerbaijani authorities to apply the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and that they will genuinely investigate all cases of mistreatment of political prisoners and prisoners of conscience, notably in the case of the late Mehman Galandarov, who died in custody in Azerbaijan, and of LGBTQI community members, who were harassed and arrested en masse in September 2017;
- (w) to stress the EU’s concern over the current state of press freedom in Azerbaijan, which ranks 163 out of 180 countries in the Reporters Without Borders 2018 World Press Freedom Index; to underline the importance of a free and independent media, both off- and online, and to ensure strengthened EU support, both political and financial, for free and pluralistic media in Azerbaijan, with editorial independence from dominant political and oligarchic groups and in line with EU standards; to ask the authorities to unblock access to the websites of Azadliq, and of three news outlets that have to operate from abroad: Radio Free Europe/Radio Liberty (RFE/RL) Azerbaijan Service, Meydan TV and Azerbaycan Saati;

Trade and economic cooperation

- (x) to include fair and ambitious trade and investment provisions, in so far as is compatible with Azerbaijan’s non-WTO-member status, that are fully in line with and do not undermine EU standards, notably sanitary, phytosanitary, environmental, labour, social, gender balance and non-discrimination standards, and that ensure the recognition and protection of intellectual property rights,

including geographical indications, notably for wines and spirits; to support Azerbaijan in its accession process to the WTO;

- (y) to put in place robust measures that would ensure rapid progress towards improving the business and investment climate in Azerbaijan, in particular as regards taxation and the management of public finances and public procurement – with reference to the rules set out in the WTO Agreement on Government Procurement – in order to allow for more transparency, better governance and accountability, equal access and fair competition;

Energy and other areas of cooperation

- (z) to allow for increased cooperation in the energy sector in line with the EU's and Azerbaijan's strategic energy partnership and Azerbaijan's track record as a reliable energy supplier, while nevertheless taking into account the suspension and subsequent withdrawal of Azerbaijan from the Extractive Industries Transparency Initiative (EITI) in March 2017 due to 'the changes in NGO legislature in Azerbaijan' which did not comply with the group's civil society requirements; to push for Azerbaijan to realign itself with these requirements in order to resume its activities in the EITI;
- (aa) to also support the diversification of Azerbaijan's energy mix, promoting non-carbon energy sources and preparing for the post-carbon age by reducing dependence on fossil fuels and promoting the use of renewables, also in the interest of energy security; to support the completion of the Southern Gas Corridor after addressing the important concerns related to climate change and to the impact on local communities in the decision by the European Investment Bank on the funding of the Trans-Anatolian Gas Pipeline (TANAP);
- (ab) to put in place ambitious provisions on environmental protection and climate change reduction as part of the new agreement, in line with the Union's climate change agenda and the commitments of both parties to the Paris agreement, including through the mainstreaming of these policies as part of other sector policies;
- (ac) to provide new prospects for enhanced cooperation in non-energy-related areas, in particular in the fields of education, health, transport, connectivity and tourism, in order to diversify the Azerbaijani economy, boost job creation, modernise the industrial and service sectors, and stimulate sustainable development in business and research; to allow for more people-to-people exchanges, both at European level and in regional exchanges with Armenian NGOs;
- (ad) to enhance cooperation with regard to youth and student exchanges by strengthening existing and already successful programmes such as the 'Young European Neighbours' network and by developing new scholarship programmes and training courses, as well as facilitating participation in programmes in the field of higher education, in particular the ERASMUS+ programme, which will promote the development of skills, including language skills, and enable Azerbaijani citizens to become acquainted with the EU and its values;

- (ae) to also promote economic growth via transport and connectivity; to extend the Trans-European Transport Network (TEN-T) to Azerbaijan;
- (af) in line with the Joint Declaration of the Eastern Partnership Summit of 2017, to ‘consider in due course, if conditions allow, the opening of a Visa Liberalisation Dialogue with Armenia and Azerbaijan respectively, provided that conditions for a well-managed and secure mobility are in place, including the effective implementation of Visa Facilitation and Readmission Agreements between the Parties’;

Institutional provisions

- (ag) to ensure that the agreement has a robust parliamentary dimension, strengthening the current provisions and mechanisms of cooperation to enable increased input into and scrutiny of its implementation, notably through the establishment of an upgraded interparliamentary structure to allow for regular and constructive dialogue between the European Parliament and the parliament of Azerbaijan on all aspects of our relations, including the implementation of agreements;
 - (ah) to conduct the negotiations as transparently as possible; to inform Parliament at all stages of the negotiations in line with Article 218(10) TFEU, according to which the ‘European Parliament shall be immediately and fully informed at all stages of the procedure’; to also provide Parliament with the negotiating texts and minutes of each negotiating round; to remind the Council that, due to the infringement of Article 218(10) TFEU in the past, the Court of Justice of the European Union has already annulled Council decisions on the signing and conclusion of several agreements; to bear in mind that Parliament's consent on new agreements may also be withheld in the future, until the Council fulfils its legal obligations;
 - (ai) to ensure that the new agreement is not the subject of provisional application until after Parliament has given its consent; to emphasise that Parliament's consent on new agreements and other future agreements may be withheld should this be ignored;
2. Instructs its President to forward this recommendation to the Council, the Commission and the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy and to the President, Government and Parliament of the Republic of Azerbaijan.