

## **The international making of “authoritarianism”: the Council of Europe and the question of membership of Azerbaijan and Belarus**

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Democracy and authoritarianism are usually defined from the perspective of national power structures and political institutions. Authoritarianism is most often seen as a political regime somewhere along the line between democracy and totalitarianism. Since it is widely recognised that totalitarianisms are almost extinct, authoritarianism is in fact opposed to democracy (both in academic and non-academic debate), and has become a synonym of a “non-democratic regime”. One of our preferred definitions, yet making reference exclusively to the internal power structures, is that of Guy Hermet, presenting authoritarianism as a generic term referring to a large spectrum of political situations where “state powers are concentrated in the hands of individuals or groups whose main aim is to withdraw their political fate from the hazards of competition that they would not control entirely<sup>1</sup>”.

However, any attempt to define authoritarianism – also due to the presumed universalism of such definitions aspiring to classify under one label very heterogeneous local political situations – may be criticised as having overlooked one or another of its important characteristics. When applied to concrete contexts, not only the borders between the categories of democracy and non-democracy are uncertain (where does the “mild authoritarianism” end and “imperfect democracy” begin?), but a large spectrum of actors competing in producing the definitions and attributing the labels furthermore contribute to what we may call the constitutive blurriness of the grey zone between democracy and authoritarianism. Unsurprisingly, not only academics take part in this symbolic struggle for the definition, but political stakes, logics and effects inherent to defining a political regime reinforce the role of political actors in this process – both on the national and international level.

The studies of international aspects of authoritarianism most often look into “transition” to democracy<sup>2</sup> and the international democracy-making<sup>3</sup>, international cooperation between authoritarian regimes

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<sup>1</sup> Hermet Guy, « L'autoritarisme » in Grawitz Madeleine, Leca Jean (ed.), *Traité de science politique. Vol. 2 : Les régimes politiques contemporains*, Paris, PUF, 1985, p. 271. For a more detailed discussion about non-democratic regimes see, e.g., Linz Juan, *Totalitarian and authoritarian regimes*, Boulder, Lynne Rienner, 2000.

<sup>2</sup> See e.g. Schmitter Philippe, O'Donnell Guillermo, Whitehead Laurence (ed.), *Transitions from Authoritarian Rule: Prospects for Democracy*, Baltimore, The Johns Hopkins University Press, 1986; Laurence Whitehead (ed.), *The International Dimension of Democratization. Europe and the Americas*, Oxford, Oxford University Press, 1996. This approach has been criticised for its teleological and normative vision, including by its former proponents. See: Carothers Thomas, « The End of Transition Paradigm », *Journal of Democracy*, Vol. 13, N°1, 2002, p. 5-21, Dobry Michel, « Les voies incertaines de la transitologie : choix stratégiques, séquences historiques, bifurcations et processus de path dependence », *Revue française de science politique*, Vol. 50, N°4-5, 2000, p. 585-614; Guilhot Nicolas, « La science politique et la transition démocratique à l'Est », *Futur Antérieur*, N°27, 1995, p. 139-152.

and, more recently, transnational diffusion of authoritarian practices and tools of external influences of authoritarian regimes<sup>4</sup>, in a way echoing in reverse the paradigm of “democratisation”. In this paper we adopt a different perspective on the international dimensions of authoritarianism: we argue that the attribution of the status of “democracy” and “authoritarianism” is to a large extent the result of international symbolic struggles and brokering.

On the European continent, the Council of Europe (CoE) is one of the main arenas where the setting of boundaries between authoritarianism and democracy is taking place. Although it may appear that this boundary is relatively immutable and based on a set of clear technical criteria (in the field of democracy, human rights and the rule of law), in practice, the participating actors have a large margin for interpretation of the standards and for their appreciation in concrete national contexts. The attribution of the status and ultimately the “making of democracies and authoritarianisms” can thus be presented as a result of multiple adjustments that take place through interactions between national and international actors. Drawing on the example of different status in the Council of Europe of two authoritarian states, Belarus and Azerbaijan, we propose to discuss the attribution of the status of democracy/authoritarianism in a sociological perspective. The present paper relies on observations<sup>5</sup>, three semi-directive interviews with former CoE staff members, as well as on informal discussions with current members of the secretariat and members of the Parliamentary Assembly of the Council of Europe. The paper also draws on public documents adopted by CoE bodies and on archive material.

## **1. Council of Europe membership: certificate of liberal democracy and tool of “democratisation”**

The Council of Europe was founded in 1949 by ten western-European states<sup>6</sup> who signed the Treaty of London in order to achieve a “closer unity between all like-minded countries of Europe”. This project of political integration on the European continent (as opposed to the economic path chosen in the Treaty of Paris and the Treaty of Rome) defined the “like-mindedness” of its participants by “their devotion to the spiritual and moral values which are the common heritage of their peoples and the true source of individual freedom, political liberty and the rule of law, principles which form the basis of all

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<sup>3</sup> A critical approach to this professional international sector of democracy-making was notably proposed by Nicolas Guilhot. See: Guilhot Nicolas, *The Democracy Makers: Human Rights and International Order*, New York, Columbia University Press, 2005.

<sup>4</sup> See e.g.: Obydenkova Anastassia and Libman Alexander (eds), *Autocratic and Democratic External Influences in Post-Soviet Eurasia*, Farnham, Ashgate, 2015; Vanderhill Rachel, *Promoting authoritarianism abroad*, Boulder, Lynne Rienner, 2013.

<sup>5</sup> Both authors have worked for the Council of Europe: since 2011, Maria Bigday is Head of secretariat of the ALDE group in Parliamentary Assembly of the Council of Europe (PACE). Yauheni Kryzhanouski was advisor to the President of PACE in 2014-2016, he had also worked for different CoE bodies as an expert.

<sup>6</sup> Belgium, Denmark, France, Ireland, Italy, Luxembourg, the Netherlands, Norway, Sweden and the United Kingdom.

genuine democracy<sup>7</sup>". Matters of defence were explicitly excluded from the competence of CoE (Art. 1.d. of the Statute), *de facto* leaving the international cooperation in security matters to another western organisation founded a month earlier, NATO. CoE membership quickly expanded: in 1950, Western Germany and Turkey (as well as Iceland), joined this club of democratic countries. By 1989, all western-European (non-communist) states<sup>8</sup> with the exception of Andorra and Monaco (who joined in 1994 and 2004) were part of CoE.

Proclaiming the objective of the post-war reconciliation on the European continent, CoE was nonetheless a product and a symbolic instrument of the Cold War, reproducing the opposition between liberal and popular democracy, between politically and socially focused paradigms of human rights. As Mikael Rask Madsen pointed out in relation to the European Convention of Human Rights (ECHR), the key instrument of CoE, "The initial launch of the ECHR system was in many ways a Cold War endeavor with clear geo-political connotations, and only later was it turned into the sophisticated legal system we know today<sup>9</sup>". Embedded in this Cold War logic, CoE membership progressively became a certificate of belonging to the "free world" as opposed to dictatorships. Portugal and Spain were accepted to this democratic club in 1976 and 1977, only after they got free from Salazar and Franco. Greece withdrew from CoE in 1969, after the Colonels' coup, just before the Committee of Ministers<sup>10</sup> was supposed to vote on its membership suspension (Greece was readmitted in 1974 after the end of the Colonels' regime). Although the Committee of Ministers decided not to suspend the membership of Turkey after the 1980 military coup, the credentials of the Turkish delegation to one of CoE's main bodies, Parliamentary Assembly (PACE), were annulled in 1981 and were re-established in 1984 only after the military handed the power back to the civilian government.

On 6 July 1989, Mikhail Gorbachev addressed PACE with a speech "Europe as a common home<sup>11</sup>", which many considered as a turning point in the relations between CoE and the communist world (interview with H., retired CoE official, July 2016). The end of the Cold War spurred the spectacular expansion of the borders of the "free world". In this new context, CoE membership became a sign of democratisation (in progress more than achieved), a tool of the "democratic transition". The transition

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<sup>7</sup> *Statute of the Council of Europe*, London, 5 May 1949: <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/0900001680306052>

<sup>8</sup> By communist countries we refer to the states of the Warsaw Pact, Yugoslavia and Albania.

<sup>9</sup> Madsen Mikael Rask, "From Cold War Instrument to Supreme European Court: The European Court of Human Rights at the Crossroads of International and National Law and Politics", *Law & Social Inquiry*, Vol. 32, No 1, 2007, p. 138. (p. 137–159). See also: Madsen Mikael Rask, « 'La Cour qui venait du froid.' Les droits de l'homme dans la genèse de l'Europe d'après-guerre », *Critique internationale*, vol. 1, No 26, 2005, p. 133-146 ; Madsen Mikael Rask, « La fabrique des traités européens. Une analyse de la genèse et évolution de la charte des droits fondamentaux », *Revue française de science politique*, Vol. 60, No 2, 2010, p. 271-294.

<sup>10</sup> Executive statutory body of CoE, Committee of Ministers brings together Ministers for Foreign Affairs of the member states or their representatives. In practice, the Permanent representatives (Ministers' deputies) of member states to CoE (with the status of Ambassadors) take part in regular meetings; ministerial sessions with the participation of Ministers are organised annually.

<sup>11</sup> Available on the website of the Ron Rosenzweig Center for History and New Media : [https://chnm.gmu.edu/1989/archive/files/gorbachev-speech-7-6-89\\_e3ccb87237.pdf](https://chnm.gmu.edu/1989/archive/files/gorbachev-speech-7-6-89_e3ccb87237.pdf)

paradigm, tangling academic conceptualisation and political logics<sup>12</sup>, gave a new impetus to the CoE activities and was absorbed into the organisational culture. Regardless of the numerous criticisms, the transition paradigm has remained a guiding principle enshrined in the institutional structures and professional practices of CoE.

Starting from 1990, CoE actively engaged in the burgeoning field of international democracy-making. Between 1990 and 2003, 21 states formerly belonging to the communist bloc, including Russia, joined the organisation, doubling its membership. The aspiration of the post-communist elites to “gain acceptance as a nascent democracy<sup>13</sup>” and the triumph of the democratisation perspective among the western diplomacies and political elites (including the members of PACE who gave the green light to each new membership) were certainly behind this massive enlargement, as were concerns of CoE officials contemplating the rise of potential competitors in the field of pan-European democracy, human rights and the rule of law, namely the CSCE-OSCE with its “Human dimension” and the Commonwealth of Independent States (CIS) with its Convention on Human Rights adopted in Minsk in 1995<sup>14</sup>. Today, CoE counts 47 member states; the only European state (of those recognised as such by all parties) outside the organisation is Belarus.

It was widely understood that most, if not all, new members did not fully comply with the CoE standards. Nevertheless, after long debates in PACE, the choice was made to accept “new” (and imperfect) democracies on the basis of specific commitments their governments undertook in the fields of democracy, human rights and the rule of law. These specific commitments were enumerated in the accession documents for each new state, including the Opinion on the application adopted by PACE. For example, when Lithuania became one of the first post-Soviet countries to join CoE in 1993, the following specific commitments were put forward: to sign and ratify the European Convention on Human Rights, to recognise the right of individual application to the European Commission of Human Rights and the compulsory jurisdiction of the European Court of Human Rights (ECtHR) and to sign and ratify the European Charter of Local Self-Government<sup>15</sup>. The list of specific commitments could vary from one country to another, progressively gaining in length, structure and detail. For example, in 2002, when PACE considered the application of the then Federal Republic of Yugoslavia, it put forward no less than 31 specific commitments regarding the ratification and implementation of the

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<sup>12</sup> Guilhot Nicolas, « Les professionnels de la démocratie. Logiques militantes et logiques savantes dans le nouvel internationalisme américain », *Actes de la recherche en sciences sociales*, N°139, 2001, p. 53-65 ; see also Guilhot Nicolas, *The Democracy Makers: Human Rights and International Order*, op. cit.

<sup>13</sup> Jordan Pamela, “Russia 's Accession to the Council of Europe and Compliance with European Human Rights Norms”, *Demokratizatsiya*, Vol. 11, No 2, p. 285. (281-296)

<sup>14</sup> The will to avoid the dilution of standards, namely in the field of human rights, in case the aspiring democracies would prefer these new mechanisms to those of CoE, was quoted as one of the motives behind the rapid enlargement. See Drzemczewski Andrew, “Reflections on a remarkable period of eleven years: 1986 to 1997” in Delas Olivier and Leuprecht Michaela (eds), *Liber Amicorum Peter Leuprecht*, Brussels, Bruylant, 2012, p. 105-115.

<sup>15</sup> Opinion 168 (1993), “Application by the Republic of Lithuania for membership of the Council of Europe”, adopted by PACE on 11 May 1993: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=13907&lang=en>

Dayton Peace Agreements, CoE conventions, domestic legislation, human rights, functioning of the institutions, Kosovo and cooperation with CoE monitoring bodies<sup>16</sup>. The accession of the Russian Federation in 1996 prompted particularly vivid debates, but finally the fact that Russian authorities accepted to let PACE observers to monitor the situation in Chechnya (in the context of the First Chechen war, 1994-1996) played an important role in PACE giving its green light to the accession (interview with H., July 2016).

In 1993, following a motion moved by Tarja Halonen (then PACE member who would become President of Finland in 2000-2012), a specific monitoring mechanism was established in PACE to scrutinise *ex post* the compliance of the new member states with the commitments they undertook while joining the organisation<sup>17</sup>. First, this work was conducted in the Political Affairs Committee and the Committee on Legal Affairs and Human Rights, but in 1997, a special Committee on the Honouring of Obligations and Commitments by Member States (Monitoring Committee) was established to oversee this process. Hence, all states that joined CoE after 1993 have to go through the systematic reporting until the Assembly decides that their commitments have been met. The slower than expected pace of the progress in many countries prompted the establishment of the “post-monitoring dialogue” (applied since 2000) – an additional stage of PACE scrutiny for countries getting out of the monitoring procedure, but not yet “fully compliant” with the obligations<sup>18</sup>. It is to be noted, that the monitoring procedure against an “old” member state has been launched only once so far, against Turkey in 1996 (under post-monitoring since 2004). After 23 years of existence, the monitoring or post-monitoring procedure was fully concluded in relation to only seven post-communist countries; eleven procedures regarding post-communist countries (eight monitoring and three post-monitoring) are still on-going.

In 1994, the Committee of Ministers adopted, in a ministerial session, the Declaration on Compliance with Commitments Accepted by Member States of the Council of Europe. Considered by some at the time as “no more than an artificial mechanism, a mere ‘fig leaf’, created in order to justify – retroactively – the precipitated decision to invite countries with suspect democratic credentials to join

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<sup>16</sup> Opinion 239 (2002), “Federal Republic of Yugoslavia’s application for membership of the Council of Europe”, adopted by PACE on 24 September 2002: <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17039&lang=en>

<sup>17</sup> Order 488 (1993), “Honouring of commitments entered into by new member states”, adopted by PACE on 29 June 1993: <http://www.assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=13691&lang=en>

<sup>18</sup> On PACE and CoE monitoring mechanisms see: Lawson Rick, *How to Maintain and Improve Mutual Trust amongst EU Member States in Police and Judicial Cooperation in Criminal Matters? Lessons from the Functioning of Monitoring Mechanisms in the Council of Europe*, Leiden, WODC, the Research and Documentation Centre of the Ministry of Justice of the Netherlands, 2009. It should be noted, however, that the monitoring mechanisms of CoE constantly undergo changes and adjustments, therefore any publications on the matter rapidly and unavoidably become out-dated. Updated factual information on the PACE monitoring procedure can be found in the information document prepared by the secretariat of the respective committee: AS/Mon/Inf(2015)14rev: “The monitoring procedure of the Parliamentary Assembly”, 5 October 2015, available at: [http://website-pace.net/documents/19887/259543/Role\\_E.pdf/980181e7-bdb1-4b0e-ab1c-799bd2a9c560](http://website-pace.net/documents/19887/259543/Role_E.pdf/980181e7-bdb1-4b0e-ab1c-799bd2a9c560).

the Council of Europe<sup>19</sup>, this document nevertheless paved the way for the establishment of the Committee of Ministers monitoring procedure, and contributed to the reflection on CoE standards.

Despite of the *de facto* hierarchy of more and less “compliant” members established by CoE *ex post* monitoring mechanisms and despite on-going debates on the pertinence of having accepted post-Soviet countries<sup>20</sup>, CoE membership theoretically represents the borderline between democracies (including imperfect ones) and non-democracies.

## 2. Azerbaijan and Belarus in the Council of Europe: difference in the status

Following this logic, the qualitative difference in “the record of democracy, human rights and the rule of law” between European states that are granted and refused CoE membership should be clearly visible. Yet, in practice, this presumption is far from being unailing. The cases of Azerbaijan and Belarus are particularly exemplary in this respect.

Belarus applied for CoE membership in 1993, a year after its parliament was granted a special guest status with PACE (status introduced in 1989 to bring parliamentarians from communist countries closer to CoE; the first four “special guests” were Hungary, Poland, Yugoslavia and the USSR). In 1996, a referendum legitimised constitutional amendments that laid the foundations for a superpresidential republic. Following these amendments the parliament elected in 1995 was dissolved, and a new parliamentary body was formed from MPs who did not oppose to the constitutional change. Dubbed constitutional *coup d’Etat*, this referendum marked the authoritarian turn of the Belarusian political regime<sup>21</sup>. Consequently, following a unanimously adopted PACE resolution of 1996<sup>22</sup>, in 1997 the Bureau of the Assembly suspended the special guest status of the Belarusian parliament; in 1998, the membership application of Belarus was also suspended. This suspension has been confirmed on several occasions. It is to be noted, however, that all contacts have not been cut, and CoE involvement with Belarusian authorities, extra-parliamentary political

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<sup>19</sup> Drzemczewski Andrew, “Reflections on a remarkable period of eleven years: 1986 to 1997”, *op. cit.*, p. 113.

<sup>20</sup> According to Andrew Drzemczewski, retired CoE official (at the end of his long career he served as the Head of secretariat of PACE Committee on Human Rights and Legal Affairs), the Deputy Secretary General of CoE Peter Leuprecht quit the organisation in 1997, before the end of his mandate, over the decision to grant membership to the Russian Federation and consequent watering down of CoE standards. *Ibid.*, p. 115. At the same time, P., another former CoE staff member, nuanced the idea by referring to the fact that Turkey, also hardly a full-fledged democracy, had been CoE member since 1950 (interview, July 2016). According to H., retired CoE official, the enlargement of CoE contributed to institutionalise and render more explicit the standards of the organisation, at the same time creating more space for non-compliance (interview, July 2016).

<sup>21</sup> On this authoritarian turn see e.g.: Karbalevich Valerii “The Belarusian Model of Transformation: Alaksandr Lukashenka’s Regime and the Nostalgia for the Soviet Past. An Attempt at Analysis”, *International Journal of Sociology*, n°4, 2001-2002, p. 7-38; Silitski Vitali, “Preempting Democracy: the Case of Belarus”, *Journal of Democracy*, n°4, 2005, p. 83-97; Goujon Alexandra, *Révolutions politiques et identitaires en Ukraine et en Biélorussie (1988-2008)*, Paris, Belin, 2009; Goujon Alexandra, “Le ‘loukachisme’ ou le populisme autoritaire en Biélorussie”, *Politique et Sociétés*, n°2, 2002, p. 29-50; Lallemand Jean-Charles, Symaniec Virginie, *Biélorussie, mécanique d’une dictature*, Paris, Les petits matins, 2007.

<sup>22</sup> Resolution 1102 (1996), “Situation in Belarus”, adopted by the Standing Committee, acting on behalf of PACE, on 7 November 1996: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=16513&lang=en>

opposition and “civil society” continued: today Belarus is a party to ten CoE conventions (mostly related to cultural and social cooperation, as well as fight against corruption and trafficking in human beings<sup>23</sup>) and to several CoE instruments (such as the Venice Commission, the Group of States Against Corruption and the Co-operation Group to Combat Drug Abuse and Illicit Trafficking in Drugs). PACE regularly prepares reports on the situation in Belarus and observed a referendum (1996) as well as parliamentary (in 2000) and presidential (2001 and 2015) elections; a mission is set to observe the upcoming 2016 parliamentary elections.

Belarus thus remains the only fully recognised European state whose membership to CoE has been refused; the only formal status it enjoys is the suspended special guest in PACE. Even though the special guest status and the membership application were suspended due to the non-democratic nature of the constitutional referendum of 1996, the conditions put forward by PACE to lift the suspension have transformed overtime. Currently, two conditions are put forward to lift the suspension: introduction of a moratorium on the execution of the death penalty and “substantial, tangible and verifiable progress in terms of respect for the democratic values and principles upheld by the Council of Europe<sup>24</sup>”. In comparison, in 2000, PACE urged the authorities “to undertake the following, the positive response to which would be taken account of in deciding to review the current suspension of special guest status”:

14.1. to declare an immediate moratorium on executions and set in motion the legislative procedure for the abolition of capital punishment;

14.2. to release those arrested or convicted for politically motivated reasons, to clarify what has happened to the people who have disappeared and to put an end to political persecution;

14.3. to ensure full respect for freedom of expression, assembly and association, in particular by guaranteeing the opposition fair access to state-controlled radio and television and allowing free enjoyment of the right to hold demonstrations and strikes;

14.4. to take measures to establish the independence of the judiciary and the Bar, and to cease the harassment of lawyers;

14.5. to co-operate in good faith with the opposition and international organisations with a view to establishing a democratic and pluralistic society

14.6. to draft an electoral law which enables the holding of free and fair elections and, at the same time, to do their utmost to strengthen the powers of Parliament<sup>25</sup>.

This change in the conditions for lifting the suspension of the special guest status is not, however, an indicator of the substantial evolution of the domestic situation: all these shortcomings were mentioned again in the 2012 report that gave way to the last-to-date resolution on the situation in Belarus. Moreover, the death penalty abolition emerged as a condition in 2000 only; the 1996 resolution

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<sup>23</sup> See the list here on the CoE Treaty Office Website: [http://www.coe.int/en/web/conventions/search-on-states/-conventions/treaty/country/BEA/RATIFIED?p\\_auth=DqI7H2RH](http://www.coe.int/en/web/conventions/search-on-states/-conventions/treaty/country/BEA/RATIFIED?p_auth=DqI7H2RH)

<sup>24</sup> Resolution 1857 (2012), “The situation in Belarus”, adopted by PACE on 25 January 2012: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=18062&lang=en>

<sup>25</sup> Recommendation 1441 (2000), “Situation in Belarus”, adopted by PACE on 26 January 2000: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=16771&lang=en>

preceding the suspension of the special guest status and the debate on it having mentioned only the issues related to the separation of powers, freedom of media and repressions against the opposition<sup>26</sup>.

Azerbaijan applied for CoE membership in 1996, and the same year its parliament was granted the special guest status in PACE. In 2000, PACE adopted an opinion<sup>27</sup> recommending the Committee of Ministers to grant full membership to Azerbaijan, and the country became the 43<sup>rd</sup> member state of CoE in 2001, simultaneously with Armenia. The 2000 opinion of PACE on the application may appear somewhat contradictory. On the one hand, the Assembly considered “that Azerbaijan is moving towards a democratic, pluralist society in which human rights and the rule of law are respected, and [...] is able and willing to continue the democratic reforms initiated in order to bring its entire legislation and practice into conformity with the principles and standards of the Council of Europe”. The fact that the death penalty had been abolished in 1998 was particularly welcomed. On the other hand, the same document identified several serious shortcomings, including the allegations of presence of political prisoners. The list of specific commitments Azerbaijan had to accept as member contained no less than 29 points in the areas of CoE conventions, domestic law, human rights and fundamental freedoms, monitoring of commitments and the resolution of the Nagorno-Karabakh conflict. This last point seemed to play an important role in the decision to grant the membership to both Azerbaijan and Armenia, somewhat compensating for the overall quite low (in comparison to other members) record in terms of key CoE requirements (democracy, human rights and the rule of law), as confirmed in an interview with P., former PACE officer (July 2016). Moreover, PACE opinion specifically referred to this argument, stating that “The Parliamentary Assembly considers that the accession of both Azerbaijan and Armenia could help to establish the climate of trust needed for a solution to the Nagorno-Karabakh conflict” and took note “of the letter from the President of Azerbaijan reiterating his country’s commitment to a peaceful settlement of the Nagorno-Karabakh conflict and stressing that Azerbaijan’s accession to the Council of Europe would be a major contribution to the negotiations process and stability in the region.”

The opinion reflected the difficult debate in PACE, where serious doubts were cast as to the pertinence of the timing of the accession, especially taking note that no elections considered “free and fair” had yet been held in Azerbaijan, and the issue of political prisoners had been unresolved. On the other side of the balance were mentioned notably the hopes to move forward with the resolution of the Nagorno-Karabakh conflict and the need to put the state of democratic development in the context of “a country that has emerged from seventy years of totalitarian darkness, after being a Soviet republic”, as picturesquely put by the rapporteur, French parliamentarian Jacques Baumel. In the end, the

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<sup>26</sup> Resolution 1102 (1996), “Situation in Belarus”, op. cit.; AS/Per (1996) PV4, “Standing Committee Draft Minutes of the Meeting Held in Strasbourg on 7 November 1996”, Strasbourg, Parliamentary Assembly of the Council of Europe, p. 6-7 (PACE archives).

<sup>27</sup> Opinion 222 (2000), “Azerbaijan’s application for membership of the Council of Europe”, adopted by PACE on 28 June 2000: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=16816&lang=en>



debate and the mechanism of amendments allowed to find middle ground boosting the list of requirements addressed to the authorities of Azerbaijan. The document was adopted by 120 votes in favour, one against and five abstentions<sup>28</sup>.

The accession of Azerbaijan and Armenia was also conditioned by a country-specific monitoring procedure conducted by the Committee of Ministers<sup>29</sup>. A series of *ad hoc* visits and other activities concerning the situation of political prisoners were carried out; a Joint Working Group on Human Rights Issues was established in 2014, bringing together representatives of CoE, Azerbaijani authorities and civil society to draft the lists of persons convicted on political grounds who should be pardoned. In an unprecedented move, on 7 October 2015, the Secretary General of CoE discontinued this practice due to lack of progress.

In addition, the Committee of Ministers currently supervises the execution of 162 ECtHR judgements against Azerbaijan, including 61 under enhanced supervision (concerning serious cases). One of these cases received particular publicity after the ECtHR ruled in May 2014 that the actual purpose of the detention of Azerbaijani opposition politician Ilgar Mammadov “was to silence or punish the applicant for criticising the Government and attempting to disseminate what he believed was the true information that the Government were trying to hide<sup>30</sup>”. Following this judgement, the Committee of Ministers have repeatedly called on the Azerbaijani authorities to immediately release Mr Mammadov, but these calls remained unheard. Many other human rights defenders, journalists and opposition activists have been sentenced on what seems to be political grounds.

Prior to the November 2015 parliamentary elections, CoE Commissioner for Human Rights Nils Muižnieks referred to Azerbaijan as to “an area of darkness”, mentioning widespread electoral fraud and irregularities confirmed by the ECtHR<sup>31</sup>, as well as a crackdown on civil society. “Either Azerbaijan’s human rights defenders are all thieves, tax evaders and spies, or something is seriously wrong with its political and judicial system. I tend to believe the latter is true”, concluded the

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<sup>28</sup> “2000 Ordinary Session. Official Report. Twenty-first Sitting. Wednesday 28 June at 3 p.m.”, in *2000 Ordinary Session (Third part) 26-30 June 2000. Official Report of Debates*, Vol.III, sittings 17 to 24, Strasbourg, Parliamentary Assembly of the Council of Europe, p. 756-786 (PACE archives).

<sup>29</sup> On the monitoring by the Committee of Ministers see: Drzemczewski Andrew, “Core Monitoring Mechanisms and Related Activities” in Schmahl Stefanie and Breuer Marten (eds), *The Council of Europe: Its Law and Policies*, manuscript, to be published in 2017; DPA/Inf(2012)03, “Overview of the monitoring procedures under the responsibility of the Committee of Ministers”, Council of Europe, 22 March 2012.

<sup>30</sup> §143, Case of Ilgar Mammadov v. Azerbaijan (application no. 15172/13), Judgement of the ECtHR, 22 May 2014: <http://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-144124%22%7D>

<sup>31</sup> In the case *Gahramanli and Others v. Azerbaijan* (application no. 36503/11). See: “System of electoral administration in Azerbaijan is not independent; reform should be encouraged”, Press release of the ECtHR, 8 October 2015: <http://hudoc.echr.coe.int/app/conversion/pdf?library=ECHR&id=003-5193293-6428998&filename=Judgment%20Gahramanli%20and%20Others%20v.%20Azerbaijan%20-%20system%20of%20electoral%20administration.pdf%20>

Commissioner<sup>32</sup>. Since the beginning of his mandate in April 2012, the Commissioner and his office published 18 critical statements concerning Azerbaijan.

After 15 years of membership, Azerbaijan is still under the PACE monitoring procedure. The country is also assessed by other PACE committees, regarding particular issues. Since the accession, apart from election observation reports, PACE adopted resolutions and recommendations based on 16 reports centrally or exclusively focusing on the functioning of democracy in Azerbaijan, including four reports specifically treating the problem of political prisoners in the country<sup>33</sup>. In comparison to other “new democracies” who joined CoE in the same period (1999-2002), this number appears quite high: eleven reports were prepared on Armenia<sup>34</sup>, eight on Bosnia and Herzegovina (excluding one on the consequences of the Balkan wars), and seven on Georgia (excluding five reports on the Georgian-Russian war of 2008). The reports on Azerbaijan contain serious allegations and criticism as to the situation of democracy, human rights and the rule of law.

This criticism is also echoed in informal discussions among CoE staff and PACE members. A former PACE staff member characterised Azerbaijan’s membership to CoE as “a mystery” (interview with P., July 2016), another suggested that the country would probably not be accepted as a member today (interview with H., July 2016). It is often suggested that Azerbaijan is not more democratic than Belarus. If we compare the concerns expressed in PACE reports on Azerbaijan and Belarus, we find that they are quite similar. For example, in the last-to-date resolutions on Azerbaijan (2015)<sup>35</sup> and Belarus (2012)<sup>36</sup>, PACE expressed concerns over the following in both cases:

- Lack of political pluralism (rights of the opposition);
- Serious shortcomings in the conduct of elections (both in law and in practice, lack of transparency and independence of electoral committees);
- Politically motivated prosecution and imprisonment of dissidents;
- Violations of the freedom of association (crackdown on civil society, including through the politically motivated prosecution and excessively strict NGO legislation);
- Violation of the freedom of expression (lack of independence of media, persecution of dissenting media);
- Shutting down of OSCE representations (in Minsk and in Baku).

The areas of concern that were not common included, for Azerbaijan, the lack of separation of powers (predominant role of the President and of the executive) and the poor record of implementation of the

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<sup>32</sup> Muižnieks Nils, “Azerbaijan: an area of darkness”, *Politico*, 28 October 2015, available at the CoE website: <http://www.coe.int/en/web/commissioner/-/azerbaijan-an-area-of-darkness>

<sup>33</sup> To this list we could add four reports related to the Nagorno-Karabakh conflict and two reports on refugees in the Caucasus.

<sup>34</sup> In addition to two reports on refugees in the Caucasus and three related to the Nagorno-Karabakh conflict.

<sup>35</sup> Resolution 2062 (2015), “The functioning of democratic institutions in Azerbaijan”, adopted by PACE on 23 June 2015: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=21953&lang=en>

<sup>36</sup> Resolution 1857 (2012), “The situation in Belarus”, adopted by PACE on 25 January 2012: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=18062&lang=en>

ECtHR judgements. While the latter could not be applied to Belarus since it is not part of the jurisdiction of the Strasbourg court, the former point had been regularly evoked in previous texts and was probably seen as something obvious. Two additional areas of concern were mentioned for Belarus: violations of the freedom of assembly (crackdown on protest rallies) and the use of the death penalty. Concerning the first point, the freedom of assembly had been regularly mentioned in the previous resolutions on Azerbaijan (including in 2013)<sup>37</sup>.

These observations lead us to the following questions regarding the border between democracy and authoritarianism constructed by CoE. First, if we rely on the comparison between Azerbaijan and Belarus, it looks like the only qualitative difference between the state of democracy in the two countries would be the death penalty – still applied in Belarus and abolished in Azerbaijan. In the CoE practice, the application of the death penalty could then stand for a separation line between imperfect democracy and authoritarianism – quite a surprising assumption, especially considering that Protocol 6 to the ECHR concerning the Abolition of the Death Penalty entered into force only in 1985, with most ratifications occurring after 1985, and that the reference to the death penalty moratorium as a requirement for the special guest status of Belarus appeared only in 2000 (as mentioned before, this status had been suspended due to other concerns).

Second, it is quite interesting to note that similar criticisms in the two cases may be expressed through different, more or less disqualifying, terms and lead to quite different conclusions. For example, while the 2012 PACE resolution on Belarus openly speaks about “political prisoners”, the 2015 resolution on Azerbaijan systematically avoids the use of this term, replacing it with such formulae as “the arbitrary application of criminal legislation to limit freedom of expression”, “criminal prosecutions against NGO leaders, journalists, lawyers and others who express critical opinions, based on alleged charges in relation to their work” or “politically motivated prosecutions”. Regarding the conclusions, the resolution on Belarus calls to “put on hold [PACE] activities involving high-level contacts with the Belarusian authorities” and “not to lift the suspension of the special guest status” and even encourages the member states to “align themselves on the European Union regime of targeted sanctions”. As for the resolution on Azerbaijan, it proposes a much milder approach, does not call for any type of sanction, but “resolves to closely follow the situation in Azerbaijan and to take stock of the progress achieved in the implementation of this and previous resolutions”.

This contradiction between the similarity in the evaluation of the advancement of democracy (based on implicit criteria) and the difference in the status attributed to Azerbaijan and Belarus brings about the following hypothesis. As it stands today, the status of CoE member confers to a country the qualification of “democracy”, but this status does not necessarily correspond to a certain stage of the

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<sup>37</sup> Resolution 1917 (2013), “The honouring of obligations and commitments by Azerbaijan”, adopted by PACE on 23 January 2013: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=19451&lang=en>

“democratic transition”, it does not necessarily reflect the democratic quality of political structures and institutions. This status of democracy is attributed following a more complex and heterogeneous set of logics.

### **3. The situational definition of authoritarianism and democracy**

If membership is closely related to the status of democracy, then the question to ask is what is the procedure to become a member? According to the CoE Statutory Resolution (51) 30 of 1951, the Committee of Ministers invites a sovereign state to become a member after PACE (formerly Consultative Assembly) gives its positive opinion. The opinion is one of the documents produced by PACE based on an explanatory memorandum prepared in a profile committee by an appointed rapporteur. Opinions adopted by a two-thirds majority of the votes cast are addressed to the Committee of Ministers. In other words, formally speaking, the granting of membership is decided by national parliamentarians (detaining national mandates) represented in PACE, after a request by the national governments' representatives (two-thirds majority of members is required).

PACE reports, including those related to membership issues, are documents of dual, hybrid nature. On the one hand, they appeal to a type of knowledge production unconstrained by political considerations. All PACE reports accompanying resolutions, recommendations and opinions are usually relatively long (20-30 pages) and structured documents – as opposed, for instance, to the European Parliament resolutions; they often draw on expert and academic sources, they feature numerous footnotes and sometimes rely on interviews, observations and other first-hand information collected during field missions. Expert hearings are often organised, and the participation of scholars is particularly underlined<sup>38</sup>. Drafted by international public servants appointed non-politically and assisting rapporteurs belonging to different political groups, the reports usually do not show the political affiliation and national origin of the rapporteurs. The explanatory memorandum and the work during the preparation of the report appear as sources of quasi-academic, bureaucratic legitimacy presented as “independent” from political struggles. The academic background of the staff (all have a university degree and some hold PhD<sup>39</sup>) also contributes to reinforce this claim to de-politicisation. The tendency to “govern through science”, to rely on “independent” expertise and to appeal to the “politics

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<sup>38</sup> Among numerous examples, Prof. Francis Messner of the University of Strasbourg, specialist of law and religions, took part in the preparation of the report on “The religious dimension of intercultural dialogue” adopted in 2011. In paragraph 3 of the explanatory memorandum, rapporteur Anne Brasseur indicated to have “sought assistance” from the scholar and particularly thanked him “for his contribution on the place of religions in Europe and his contribution to our reflections on the role of religions in the promotion of the fundamental values upheld by the Council of Europe.” Doc. 12553 “The religious dimension of intercultural dialogue”, PACE Report, 25 March 2011: <http://www.assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=13129&lang=en>

<sup>39</sup> The Committee which stands out in PACE in this respect is the Committee on Legal Affairs and Human Rights: until July 2016, three of the four administrators of this committee held doctoral degree in law.

of independence” certainly does not only concern the case of CoE, the link between knowledge and power remaining a prolific area of studies<sup>40</sup>.

On the other hand, the work of PACE (and of the Committee of Ministers) have always been and remains political in nature and in practice. While explanatory memoranda are not voted on (although the committees have the power to intervene on each stage of the preparation of the report, including in the interpretation of the motion for a resolution and of the mandate of the rapporteur, adoption of the outline of the report, authorisation of field missions and selection of expert panels, etc.) the resolutions, recommendations and opinions – the only part of the report that contains prescriptions addressed to the member states, Committee of Ministers, other CoE bodies and third parties – need to be adopted by a vote first in the profile committee, and then by PACE (in Plenary or Standing Committee). This part of the report is relatively short (usually 1-3 pages); it can be amended in committee and in the plenary and is more directly a result of political debate, power relations and alliances.

It is assumed that resolutions, recommendations and opinions derive from the explanatory memorandum and constitute a sort of conclusion of this expert work, while in practice the relationship between the two is not that linear. The dual nature of PACE work may lead to situations where the “political” prescriptive part (resolutions, recommendations, opinions) adopted through a vote (including amendments) is seriously detached from the “expert” part (explanatory memorandum) that still serves as a source of legitimacy. Although quite rarely, but it happens that rapporteurs call on PACE to vote against the resolutions based on their own reports after they have been heavily amended or in case one of the amendments passes. That was the case of the resolution on “The definition of political prisoner” adopted on 3 October 2012 and primarily based on the situation in Azerbaijan: in the debate, rapporteur Chritsoph Strässer called to reject the resolution if amendment 2 passed (finally, the amendment was rejected following an 89 to 89 vote).

Rooted in the CoE membership debate, the definition of the border between democracy and authoritarianism and the attribution of the respective status are also a result of the deployment of this hybrid model, combining political and expert elements, where political decisions are systematically legitimised by the expert component, even when the connexion between these two components is distorted. These observations allow us to put forward a hypothesis of the “situational definition” of democracy and authoritarianism constructed in the framework of CoE. Although presented as a result of expert, quasi-academic work based on a set of technical criteria, in practice the attribution of the status of democracy and authoritarianism can be seen as a result of multiple arrangements and

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<sup>40</sup> See, e.g., Déloye Yves, Ihl Olivier, Joignant Alfredo (dir.), *Gouverner par la science. Perspectives comparées*, Grenoble, Presses Universitaires de Grenoble, 2013 ; Bérard Yann, Crespin Renaud (dir.), *Aux frontières de l'expertise. Dialogues entre savoirs et pouvoirs*, Rennes, Presses Universitaires de Rennes, 2010 ; Brint Steven, *In an Age of Experts. The Changing Role of Professionals in Politics and Public Life*, Princeton, Princeton University Press, 1994.

interactions guided by different logics. Among the main actors who participate in these interactions over the definition, are:

- members of PACE (national MPs representing parliaments of 47 member states, as well as observer parliaments and “Partners for democracy” having a limited role);
- diplomats, including representatives of the EU and observer states (both through their formal role in the Committee of Ministers and informal communication with other actors, notably with PACE members of their national delegations<sup>41</sup>),
- other bodies and representatives of CoE (Secretary General, Commissioner for human rights, ECtHR, Venice Commission, etc.), as well as staff members (international public servants involved in drafting of documents and organisation of meetings),
- a heterogeneous set of “external” actors who do not have a formal status in interactions over the membership and evaluation of members (most notably international and local NGOs, including human rights defenders, other informal and more opaque lobbies, extra-parliamentary opposition, political party networks, such as European parties, representatives of other international organisations dealing with similar issues, such as OSCE/ODIHR or EU bodies).

The dominant perspective, at least in the secretariat of CoE, is that thanks to an inclusive approach, the overall level of democratic standards on the European continent has improved since the early 1990s. The promise of a gradual progress in the states that might not yet fully comply with CoE requirements in case they are granted membership in exchange of commitment to reforms and are therefore defined as democracies “in advance” certainly has influenced each decision of enlargement (interview with H, July 2016). Nevertheless, this idea of post-accession democratisation is not the only driving force stretching the boundaries between democracies and non-democracies. While not trying to be exhaustive, we wish to highlight the following sets of logics that guide the different groups of actors influencing the situational definition of democracy and authoritarianism in CoE, logics that are not necessarily related to the question of political regime.

The first set of logics is related to **the considerations of geopolitics and diplomacy**. Inter-state relations, questions of security and stability or international trade have an influence on the way national parliamentarians, and obviously diplomats, interpret the situations, debate the issues and vote in the international organisations. While the delegations in PACE, obligatorily composed of representatives of the parliamentary majority and opposition, do not necessarily nor automatically translate the official line of their governments, in numerous cases such synchronisation of positions is clearly detectable, as we could observe on several occasions, especially on issues of geopolitical importance such as the war in Ukraine or sanctions against the Russian Federation. These logics are in play also when questions of membership or the state of democracy are on the agenda. Obviously, the vote in PACE is a conjuncture of many factors, but the fact that in June 2016 the Ukrainian delegation, for example, unanimously voted against an amendment proposing to put the question of

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<sup>41</sup> The practice of such communication may vary, but many national representations in Strasbourg systematically organise delegation meetings and/or dinners during the plenary session weeks where the official position of the MFA on the week’s debates can be shared with MPs. Other types of preparatory meetings between diplomats and members of PACE may be organised in the capitals.

re-opening of the Monitoring procedure against Turkey on the agenda (if no progress in the functioning of democratic institutions was made in nine months)<sup>42</sup> in the context of tensions between Turkey and Russia, may rather be attributed to the influence of this geopolitical logic than to the positive assessment of democracy in Turkey by the members of the Ukrainian delegation.

As we have already mentioned, the perspective of a possible contribution to the resolution of the Nagorno-Karabakh conflict played a role in accession of Azerbaijan to CoE. The recent change in attitude towards Belarus – as compared to the tough stance taken in response to the post-2010-elections repressions against the opposition and civil society – could also be attributed to the role the official Minsk played in the context of the conflict between Russia and Ukraine, including the hosting of the meetings resulting in the Minsk agreements in September 2014 and especially in February 2015 (and definitely not to a tangible internal political evolution: although the post-2010 political prisoners were released, the situation has not changed substantially). The deterioration of the situation in Russia and Ukraine influenced the perception of the situation in Belarus: against the background of a war in the region, Belarusian neutral dictatorship may look a less unacceptable partner. As underlined by both rapporteur on the situation in Belarus Andrea Rigoni and invited representative of the Belarusian parliament Nikolai Samoseiko during the meeting of the PACE Political Affairs Committee on 23 June 2016, since February 2015, there has been a clear tendency to resume dialogue between PACE and Belarusian authorities, tendency that took shape of several roundtables, visits by the rapporteur and invitations to Belarusian MPs to come to Strasbourg during PACE session.

While considering this first set of logics, it is important to keep in mind the temporalities of the situations in which the decisions on membership and assessment of the state of democracy are taking place. Geopolitical conjuncture may be more or less favourable to the membership accession, international criticism or its lack. The regional context also plays a role in which the democratic progress of states is evaluated. As a Caucasian country and gas and oil producer, it could be suggested that Azerbaijan has a particular significance for many players in the region; as a secular state with strong Muslim traditions, it can also be seen as needing European support to reinforce its secular model (for example, see the quote below).

**Excerpt from the final statement by Pedro Agramunt, Co-Rapporteur on The honouring of obligations and commitments by Azerbaijan, PACE Plenary 23 January 2013, joined debate with “The follow-up to the issue of political prisoners in Azerbaijan”**

Azerbaijan is not a perfect democracy. As many people have said here, it has a long way to go. The report mentions a number of issues that we have not been able to analyse in depth, but we do mention what needs to be done. We must also recognise that, over these 20 years, Azerbaijan has made a lot of progress. We cannot just look at the negative. Certainly, it is not in a worse situation than other countries that are members of the Council of Europe, especially remembering that it is in a complex geographical situation, as was mentioned. I want to stress this. Iran is not a good neighbour. Iran wants to establish an Islamic republic in Azerbaijan and wants to

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<sup>42</sup> See the voting results on amendment 39 to the Resolution 2121 (2016) on “The functioning of democratic institutions in Turkey” adopted on 22 June 2016: <http://assembly.coe.int/nw/xml/Votes/DB-VotesResults-EN.asp?VoteID=36131&DocID=15919&MemberID=&Sort=2>

establish Sharia Law. Azerbaijan is 97% Muslim, but it is a secular State. We need to bear this in mind and provide support.

Another issue that was mentioned is problems related to energy – oil, gas, Nabucco and the oil pipelines – that are created in the region.

I regret it if some do not like to hear it, but there is an ongoing war between two countries, one of which – Armenia – occupies 20% of Azerbaijan's territory and has caused about 1 million persons to be internally displaced. When I said this during the Monitoring Committee's discussion of the report a few weeks ago, colleagues from Armenia politely said that I was using figures provided by the Azerbaijani Government. They said that it is not true. They said that Armenia was occupying not 20%, but 13% and that there were only 900 000 displaced people, not 1 million. That is in the minutes of the Monitoring Committee meeting. It is not worth discussing whether it is 20% or 13%. The fact is that territory of Azerbaijan is under military occupation by Armenia, and that is a recognised fact.

The second set of logics has to do with the **institutional practices** in use in PACE. The reference of motions to committees (decision taken by the Bureau on the proposal of the Presidential Committee<sup>43</sup>), the appointment of rapporteurs in the committees and the interpretation of their mandate, the way the interaction between the rapporteur and the secretary of the committee in charge of following the report is organised, the agenda-setting both in the committee and in the plenary, the organisation of the vote – all these situations can produce an effect on the evaluation of the state of democracy in member states and thus on the definition of democracy.

If we consider the plenary/standing committee vote on resolutions, recommendations and opinions, where the final position of PACE is set, we should note that skilful mobilisation may significantly influence the outcome. The attendance of plenary sessions is not a stable figure and all members are never present in spite of the mechanism of substitutes (presently, there are 324 representatives and 324 substitutes)<sup>44</sup>; for various reasons, the attendance has a tendency to decline in the second half of the session week. For example, in the last debate of the June 2016 part-session, the record-low 21 members took part in the vote. The last-to-date resolutions on Belarus (2012) and Azerbaijan (2015) were adopted with participation of 127 and 161 members respectively (out of 318 PACE members entitled to vote at the time). Since the vote in the plenary does not require a quorum, theoretically the vote can be won by a minority of members if they have good participation. In this respect, many members of PACE, as well as staff members, mentioned that they felt that mobilisation was always higher among those who supported a “milder” approach to the assessment of the situation in Azerbaijan and advocated against sanctions.

Taking into consideration the unpredictability of the outcome of the vote in the plenary, experience of resolutions voted down (a rare occurrence, but which already happened with regard to Azerbaijan in 2013 debate on “The follow-up to the issue of political prisoners in Azerbaijan”) and unsuccessful attempts to challenge the credentials delegations to PACE (for example in the case of the delegation

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<sup>43</sup> The Presidential Committee is composed of chairs of the five political groups, President and the Secretary General of PACE.

<sup>44</sup> Some MPs do not come when PACE sessions coincide with their national sittings, which is often the case of the German Bundestag; some have to come back to their parliaments to take part in important votes when their political groups have a short majority; some are absent without any obvious reason.



of Azerbaijan in 2006), the logic of political tactics may suggest to supporters of a “tougher” stance to refrain from repeating such attempts. Many MPs fear that if the vote on sanctions fails, such a result could serve as additional source of legitimacy to the Azerbaijani authorities.

Another aspect of this institutional dimension is the possible influence of the professional logics of staff members. The analysis of concrete situations that intervene into the definition of democracy should take into account the internal structure of the organisation, the contract policy, the structure of labour markets, the trajectories of the staff, and other significant parameters related to careers in the international organisations. For instance, according to P., during the 1990s enlargement of CoE some staff members expressed reservations fearing the increased professional competition as a result of opening of CoE positions to citizens of new member states (interview, July 2016).

The third set of logics that interfere with the situational definition of democracy and authoritarianism in CoE and that we would like to mention could be referred to as **advocacy and lobbying**. As mentioned above, “external” actors can interfere with the decisions taken by CoE. We may argue that one of the reasons why the status of authoritarianism has been consolidated with regard to Belarus was the early and active involvement of extra-parliamentary opposition and civil society into cooperation with PACE. The calls to “lend [...] support to the democratic forces in Belarus” and to set up programmes to assist civil society appeared in PACE documents in 2000<sup>45</sup>. Around the same time, at the initiative of its secretary, one of the political groups (LDR, later renamed ALDE) started systematically inviting leaders of the Belarusian opposition to PACE sessions (interview with P., July 2016). This practice was taken up in the mid-2000s by the CoE Civil society division. Belarusian political opposition leaders have also been often (more often than official representatives) guests of the PACE Political Affairs Committee where they contributed to the preparation of reports on Belarus, including through regular information bilateral meetings with the rapporteur, other PACE members and staff. This organised and sustained advocacy effort allowed safeguarding the status quo where Belarus was defined as an authoritarian state outside the European democratic family.

The coordinated advocacy effort by Azerbaijani civil society came in a different setting, where Azerbaijan was already a full-fledged member of CoE. Contrary to the situation in Belarus, direct contacts with Azerbaijani civil society and extra-parliamentary opposition were not systematic before the beginning of the 2010s, possibly also because opposition was represented in the parliament and in PACE until 2011 (with one member (substitute) of the *Musavat* party out of the delegation of six representatives and six substitutes). At the same time, there have been recurrent allegations of lobbying in favour of the Azerbaijani authorities in PACE. Several PACE members, including former members, were mentioned in connection to these allegations. In difference from the European Parliament and some national parliaments, the practice of lobbying is not codified in the Rules of Procedure of PACE and there is no registration procedure for lobbyists. A special term “Caviar

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<sup>45</sup> Recommendation 1441 (2000), “Situation in Belarus”, adopted by PACE on 26 January 2000: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=16771&lang=en>

diplomacy” was coined to refer to a network of such lobbying activities associated with corruption and widely publicised in 2012 by the European Stability Initiative think tank<sup>46</sup>. In 2016, the Milan prosecution office was reported to have opened an investigation against Luca Volontè, former Italian member of PACE (2008-2013) and chair of the EPP group (2010-2013), allegedly involved in lobbying activities in favour of the Azerbaijani authorities<sup>47</sup>.

Besides these practices – confirmed or alleged – there are other types of external influences which may intervene in PACE deliberations. Party solidarity, for example, does not only rely on the institutional organisation of PACE into five political groups, but also on a broader network of European political families to which belong national parties. To illustrate, in June 2013, 73 EPP members out of 80 present voted for an amendment proposing not to open a monitoring procedure against Hungary<sup>48</sup>. It was suggested that the EPP party solidarity with its member Fidesz could play a role in the outcome of the vote. The same logic could be detected behind the quasi-unanimous opposition of the European Conservative Group (of which the Polish PiS party is a member) to the January 2016 proposal to hold a debate under urgent procedure on “The functioning of democratic institutions in Poland”<sup>49</sup>.

Finally, one should not exclude the logics related to the involvement of other bodies of CoE or third international organisations. We have already mentioned that the process of the CoE enlargement could be linked with the fear of increased competition from other international initiatives. As an example of failure of external influence, we may mention the calls from the OSCE/ODIHR to PACE to refrain from the observation of the 2015 parliamentary elections in Azerbaijan. In spite of a general practice, the Bureau of PACE decided to send an ad hoc mission even though the OSCE/ODIHR did not deploy its observation team following the failure to agree with the Azerbaijani authorities on the size of the mission<sup>50</sup>. One should also not overlook the impact of the budgetary structure of CoE,

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<sup>46</sup> *Caviar Diplomacy. How Azerbaijan silenced the Council of Europe*, Berlin, ESI, 2012: [http://www.esiweb.org/pdf/esi\\_document\\_id\\_131.pdf](http://www.esiweb.org/pdf/esi_document_id_131.pdf)

See also the press articles using the same term: “Europe’s caviar diplomacy with Azerbaijan must end”, *EU Observer*, 26 November 2012: <https://euobserver.com/opinion/118320>; “Azerbaijan and the Council of Europe”, *The Economist*, 22 March 2013: <http://www.economist.com/blogs/charlemagne/2013/03/azerbaijan>; “Plush hotels and caviar diplomacy: how Azerbaijan’s elite wooed MPs”, *The Guardian*, 24 November 2013: <https://www.theguardian.com/world/2013/nov/24/azerbaijan-caviar-diplomacy-for-mps>.

<sup>47</sup> “Corruzione, ‘tangente da due milioni dall’Azerbaijan’: indagato a Milano ex Udc Volontè”, *Il Fatto Quotidiano*, 25 June 2016: <http://www.ilfattoquotidiano.it/2016/06/25/corruzione-tangente-da-due-milioni-dallazerbaijan-indagato-a-milano-ex-udc-volonte/2859414/>

<sup>48</sup> Amendment 2 to Resolution 1941 (2013) “Request for the opening of a monitoring procedure in respect of Hungary”, see the voting results of 25 June 2013: <http://www.assembly.coe.int/nw/xml/Votes/DB-VotesResults-EN.asp?VoteID=34616&DocID=14616&MemberID=&Sort=3>

<sup>49</sup> See the voting results of 25 January 2016: <http://assembly.coe.int/nw/xml/Votes/DB-VotesResults-EN.asp?VoteID=35780&DocID=15589&MemberID=&Sort=3>

<sup>50</sup> PACE mission concluded in the report “that the elections were held in accordance with the Election Code of Azerbaijan, which provides a legal framework for the democratic conduct of elections” and that “The significant increase in voter turnout and the transparency of voting and counting procedures demonstrate another step forward taken by the Republic of Azerbaijan towards free, fair and democratic elections”, despite the fact that “in a few polling stations minor ballot stuffing and some group voting was observed”. Unprecedentedly, the report included two dissenting opinions by members of the mission in Appendix 5 and 6. Doc. 13923 “Observation of the

characterised by at the same time the zero-nominal-growth of its budget and by the growing part of extra-budgetary resources, including targeted voluntary contributions by member states and EU funding of specific CoE programmes (49% of all extra-budgetary contributions, €25.8 million in 2015, the ordinary budget amounting to €238 million; multiannual on-going joint programmes with the EU amount to €112 million; in 2016 EU contributions amounted to 6% of the total CoE budgets). In particular, CoE implements several major programmes in the framework of the EU Eastern Partnership (EaP) initiative. The success of these programmes, and thus the financial stability of the organisation, also relies on the relations (membership and openness for cooperation) CoE has with these countries, relations that can be compromised in case of strong criticism and sanctions.

While PACE is an apparent example of a body where all these sets of logics can be relatively easily distinguished, comparable processes of symbolic struggles, international brokering and multiple adjustments in the situational definition of democracy and authoritarianism can also play in other CoE bodies, to a lesser or larger extent. Perhaps not directly related to the issue we debated in this paper is an observation that this system of brokering and arrangements has been progressively pushing PACE towards a more realist “parliamentary diplomacy” based paradigm (where dialogue is the highest value *per se*) from the liberal democratisation norm-setting perspective. This shift is visible, for example, in the growing number of calls to resume dialogue and reinforce cooperation with Belarusian authorities and to re-establish Belarus’s status in CoE without requiring change in the structure of power relations. That tendency observed on the level of the institutional adjustment in CoE could be an objectivation of a more general change in the structure of international relations, where the opposition between liberal democracy and authoritarianism – Cold War heritage – is progressively becoming obsolete and less pertinent, giving way to new separation lines.