Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 1272 (2002)[1]

Political prisoners in Azerbaijan

Parliamentary Assembly

1. On becoming a member of the Council of Europe, Azerbaijan freely accepted the firm commitment, essential under international law, set out in paragraph 14.iv.b of Opinion No. 222 (2000), namely "to release or to grant a new trial to those prisoners who are regarded as 'political prisoners' by human rights protection organisations, especially Mr Iskander Gamidov, Mr Alikram Gumbatov and Mr Raqim Gaziyev". In January 2001 the Committee on Legal Affairs and Human Rights was seized with a motion for a recommendation (Doc 8919) renewing the concern of twelve members of the Assembly about the fate of political prisoners in Azerbaijan.

2. The Azerbaijani authorities had been aware of these requirements at least since the meeting of the Committee on Legal Affairs and Human Rights held in Cyprus on 22 May 2000, on which date that committee adopted its opinion on Azerbaijan's application for membership of the Council of Europe.

3. The Parliamentary Assembly appreciates the initiative taken by the Secretary General of the Council of Europe to ask three experts to prepare a confidential opinion on the cases of presumed political prisoners in Armenia and Azerbaijan.[2] In this connection, it considers that the objective criteria adopted to define political prisoners in these two countries are valid.

4. The Assembly acknowledges that, to date, some 220 presumed political prisoners have been released, including 6 of the 17 recognised as such in the report of the experts appointed by the Secretary General.

5. The Assembly takes note of the pardons granted by the President of the Republic of Azerbaijan in a decree of 29 December 2001, whereby 57 prisoners were released, including 29 regarded as political prisoners by non-governmental organisations, but none of those from the more limited list of experts appointed by the Secretary General.

6. The Assembly welcomes the readiness of the Azerbaijani authorities in their commitment undertaken on 3 January 2002 to participate, in the framework of an appropriate body of the Assembly, in the work aimed at case-by-case settlement of the problems of each alleged political prisoner in Azerbaijan.

7. Despite these encouraging results, the Assembly asks Azerbaijan to show a stronger political will to solve the problem in its entirety.

8. With regard to the three prisoners named in Opinion No. 222 (2000), the Assembly takes note of the decision taken by the General Prosecutor, on 26 December 2001, to submit their convictions for reconsideration at the Court of Appeal. The Assembly nevertheless asks Azerbaijan to give renewed consideration to the political expediency of releasing them, in order to avoid reviving tensions of the past. Also, the very serious state of health of two of them could be taken into consideration to grant them a release for humanitarian reasons.

9. The Assembly reiterates and emphasises that the rules of a fair hearing, as set down in the European Convention on Human Rights and clarified in the case-law of the European Court of Human Rights, must be complied with in every case. Thus, if persons are to be retried, as called for in Opinion No. 222 (2000), the

1. Assembly debate on 24 January 2002 (7th Sitting) (see Doc.9310, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Clerfayt).
2. This document was made public on 24 October 2001 (Document SG/Inf (2001) 34.

judicial investigation must be started again from the beginning. Furthermore, those accused shall have the right to the assistance of a defence counsel of their choice from the very start of the proceedings. Trials shall be public and freely accessible to observers from international organisations and NGOs.

10. The Assembly also asks for the release of the remaining political prisoners on the list of seventeen pilot cases recognised as such by the experts appointed by the Secretary General, that is to say case No. 5 (Amiraslanov Elchin Samed oglu), case No. 7 (Efendiyev Natig Islam oglu), case No. 14 (Imranov Nariman Shamo oglu), case No. 15 (Kazymov Arif Nazir oglu), case No. 16 (Abdullayev Qalib Jamal oglu), case No. 17 (Guseynov Suret Davud oglu), case No. 18 (Safikhanov Ilgar) and case No. 25 (Guseynov Guseynbala).

11. In addition, and as a gesture of goodwill, the Assembly asks for the review of the cases of those alleged political prisoners in favour of whom the Rapporteur of the Committee on Legal Affairs and Human Rights argued before the authorities during his visit to Baku on 27 and 28 December 2001 (Mrs Lebedeva, Mrs Sikhmaz and MM. Muzakir Abdullayev, Janmirza Mirzoyev and Aydin Shirinov).

12. The Assembly reiterates that there can be no political prisoners in any member state of the Council of Europe.

13. The Assembly reserves the right to take any appropriate measures at its disposal in order to persuade the Azerbaijani authorities of the need to release or retry any prisoner regarded as a political prisoner, in accordance with the commitment entered into at the time of the country's accession.

14. The Assembly resolves to hold information debates on the presumed political prisoners in Azerbaijan, and to offer interested media outlets the opportunity to broadcast these on television and radio throughout the country.