



Resolution 1359 (2004)¹

Political prisoners in Azerbaijan

Parliamentary Assembly

1. The Parliamentary Assembly recalls its Opinion No 222 (2000) on Azerbaijan's application for membership of the Council of Europe, especially paragraph 14.iv.b, in which it asked Azerbaijan "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 Gaziyeu".

2. In its Resolution 1272 (2002) on political prisoners in Azerbaijan, the Assembly urges the authorities of Azerbaijan to resolve the problem of political prisoners, on the grounds that the existence of political prisoners is incompatible with Azerbaijan's membership of the Council of Europe.

3. Those prisoners included on the lists supplied by non-governmental organisations who can reasonably be described as political prisoners fit into a number of categories. Specifically, they include people who were politically active before they were imprisoned and whose imprisonment is of political benefit to the government, people who had, wittingly or unwittingly, offended a senior member of the government, people imprisoned in spite of inadequate or disputed evidence and credible claims of false witness, and the friends and relations of such people, whose only offence was to have been that. The Assembly considers that the objective criteria adopted to define "political prisoners" in Armenia and Azerbaijan are valid.

4. Many of the political prisoners have been indicted under laws of treason or anti-state activity which are open to highly subjective interpretation. Others claim they have been convicted even when the presiding judge acknowledged that there was a lack of evidence. This is sadly characteristic of the methods used by former communist regimes for removing dissidents.

5. The Assembly supports the initiative by the Secretary General of the Council of Europe to extend, for a second term, the work of the independent experts responsible for identifying new cases of political prisoners, on the basis of the objective criteria. In this respect it takes note with satisfaction of the Secretary General's interim report concerning his independent experts' work dated 9 January 2004 and the existing co-operation between the Azerbaijani authorities and the independent experts. The Assembly welcomes the fact that, following the 73 final opinions by the independent experts with regard to 31 people considered as political prisoners, the Azerbaijani authorities have released 25 people, reduced by half the unserved part of one person's prison sentence and decided to grant new trials to four people.

6. The Assembly takes note of the list of cases of presumed political prisoners (212 names) currently being examined by the experts, which was officially transmitted to it on 3 April 2003. The Assembly notes that from the aforesaid list 54 cases remain to be examined by the independent experts. Moreover, the Assembly deems that the independent experts could also consider the 88 cases which were unfortunately forgotten when the initial list of 716 presumed political prisoners was drawn up and the cases of new presumed political prisoners which came to light between 1 January 2001 and 15 April 2002, the date of the entry into force of the European Convention on Human Rights in Azerbaijan.

7. Those political prisoners whom the experts identify as such in the latter list must be treated like those previously recognised as such. Accordingly, the Assembly calls for the immediate release of those prisoners.

1. Assembly debate on 27 January 2004 (2nd Sitting) (see [Doc.10026](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Bruce; and [Doc. 10047](#), opinion of the Political Affairs Committee, rapporteur: Mr Muratovic).



8. The Assembly welcomes the pardons granted by the President of the Republic since Resolution 1272 on political prisoners in Azerbaijan was adopted in January 2002. Under these pardons, issued on 13 March, 27 May and 28 October 2002, 11 February, 17 June, 26 August and 29 December 2003, in all 284 prisoners classified as political prisoners by a number of non-governmental organisations were released, including more than 60 prisoners pardoned by President Ilham Aliyev. It also welcomes the fact that among those released under those pardons are five prisoners (Nariman Imranov, Guseynbala Guseynov, Qalib Abdullayev, Ilgar Safikhanov and Iskander Gamidov) appearing on the list of “pilot cases”, identified by the independent experts as political prisoners in October 2001, and especially welcomes the release of I. Gamidov. Furthermore, among the 42 prisoners visited by the rapporteurs, 14 were released. Since the adoption of Resolution 1272 in January 2002, 5 political prisoners, identified as such in the experts’ report of 24 October 2001, have been released. Of the individuals on the list of political prisoners identified in this report, 4 are still in prison; in addition, a new trial has been opened for 2 of the 3 “symbolic” prisoners.

9. The Assembly regrets the manner in which the new trials for MM. Gumbatov and Gaziyeu are being conducted, and does not believe that they comply with the Council of Europe’s standards and principles. It is only in the case of R. Gaziyeu, convicted in absentia, that a new trial could really be justified. Since Mr Gumbatov has been identified as a political prisoner by the experts, he should be released without a fresh judgment. The Assembly deplores the new verdict handed down in early July 2003 against Mr Gumbatov, being once again given a life sentence. The Assembly reconfirms its confidence in the independent experts who, in their opinion of October 2001, considered these individuals to be political prisoners, and once again calls for the immediate release of Mr Gumbatov and Mr Gaziyeu, sentenced to 15 years’ imprisonment in December 2003.

10. The Assembly urges the authorities of Azerbaijan to find a lasting solution to this problem and deplores the fact that they continue to maintain that the problem raised is primarily a legal one and that, moreover, the majority of these prisoners are genuine criminals, and that it will take months, even years, to have all these prisoners released because of the alleged pressure of public opinion.

11. The Assembly considers that the problem of the existence of political prisoners cannot only be seen from a legal angle but that it constitutes a real political problem which should be treated as such. If political actors are unfairly held in prison or in exile and they are prevented from being candidates in elections, this endangers the fairness of elections.

12. Having been apprised that there are new prisoners, convicted since Azerbaijan’s accession to the Council of Europe, who should, in the opinion of certain non-governmental organisations with which the rapporteur and the joint working party have fruitful contacts, also be considered as political prisoners, and that some people detained since the post-election events of 15 and 16 October 2003 could also become presumed political prisoners if they are not liberated, the Assembly voices its utmost concern at these events.

13. The Assembly urges the authorities of Azerbaijan to release or speedily bring to trial those detained since the post-election events of 15 and 16 October 2003. All detainees must be granted access to their lawyers and be afforded the right to a fair trial. The presumption of innocence must be respected and each sentence imposed should be proportionate. The authorities must take all necessary measures to make sure that none of the cases under investigation results in creating new political prisoners.

14. There are cases of people whose names are not included in the initial list of 716 presumed political prisoners as well as people convicted after 1 January 2001 who should also be released immediately.

15. The Assembly encourages all presumed political prisoners convicted since Azerbaijan’s ratification of the European Convention on Human Rights to take advantage of their right to submit individual appeals before the European Court of Human Rights.

16. The Assembly is obliged to observe that if there is no solution to the problem of the political prisoners by the Assembly’s autumn 2004 part-session, Azerbaijan’s presence within the Council of Europe will have reached a critical stage.

17. The Assembly formally asks the Government of Azerbaijan for the immediate release on humanitarian grounds of political prisoners whose state of health is very critical, prisoners whose trials were illegal, prisoners having been political activists or eminent members of past governments, and members of their families, friends or people who were linked to them.

18. Furthermore, the Assembly calls on the Government of Azerbaijan to release the remaining political prisoners already identified on the experts’ list.

19. The Assembly calls on the Secretary General of the Council of Europe:
 - 19.1. to instruct his experts to complete their second mandate as soon as possible;
 - 19.2. to envisage prolonging the work of the experts for a third mandate, with a view to considering a supplementary list of 88 names of other presumed political prisoners who were unfortunately forgotten when the initial list of 716 presumed political prisoners was drawn up, and new cases of presumed political prisoners which came to light between 1 January and 15 April 2002, the date of the entry into force of the European Convention on Human Rights in Azerbaijan;
 - 19.3. to ask the member states of the Council of Europe to be extremely cautious if they receive extradition requests concerning citizens of Azerbaijan;
 - 19.4. to provide the Assembly with the results of the work of the Group of Independent Experts investigating cases of alleged political prisoners, in order to decide on future action in this field.