Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Recommendation 1711 (2005)[1]

Follow-up to Resolution 1359 (2004) on political prisoners in Azerbaijan

Parliamentary Assembly

1. The Parliamentary Assembly, referring expressly to its Resolution 1457 (2005) on follow-up to Resolution 1359 (2004) on political prisoners in Azerbaijan, calls on the Committee of Ministers to adopt a joint position with it on the issue of political prisoners and presumed political prisoners in Azerbaijan.

2. The Assembly takes note of the decision by the Committee of Ministers on 23 March 2005 in which it says that it "expects that the issue of political prisoners will be closed in the near future and that no new cases are created".

3. The Assembly therefore calls on the Committee of Ministers to note and acknowledge that the following are still detained:

i. three political prisoners recognised as such by the independent experts appointed by the Secretary General in 2001;

ii. another 41 persons who have not been recognised as political prisoners by the independent experts, including contentious cases or cases of prisoners whose state of health gives cause for concern;

iii. at least 45 persons forming a new list of presumed political prisoners whose cases were not submitted to the independent experts – either because they were omitted from the initial list submitted to the experts or because they were arrested and convicted after the commencement of their mandate.

4. The Assembly recommends that the Committee of Ministers urge the Azerbaijani authorities to find a speedy and permanent solution to the issue of political prisoners and presumed political prisoners :

i. by releasing the three remaining political prisoners as determined by the independent experts;

ii. by immediately releasing presumed political prisoners who have already served several years of their sentence, in application of the provisions of the Criminal Code relating to conditional release;

iii. by releasing or retrying presumed political prisoners whose convictions were in breach of fair trial principles;

iv. by releasing on humanitarian grounds presumed political prisoners who are seriously ill;

v. by releasing or retrying presumed political prisoners who were involved in certain political events only to a minor and very secondary degree, seeing as the people presumed to have instigated the events have themselves already been pardoned;

vi. by releasing presumed political prisoners who have no connection with the events in question other than that they are relatives, friends or mere acquaintances of leading members of former governments ; and it welcomes the undertaking by the Azerbaijani authorities to "make use of every legal remedy (amnesty, review of cases by higher-instance courts, conditional release, release on health condition, pardon) to settle this problem".

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1. Assembly debate on 22 June 2005 (21st Sitting) (see Doc. 10564, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Bruce).

5. The Assembly notes that the issue of political prisoners has brought out the serious dysfunctions of the justice system in Azerbaijan and the shortcomings of its criminal legislation. It therefore calls on the Committee of Ministers to:

i. strengthen co-operation and assistance programmes with respect to Azerbaijan in this field, where appropriate in conjunction with the Organization for Security and Co-operation in Europe (OSCE);

ii. urge the authorities to co-operate actively and fully with the Council of Europe in the reform of Azerbaijans judicial system and in particular to forward the Criminal Code without delay for expert appraisal in order to check its compatibility with the European Convention on Human Rights and the case-law of the Court;

iii. ensure, in particular by appointing an expert to observe its conduct on the spot, that any retrial organised by the authorities – should they refuse to release the presumed political prisoners concerned – complies fully with the requirements of a fair trial as laid down in the European Convention on Human Rights and the case-law of the Court.