Parliamentary Assembly
Assemblée parlementaire
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 13011 – Compendium of written amendments

(Final version)

The definition of political prisoner

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A. Draft Resolution

1. The Parliamentary Assembly recalls that the notion of political prisoners was elaborated within the Council of Europe in 2001 by the independent experts of the Secretary General, mandated to assess cases of alleged political prisoners in Armenia and Azerbaijan in the context of the accession of the two States to the Organisation.

2. It notes with satisfaction that the general criteria put forward by the independent experts were approved by all stakeholders at the time, including the Council of Europe's Committee of Ministers and the Parliamentary Assembly.

Amendment 1
Tabled by Mr Patrick MORIAU, Mr Pasquale NESSA, Mr Younal LOUTFI, Mr Agustín CONDE, Mr Øyvind VAKSDAL, Mr George LOUCAIDES

In the draft resolution, replace paragraph 2 with the following paragraph:

"The Parliamentary Assembly notes that the criteria put forward by the above-mentioned experts were based on the specific circumstances of the civil war in Namibia in 1989. Whereas they were applied to individual cases with regard to two countries during their accession to the Council of Europe, they have never been subject to comprehensive debate or approval by the Parliamentary Assembly."

Sub-amendment 1 to amendment 1
Tabled by Mr Christoph STRÄSSER, Mr Jerzy MONTAG, Mr Michael MCNAMARA, Ms Tineke STRIK, Mr René ROUQUET, Mr Boriss CILEVIČS, Mr Kimmo SASI

In the proposed amendment, in the first sentence, replace the words "were based on" with the following words: "were inspired by, inter alia,"

Sub-amendment 2 to amendment 1
Tabled by Mr Christoph STRÄSSER, Mr Jerzy MONTAG, Mr Michael MCNAMARA, Ms Tineke STRIK, Mr René ROUQUET, Mr Boriss CILEVIČS, Mr Kimmo SASI

In the proposed amendment, replace the second sentence with the following sentence: "They were applied to cases with regard to two countries during their accession to the Council of Europe and have not until now been subject to comprehensive debate or explicit approval by the Parliamentary Assembly."

3. The Assembly reaffirms its support for these criteria, summed up as follows: "A person deprived of his or her personal liberty is to be regarded as a 'political prisoner': a. if the detention has been imposed in violation of one of the fundamental guarantees set out in the European Convention on Human Rights and its Protocols (ECHR), in particular freedom of thought, conscience and religion,

Amendment 2
Tabled by Mr Patrick MORIAU, Mr Pasquale NESSA, Mr Younal LOUTFI, Mr Agustín

freedom of expression and information, freedom of assembly and association; b. if the detention has been imposed for purely political reasons without connection to any offence; c. if, for political motives, the length of the detention or its conditions are clearly out of proportion to the offence the person has been found guilty of or is suspected of; d. if, for political motives, he or she is detained in a discriminatory manner as compared to other persons; or, e. if the detention is the result of proceedings which were clearly unfair and this appears to be connected with political motives of the authorities." (SG/Inf(2001)34, paragraph 10)

4. Those deprived of their personal liberty for terrorist crimes shall not be considered political prisoners if they have been prosecuted and sentenced for such crimes according to national legislation and the European Convention on Human Rights (ETS No. 5).

5. The Assembly invites the competent authorities of all the member States of the Council of Europe to reassess the cases of any alleged political prisoners by application of the above-mentioned criteria and to release or retry any such prisoners as appropriate.

CONDE, Mr Øyvind VAKSDAL, Mr George LOUCAIDES

In the draft resolution, replace paragraph 3 with the following paragraph:

"The Parliamentary Assembly confirms that the interpretation and application of any criteria defining a political prisoner are the exclusive competence of the European Court of Human Rights, which is the only authority to assess violations of fundamental rights and freedoms, as stipulated in the European Convention on Human Rights and its Protocols."