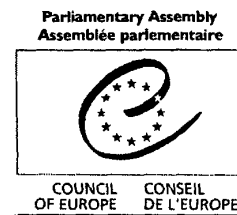


Parliamentary Assembly Assemblée parlementaire



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

Report
Committee on Legal Affairs and Human Rights
Rapporteur: Mr Malcolm Bruce, United Kingdom, Liberal, Democratic and Reformers' Group

Summary

As of 2001, the Parliamentary Assembly has considered the issue of political prisoners in Azerbaijan on three occasions. Since Resolution 1359 (2004) was adopted, five pardon decrees were signed by President Ilham Aliyev in the space of a year and a half, resulting in the release of 52 political prisoners - including several high-ranking political figures - and 63 presumed political prisoners.

However, the Assembly cannot consider the issue of political prisoners to have been finally resolved. It calls on the Azerbaijani authorities to continue a constructive dialogue with the Assembly in order to find a speedy and permanent solution to the issue of political prisoners and presumed political prisoners. It calls on the Azerbaijani authorities to release the three political prisoners who remain in prison.

Regarding the 43 persons who have not been recognised as political prisoners and the 107 persons forming a new list of presumed political prisoners whose cases were never submitted to the independent experts, it calls on the authorities to reconsider their cases, in a fair and impartial manner, and to:

- immediately release those who have already served several years of their sentence, in application of the provisions of the Criminal Code relating to conditional release;
- release on humanitarian grounds those who are seriously ill;
- release or retry those whose convictions were in breach of fair trial principles;
- release or retry those 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;
- release those 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.

I. Draft resolution

1. Since 2001, when Azerbaijan joined the Council of Europe, the Parliamentary Assembly has considered the issue of political prisoners in Azerbaijan on three occasions: January 2002, June 2003 and January 2004. In its Resolution 1359 (2004) the Assembly "formally ask[ed] 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 persons who were linked to them ... [and] the remaining political prisoners already identified on the experts' list."
2. Since Resolution 1359 (2004) was adopted, the President of the Republic of Azerbaijan, Mr Ilham Aliyev, has signed five pardon decrees: on 17 March, 10 May, 3 September and 29 December 2004 and 20 March 2005. They permitted the release of 52 political prisoners and 63 presumed political prisoners, including three high-ranking political figures – Suret Huseynov, the former Prime Minister, Raqim Gaziyeu, the former Defence Minister, and Alikram Gumbatov – and seven leading members of the political opposition.
3. The Assembly particularly welcomes the last pardon decree of President Aliyev on 20 March 2005 as a decisive step towards a solution to the problem, resulting in the release of a large number of political prisoners. The Assembly calls on the Azerbaijani authorities to continue a constructive and fruitful dialogue with the Assembly in order to secure a final solution of the problem.
4. The Assembly commends the work of the independent experts appointed by the Secretary General of the Council of Europe in 2001 to examine the list of 716 names of presumed political prisoners. They completed their mandate in July 2004 after submitting a total of 124 opinions and concluding that 62 of the people concerned were political prisoners.
5. The Assembly regrets the former Secretary General's decision not to extend the independent experts' mandate to enable them to examine the additional list of cases of presumed political prisoners that were omitted when the first list was drawn up. It asks the Secretary General to reconsider the decision of his predecessor.
6. The Assembly welcomes the constructive and open dialogue with the parliamentary delegation of Azerbaijan to the Assembly. It recognises that genuine efforts have been made by the delegation in the search for a final resolution of this issue.
7. The Assembly considers that the retrials that took place in 2004, like the earlier retrials, did not fully comply with Council of Europe standards. It regrets the courts' inability to dispense justice in an impartial and independent manner and fully guarantee the rights of the defence. Accordingly, the Assembly notes that the Azerbaijani authorities have not honoured their undertaking to retry the political prisoners while respecting the requirements of a fair trial as laid down in the European Convention on Human Rights. It therefore cannot accept the authorities' using the fact that the political prisoners were retried as an argument for refusing to pardon them.
8. The Assembly firmly condemns the serious dysfunctions of the Azerbaijani judicial system, resulting in the creation of new cases in which dozens or even hundreds of people find themselves charged and tried collectively for offences, namely attempted coups, offences against State security, terrorism and serious breaches of the peace, which do not always relate to the facts.
9. The Assembly regrets that, in spite of its repeated requests, the Azerbaijani authorities have continued to arrest and convict hundreds of persons for clearly political reasons:
 - i. 190 persons were arrested in connection with the events of October 2003. 47 were sentenced to terms of imprisonment and 88 others given suspended sentences; 36 were pardoned on 20 March 2005 and 11 were released by court decision or at the end of their sentence;
 - ii. about 60 others have been arrested and convicted since 2001/2002 in connection with other cases, most of them without foundation.

10. The Assembly therefore acknowledges the existence of 107 persons currently imprisoned whose names can be put on an additional list of presumed political prisoners. Consequently, in keeping with its earlier position, it asks the Azerbaijani authorities to review these cases and either release these persons or organise as soon as possible a retrial, provided the authorities give a firm undertaking – if they favour the second option – to comply fully this time with the requirements of a fair trial as laid down in the European Convention on Human Rights.

11. In the light of the commitments entered into and the assurances given by the Azerbaijani authorities that the issue would be dealt with to the Assembly's satisfaction by the autumn 2004 session, the Assembly cannot consider the issue of political prisoners to have been finally resolved since:

- i. three political prisoners recognised as such by the independent experts are still detained;
- ii. 43 persons who have not been recognised as political prisoners by the independent experts are also still in prison, including contentious cases or cases of prisoners whose state of health gives cause for concern and to which the Assembly has drawn the authorities' attention on several occasions;
- iii. some 107 persons whose cases were not submitted to the independent experts, whose names were omitted from the initial list submitted to the experts or who were arrested and convicted after the commencement of their mandate and are considered by the Assembly as presumed political prisoners, are also still detained.

12. The Assembly is shocked by the violence with which the mutiny attempts in certain prisons were put down in February 2005. It firmly condemns the recourse to violence and the maltreatment and torture inflicted on political prisoners and presumed political prisoners and calls on the Azerbaijani authorities to put an end to the impunity enjoyed by certain units of the security forces. It is profoundly shocked that members of the organised crime unit, which serves as a torture centre in Azerbaijan, have been promoted in recognition of the services they have rendered.

13. The Assembly is also extremely worried by the changes in the prison administration which have led to a deterioration in the conditions of detention and restrictions on the rights of prisoners and their families. It calls on the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to undertake a visit to Azerbaijan at the earliest opportunity.

14. The Assembly deplores the conditions of the release of Alikram Gumbatov who was forced into exile and has had his Azerbaijani nationality withdrawn. It wishes to express its gratitude to the Government of the Netherlands which has granted him political asylum and whose mediation with the authorities in this matter has made it possible to achieve a positive outcome.

15. The Assembly welcomes the work which NGOs in Azerbaijan have been doing for many years with courage and determination, under difficult conditions, to help prisoners and their families. It acknowledges that the present situation creates exasperation and frustration, especially among prisoners' families.

16. It is surprised by the Azerbaijani authorities' refusal to apply to political and presumed political prisoners the provisions of the Criminal Code (Articles 76, 77 and 78) allowing for the possibility of conditional release where a convicted person has already served either two-thirds or three-quarters of his or her sentence. Given that the authorities seem to use these provisions systematically in the case of "ordinary" criminals, their refusal is clear proof of the political nature of the detention of the 46 persons still on the list of 716 and of the 107 on the additional list.

17. The Assembly firmly reaffirms its position of principle that detainees recognised as political prisoners must be released. It calls on the Azerbaijani authorities to find a speedy and permanent solution to the issue of the 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.

18. The Assembly notes that the criminal law in force in Azerbaijan contains provisions and provides for procedures that have obviously survived from Soviet legislation. It urges the Azerbaijani authorities to work actively and fully with the Council of Europe on reforming the judicial system and, in particular, to forward to it without delay the Criminal Code in order to check its compatibility with the European Convention on Human Rights and the Court's case-law.

19. In view of the number of prisoners who have been pardoned but are deprived of their civic rights and of people who have been given suspended prison sentences and face the lifting of the suspension for the slightest misdemeanour, the Assembly expresses serious misgivings about whether the parliamentary elections to be held in November 2005 will be free and fair.

20. Lastly, the Assembly renews its request to the Azerbaijani Parliament to pass without delay a law granting a general amnesty, as a measure of national reconciliation, to groups of persons involved in certain events. Such a measure is the only means of securing the release of presumed political prisoners and terminating the proceedings against those who have fled the country and who, as political exiles, now wish to return to Azerbaijan and are prevented from participating in the public life in their country.

II. Draft recommendation

1. The Parliamentary Assembly, referring expressly to its Resolution ... (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. 43 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. some 107 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.

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 OSCE;

ii. urge the authorities to co-operate actively and fully with the Council of Europe in the reform of Azerbaijan's 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.

III. Explanatory memorandum
by Mr Malcolm Bruce, rapporteur

A. Introduction

1. On 27 January 2004, the Committee on Legal Affairs and Human Rights submitted its third report on political prisoners in Azerbaijan to the Assembly. On that occasion the Assembly adopted Resolution 1359¹, in which it *"formally ask[ed] 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 persons who were linked to them ... [and] the remaining political prisoners already identified on the experts' list."*

2. At that time the Assembly concluded 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."*

3. The importance of the issue justified the Committee on Legal Affairs and Human Rights closely following the situation in Azerbaijan and monitoring the follow-up to Resolution 1359, in accordance with Rule 44.2 of the Assembly's Rules of Procedure. In this connection, I have presented to the committee five successive information memoranda, namely at the meetings of 7 June, 16 September, 6 October and 16 December 2004 and 24 January 2005. I have also undertaken two fact-finding visits to Azerbaijan from 9 to 12 May 2004 and 14 to 16 March 2005².

4. I wish to thank the Azerbaijani authorities for the excellent organisation of my two visits and for their full co-operation. As during my first visit to the country, in December 2003, I was free to meet the prisoners without any restrictions whatsoever and was also able to hold exchanges of views with the authorities with a rare frankness and in an atmosphere of respect and cordiality. My thanks also go to His Excellency Mr Nawrot, the Polish Ambassador, Mr Boermans, the Chargé d'Affaires at the Dutch Embassy, Mr Mats Lindberg, the Special Representative of the Secretary General of the Council of Europe in Azerbaijan, and Mr Ilgar Ibrahimli, Director of the Council of Europe Information Office in Baku, for their active support to ensure my visits went smoothly.

5. Apart from the prisoners themselves – I was able to speak to 14 of them – I met certain NGOs and prisoners' families. The latter handed to me applications for pardons, which I forwarded to President Aliyev as I had pledged to do.

6. Finally, I wish to express my deep gratitude to those Azerbaijani NGOs that have been working with courage and determination for many years, under difficult conditions, to help political prisoners and presumed political prisoners.

7. In the light of committee discussions based on my oral and written reports, and in view of the fact that more than a year had passed since the Assembly's adoption of Resolution 1359 without the problem being solved to the Assembly's satisfaction, I and others presented a motion for a resolution³, which was referred to the Committee on Legal Affairs and Human Rights on 18 March 2005 for report. On 6 April 2005, the committee appointed me its rapporteur.

8. The aim of this report is therefore to present as concisely as possible the progress that Azerbaijan has made on implementing Resolution 1359 (2004).

B. Background

9. In the first years after its independence (in 1991), Azerbaijan was troubled by considerable political and military unrest. The Nagorno-Karabakh conflict, coup attempts, mutinies, attempts at secession, etc, punctuated a still fragile democratic process. Several thousand people were then forced to make their acquaintance with the country's goals. They were arrested, tried and convicted for

¹ See Doc. 10026 and the earlier reports, Doc. 9826 and Doc. 9826 add., Doc. 9310 [and Resolution 1272 (2002)].

² See the programme of these two visits in Appendix I.

³ Doc. 10473

participating directly in these events, for being involved indirectly, for being members of the families or close acquaintances of the principal defendants, etc, or because they had been at the wrong place at the wrong time. The vast majority have since been released or pardoned, but many are still in prison.

10. Originally, when Azerbaijan joined the Council of Europe in 2001, there was an initial list of 716 names of presumed political prisoners drawn up by NGOs and sent to the Assembly's rapporteur. In 2001, the Secretary General of the Council of Europe appointed a number of independent experts, who were charged with studying this list on a case-by-case basis. 23 names in the list were dealt with by the experts as so-called "pilot cases". In April 2003, the list was reduced to 212 cases, which were the subject of the experts' second mandate.

11. In July 2004, the experts completed their work and submitted their final report to the Secretary General. Apart from their 20 opinions on the pilot cases, they adopted 104 opinions⁴ concerning the 212 cases referred to them.

12. In the 124 opinions adopted, the independent experts concluded that:

- 62 persons were political prisoners,
- 58 persons were not political prisoners, and
- 4 persons were no longer political prisoners⁵.

13. An additional list of 88 new cases of presumed political prisoners was subsequently drawn up by the NGOs. It contains the names either of persons arrested or convicted before 1 January 2001 that were unfortunately omitted from the initial list of 716 presumed political prisoners or of persons arrested or convicted between 1 January 2001 and 14 April 2002, the date of the entry into force of the European Convention on Human Rights in Azerbaijan. Only the Parliamentary Assembly has conducted an assessment of this list, which is appended to its report of January 2004 (Doc.10026). In its Resolution 1359 (2004), the Assembly called for the Secretary General to continue the work of the independent experts by giving them a third mandate relating to this additional list. The then Secretary General, Mr Walter Schwimmer, did not wish to do this.

C. Progress since Resolution 1359 (2004)

14. Since the adoption of Resolution 1359 nearly a year and a half ago, the President of the Republic of Azerbaijan, Mr Ilham Aliyev, has issued **five pardon decrees**, namely on 17 March, 10 May, 3 September and 29 December 2004 and 20 March 2005.

15. Among the persons released are several high-ranking political figures (declared to be political prisoners by the Secretary General's experts), including Suret Huseynov, the former prime minister, released in March 2004, Alikram Gumbatov, released on 3 September 2004, then banished from Azerbaijan and taken in by the Netherlands, and Raqim Gaziyeu, the former minister of defence, released in March 2005. Their release is a symbolic act and a positive signal to the international community and the authorities should be congratulated.

16. Under the pardon decree of 17 March 2004, 129 prisoners were released, 28 of whom were in the list of 716, including Suret Huseynov (pilot case No. 17) and Ravaz Ramazanov (pilot case No. 12) and 9 were presumed political prisoners from the supplementary list of 88 referred to by the Parliamentary Assembly.

17. The decree of 10 May 2004 permitted the release of 363 prisoners, 7 of whom were recognised as presumed political prisoners by the Parliamentary Assembly⁶ and named in my last report (although they had not been included in the list of 716 or their political prisoner status had not been recognised).

⁴ See documents SG/Inf (2004) 21 of 13 July 2004 and SG/Inf (2004) 21 Addendum part I and part II of 27 July 2004.

⁵ Persons tried and convicted for ordinary crimes (distinguishable from any act of a political nature) and/or serving a prison sentence clearly not disproportionate to the seriousness of their crime(s).

⁶ Fahmin Ahmedpasha oglu Hadjiyev, Djanmirza Mirzoyev, Mammed Akber oglu Veliyev, Ms Faina Khungurova, Yusif Alas oglu Ashrafov, Djamal Zulfugar oglu Mustafayev, Suliddin Mirzoyev, as well as an eighth prisoner, Avtandil Telman oglu Melikov (case No. 444/716, not recognised as a political prisoner by the Secretary General's independent experts).

18. Among the 264 prisoners released under the decree of 3 September 2004 are Alikram Gumbatov (pilot case no. 2)⁷, 4 political prisoners in the list of 716 and 12 presumed political prisoners mentioned in the Parliamentary Assembly's reports⁸.

19. The pardon decree issued on 29 December 2004 led to the release of 54 prisoners, including only one political prisoner and four presumed political prisoners (three from the list of 716 and one mentioned in the Parliamentary Assembly's reports⁹). However, the only political prisoner released, Djasur Kerimov, should have left prison on 20 December 2004, at the end of his sentence. He spent nine more days in prison for no valid reason unless it was artificially to inflate the list of people released.

20. Finally, the latest decree, that of 20 March 2005, constitutes an unprecedented and virtually unexpected step on the part of the authorities, since the 114 prisoners pardoned include 6 political prisoners – Natig Efendiyev (pilot case no. 7)¹⁰, Raqim Gaziyeu (pilot case no. 3)¹¹, Natiq Ahmedov, Hamlet Mammedov, Fazil Mukhtarov and Tofiq Qasimov – and 43 presumed political prisoners (3 from the list of 716 and 40 from the additional list).

21. While the decree of December 2004 was a real disappointment given the expectations of the international observers, especially the Parliamentary Assembly, the latest decree is further evidence of the authorities' willingness to be more active in resolving the issue of the presumed political prisoners.

22. In view of the commitments entered into and the assurances given by the Azerbaijani authorities for over four years now, the present situation cannot be described as satisfactory, nor can the issue of the political prisoners be regarded as closed. On the contrary:

- **3 political prisoners are still in prison** (ie persons recognised as political prisoners by the independent experts), including two "pilot cases";

- **43 persons** who were not recognised as political prisoners by the independent experts are also still in prison, including several contentious cases that the Parliamentary Assembly's rapporteur has brought to the authorities' attention;

- **107 persons** whose cases were not submitted to the independent experts (individuals omitted from the original list of 716 or arrested after the start of the experts' mandate) are also still in prison. They constitute an additional list of alleged political prisoners.

⁷ Alikram Gumbatov was released as a result of mediation by the Netherlands, which offered him asylum. I met him in prison during my visit in May 2004. During our discussion, his very clear-headed attitude was that he was in principle willing to accept exile so as to protect members of his family, who might be tempted to return to Azerbaijan where they risked being arrested. His critical state of health also weighed heavily in his acceptance of the offer. Alikram Gumbatov has now therefore joined the ranks of Azerbaijanis who have gone into exile against their will. Moreover, his exile is compounded by a humiliating measure: it appears that the authorities have stripped him of his Azerbaijani nationality. A. Gumbatov filed an application with the European Court of Human Rights.

⁸ Ulvan Afrasiyab oglu Bagirvo, Ilgar Kircheli oglu Hasanov, Javanshir Veysar oglu Hasanov, Suleyman Bahlul oglu Hasanov, Eldar Yaqub oglu Israfilov (case No. 335/716), Aydin Rafiq oglu Kerimov, Tahsin Ismayil oglu Mammedov, Saday Mammadali oglu Mirzoyev (case No. 450/716), Farhad Ahmedovich Muradov, Etibar Telman oglu Quliyev, Faiq Farouz oglu Rahimov, Ismayil Alekber oglu Sadikhli, Namiq Qadimali oglu Sharifov, Iftikhar Kamil oglu Suleymanov (case No. 662/716), Tahir Iskandiyar oglu Suleymanov. The release of Geray Imran oglu Qasimov (case No. 540/716) needs to be confirmed. In addition, the sentence of Djasur Sabir oglu Kerimov (case No. 351/716) was halved.

⁹ Djasur Sabir oglu Kerimov (case No. 351/716) – who was sentenced to 14 years' imprisonment in 1998; his sentence was halved by the previous presidential pardon; Elman Djamal oglu Djalilov (case No. 207/716), Sardar Mejid oglu Hamidov (case No. 241/716), Namiq Talyb oglu Mahmudov (case No. 384/716), and Eldar Yavar oglu Allahverdiyev.

¹⁰ Natig Effendiyev, a supporter of and close aide to Rasul Guliyev, the exiled former Speaker of the parliament, was sentenced to life imprisonment in January 2001. He should have been retried, but his retrial has never taken place.

¹¹ Raqim Gaziyeu told me during my visit in May 2004 that his retrial had been conducted in a totally biased and partial manner, thus indicating the serious weaknesses of the Azerbaijani justice and the judges' incompetence. On 26 December 2003, his life sentence was commuted to 15 years' imprisonment. He filed an application with the European Court of Human Rights (no. 2758/05) on 20 January 2005. The Court has not yet examined the case, including from the point of view of its admissibility.

i. The cases of persons recognised as political prisoners by the independent experts appointed by the Secretary General

23. The Parliamentary Assembly's position is well-known, clear and unwavering. The Assembly said in Resolution 1272 of January 2002 and Resolution 1359 of January 2004 that **everyone recognised as political prisoners had to be released immediately.**

24. The work of the independent experts appointed by the Secretary General is now finished. Of the 62 persons recognised as political prisoners, at least 45 have been released under presidential pardon decrees, two have been released following their retrial and four others have been released two months after their retrial, but three individuals who have been retried are still in prison.

25. For the authorities, the file is now closed.

26. However, there remain **3 political prisoners in detention**, 2 of whom belong to the group of so-called "pilot cases":

- Elchin Samir oglu AMIRASLANOV (pilot case no. 5)
- Arif Nazir oglu KAZYMOV (pilot case no. 15)
- Safa Alim oglu POLADOV (523/716).

All three are serving life imprisonment.

27. They are accused, inter alia, of participating in the mutinies of special police units in March 1995 (OPON), then participating in an attempted coup (so-called "case of the 30") and, finally, of attempting to assassinate five prominent figures in Gazakh in October 1996.

28. With regard to these three political prisoners, the authorities are maintaining a very strong position of principle and categorically rejecting any possibility of their being pardoned. Their cases have been examined on several occasions by the pardons commission, which considered it was impossible to grant a pardon given the particularly violent nature of the offences of which they are accused.

29. The authorities believe they are meeting the Assembly's requests by organising a new trial for these three persons.

30. The retrial in the so-called Gazakh OPON case, involving Arif Kazymov, Elchin Amiraslanov and Safa Poladov, took place between April and September 2004¹². All three had been sentenced to life imprisonment and their initial sentence was confirmed.

31. However, at the end of this trial Enver Ahmedov, whose sentence of 10 years was commuted to 7 years and 6 months, and Faiq Sadyqov, whose sentence of 8 years was also commuted to 7 years and 6 months, were released. Four others, Azer Alikhanov, Rasul Emchiyev, Rafiq Mammadov and Afqan Razimov, whose sentences were also reduced, were released in November 2004. The court also decided to annul the decision taken during the first trial to confiscate the defendants' property.

32. Another retrial took place at the same time, between July and September 2004, in the case of the Shamsi OPON. The accused, Tofiq Qasimov and Fazil Mukhtarov, did their utmost to persuade the court to acknowledge the torture and physical abuse they had suffered in detention, denouncing the disappearance of medical files and files pertaining to complaints they had made at the time. At the end of the trial, the court confirmed the sentence of 13 years' imprisonment imposed on Fazil Mukhtarov but commuted Tofiq Qasimov's sentence to 12 years (instead of 14)¹³.

¹² On trial were eleven OPON (Special Police Unit) members: Elchin Amiraslanov, Arif Kazimov and Safa Poladov (all three sentenced to life imprisonment in 1997 and mentioned in the list of 716), and eight others sentenced to between 10 and 15 years' imprisonment: Ahmedov Enver Nadir oglu (45/716), Ahmedov Natiq Bakhish oglu, Alikhanov Azer Rustam oglu (74/716), Emchiyev Rasul Necmeddin oglu (215/716), Mammadov Hamlet Aladdin oglu, Mammadov Rafiq Yashar oglu (417/716), Razimov Afqan Shamshad oglu (597/716) and Sadigov Faig Babakishi oglu (621/716).

¹³ A third accused appeared with them: Fazil Huseynov (case no. 277/716 - not recognised as a political prisoner) whose sentence to 13 years was also confirmed.

33. On the basis of the information currently at my disposal, and although it is not easy to appraise the situation, it seems unlikely to me that this second retrial was conducted in compliance with Council of Europe standards, particularly as regards the way in which the allegations of torture and the statements by the prosecution witnesses were handled.

34. It is clear that the Assembly expected these retrials, unlike the preceding trials, to comply with Council of Europe standards.

35. The authorities also argue that the only reason why these three persons were recognised as political prisoners by the independent experts¹⁴ was that they had initially been tried by a court whose composition did not conform to Council of Europe standards and could not guarantee the court's independence and impartiality. These persons were retried, and the retrial took place, according to the authorities, in conformity with Council of Europe standards, in a court composed exclusively of civilian judges.

36. I do not agree with this analysis. It would be wrong to infer from the conclusions of the independent experts that these three persons should no longer be considered political prisoners. On the basis of the case law of the European Court of Human Rights, the experts concluded that "once it had determined the lack of independence and impartiality, it was not necessary to examine other complaints regarding the fairness of proceedings". This means the experts did not examine these other complaints at all. Had they done so, they could equally well have concluded that the three individuals concerned were political prisoners owing to the failure to respect the presumption of innocence, the falsification of evidence or the maltreatment and torture they had suffered.

37. The three persons convicted have consistently claimed that they suffered maltreatment and were subjected to repeated torture during their arrest and detention, especially in order to force them to confess. It is clear that the authorities – including the court – did not seriously look into these allegations. From this point of view at least, the authorities were unable to guarantee a fair retrial.

38. As the Assembly noted with regret in January 2004, it cannot be said that the conduct of the retrials granted so far has been satisfactory. Mr Gaziyeu and Mr Gumbatov were not given a fair hearing, and the authorities accordingly failed to fulfil their commitment to grant them a proper retrial. Both the NGOs and the prisoners and their families have again expressed their strongest reservations concerning the conduct of the retrials. According to some information collected from international observers in Baku, it would seem that the retrial in the Gazakh OPON case was conducted a little better than previous ones. However, as far as I can tell at present, it was still far from taking place in complete conformity with Council of Europe standards.

39. On the whole, all the retrials have been mere repetitions of the original trials. They have simply not solved the problem, on the contrary.

40. For the above reasons and for others (especially their worrying state of health) the three political prisoners must be released without delay.

ii. The other cases in the list of 716 names

41. To date, **43 persons in the initial list of 716** have not been recognised as political prisoners by the independent experts and are still in prison. Among them there are several contentious cases to which successive Assembly rapporteurs have drawn the authorities' attention.

42. Several of these 43 persons **claim to be suffering from serious health problems and could be released on humanitarian grounds:**

- Rasim Aga oglu AKBEROV (60/716)
- Sakhatat Vali oglu HUMBATOV (266/716)
- Maqsud HUSEYNOV (283/716),
- Vaqif Rza oglu HUSEYNOV (298/716),
- Ilham Ca'di oglu ISMAYILOV (324/716),
- Rza Sabir oglu QULIYEV (570/716).

¹⁴ See document SG/Inf (2001) 34 "Cases of alleged political prisoners in Armenia and Azerbaijan" (24 October 2001) – www.coe.int/T/E/SG

43. In addition, the Azerbaijan **Criminal Code** contains several provisions that could – should! – be applied to the cases of the presumed political prisoners, namely Articles 76 (conditional release), 77 (commutation of unserved part of sentence to a less severe penalty) and 78 (release from punishment due to illness). The Criminal Code provides for a convicted person's conditional release if they have served two-thirds of their sentence in the case of a conviction for a less serious crime (involving a sentence not exceeding 12 years' imprisonment) or three-quarters in the case of a serious crime (involving a sentence of more than 12 years' imprisonment). If such a measure were to be taken, it would lead to the immediate release of about 15 presumed political prisoners in the list of 716.

44. According to the NGOs, it would seem that the authorities systematically apply these provisions to ordinary criminals. It is not acceptable that the authorities discriminate in the application of their own laws and refuse to apply these provisions to presumed political prisoners. Such a refusal is definite proof that these people are detained for political reasons.

45. The Assembly can only reiterate its demand for those prisoners to be released:

- who have served several years of their sentence and can be released under the provisions of the criminal code relating to conditional release,
- whose trials were in breach of fair trial principles,
- who are seriously ill and could be released on humanitarian grounds,
- who were involved in certain political events to a minor and very secondary degree, seeing as the people presumed to have instigated the events have themselves already been pardoned,
- 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.

iii. The list of 88 names

46. This list contains the names of persons arrested and convicted either before 1 January 2001 and omitted from the list of 716 names or between 1 January 2001 and 14 April 2002, when the European Convention on Human Rights came into force in Azerbaijan.

47. It is important to stress as far as this second list of presumed political prisoners is concerned that the authorities have made considerable efforts and that half the individuals in the list have been released under the recent pardon decrees.

48. The authorities, on the basis of the list of 88 names contained in the appendix to the Assembly's previous report of January 2004, have provided me with detailed information on these cases. They consider that they have broadly met the Assembly's requests: 46 prisoners have been pardoned and released and 14 released at the end of their sentence (one died in prison and 8 names allegedly do not correspond to any known prisoner). **19 persons are thus still in prison** according to the authorities. According to the NGOs, there are in fact **24** presumed political prisoners in prison (5 of the 8 disputed names were properly identified).

49. In its previous reports, the Assembly said the lists of presumed political prisoners could be closed on 15 April 2002, the date on which the European Court of Human Rights became competent to examine applications against Azerbaijan.

50. However, the lists of presumed political prisoners went on growing, with new names being added after that date. On the one hand, the NGOs continued to "discover" new presumed political prisoners who had been convicted before 2002 and of whose existence they had been unaware, and on the other, while some prisoners are being released, others are being arrested. Dozens of people have been arrested since 2002, either for the same matters as in the past (especially the OPON cases) or in connection with more recent events (the elections of October 2003, the so-called partisans of Karabakh case, etc – see below). There can be no doubt about the political motivation for these arrests.

51. The significance of the measures taken by the authorities to clear the initial list of 716 names is thus to a large extent overshadowed by the unending cycle of new arrests and convictions.

52. As far as this second list of presumed political prisoners is concerned, the authorities, and especially the pardons commission, are standing very firm and refusing to examine the cases of individuals they consider to be ordinary criminals and terrorists. The commission believes that the list of 88 people is unreliable and unconvincing and calls on the Assembly to review its position and delete from it the names of terrorists. This request concerns the members of the Sadval group, such as **Rahib Mahsimov** (paragraph 72 of my report of January 2004), who is accused of perpetrating an attack on the Baku underground in March 1994 that resulted in 14 deaths and dozens of injured. However, all the people arrested in this case said they were tortured to make them confess. The conduct of the trial in this case would seem open to challenge on more than one count (falsified evidence, rights of the defence disregarded, etc).

53. I, for my part, have pointed out that the lists of presumed political prisoners were provided by the NGOs and that it was up to the Assembly and its rapporteur to gather together the evidence that enables the status of political prisoner to be confirmed or denied. I have also mentioned to the Azerbaijani authorities the painful experience in similar circumstances of the United Kingdom or France, where people who have justified acts of violence or terrorism by reference to political considerations have had the right to a fair trial.

54. The families and friends of prisoners that I met are losing patience. They are also losing confidence in the Council of Europe. They do not understand why those presumed to be responsible for or to have instigated events that have led to the imprisonment of their relative or friend have been amnestied while their subordinates remain in prison. Suret Huseynov and Rasul Guliyev are free but their supporters are still in prison.

55. This is the case of the relatives of Rasul Guliyev: his three nephews (**Etibar Telman oglu Guliyev**, mentioned in my previous report (paragraph 70), **Rza Sabir Guliyev** (no. 570/716), who is said to have serious health problems, and **Bayram Telman Guliyev**) were arrested in 1999, 1998 and 2001 respectively. The first named was pardoned in 2004 but the other two are still in prison. They were joined, on the occasion of the events of October 2003, by Sardar Jalaloglu, Secretary General of the Democratic Party of Azerbaijan and three local party officials (all four were pardoned in March 2005).

56. The families and NGOs particularly wanted to draw my attention to the fate of the former members of the special police units (**OPON**), who were convicted chiefly for their involvement in the events of March 1995. About 26 remain in prison (some are mentioned in the list of 716 and others in the additional list of 88, while yet others have been arrested more recently).

iv. New list of presumed political prisoners

57. Today, it is becoming hard for the Assembly to ignore the people who are continuing to be arrested and convicted in connection with new cases completely fabricated on the judicial level by the authorities. According to the information provided to me by the NGOs, there are in fact **83 new presumed political prisoners** currently in this list.

- Arrests in connection with the events of October 2003

58. About 190 people were arrested in connection with the **events of 15 and 16 October 2003**, and criminal proceedings were brought against some **150 of them**. So far, 47 have been tried and given prison sentences (see the trial of the seven opposition leaders below); 88 others brought to trial have received suspended sentences and 6 have been given restriction of liberty sentences¹⁵. It is quite clear that these people were arrested because of their political convictions. Furthermore, the suspended sentences handed down are a sword of Damocles hanging over the regime's political opponents, since they are aware that the slightest misdemeanour can serve as an excuse for sending them to prison for a lengthy period.

¹⁵ More than a year after the first trials, the trial opened on 21 December 2004 of ten people arrested more recently (most of them from Nardaran). Two of them - Nadir Abbasov and Seyidaga Mammedov - were sentenced to three years' imprisonment and the eight others were given a three-year suspended sentence.

59. The trial of seven leading opposition figures arrested in October 2003 took place between May and October 2004. On 21 October 2004, Sardar Jalaloglu, Arif Hajili, Ibrahim Ibrahimli, Rauf Arifoglu, Panah Huseynov, Iqbal Agazade and Etimad Asadov were all sentenced to prison terms ranging from two years and six months to five years¹⁶.

60. The Court of Appeal confirmed all the sentences in November 2004, and the Supreme Court did likewise on 29 March 2005. In the meantime, the pardon decree of 20 March 2005 had come into force, and 36 persons were released, including the aforementioned seven.

61. As regards the conclusion of the trial against the seven opposition leaders, I will simply say that the severity of the sentences simply lends credence to the idea that we are talking about a further batch of political prisoners. In relation to the charges, i.e. participating in mass disorders and resisting police authorities, the sentences appear very severe. It is a fact that the Azerbaijani criminal code considers public order disturbances accompanied by violence to be "serious crimes" punishable by 4 to 12 years' imprisonment, which is no doubt a remnant from the former Soviet criminal code.

62. During my visit in May 2004 I was able to talk to two of these seven defendants, **Sardar Jalaloglu** (Secretary General of Rasul Guliev's Democratic Party of Azerbaijan)¹⁷, and **Rauf Arifoglu** (Editor of the Yeni Musavat newspaper)¹⁸. For them, this trial was nothing but a sham. They referred to the huge pressures brought to bear on the defence counsels, the forged evidence adduced by the prosecution and the particularly biased prosecution witnesses, who were virtually all members of the police or security forces.

63. Some of the prisoners arrested in October 2003 described terrible and systematic torture carried out by men from the organised crime unit. Dozens of complaints are said to have been filed but none was successful, including at the trials, at which these complaints were dismissed by the judges.

64. The NGOs with which I had meetings complained that this trial was being held in camera and that the security forces had prevented them from entering the courtroom to observe the proceedings. Six defence counsels had been beaten by the police. At the same time, the international observers – ambassadors and the OSCE – informed me that they had access to the hearings. They confirmed the NGOs' allegations.

65. The OSCE/ODIHR observed this trial and 14 others and published, in February 2005, an extremely detailed report containing critical conclusions and precise recommendations, to which reference should be made. In particular, this report highlights numerous irregularities in the conduct of the trial¹⁹. In order to study the concrete action to be taken in response to this report, a group of experts was set up with the Azerbaijani authorities. It met in Warsaw on 11 and 12 April 2005 and concluded that it was necessary to carry out several modifications both to the legislation and to judicial procedure, especially as regards the rights of the defence and lawyers' access to their clients.

66. Lastly, and still in relation to the trial of the seven opposition leaders, mention should be made of the case of **Taliat Aliyev**, the General Secretary of the Democratic Party of Azerbaijan (Rasul Guliyev's party). On 7 January 2005, he was sentenced to two years' imprisonment for hooliganism. He was arrested on 13 August 2004 for provoking an incident before the court during that trial.

¹⁶ Arif Hajili, Deputy chairman of the Musavat Party, and Rauf Arifoglu, Editor of the Yeni Musavat newspaper, were both sentenced to five years' imprisonment. Panah Husseinov, Chairman of the People's Party of Azerbaijan, and Sardar Jalaloglu, Secretary General of the Democratic Party of Azerbaijan, were both sentenced to four years and six months. Iqbal Agazade, Chairman of the UMID Party, and Ibrahim Ibrahimli, Deputy Chairman of the Musavat Party, were both sentenced to three years. Lastly, Etimad Assadov, Leader of the Organisation of Karabakh Invalids, was sentenced to two years and six months.

¹⁷ He informed me that he had been previously arrested on two occasions in 1998 and then kidnapped in 2003 by men from the organised crime unit. He was arrested by the police at his home on 18 October 2003 in circumstances in which force was used and taken to the organised crime unit's premises, where he was tortured on four occasions. He was unable to walk for two months and was put into solitary confinement for 40 consecutive days. His complaint about torture was rejected by the courts.

¹⁸ Rauf Arifoglu told me he did not understand what offences he was prosecuted for since he had been at an OSCE seminar at the time the events took place and had proof of this on a video cassette. The only testimony brought against him, apart from the evidence obligingly provided by police officers, was that of an acquaintance who had been forced to testify after being beaten for three days.

¹⁹ OSCE ODIHR, *Report from the trial monitoring project in Azerbaijan 2003-2004*, http://www.osce.org/documents/odihr/2005/02/4233_en.pdf.

67. Following the pardon decree of 20 March 2005, and taking into account releases at the end of the sentence or following a court decision, it would seem that **all persons convicted for their participation in the October 2003 events have been released**. Only **2 persons** who were convicted more recently in connection to the October 2003 events are still in prison²⁰.

68. Moreover, the persons convicted for public order disturbances with violence, insofar as this is considered a serious crime by the Criminal Code and their sentence has been confirmed on final appeal by the Supreme Court, are automatically deprived of their civic rights and will thus not be able to participate in the next parliamentary elections in autumn 2005.

- Arrests in connection with other events

69. As I have pointed out above, the arrests have continued since Azerbaijan's accession.

70. There are, on the one hand, the individual cases of persons arrested or convicted in connection with earlier events:

- I confess that I have been particularly struck by the case of **Nadir Maharramov**, who was arrested in 2003 and sentenced to life imprisonment for supposedly being part of the Garangush reconnaissance group. This group was "dissolved" in 1993 (a mild euphemism meaning that its members, who were initially heroes of Azerbaijan, were hunted down, arrested, tortured and well and truly liquidated!). Nadir was 18 years old at the time of the events and all the testimonies agree that he was never part of this group.

- More recently, **Tahir Agayev**, a cousin of Alikram Gumbatov, a political prisoner pardoned in September 2004, was arrested and sentenced to 4 years' imprisonment for not denouncing his uncle – two days after the latter had been expelled to the Netherlands!

71. Then there are still the collective trials. As in the past, the judicial authorities in Azerbaijan are continuing to fabricate cases:

- the "Juma Mosque" case: six individuals, imams or believers who were members of the "Juma Mosque", an independent religious community founded in 1992, were convicted for an attempted coup in 2003;

- the case of the "partisans of Karabakh": twenty individuals were sentenced in December 2004 to between 3 and 10 years' imprisonment for forming an armed group preparing to commit a coup.

72. Among the people arrested since 2001-2002 are many Azerbaijani nationals who were accused of participating in the guerrilla movement in Chechnya and were extradited from Georgia after being caught in the Pankissi Gorge.

73. To make matters worse, it would seem that people arrested since 2001 but charged with offences dating back to before Azerbaijan's accession to the European Convention on Human Rights cannot bring their cases before the Court in Strasbourg.

74. Since they are brought to trial and sentenced, all these individuals become alleged political prisoners.

75. Last news from Azerbaijan mentioned the **arrest** on 18 and 19 May 2005 of some **29 members of political opposition** (who belong to the Musavat party, the Party of Popular Front of Azerbaijan, the Democratic party, the Umid party, the Karabakh war veterans society, etc). Some of them were fined by the courts, but some others were sentenced to administrative detention and are therefore detained in prison. These arrests took place in the framework of the preparation of a joint opposition mass-demonstration, scheduled on 21 May, which had not been authorised by the authorities. The authorities accused them of resistance to police forces and violation of public order.

²⁰ Abbasov Nadir and Mammedov Seyidali arrested in 2004 and sentenced in 2005.

D. Related issues

1. Prisoners' state of health and conditions of detention

76. In my report of January 2004, I noted that the prisoners' conditions of detention seemed to be acceptable. However, recent changes in the prison management have, according to prisoners and NGOs, been reflected in deteriorating conditions of detention and restrictions on the rights of prisoners and their families.

77. I was extremely shocked by the violence with which mutiny attempts in some prisons were put down in February 2005. Several prisoners or their lawyers informed me about the ferocity with which certain presumed political prisoners were maltreated or beaten. Rahib Mahsimov and other prisoners of the Sadval group were said to have been beaten up by hooded men from the internal forces of the interior ministry. Sardar Djalaloglu, whom I visited again in March 2005, told me he had been left semi-naked in the prison courtyard for several hours in the freezing cold.

78. During my visit in May 2004, many prisoners talked in detail about the systematic torture carried out by men from the interior ministry's organised crime unit in connection with the arrest of people implicated in the events of October 2003. In 2005, these men were promoted, their superior to the rank of general. On this point, the authorities' attitude is absolutely incomprehensible.

79. The international observers are aware of these allegations of systematic torture. Accordingly, a delegation from the European Committee for the Prevention of Torture (CPT) carried out a visit to Baku in January 2004, in the course of which it spoke to about thirty people held at Remand Prison No. 1 (Bayil) and went to the Organised Crime Department's Temporary Detention Centre. It would be useful that the CPT undertake a visit to Azerbaijan at the earliest opportunity²¹.

80. Finally, the state of health of several prisoners is precarious or giving cause for concern and is making the families and NGOs I met extremely worried as some prisoners do not have access to proper treatment. The Ministry of Justice told me it was paying particular attention to these cases and had taken steps to improve the medical care of the prisoners and to have qualified doctors carry out intensive examinations as and when necessary.

81. I think it is important to recall that the Assembly has consistently demanded the release of these prisoners on humanitarian or medical grounds.

2. Problems encountered by released prisoners on leaving prison

82. For released political prisoners, many problems unfortunately arise on leaving prison that go beyond the difficulties involved in their social reintegration. Many families simply talked about their despair.

83. Former political prisoners and their families spoke to me about how difficult, not to say totally impossible, it was to find a job. Some receive a ridiculously low pension, while others are totally destitute. Many released prisoners are entirely dependent on their family, which is all the more problematic as most are in poor health and suffering from disabilities or medical conditions that require regular and expensive care.

3. The problem of the political exiles

84. Dozens of people and their families who fled Azerbaijan several years ago are still being sought by the authorities. They risk being arrested at any moment and extradited by the country in which they have found refuge, and they are liable to be convicted in the same way as their former coreligionists. In the last few months, I have received several complaints from political exiles who would like the Assembly to act as a mouthpiece for their concerns.

85. In addition to the names already known (Rasul Guliyev, Ayaz Mutalibov), there are said to be another twenty or so OPON members who have fled abroad or are in exile. In March 2005, one of them, **Nariman Ismayilov**, was arrested in Russia and extradited.

²¹ In the meantime I have been informed that the CPT carried out an ad hoc visit to Azerbaijan from 16 to 20 May 2005.

86. **Saday Nazarov**, chief adviser of former Prime Minister Suret Huseynov, who had been in political exile in the Czech Republic since 1995, voluntarily returned to Azerbaijan on 11 January 2005 and was arrested in Ganja on 20 January (he was being sought in connection with the October 1994 coup). As his arrest led to strong protests from the Czech authorities and the international community, the charges against him were finally dropped and he was able to return to the Czech Republic.

87. At the end of January 2005, too, the brother of Suret Huseynov, **Asif Davud oglu Huseynov**, was in turn arrested in Russia, but it would seem that his extradition has not yet been requested by Azerbaijan.

Conclusions

88. President Ilham Aliyev has issued five pardon decrees in the space of a year and a half, and releases from prison have taken place. Prisoners whose release, I was told in December 2003, was inconceivable have in fact been set free. This is a sign that things are continuing to improve.

89. The progress made has unquestionably been due to the constructive, open dialogue established between the Assembly and the Azerbaijani authorities. As rapporteur, I have always been very satisfied with the quality of my discussions with both President Ilham Aliyev and the Azerbaijani parliamentary delegation to the Council of Europe and its Chairman, Samad Seyidov. Many people are confident in President Ilham Aliyev's ability to reform the country and make it a modern democracy, provided that the conservative "old guard" still in power gives him the chance to do so.

90. Nevertheless, the slowness of the process is causing exasperation and frustration, especially among the prisoners' families, many of whom are continuing to place their hopes for early releases in the Assembly.

91. As things stand and in the light of the calls that it has repeatedly made, it is clear that the Assembly cannot say it is satisfied. The authorities gave firm promises that the matter would be settled to the Assembly's satisfaction by the autumn 2004 session. Unfortunately, this is not the case.

92. I would simply note that, following the last pardon decree and the retrials that took place in 2004, three individuals recognised as political prisoners by the independent experts are still incarcerated. To this number must be added the 43 persons whose status as political prisoners was not recognised by the independent experts and who are still in prison, as well as 107 persons forming a new list of presumed political prisoners whose cases were never submitted to the independent experts.

93. Moreover, and this is all the more worrying, the issue of political prisoners throws into increasingly sharp focus the inadequacies of the judicial system in Azerbaijan. The trial of the seven opposition leaders as well as the retrials clearly show the deficiencies of a judicial system that is still too subservient to the political authorities.

94. The authorities are aware of the Assembly's requests and of the lists of names. The Parliamentary Assembly has never said that all the names in the list of 716 and the list of 88 were of political prisoners and that all these people should be released. It calls on the authorities to study the lists on a case-by-case basis, in a fair and impartial manner, and to free those individuals whose release is clearly possible:

- either because they have already served several years of their sentences, or because their sentences were flawed,
- or because they are seriously ill and may be released on humanitarian grounds,
- or because they were involved in certain political events only to a minor and very secondary degree as subordinates, and those presumed to have instigated the events have themselves already been released,
- or because they have no connection with the events in question other than that they are relatives, friends or mere acquaintances of leading members of former governments.

95. The authorities would be mistaken if they were to conclude that the matter could be settled by releasing the prisoners in the initial list of 716 or granting them a retrial. **Three persons recognised as political prisoners are still in prison.** The retrials were not convincing. And among the **150 or so other individuals who are also still in prison**, several are perceived by the Assembly as cases of presumed political prisoners.

96. The committee accordingly expects the authorities to achieve a comprehensive solution to the problem in a responsible and effective manner so that this matter can be brought to a conclusion as soon as possible. The process of prisoner releases must be continued and completed without delay.

Appendix I

Programme for the visit to Azerbaijan of Mr Malcolm Bruce, Rapporteur (10-12 May 2004)

Delegation: Mr Malcolm Bruce, United Kingdom, LDR
Mrs Valérie Clamer, secretariat

Monday 10 May 2004

- 8.45 - 10.45 Meeting with NGOs representatives - the "Azerbaijani Federation of Human Rights" Leila Yunus (Institute of Peace and Democracy), Rena and Murat Saddadinov (Azerbaijan Foundation of Democracy Development and Human Rights Protection), Eldar Zeynalov (Human Rights Center of Azerbaijan) (*Hôtel Hyatt Regency*)
- 12.30 Working lunch hosted by the Chargé d'Affaires of The Netherlands with the Ambassadors of Norway and United-Kingdom
- 14.30 Departure to Gobustan
- 15.40 -18.00 Meetings with prisoners in the Gobustan prison
- 19.00 Meetings with families and relatives of political prisoners (*Council of Europe Information Centre*)
- 20.00 Meeting with the representatives of the Committee for protection of Ilgar Ibrahimoglu's rights (*Council of Europe Information Centre*)

Tuesday 11 May 2004

- 9.15 Meeting with Ambassador Peter Burkhard, Head of the OSCE Office (*OSCE Office in Baku*)
- 10.20 Meeting with the members of the parliamentary delegation of Azerbaijan to the Council of Europe (*Milli Mejlis*)
- 11.00 Meeting with Mr Fikrat Mammadov, Minister of Justice (*Ministry of Justice*)
- 12.00 Meeting with Mr. Ramiz Mehdiyev, Chairman of the Commission of Pardon, and other members of the Commission (*Palace of President*)
- 13.15 Lunch hosted by Mr Fuad Aleskerov, Vice-chairman of the Commission of pardon
- 14.30 -15.45 Meetings with prisoners in Bayil detention centre No. 1
- 16.05 Meeting with H.E. Mr Ilham Aliyev, President of the Republic of Azerbaijan (*Palace of President*)
- 17.30 -19.00 Meetings with prisoners in prison No. 9 (North of Baku)
- 19.45 Meeting with the representatives of NGO "Against Violence" Human Rights Center (Fuad Hasanov) (*Hôtel Hyatt Regency*)
- 20.30 Dinner with the parliamentary delegation hosted by Mr Samad Seyidov, Chairman of the parliamentary delegation of Azerbaijan to the Council of Europe

Wednesday 12 May 2004

- 9.00 - 10.20 Press conference (*Council of Europe Information Centre*)

11.45 Departure of the delegation

Programme for the visit to Azerbaijan of Mr Malcolm Bruce, Rapporteur (15-16 March 2005)

Delegation: Mr Malcolm Bruce, United Kingdom, LDR
Mrs Valérie Clamer, secretariat

Tuesday 15 March 2005

- 8.00 - 9.40 Separate meetings with NGOs representatives (*Office of the Special Representative of the Secretary General of the Council of Europe*):
- Leila Yunus (Institute of Peace and Democracy)
- Eldar Zeynalov (Human Rights Center of Azerbaijan)
- Fuad Hasanov ("Against Violence" Human Rights Center)
- Rena and Murat Saddadinov (Azerbaijan Foundation of Democracy Development and Human Rights Protection)
- 9.40 Meeting with Mr Mats Lindberg, Special Representative of the Secretary General of the Council of Europe to Azerbaijan
- 10.00 Meetings with families and relatives of political prisoners (*Council of Europe Information Centre*)
- 11.30 Meeting with Mr Robin Seaward, Deputy Head of the OSCE Office (*OSCE Office in Baku*)
- 13.00 -15.00 Meetings with prisoners in prison No. 12 (South of Baku)
- 15.50 Meeting with Mr. Ramiz Mehdiyev, Chairman of the Commission of Pardon, and other members of the Commission (*Palace of President*)
- 17.50 Meeting with H.E. Mr Ilham Aliyev, President of the Republic of Azerbaijan (*Palace of President*)
- 20.00 Dinner with the parliamentary delegation hosted by Mr Samad Seyidov, Chairman of the parliamentary delegation of Azerbaijan to the Council of Europe

Wednesday 16 March 2005

- 8.00 Working breakfast with H.E. Marcin Nawrot, Ambassador of Poland to Azerbaijan (chairing the Committee of Minister of the Council of Europe) (*Poland embassy*)
- 9.00 - 9.45 Press conference (*Council of Europe Information Centre*)
- 10.55 Departure of the delegation

Appendix II

List of persons considered or presumed to be political prisoners

PP: political prisoner according to the opinion adopted by the Independent Experts of the Secretary General

NPP: persons not considered to be political prisoner by the Independent Experts of the Secretary General

NE: cases for which no opinion was adopted by the Independent Experts of the Secretary General

Name in bold: persons still in prison

A. 21 (23) pilot cases

- n° 1 - GAMIDOV Iskander [PP – retried - released on 29.12.2003]
- n° 2 - GUMBATOV Alikram [PP – retried - released on 3.09.2004]
- n° 3 - GAZIYEV Raqim [PP - retried - released on 20.03.2005]
- n° 5 - **AMIRASLANOV Elchin** Samed oglu [**detained** – PP- life sentence - retried - life sentence upheld]
- n° 7 - EFENDIYEV Natig [PP - released on 20.03.2005]
- n° 8 - HADJIYEV Adil Khanbaba [PP - released]
- n° 9 - MUSTAFAYEV Siyavush Firudin oglu [PP - released]
- n° 10 - HADJIYEV Fahmin Ahmedpasha oglu [NPP – released on 10.05.2004]
- n° 11 - ABUYEV Habib [NPP - ??]
- n° 12 - RAMAZANOV Avaz [NE - released on 17.03.2004]
- n° 13 - QURBANOV Ajdar Mammed oglu [NE – released in 2001]
- n° 14 - IMRANOV Nariman Shamo oglu [PP - released]
- n° 15 - **KAZYMOV Arif** Nazir oglu [**detained** - PP - life sentence - retried- life sentence upheld]
- n° 16 - ABDULLAYEV Qalib Jamal oglu [PP - released on 17.06.2003]
- n° 17 - GUSEYNOV Suret Davud oglu [PP - released on 17.03.2004]
- n° 18 - SAFIKHANOV Ilgar Aziz oglu [PP – released]
- n° 19 - AKHUNDOV Ruhulla [NE – released in 2001]
- n° 20 - AKBEROV Israyl Isa oglu [PP - released]
- n° 21 - SAMEDOV Sadiq [NPP – released]
- n° 22 - SISOYEV Anatoliy [PP - released]
- n° 23 - ABBASOV Elhan [PP - released]
- n° 24 - AGAYEV Rafik [PP - released]
- n° 25 - GUSEYNOV Guseynbala [PP- released on 17.06.2003]

B. List of 212 (716) names

i. 45 persons considered to be political prisoner according to the opinion adopted by the Independent Experts of the Secretary General

- 35/716 AGAYEV Fakhraddin Tahmaz oglu (released on 17.03.2004)
- 43/716 AKHMEDOV Bayram Yunis oglu (released on 17.03.2004)
- 45/716 AHMEDOV Enver Nadir oglu (retried - release after trial on 17.09.2004)
- 51/716 AHMEDOV Natiq Bakhysh oglu (retried - released on 20.03.2005)
- 62/716 AKBEROV Tavakkul Sahladar oglu (released on 29.12.2003)
- 74/716 ALIKHANOV Azer Rustam oglu (retried - released in November 2004)
- 76/716 ALIRZAYEV Maqsad Alirza oglu (released on 29.12.2003)
- 94/716 ALIYEV Ilqar Jafar oglu (released on 29.12.2003)
- 159/716 BABAKISHIYEV Vagif Alish oglu (released on 17.03.2004)
- 163/716 BABAYEV Samir Abdulazim oglu (released on 29.12.2003)
- 200/716 DJAFAROV Rovshan Vaqif oglu (released on 29.12.2003)
- 215/716 EMCHIIYEV Rasul Nadjmeddin oglu (retried - released in November 2004)
- 250/716 HASANOV Hasan Mahammad oglu (released on 29.12.2003)
- 260/716 HASANOV Yusif Mirza oglu (released on 29.12.2003)
- 273/716 HUSEYNOV Chingiz Nariman oglu (released on 29.12.2003)
- 291/716 HUSEYNOV Sahib Mammed oglu (released on 17.03.2004)
- 297/716 HUSEYNOV Tofiq Panah oglu (released on 29.12.2003)
- 320/716 ISMAYILOV E'tibar Hamid oglu (released on 29.12.2003)

330/716 ISMAYILOV Ramiz Mikayil oglu (released on 29.12.2003)
 335/716 ISRAFILOV Eldar Yagub oglu (released on 3.09.2004)
 338/716 KALBIYEV Umidvar (released on 17.03.2004)
 351/716 KERIMOV Djasur (released on 29.12.2004)
 355/716 KERIMOV Fazil Shamil oglu (released on 17.03.2004)
 389/716 MAMMEDOV Adil Sabir oglu (released on 29.12.2003)
 390/716 MAMMEDOV Ahmed Bahlul oglu (released on 29.12.2003)
 396/716 MAMMEDOV Djalal (released on 29.12.2003)
 403/716 MAMMEDOV Hamlet Aladdin oglu (retried - released on 20.03.2005)
 405/716 MAMMEDOV Ilqar Bazirkhan oglu (released on 29.12.2003)
 417/716 MAMMEDOV Rafiq Yashar oglu (retried - released in November 2004)
 426/716 MAMMEDOV Shahin Alisimiran oglu (released on 29.12.2003)
 452/716 MIRZOYEV Faiq Azadkhan oglu (released on 29.12.2003)
 459/716 MUKHTAROV Fazil Famil oglu (retried - released on 20.03.2005)
 508/716 NOVRUZOV Ibrahim Hasan oglu (released on 29.12.2003)
 523/716 **POLADOV Safa Alim oglu (detained - retried - life sentence upheld)**
 547/716 QASIMOV Tofiq (retried - released on 20.03.2005)
 566/716 QULIYEV Kamran (released on 29.12.2003)
 597/716 RAZIMOV Afgan Shammed oglu (retried - released in November 2004)
 608/716 RZAYEV Etibar S. oglu (released on 29.12.2003)
 621/716 SADYQOV Faiq Babakishi oglu (retried - release after trial on 17.09.2004)
 644/716 SHAFIYEV Adalat (Dadan) Ali oglu (released on 29.12.2003)
 646/716 SHAFIYEV Qazanfar Ali oglu (released on 29.12.2003)
 659/716 SOLTANOV Soltan Shamil oglu (released on 29.12.2003)
 685/716 VELIYEV Djeyhun Hanbaba [Yagub] oglu (released on 29.12.2003)
 692/716 YAGNALIYEV Namiq Fikret oglu (released on 29.12.2003)
 700/716 YERMAKOV [Yermolayev] Oleg (released on 17.03.2004)

ii. 55 persons not considered to be political prisoner by the Independent Experts of the Secretary General

22/716 **ABDULLAYEV Shamsi Vahid oglu (detained - sentenced to 14 years in 2000)**
 24/716 **ABULOV Nadir Shaban oglu (detained - sentenced to 14 years in 1996)**
 37/716 AGAYEV Ismayil Bashir oglu (released according to authorities)
 49/716 **AHMEDOV Mahir Teyyub oglu (detained - sentenced to 15 years in 1997)**
 60/716 **AKBEROV Rasim Aga oglu (detained - sentenced to 15 years in 2000)**
 101/716 **ALIYEV Mobud (Alimursal oglu) (detained - sentenced to 13 years in 1994)**
 105/716 **ALIYEV Sadykh Mikayil oglu (detained - life sentence in 2000)**
 131/716 **AMIRASLANOV E'tibar (detained - sentenced to 14 years in 1996)**
 136/716 **ASADOV Seymur [Teymur] (detained - sentenced to 12 years in 1993)**
 153/716 **AZAYEV Eldar (detained - sentenced to 15 years in 1996)**
 170/716 **BAKAYEV [Bakarov] Rasim Hadjimirza oglu (detained - sentenced to 15 years in 1994)**
 191/716 **DJABIYEV Samandar Hayyat oglu (detained - sentenced to 15 years in 1993)**
 198/716 DJAFAROV Rashad Agarza oglu (released on 29.12.2003)
 207/716 DJALILOV Elman Djalal oglu (released on 29.12.2004)
 241/716 HAMIDOV Sardar Mejid oglu (released on 29.12.2004)
 258/716 HASANOV Rasim Qazanfar (Ramiz Mirza) oglu (released in 2004)
 266/716 **HUMBATOV Sakhavat Veli oglu (detained - sentenced to 15 years in 1995)**
 275/716 **HUSEYNOV Elkhan Komissar oglu (detained - sentenced to 12 years in 1994)**
 277/716 **HUSEYNOV Fazil Zulfugar oglu (detained - retried - sentenced to 13 years in 1994)**
 283/716 **HUSEYNOV Maqsud (detained - life sentence in 1994)**
 298/716 **HUSEYNOV Vaqif Rza oglu (detained - life sentenced in 1996)**
 302/716 **IBRAHIMOV Avaz Aydin oglu (detained - sentenced to 15 years in 1995)**
 331/716 **ISMAYILOV Rashid Nurulla oglu (detained - life sentence in 1998)**
 340/716 **QASIMOV [Kasumov] Asul (detained - sentenced to 13 years in 1996)**
 349/716 KERIMOV Azer (released in 2004)
 350/716 **KERIMOV Dayanat Kerim oglu (detained - life sentenced in 1994)**
 358/716 **KERIMOV Keramat Pasha oglu (detained - life sentence in 1997)**
 367/716 **KHALILOV Museyib (detained - sentenced to 11 years in 1997)**
 384/716 MAHMUDOV Namiq Talyb oglu (released on 29.12.2004)
 386/716 **MAMMEDALIYEV Sahib Nureddin oglu (detained - life sentenced in 1993)**
 438/716 MAMMEDOV Zavur [Zaur] (released on 20.03.2005)
 444/716 MELIKOV Avtandil (released on 10.05.2004)

- 448/716 MIKAYILOV Djeyhun Misir oglu (**detained** - sentenced to 12 years in 1994)
- 450/716 MIRZOYEV Saday Mammedali oglu (*released on 3.09.2004*)
- 461/716 MUKHTAROV Tahmaz Nadir oglu (**detained** - sentenced to 10 years in 1996)
- 474/716 MUSTAFAYEV Elishad Teyyub oglu (**detained** – life sentence in 1994)
- 475/716 MUSTAFAYEV Hasan Huseyn oglu (**detained** – life sentence in 2000)
- 476/716 MUSTAFAYEV Magsad Teyyub oglu (**detained** – life sentence in 1993)
- 510/716 NURALIYEV Samir Rzabala oglu (**detained** – sentenced to 12 years in 1996)
- 537/716 QASIMOV Asad Ramazan oglu (*released in 2005 at the end of his sentence*)
- 540/716 QASIMOV Geray Imran oglu (*may be released on 3.09.2004*)
- 550/716 QAYIBOV Intiqam Yusif oglu (**detained** – life sentence in 1993)
- 563/716 QULIYEV Fizuli Djavanshir oglu (*released according to authorities – to be confirmed*)
- 570/716 QULIYEV Rza Sabir oglu (**detained** - sentenced to 8 years in 1998)
- 584/716 RAHIMOV Faiq (Feiruz oglu) (*released on 3.09.2004*)
- 612/716 RZAYEV Maherram (**detained** – sentenced to 15 years in 1994)
- 617/716 SADIROV Yusif Huseyn oglu (**detained** - sentenced to 12 years in 1994)
- 625/716 SAFARALIYEV Alfat (**detained** - sentenced to 15 years in 1994 and to 15 years in 2000)
- 641/716 SARABI Bakhtiyar Rahman oglu (*released on 17.03.2004*)
- 649/716 SHAHMURADOV Yashar Khasay oglu (**detained** – life sentence in 1993)
- 654/716 SHEYDAYEV Djamaladdin (**detained** - sentenced to 13 years in 1996)
- 655/716 SHEYDAYEV Elkhan (**detained** - sentenced to 15 years in 1995)
- 662/716 SULEYMANOV Iftikhar (*released on 3.09.2004*)
- 673/716 TAGIYEV Ikram Seyfulla (**detained** - sentenced to 15 years in 1995)
- 676/716 TAHIROV Aliyusif (**detained** - life sentence in 2000)

iii. 4 persons no longer considered to be political prisoner by the Independent Experts of the Secretary General

- 87/716 ALIYEV Eldar Usub oglu (*released on 20.03.2005*)
- 222/716 FEYZULLAYEV Irakli (*released on 20.03.2005*)
- 324/716 ISMAYILOV Ilham Ca'di oglu (**detained** - sentenced to 15 years in 1997, sentence reduced to 13 years)
- 657/716 SHUKUROV Vugar (*psychiatric hospital*)

iv. Cases for which no opinion was adopted by the Independent Experts of the Secretary General (*prisoner released, lack of information*)

- 1/716 ABBASOV Ali Feruddin oglu (*released on 17.06.2003 according to the authorities*)
- 3/716 ABBASOV Elchin Nariman oglu (*released on 26.08.2003*)
- 6/716 ABBASOV Ibrahim (**detained** - sentenced to 12 years in 1994)
- 14/716 ABDULKERIMOV Azer Hasan oglu (*released on 17.06.2003*)
- 24/716 ABUYEV Habib Rzakhan oglu (**detained** - sentenced to 13 years in 1994)
- 29/716 ADYGOZALEOV Ibad (*released on 29.12.2003*)
- 33/716 AGAVERDIYEV Ilgar Agayaddin oglu (*released on 26.08.2003*)
- 34/716 AGAYEV Ayaz Yunis oglu (*released on 17.06.2003*)
- 43/716 AHMEDOV Bayram Yunis oglu (*released*)
- 46/716 AHMEDOV Fuad Murguz oglu (*released on 17.03.2004*)
- 47/716 AHMEDOV Jamaladdin (*released on 29.12.2003*)
- 55/716 AKBEROV Agasi Aga oglu (*released on 17.03.2004*)
- 56/716 AKBEROV Bayram (*released on 26.08.2003*)
- 61/716 AKBEROV Tapdiq (*released on 17.06.2003*)
- 62/716 AKBEROV Tavakkul Sahladar oglu (*released on 29.12.2003*)
- 69/716 AKBEROV Fuad Firuddin oglu (*released on 17.06.2003*)
- 87/716 ALIYEV Eldar Usub oglu (*released on 20.03.2005*)
- 88/716 ALIYEV Elkhan Chingiz oglu (*released on 18.06.2003*)
- 89/716 ALIYEV Eyvaz Orudj oglu (*released on 29.12.2003*)
- 97/716 ALIYEV Jafar Rza oglu (*released on 17.06.2003*)
- 108/716 ALIYEV Salman Adil oglu (*released on 26.08.2003*)
- 133/716 AMIRASLANOV Ilqar Samed oglu (*released on 29.12.2003*)
- 138/716 ASHRAFOV Bilal Ales oglu (*released on 17.03.2004*)
- 149/716 ASLANOV Khydyr (*released on 29.12.2003*)
- 158/716 BABAKHANOV Intiqam Rahim oglu (*released on 17.06.2003*)
- 160/716 BABAYEV Abil Suleyman oglu (*released on 17.03.2004*)

164/716 BABAYEV Vuqar Bayram oglu (released on 17.06.2003)
 166/716 BAGIROV Anver Bagir oglu (released on 17.03.2004)
 172/716 BAKHSHALIYEV K. (released on 17.06.2003)
 174/716 BAKHTIYAROV Huseyn Mahammad oglu (released on 29.12.2003)
 178/716 BAYRAMOV Elchin (released on 29.12.2003)
 179/716 BAYRAMOV Fuad Sovot oglu (released on 26.08.2003)
 181/716 BAYRAMOV Nazim Rauf oglu (released on 29.12.2003)
 185/716 BUDAQOV Elkhan Ali oglu (released on 17.03.2004)
 186/716 BURJALIYEV Burjali (released on 29.12.2003)
 187/716 BURJALIYEV Etibar Ashraf oglu (released on 26.08.2003)
 193/716 DJAFAROV Djafar Sardar oglu (released on 17.03.2004)
 201/716 DJAFAROV Sardar Huseyn oglu (released on 17.06.2003)
 203/716 DJAFAROV Vaqif Yomon oglu (released on 26.08.2003)
 209/716 DJALILOV Ramiz Ismail oglu (released on 17.03.2004)
 218/716 EYYUBOV Namiq Abdilhuseyn oglu (released)
 219/716 FARZALIYEV Rahim Hasan oglu (released on 26.08.2003)
 222/716 FEYZULLAYEV Irakli Aydin oglu (released on 20.03.2005)
 223/716 FEYZULLAYEV Ramin Aydin oglu (released on 26.08.2003)
 227/716 HADJIYEV Bakhtiyar Hadjiverdi oglu (released on 29.12.2003)
 230/716 HADJIYEV Jabrayil Hadjiverdi oglu (released on 29.12.2003)
 233/716 HADJIYEV Mikayil Hadjiverdi oglu (released on 29.12.2003)
 238/716 HAMIDOV Afqan Khan oglu (released on 29.12.2003)
 242/716 HAMIDOV Vaqif Meshediqara oglu (released on 29.12.2003)
 243/716 HAMZAYEV Firuddin Nariman oglu (released on 26.08.2003)
 248/716 HASANOV Eldar Zeynalabdy oglu (released on 29.12.2003)
 263/716 HEYDAROV Mehman Gasim oglu (released on 17.03.2004)
 282/716 HUSEYNOV Mahmud Omur oglu (released on 17.06.2003)
 284/716 HUSEYNOV Nail Ahmed oglu (released on 17.06.2003)
 305/716 IBRAHIMOV Mahir Madjid oglu (released on 17.06.2003)
 314/716 ISKENDEROV Gambar Chingiz oglu (released on 17.06.2003)
 316/716 ISMAYILOV (ILYASOV) Aqil Rza oglu (released on 17.06.2003)
 317/716 ISMAYILOV Arzu (released on 26.08.2003)
 322/716 ISMAYILOV Fakhraddin Khalil oglu (released on 29.12.2003)
 325/716 ISMAYILOV Mehman Ismayil oglu (released on 29.12.2003)
 329/716 ISMAYILOV Ramiz (released on 29.12.2003)
 337/716 ISRAFILOV Israfil Sultan oglu (released on 17.06.2003)
 344/716 QASIMOV Mubariz Yaqub oglu (released on 29.12.2003)
 345/716 QASIMOV Nail Sheveran oglu (released on 1.02.2003)
 345/716 QERIMOV Zulfugar Alekber oglu (released on 29.12.2003)
 374/716 LATIFOV Tehran Sabir oglu (released on 29.12.2003)
 377/716 MAHERRAMOV Arif Rahman oglu (released on 17.06.2003)
 381/716 MAHMUDOV Aliasaf Rza oglu (released on 17.06.2003)
 383/716 MAHMUDOV Hamlet Talyb oglu (released on 29.12.2003)
 394/716 MAMMEDOV Asger Hasan oglu (released on 29.12.2003)
 395/716 MAMMEDOV Dashqyn (released on 26.08.2003)
 406/716 MAMMEDOV Ilqar Uzeir oglu (released on 17.03.2004)
 407/716 MAMMEDOV Inqilab (released on 26.08.2003)
 424/716 MAMMEDOV Saul (released on 29.12.2003)
 435/716 MAMMEDOV Zahid Farhad oglu (released on 17.06.2003)
 462/716 MURADOV Eldar Elshad oglu (released on 29.12.2003)
 487/716 NABIYEV Ilham Erchad oglu (released on 26.08.2003)
 496/716 NAGIYEV Elkhan Tahir oglu (released on 26.08.2003)
 501/716 NAIBOV Talch Ibrahim oglu (released)
 507/716 NEVRUSOV Amin Orudj oglu (released on 26.08.2003)
 514/716 OMAROV Valex Madat oglu (released on 17.03.2004)
 519/716 PASHAYEV Mazahir Mahammad oglu (released on 17.06.2003)
 525/716 QADIMOV Djavashir Seyfaddin oglu (released on 17.03.2004)
 527/716 QAFAROV Aslan Beybala oglu (released on 26.08.2003)
 533/716 QARAYEV Aqil Soltan oglu (released on 26.08.2003)
 543/716 QASIMOV Oleg (released on 29.12.2003)
 546/716 QASIMOV Teyyub Saleh oglu (released on 26.08.2003)
 554/716 QOSHQAROV Aytakin (released on 29.12.2003)
 560/716 QULIYEV Elshan Mursal oglu (released on 26.08.2003)

562/716 QULIYEV Firdousi (released on 29.12.2003)
572/716 GULIYEV Vidadi Geydar oglu (released on 17.06.2003)
581/716 RAHIMOV Akif Gulamaly oglu (released on 26.08.2003)
583/716 RAHIMOV Elshan Djavanshir oglu (released on 17.03.2004)
588/716 RAHIMOV Tair Shain oglu (released on 17.03.2004)
590/716 RAMAZANOV Avez Agababa oglu (released on 17.03.2004)
591/716 RAMAZANOV Shamsaddin Abakar oglu (released on 8.07.2003)
594/716 RASULOV Elchin Qismet oglu (released on 26.08.2003)
599/716 RUSTAMOV Elyar Djahangir oglu (released on 29.12.2003)
609/716 RZAYEV Ilgar Farxad oglu (released on 17.03.2004)
624/716 SADIQZADE Qurban Agabala oglu (released on 17.03.2004)
626/716 SAFAROV Isabala Zafar oglu (released on 17.06.2003)
633/716 SALAKHOV Arif Ajdar oglu (released on 26.08.2003)
638/716 SALMANOV Qulamhuseyn Salman oglu (released on 17.06.2003)
648/716 SHAHMURADOV Vidadi Orudjgulu oglu (released on 17.03.2004)
664/716 SULEYMANOV Rasul Musa oglu (released on 17.03.2004)
666/716 SULEYMANOV Suleyman Salim oglu (released on 17.06.2003)
667/716 SULEYMANOV Tahir Suleyman oglu (released on 29.12.2003)
680/716 UMAROV Yusub Qasym oglu (released on 29.12.2003)
684/716 VELIYEV Babek Xanbaba oglu (released on 17.03.2004)
688/716 VELIYEV Raqif Basharat oglu (released on 17.03.2004)
689/716 VELIYEV Shahin (released on 26.08.2003)
694/716 YAHYAEV Nariman Yaman oglu (released on 29.12.2003)
715/716 ZEYNALOV Zeynal Imampasha oglu (**detained** - sentenced to 12 years in 1998)

Appendix III

Lists of alleged political prisoners based in particular on information provided by various NGOs

Azerbaijan Federation of Human Rights organisations [Center of Development Programs "EL", Committee of protection of the Oil Workers Rights, Human Rights Center of Azerbaijan, Institute of Peace and Democracy, Society of Humanitarian Researches]

Azerbaijan Foundation of Democracy Development and Human Rights Protection

**INCOMPLETE LIST
of alleged political prisoners in Azerbaijan**

Completed on the basis of information available after January 01, 2001

(12 May 2005)

NN	Surname, Name, Patronimic	Political affiliation	Date of arrest	Sentence	Location
1.	Abbasov Latif Qurban oglu	MQ-MD	2001	14	#15
2.	Abbasov Nadir	Oct16 (?)	2004	3	
3.	Abbasov Rasim Alakbar oglu	Djuma	2002?	4	#11?
4.	Abdullayev Nadir Samad oglu	MQ-MD	2001	7	#7
5.	Agayev Adalet Beylar oglu	Qarabag	2003	8	#12
6.	Agayev Tahir Sabir oglu	AH/relative	2004	4	
7.	Ahmedov Rafael Movsun oglu	Rasul/Oil	1998	11	#16
8.	Agayev Tahir Sabir oglu	AH/Relative	2004	4	
9.	Akberov Novruz Mammed oglu	MQ-MD	2001	8	#15
10.	Aliyev Anar Sabir oglu	Qarabag	2003	4	#2
11.	Aliyev Farrukh Hasan oglu	MQ-MD	2001	14	#7
12.	Aliyev Huseynbala Hadjafali oglu	Djuma	2002	7.5	
13.	Aliyev Ramin Shamseddin oglu	Djuma	2002	7.5	#11?
14.	Aliyev Ruslan Hamidar oglu	Qarabag	2003	4	#14
15.	Aliyev Shahin Isa oglu	Rasul	2000	8 (?)	
16.	Aliyev Taliyat	Oct 16/ADP	2004	2	
17.	Aliyev Ziyatesh Rustam oglu	OPON	2001	12?	#3 / 9
18.	Alyyev Kazim Dadash oglu	Djuma	2002	7,5	#15
19.	Amirov Yusif Abbas oglu	SH	1995	10 (?)	#14
20.	Asgarov Rustam Musa oglu	Qarabag	2003	3	#2
21.	Asgarov Tariel	Chechnya	2003		
22.	Babayev Alirza	Chechnya	2001	4	
23.	Babayev Feyruz Medjid oglu	Chechnya/Qarabag	2003	6	#6
24.	Badalov Rovshan Kitabali oglu	Qarabag	2003	10	#14
25.	Bakhshaliyev Qalib Telman oglu	OPON	1995	14 (??)	#12
26.	Bayramov Elchin Niyaz oglu	SH	1998	13	#6
27.	Bayramov Niyazi Nazim oglu	OPON/C-30	2002	10	
28.	Behbudov Ramiz Mohammed oglu	MQ-MD	2001	8	#11
29.	Budaqov Ahmed	Chechnya	2002	5	
30.	Djabiyev Samandar Hayyam oglu	AXCP/Qaranqush	1993	15	#2
31.	Djafarov Zaur Abdulla oglu	Djuma	2002	7.5	
32.	Djavadov Djeyhun (?)	Chechnya	2001		
33.	Djavadov Rovshan Khatir oglu	OPON	1995?		#12
34.	Ganjaliyev Allahverdi Sharif oglu	OPON	2000	11	#9
35.	Hadjiyev Fariz Agahadji oglu	Qarabag	2003	6	#12
36.	Hasanov Azad Maqsad oglu	OPON	1995	11	#2 ?
37.	Hasanov Djavanshir Veysar oglu	OPON	2001	(??)	
38.	Hasanov Etibar Akber oglu	SH	1997	13 (?)	#9
39.	Hasanov Hasret Mubariz oglu	Djuma	2002?	3	
40.	Hasanov Ilqar Kirzali oglu	SH/Nidjat	1995	10	#11

					(released?)
41.	Huseynli Mehdi	Terror/Musavat	2000	9	
42.	Huseynov Djavid Qurban oglu	SH	1995	10	#2 ?
43.	Huseynov Vuqar Huseyn oglu	OPON	1998?	13	#9
44.	Ibrahimov Ilqar Davud oglu	Qarabag	2003	5	#2
45.	Ibrahimov Shamil Mahamahasan oglu	MQ-MD	2001	13	#15
46.	Isayev Asiman Ilyas oglu	OPON	1995	(??)	
47.	Isayev Vusal Isa oglu	Qarabag	2003	6	#17
48.	Ismayilov (Ismiyev?) Israfil Rustam oglu	OPON	1995	11(??)	
49.	Ismayilov Nariman	OPON	2005		
50.	Kerimov Kamran Sultan oglu	Sadval	2000		QH
51.	Maherramov Nadir Eldar oglu	Qaranqush	2002	Lifer	QH
52.	Mahsimov Rahib Shaval oglu	Sadval	1994	Lifer	QH
53.	Mammedov Etibar Shamil oglu	SH	1996		#6
54.	Mammedov Furad Sadykh oglu	OPON	1995?		#12
55.	Mammedov Ilqar Hamza oglu	Qarabag	2003	3	#17
56.	Mammedov Ismayil Veli oglu	MQ-MD	2001	14	#1
57.	Mammedov Mahammad Qurban oglu	Qarabag	2003	8	#9
58.	Mammedov Mammed	Chechnya	2001	14?	
59.	Mammedov Parviz Mammed oglu	MQ-MD	2001	14	#11
60.	Mammedov Qambar	Chechnya	2002	4.5	
61.	Mammedov Ramil	Chechnya	2002	5	
62.	Mammedov Seyidali	Oct16	2004	3	
63.	Mammedov Yashar Asgar oglu	Qarabag	2003	6	#13
64.	Mammedveliyev Sabuhi	Bohran	1991, 2000	Lifer	QH
65.	Marqashvili Khizir Muxmadovich	Qarabag	2003	9	#13
66.	Medjidov Eldar Mirzabegovich	Sadval	1997	10	#2
67.	Misirkhanov Azer	Chechnya	2001	5	
68.	Muradov Farhad Ahmedovich	AM	2001	5 (??)	
69.	Mustafayev Djamal Zulfuqar oglu	AM	2001	6	
70.	Mustafayev Djeyhun	OPON-C30	2001	(??)	
71.	Mustafayev Rashid	Chechnya	2001	5	
72.	Namazov Huseyn	Chechnya	2002	4	
73.	Namazov Tapdiq	AXCP	2004	11	
74.	Novruzbeyov Elkhon	Chechnya	2002	5	
75.	Nurullayev Fuzuli	Chechnya	2002	4.5	
76.	Pashayev Rovshan Anur oglu	Qarabag	2003		
77.	Qaniyev Islam	Chechnya	2002	5	
78.	Qasimov Asad Ramazan oglu	SH	1997?	8	#11
79.	Qasimov Fikret Ali oglu	SH	1996	10	#14
80.	Qasimov Vusal Qazanfar oglu	Qarabag	2003	6	#17
81.	Quliyev Bayram Telman oglu	Rasul/relative	2001	11	#2
82.	Qurbanov Mushfig Nizami oglu	Qarabag	2003	9	#13
83.	Qurbanov Telman Aliabbas oglu	Qarabag	2003		
84.	Qurbanov Tahmiraz Djomard ogli	OPON	1995?		#17
85.	Ramazanov Hafiz	Chechnya	2003		
86.	Rasulov Firuz Kamran oglu	Qarabag	2003		
87.	Rustamov Eldar Hasan oglu	Rasul	2000	8	#9
88.	Rustamov Firdovsi Isa oglu	Rasul	2000		(released ?)
89.	Rzayev Alekber (?)	Chechnya	2001		
90.	Rzayev Ilqar Qadir oglu	SH	1995?	13	#1
91.	Sadiqov Djavanshir Buta oglu (?)	Phone terrorist	2004	5	#6
92.	Sadiqov Djeyhun	Chechnya	2002	4	
93.	Sadyqov Rufat (?)	Chechnya	2001		
94.	Safarov Tahir	Chechnya	2002	4	
95.	Shafaqatov Qahraman Hasan oglu	Qarabag	2003	6	#14
96.	Sharifov Zakir Nizami (Nazim) oglu	Sadval	1995	15	

97.	Sonmez Sirma Kamil qizi (?)	PKK (TR) (w)	2000	5,5	#4
98.	Tagiyev Ramiz Yusif oglu	Oct16/AXCP	2003	5	#2
99.	Tagiyev Rasim Qurban oglu	MQ-MD	2001	8	#1
100.	Velibeyov Kabir	Chechnya	2002	5	
101.	Yaqubov Elmir (?)	Chechnya	2001		
102.	Yolchuyev Mobil Musleddin oglu	MQ-MD	2001	15	#15
103.	Yunusov Sabir Isamuddin oglu	Sadval	1995	15	
104.	Yusifov Azer	Chechnya	2002	4.5	
105.	Zeynalov Etibar Chumshud oglu	Qarabag	2003		
106.	Ziyadov Alik Maherram oglu	MQ-MD	2001	7	#11
107.	Zohrabov Mazdan Seyfal oglu	Sadval	1995	15	

The names of prisoners are listed as : Surname Name Patronimic (with 'oglu')

The list had been compiled on the basis of criteria elaborated by experts of Council of Europe.

EXPLANATIONS

bold	24 remaining prisoners whose names were mentioned on the previous list of "88"
?	Unreliable information
(?)	Doubt in political character of arrest
(??)	Probably, released from detention
(w)	Woman
#1, SI-1, QH	Correction Labor Institution #1, Investigation Isolator #1, Qobustan Prison, etc.
ADP	Member of Azerbaijan Democratic Party
AH	Supporter of Alikram Humbatov
AM	Supporter of ex-President Ayaz Mutallibov
ANDP	Member of Azerbaijan National Democratic Party "Boz Qurd"
AXCP	Member or supporter of Party of Popular Front of Azerbaijan
C-30	Case of thirty people (Elchin Amiraslanov & others)
Chechnya	Azeri citizen allegedly trained in Georgia to participate in Chechnya guerilla
Djuma	Conspiracy in Djuma Mosque in Ganja
MQ-MD	Alleged plot of former prosecutors Mammed Quliyev and Mahir Djavadov
Musavat	Opposition "Musavat" Party
Nidjat	Charitable Committee of "Nidjat"
Oct 16	Mass post-election disorders in Baku on October 16, 2003
OPON	Mutiny of the Special Police Unit in March 1995
PKK / TR	Supporter of Kurdish Labour Party (PKK) / Citizen of Turkey
Phone terrorist	Person allegedly threatened American Embassy by phone
Qarabag	Illegal voluntary group named as "Karabakh partisans"
Qaranqush	Case of voluntary intelligence unit "Qaranqush" in Qubadli region
Rasul	Supporter of ex-Spokesperson of Parliament Rasul Quliyev
Relative	Person probably arrested because of his family relation with arrested politician
SH	Supporter of ex-Premier Suret Huseynov
Sadval	Member of Lezgin National Movement "Sadval" (Unity)
Terror	Act of individual political terror

Reporting committee: Committee on Legal Affairs and Human Rights

Reference to committee: Doc 10473, Reference No 3067 of 18 March 2005

Draft resolution and draft recommendation unanimously adopted by the Committee on 23 May 2005 with one abstention

Members of the Committee: Mr Serhiy **Holovaty** (Chairperson), Mr Jerzy **Jaskiernia**, Mr Erik Jurgens, Mr Eduard Lintner (Vice-Chairpersons), Mrs Birgitta **Alqvist**, Mr Athanasios **Aletras**, Mr Gulamhuseyn Alibeyli, Mr Rafis Aliti (alternate: Mr Zoran **Krstevski**), Mr Alexander Arabadjiev, Mr Miguel Arias, Mr Giorgi Arveladzé, Mr Abdülkadir Ateş, Mrs Maria Eduarda Azevedo, Mr Jaume Bartumeu Cassany, Mrs Meritxell Batet, Mrs Soledad Becerril, Mrs Marie-Louise Bemelmans-Videc, Mr Sali Berisha, Mr Rudolf **Bindig**, Mr Malcolm **Bruce**, Mr Erol Aslan Cebeci, Mrs Pia **Christmas-Møller**, Mr Boriss Cilevičs (alternate: Mrs Ingrida **Circene**), Mr András Csáky, Mr Marcello Dell'Utri, Mr Mehdi Eker, Mr Martin Engeset, Mrs Lydie Err, Mr Jan **Ertsborn**, Mr Václav Exner, Mr Valeriy **Fedorov**, Mr Robert Fico, Mr György **Frunđa**, Mr Jean-Charles **Gardetto**, Mr József Gedei, Mr Stef **Goris**, Mr Valery **Grebennikov**, Ms Gultakin **Hajiyeva**, Mrs Karin Hakl, Mr Michel Hunault (alternate: Mr Yves **Pozzo di Borgo**), Mr Sergei **Ivanov**, Mr Tomáš Jirsa (alternate: Mrs Daniela **Filipiová**), Mr Antti Kaikkonen, Mr Hans Kaufmann, Mr Ulrich Kelber, Mr Nikolay **Kovalev**, Mr Jean-Pierre Kucheida, Mrs Darja Lavtižar-Bebler (alternate: Mrs Mojca **Kucler-Dolar**), Mr Andrzej **Lepper**, Mrs Sabine Leutheusser-Schnarrenberger, Mr Tony Lloyd (alternate: Mr David **Marshall**), Mr Andrea Manzella, Mr Alberto Martins, Mr Dick Marty, Mr Tito Masi, Mr Kevin **McNamara**, Mr Philippe Monfils, Mr Philippe Nachbar, Mr Tomislav Nikolić, Ms Ann Ormonde, Ms Agnieszka **Pasternak**, Mr Ivan Pavlov, Mr Piero Pellicini, Mrs Sólveig Pétursdóttir, Mr Rino Piscitello, Mr Petro Poroshenko, Mrs Maria Postoico, Mr Christos **Pourgourides**, Mr Jeffrey Pullicino Orlando, Mr Martin Raguž, Mr François Rochebloine, Mr Armen Rustamyan, Mr Adrian **Severin**, Mr Michael Spindelegger, Mrs Rodica Mihaela **Stănoiu**, Mr Petro Symonenko, Mr Egidijus **Vareikis**, Mr Miltiadis Varvitsiotis, Mr John Wilkinson (alternate: Mr Humfrey **Malins**), Mrs Renate Wohlwend, Mr Vladimir Zhirinovskiy (alternate: Mr Yuri **Sharandin**), Mr Zoran Žižić (alternate: Mr Ljubiša **Jovašević**), Mr Miomir Žužul

N.B.: The names of the members who took part in the meeting are printed in **bold**

Secretariat of the Committee: Mr Drzemczewski, Mr Schirmer, Mrs Clamer, Mr Milner