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Introduction

A. The mission

The international mission took place from 4 to 9 of July 2002 in Baku. It was made up of Laurence Roques and Christine Martineau, attorneys at law with the Creteil and Paris Bars. The goal of the mission was to monitor the trial of three political prisoners, Messrs. Iskander Gamidov, Alikram Gumbatov and Raquim Gaziyev, who were being re-tried. When it joined the Council of Europe in 2001, Azerbaijan promised to free or re-try the political prisoners still in detention and in particular the three aforementioned emblematic figures.

People we met with during the mission

The three political prisoners' lawyers
Mr. Mahmudov Vidadi (Gamidov's lawyer)
Mr. Quliyev Elton (Gamidov's and Gaziyev's lawyer)
Mr. Osmanov Elman Isameddin (Gumbatov's lawyer)

Legal experts
Mr. Erkin Gadirov, professor at Baku Law University and researcher in international law.
Mr. Mahir Mushteid, assistant for the Council of Europe and member of the Association of Lawyers for the 21st century.

Human rights defense organisations
Mrs Benanarly Saadat, director of Azerbaijan National Group of ISHR-Headquarters in Frankfurt.
Mrs Novella Jafarovglu-Applebaum and Mrs Mehriban Zeynalova, Association for the Protection of Women Rights after D.Aliyev
Mrs Saida Gajamanly, director of the Bureau of Human Rights and Law respect
M. Nadir Kamaladdinov, director of the Resource Center on National Minorities
Mrs Arzu Abdullayeva, director of the National Committee of Helsinki Citizens' Assembly (HCA), co-chair of HCA International

Leaders of opposition political parties
Mr. Zardusht Alizande, co-chair of Azerbaijan Democratic Party
Mr. Khalilov Oktay, MP and leader of the National Democratic Party
Mr. Isa Gambar, leader of the Musavat Party
Mr. Ali Kerimov, leader of Azerbaijan Popular Front Party
Mr. Etibav Mamedov, leader of the Party of National Independence

Public authorities
Mr. Orujzalov, junior Home Secretary
At the Ministry of Justice
Mr. Chingiz Kasumov, head of analytical organization department
Mr. Togay Aliyev, head of foreign relations department
Mr. Jahid Muradov, head of civil affairs and of the Seal.

French Embassy
Mrs. Chantal Poirier, French Ambassador in Baku

Despite several attempts, the mission was never authorized - in particular by the President of the Baku Appeal Court- to meet the three political prisoners who were being tried. The mission would like to thank the members of the National Committee of Helsinki Citizens' Assembly for their invaluable help in organizing this mission.

The present report is based on information collected during the mission and completed with documents from various human rights associations, in particular the Human Rights Center of Azerbaijan.

Finally, we would like to thank the Assistance to the Support Special Fund to Missions of the FIDH, which made this mission possible.

B. Observations and comments

The call for boycott issued by 27 opposition parties for the referendum on August 24, 2002 shows the climate of political tension and authoritarianism that prevails in Azerbaijan.

Mr. Aliyev reigns alone in this Republic which became independent in 1991. Opposition parties are divided and do not provide any real political alternative; the activities of their leaders are hindered in various ways: legal harassment, arbitrary redundancies, ban on demonstrations, difficulties to register for opposition parties...

As an example, the date for the referendum was set by presidential decree, only two months before it was held, without prior consultation either on substance or form with the Parliament, nor with the Council of Europe (Azerbaijan became a member in 2001). This referendum includes constitutional amendments to increase Aliyev's power, and seemingly aims to
ensure that his power will be passed on to his son, Ilham Aliyev, vice-president of the majority party (New Azerbaijan party- NAP) in Parliament. After the referendum, and in particular in the light of numerous irregularities that occurred during the consultation, four opposition parties announced they considered the results as fraudulent and not legitimate. Azerbaijan, is situated in the Caucasus, at the edge of the Caspian Sea between the European Union and Central Asia and has both gas and oil. Yet the country's resources are concentrated in the hands of the authorities and Aliyev's family, which prefer exploiting these resources rather than developing agricultural resources.

There is a growing gap between urban and rural populations, while at the same time the population is growing continuously, according to a report of the National Statistics Committee. Despite its commitments in the framework of the partnership agreement with the European Union, Azerbaijan has still not implemented the economic reforms needed to increase standards of living: the unemployment rate is still very high and State corruption is massive.

Public authorities resort to violence to crush social protests, as occurred last June in Nardaran village that locates 35 km away from Baku: the police fired into the crowd of demonstrators, killing one person, 18 demonstrators and local opposition leaders were arrested and beaten up. In order to justify these exactions, in particular when it comes to international scrutiny, the authorities do not hesitate to accuse the population of being manipulated by Islamist fundamentalists in the pay of Iran. In the present context - Azerbaijan provided important logistic support to the Americans during the intervention in Afghanistan, by opening its air space, even airports, as all other CIS countries: this argument is a weighty one.

Economic interests at stake in the country are such, in particular for foreign investors, that the present government enjoys a certain leniency from the part of the international community. Azerbaijan is a crucial transit point for pipelines transporting oil from Central Asian production countries, such as Kazakhstan and Turkmenistan to Turkey. Thus political stability -i.e. keeping President Aliyev in place- overrides concerns about democracy and respect for human rights.

The attitude of the Council of Europe epitomizes this. This institution had demanded, as a prerequisite to the entry of Azerbaijan in the Council, that free and impartial elections be organised. Yet despite the massive fraud that marked the last general elections in 2000, the country became a member on January 25, 2001. The lack of independence of the judicial and legislative branches, the high number of political prisoners, held for the most part in horrendous conditions, major restrictions to the free exercise of fundamental freedoms... did not affect the position of the member States of the Council of Europe. The report of the Chairman of the Council of Ministers of the Council of Europe concluded that postponing the accession of Azerbaijan would be perceived as a refusal, which could have endangered political stability in the country and region.

Finally, the situation in Nagorno-Karabakh jeopardizes the country's integrity and unites the Azeri population around the exacerbation of nationalist feelings, exploited by both the government and political opposition to divert the population's attention from domestic problems. As underlined by Mrs Polfer, Chairperson of the Council of Europe when she visited Caucasia in July 2002, the problem of Nagorno-Karabakh is at the same time source of power and threat for both countries (Armenia and Azerbaijan): the atmosphere of latent war diverts attention from other problems.

The controversy that arose on occasion of the visit of Mr. Andreas Gross, Representative of the Parliamentary Assembly of the Council of Europe, at the end of July 2002 in Azerbaijan, is symptomatic of this tension. The governmental press accused him of being pro-Armenian. The President's son, Ilham Aliyev, told the press: "Mr. Gross is hostile towards our country, and even, I should say, towards our people". In this context, the holding of new trials for the best known Azeri political prisonersMESSRS. ISKANDER GAMIDOV, ALIKRAM GUMBATOV and RAQIM GAZIYEV is an crucial challenge on the national and international agenda, and adds a bit more fuel to political tension.

2. In 2002 population reached over 8 million people.
7. On July 29th, Georgian, Azeri and Turkish soldiers met in Tbilissi in Georgia for training aimed at securing the future Baku-Tbilisi-Ceyhan pipeline. On September 22 the construction consortium, led by the British oil company BP announced the next launching of project.
8. The Council of Europe pushed hard to obtain simultaneous accession of the Republics of Armenia and Azerbaijan, in order to preserve a diplomatic balance with the two countries, although the human rights situation in the two countries is very different.
9. See Report on visit of Mrs Lydie Polfer, Chair of the Council of Ministers of the Council of Europe; visit to Caucasia, from July 15 to 18 2002.
10. On the subject, pro-government media said that Mr Gross's former director was a Swiss of Armenian descent. They also underlined the fact that Mr. Gross has signed an appeal for the Armenian massacre of 1915 to be recognized as a genocide.
A. Historic background

The first Republic of Azerbaijan was proclaimed on May 28, 1918.

Confiscated by the Soviet authorities in April 1920, this country became in 1922 the fifteenth Republic of the USSR. Heydar Aliyev, head of the Azerbaijan KGB, then later First Secretary of the communist party from 1969 to 1982, was in charge of “restoring order” in this Republic. Thanks to him, corruption, already widespread throughout the country, became systematic. Protégé of Brejnev, he was appointed deputy prime minister of the USSR, position from which Gorbatchev removed him in 1987. He fell into disgrace at the end of the nineties.

The eighties and early nineties were marked by territorial tension which led to the war in Nagorno-Karabakh as well as the accession to independence of Azerbaijan, followed by a transition period characterized by strong instability and violence.

The conflict between Azerbaijan and Armenia dates back a long time. Fight over the control of the territory of Nagorno-Karabakh gave rise to a bloody conflict between the two countries from 1918 to 1920. The conflict was solved with the integration of this territory to Azerbaijan after intervention of the Soviet authorities in 1923. Nagorno-Karabakh was given the statute of autonomous region of the Soviet Republic of Azerbaijan. The Perestroika years, towards the end of the eighties, fostered the creation of a movement for independence which demanded that the territory be united to Moscow, then to Armenia. Retaliation pogroms and massacres against Armenians were organised, in particular in Soumgait at the end of February 1988, then in Kirovabad in November 1988 and finally in Baku in January 1990, which caused the exodus of Baku Armenians. Conflict deteriorated and a war between Armenia and Azerbaijan broke out in 1992, leading to the exodus of Azeris living in Nagorno-Karabakh and Armenia and the exodus of Armenians living in Azerbaijan, as well as massacres such as the one of Azeris carried out by Karabakh fighters in February 1992 in Khojali. Faced with the victories of Armenian forces of territories beyond Nagorno-Karabakh, a cease-fire was declared in 1994. As a result of this conflict, 20% of Azerbaijan territory is under exclusive control of the Karabakh authorities, and several hundred thousand people have been displaced in Azerbaijan.

At the same time, at the end of the eighties was created the Azerbaijan Popular Front aiming at reforming the society in the momentum of Perestroika. Due to more radical leadership transition, it turned into an anti-Soviet and pro-Turkish movement. This party called for independence.

Independence was proclaimed on August 30, 1991, after bloody repression was carried out by the Soviet troops in January 1990. Ayaz Mutalibov, First Secretary of the Communist Party of Azerbaijan, was the first elected President of Azerbaijan in September 1991. He was overthrown in 1992 in favour of Abulfaz Elchibey, candidate of the Popular Front who became president on June 7, 1992.

The defeat of Azeri troops on the Karabakh front, the incapability of the Popular Front government to solve the problems that affect the country, the role of various countries and mainly of Russia, Iran and Turkey in the Azeri-Armenian conflict led to the eviction and escape of President Elchibey on June 15, 1993.

Heydar Aliyev, President - since 1990 - of the Parliament of Nakhichevan, his region of origin, returned to Baku where he was elected spokesman for the government before being elected President of the Republic on October 3, 1993.

The period 1994-1995 is marked by several "coup" and "assassination" attempts against Heydar Aliyev. The struggle for power and for staying in office was dire and violent. Several political and military players of the time were arrested and the trials of some of them are currently underway.

In 1995, after a period of political instability Azerbaijan undertook numerous legislative reforms. On November 12, 1995, a referendum for the adoption of a new Constitution was held as well as the first general elections since independence.

B. Legal framework and protection of human rights

Constitution and power structure

The text provides that "the State of Azerbaijan is a democratic Republic, secular and unitarian", whose higher goal is to "ensure human and civil rights and freedoms". In addition, the text states that "human and civil rights and freedoms, listed in the Constitution, shall be exercised in accordance with international treaties to which Azerbaijan is party." All the internationally recognized rights are guaranteed by this Constitution.

The Constitution also asserts the separation of the executive, legislative and judicial branches.

The President is elected by direct universal suffrage, for five years, and is the head of the executive. As such, he appoints the Prime Minister and the government, appointments that must receive Parliamentary approval. The President also appoints the heads of the executive in towns and the 65 districts. In practice, the executive branch plays a predominant part. The Parliamentary Assembly of the Council of Europe, in its September 2002 resolution, said it was "very concerned with the excessive interference of the executive in the functioning of institutions".

Members of Parliament are elected for five years by direct universal suffrage. Only 25 out of the 125 MPs are elected through proportional representation, which leaves little room for opposition, divided into many parties. This situation can only get worse after the August 2002 referendum that eliminates proportional representation in favor of the majority rule for parliamentary elections. Furthermore, in its September resolution, the Council of Europe Assembly noted that "the Parliament does not exert any control over the activities of the government". The fact that the referendum was organised without any consultation with Parliament is a perfect illustration of this situation.

Contrary to constitutional provisions, the judiciary is completely dependent from the political branch and more precisely from President Aliyev. He has control over the appointment of judges, which cannot proceed without his approval, as we saw during our investigation mission.

International and regional commitments

As early as July 13, 1996, Azerbaijan applied to become a member of the Council of Europe; the Council had, as early as 1994, envisaged the accession of the three countries from Southern Caucasus: Armenia, Azerbaijan and Georgia, "in view of their cultural links with Europe, provided they clearly indicate their will to be considered as part of Europe".

Azerbaijan had to wait five years before becoming a member of the Council of Europe on January 25, 2001. Prior to this, the country had signed up to a number of commitments listed in Opinion N°222 (2000) of the Parliamentary Assembly of the Council of Europe, and reproduced in the annex: strengthening the independence of the legislature, modification of electoral legislation, guarantees for freedom of the press and media, prosecution and trial for law enforcement officers who commit human rights violations, release or re-trial of political prisoners and peaceful settlement of the Nagorno Karabakh conflict...

On the day of its accession, Azerbaijan signed the European Convention for Human Rights (Convention for the protection of human rights and fundamental freedoms, ECHR) and additional protocols 1, 4, 7 et 11. The Convention entered into force on 04/15/2002.

This country has ratified among other conventions:
- European Convention for the Prevention of Torture and Inhuman or Degrading Treatment of Punishment and protocols 1 and 2 (15/04/2002)
- Convention on the protection of minorities (26/06/2000)
- European Charter on local self-government (15/04/2002)

Yet Azerbaijan has neither signed nor ratified the Criminal Law Convention nor the Civil Law Convention on corruption, nor the European Outline Convention on Transfrontier Cooperation, despite its commitments. Furthermore, the country still needs to ratify the European Social Charter, the Convention on mutual assistance in criminal matters and the Convention on laundering.

Azerbaijan is a member of the UN and has ratified in particular the:
- International Covenant on civil and political rights,
- International Covenant on economic, social and cultural rights,
- Convention against torture and other cruel, degrading and inhuman treatment
- Convention on the rights of the child
- Convention on elimination of all forms of racial discrimination
- Convention on elimination on all forms of discrimination against women

Azerbaijan is a member of the OSCE since 1992 and has subscribed to the principles on the rule of law and democracy, in particular under the Helsinki Final Act and Paris Charter.
Legislative reforms

Under pressure from the Council of Europe, Azerbaijan undertook major reforms, in particular the overhaul of the judicial system, of the civil code and code for civil proceedings as well as the criminal code, the abolition of the death penalty in 1998, the adoption of the ombudsman law.

Currently, experts from the Council of Europe are working with the Azeri authorities on the draft bill on the Constitutional Court, the amendment of the electoral code, the law on lawyers and defence, and improvements to the law on media. The Council of Europe has asked that a law concerning minorities and an anti-corruption law be adopted, in accordance with prior commitments (see Opinion N°222)

Conclusions

It cannot be denied that Azerbaijan has reformed its judicial system and improved the compliance of some of its laws with regional and international standards.

Azerbaijan relies on the reforms undertaken to grant itself the status of democratic State, as was repeated many times over by the government authorities we met during this mission.

Yet reality is far different from that of a State where the rule of law applies. The adoption of these laws, which are far from complete in numerous fields, has become an alibi to hide the lack of independence of the judiciary and the violations of human rights.

Electoral fraud during 1998 presidential elections as well as during 1999 local elections and November 2000 general elections, lack of real independence of judges, detention of vast numbers of political prisoners, infringements of freedom of association, of expression and of demonstration, and, at last, of minorities rights. All constitute obvious violations of human rights, denounced by political opposition parties as well as by human rights NGOs and international and intergovernmental organisations.

In September 2002, the Parliamentary Assembly of the Council of Europe adopted a resolution criticizing Azerbaijan: "It has been noted that in several fields, Azerbaijan has still to take substantial measures to improve the situation of most of the population and to meet its commitments".

This statement is also shared by the UN Human Rights Committee after it has considered the Azerbaijan report at its November 2001 session. In its concluding observations, the Committee recommended that the government put an end to direct and indirect restrictions on freedom of expression, take all necessary steps to enable national human rights NGOs to function without hinderance, to combat trafficking in women and violence against women, to ensure respect of detainees rights to access to counsel and medical care, and to receive the visits of relatives, to ensure the full implementation of obligations relating to torture and ill-treatment, to institute transparent procedure for the appointment of judges and guaranteeing that the membership in the Bar do not compromise the independence of lawyers.

12. There are 1 million displaced persons and refugees in Azerbaijan. Among the refugees, there are 70 000 Meskhetian Turks who fled Uzbekistan in 1989, and 206 000 Azeris who fled from Armenia.
13. Nakhchitchevan is an enclave situated between Armenia and Iran, and is part of Azerbaijan since 1924.
15. According to the report of European Parliament (January 2002), the population is made of 90% Azeris, 3.4% Daghestanis, 2.5% Russians, 2.3% Armenians. Mr. Nadir Kalamaddinov, President of the Resource Center on National Minorities mentioned to the mission the problem of the Turkish Meskhetian community, which was deported in 1991 from Uzbekistan. They don't have Azeri citizenship and are not allowed to buy lands. Azerbaijan are trying to send them back to their original country, Georgia. Also, he pointed out that the implementation of Azeri language as official State language without transition period, while most of the intelligentsia is Russian-speaking, resulted in the exodus of the majority of Russian natives in Azerbaijan, as well as intellectuals. This is reinforced by the fact that the Azeri language inability prevents them from being hired in the Public administration. As most of the media are controlled by the State, the communication in minorities' languages is very limited. At last, Mr. Kalamaddinov estimated that 15 000 Armenians still live in Azerbaijan and are systematically discriminated at their working place.
16. Cote COPR/CQ/T3/AZE.
Part II : Political prisoners and the judiciary

A. A highly political question

If one believes the Azeri authorities, there are no political prisoners but only common law offenders, as confirmed by the deputy Minister of Justice whom we met during the mission.

Officially, the government still refuses to acknowledge the existence of political prisoners, although at the time of accession to the Council of Europe, the country committed itself to: "release or to grant a new trial to those prisoners who are regarded as "political prisoners" by human rights protection organisations, especially Messrs. Iskander Gamidov, Alikram Gumbatov and Raquim Gaziyev". Opinion N° 222 (2000), paragraph 14 iv b.

It is extremely difficult to know exactly how many political prisoners are being held in Azerbaijan (according to sources, there are between 300 and 700). This is due to the difficulty to access information, difficulty that the government does not hesitate to exploit. Since they cannot have access to information held by the authorities, each local human rights defense organisation has its own list, different from each other. Neither organisations nor opposition parties have managed to agree on a single common list, because of their diverging views on past and present problems.

Although new cases of arrests that occurred in 2000-2002 have added up to the list, most of the prisoners were arrested between 1990 and 1996. Most of the earliest political prisoners are indubitably linked to the country's history and have played a political or military role during the transition and instability period which preceded 1995 parliamentary elections. It is beyond doubt that at that time, struggle for power resulted in the use of violent methods on both sides. Prisoners were sentenced by a justice system which was controlled by the authorities, based on the Soviet criminal code. There were not given the right to a fair trial (no presumption of innocence, some were tried without a lawyer, other were illegally extradited, and tried by military judges). Justice, as all other official bodies and institutions was only just entering the transition period towards democracy.

In an attempt to determine the exact number of prisoners and to create a legal framework for this question, the Council of Ministers of the Council of Europe decided to give a mandate to a group of experts in February 2001. They decided to work on the basis of the most extensive list, i.e. the list "Eldar Zeynalov" from the name of the President of the Center for Human Rights of Azerbaijan. On January 1, 2001, this list had more than 700 names. Experts drew 23 test cases from the list and estimated that 17 of them, including the three names listed in Opinion N°222, were political prisoners under the criteria determined beforehand (imposed detention in violation the ECHR, for purely political reasons... The report of the group of experts is included in the annex.

In his January 2002 report, Mr. M. Georges Clerfayt, speaking on behalf of the Council of Europe wrote that "at the end of December 2001, there must be at least 500 cases of political prisoners still in detention".

It is true that although President Aliyev decided to pardon several prisoners, the authorities still refuse to pronounce a general amnesty, solution defended by the Council of Europe. Several waves of releases took place since 2000, some including political prisoners. In 2001 and 2002, five pardon decrees (release and reduced sentences) were pronounced; the latest one dates back to October 18, 2002, when 79 people were released. Out of the 17 test cases of the Council of Europe, seven people are still held, according to the September 2002 report.

The role of these prisoners during the years of severe political crisis explains why the government is unwilling to solve this major problem once and for all. These prisoners belonged to political parties that are now in the divided opposition.

For the government, the release of some of these political prisoners could destabilize the country once again. President Aliyev is afraid that his authority might be questioned. This is the case for Messrs. Iskander Gamidov, Alikram Gumbatov and Raquim Gaziyev, considered as a political threat by the authorities. They have become emblematic figures.

B. The Gamidov, Gumbatov and Gaziyev cases

These three characters were among the main political actors of the transition period and they were arrested because of
From spring 1992 to 1993, I. Gamidov was Minister in the Popular Front government, before becoming after 1993 the leader of the National Democratic Party that he created. He was arrested on March 19 1995, a few days after the putsch attempt, known as "the March Coup". He was prosecuted for misappropriation of power (article 168§1 and 2 of Criminal Law Code) and embezzlement (article 88-1 of Criminal Law Code). He was sentenced to 14 years of prison.

R. Gaziyev was Minister of Defence from 1992 à 1993, under the Popular Front government. He was one of the founders of the Azerbaijan Popular Front in 1989. He was arrested in 1993, officially for embezzlement (article 88-1 of CC), illegal weapon possession (art 220 §2 of CC) and abuse of authority (art 255 v of CC ); in fact, he was being reproached for "losing" the Shucha region, won by the Armenians in 1993. Along with three other prisoners, he escaped in 1994. He was sentenced to death in abstentia. He took refuge in Moscow, before being extradited in 1995 and imprisoned on arrival in Baku without being granted a new trial, in total violation of international conventions.

As to A. Gumbatov, he also belonged to the Popular Front from the beginning, in the southern region of Lenkoran, situated near the Iranian border where the Talish minority live. After the accession to power of the Popular Front, he became deputy Minister of Defence in the Elchibey cabinet. After Elchibey's cabinet was overthrown, he proclaimed the creation of the Talish-Mugan autonomous region. He was arrested on December 19, 1993 in Lenkoran where he had taken refuge. He escaped in September 1994 with Mr. Gaziyev and lived clandestinely until August 3, 1995 when he was arrested again. He was sentenced to death for high treason on February 12, 1996 (article 57 of Criminal Law Code), violation of the State's integrity (art 132 of CC), imposture (art 192 of CC), illegal freedom privation (art 120.2 of CC), illegal weapons possession (art 220§1of 3 of CC), evasion (art 185§2 of CC).

Gumbatov and Gaziyev death sentence was commuted into a life sentence after the abolition of capital punishment in 1998. The Public Prosecutor signed the appeal act that authorizes a trial revision, which is why these three political prisoners are being granted a new trial since May 29, 2002 at the Appeal Court in Baku.

C. Progress of trial proceedings

The mission was able to attend only two hearings, one on July 5 for Gamidov, the other on July 8 for Gumbatov, after asking the President of the Appeal Court for authorization. One hearing for Gaziyev took place on the day of arrival of the mission. The conditions of these new trials show that the right to a fair trial is absolutely not respected.

No presumption of innocence

Normally, the Appeal Court sits in Baku, but exceptionally, for those three prisoners, hearings are held in the prison where they are detained, in the Gobustan desert, 80km away from the capital.

Yet on April 23, 2000, the Appeal Court had promised to transfer the prisoners in a specially equipped cell within the Court, in order for them to be treated as defendants and not as prisoners who have already been sentenced, since the Court had agreed to grant them a new trial.

On May 13, 2002, the Court suddenly changed its mind and decided to move to the Gobustan prison, under the pretext that repair work was underway at the Courthouse in Baku. As a result of this, hearings take place in a specially equipped prison cell that includes a few benches for the audience and legal staff, but can only hold about twenty people, the others having to wait outside. The defendants are locked up in a cage under strict supervision.

As underlined by defence lawyers met during the mission, these conditions show that their clients are denied their right to the presumption of innocence despite the fact that it is guaranteed by the provisions of article 63 of the Constitution and article 61 of the Convention for the protection of human rights and fundamental freedoms ratified by Azerbaijan.

The authorities met during the mission do not deny this. According to Mr. Oruj Zalov, deputy Home Secretary, it is completely justified that this trial take place in prison, since the prisoners are common law offenders who have already been sentenced, and who therefore belong in prison, and also
that since most of their witnesses are also detained, it is easier to hold the trial in prison.

During an interview with the mission, Mr. Chingiz Kasumov, Head of the Analytical Organization department at the Ministry of Justice confirms that the choice of the prison, which lies with the Court, is justified by reasons of security and practicality!

From the point of view of legal proceedings, the course of hearings also epitomises the absence of presumption of innocence for political prisoners.

For instance in the Gumbatov trial, witnesses are not kept incommunicado in a separate room, while waiting to be heard by the Court. Indeed the Court overruled the lawyers' legitimate claim to hear each witness separately. Therefore all witnesses are present in the courtroom and attend all the hearings. In addition, although the Court, on request of the defence lawyers, accepted to hear each witness in chronological order as far as possible, it refused to list the victims by offence, and to group together the victims according to charges. Thus the logic and continuity of trial are not respected.

Also, several of the victims of Gumbatov's presumed crimes cannot attend the trial for various reasons (medical or geographic) that impedes all confrontation with the accused, and questioning by the defence.

Finally, the attitude of legal staff is also worthy of mention.

According to information gathered at hearing on 8/26/2002 of Gumbatov's trial, during the audition of victims of an illegal arrest, supposedly carried out on Gumbatov's orders, one of the victims told the Court he had never made a declaration to the police during the 1993 inquiry, and that therefore the statement given to the Court was a fake, all the more so as it was not his signature and he was in hospital at the time.

The defence lawyers asked the Court Clerk to record this statement, in conformity with provisions of article 92 of the Criminal Law Code. The Clerk refused.

All this seriously hinders the proper course of the trial and the rights of defence.

Violation of the right to a public hearing

The location of the trials is very difficult to access. The Gobustan prison is two hours away from Baku, and there is no public transport to get there. Each time, the judges, lawyers, families of prisoners and audience have to travel two hours to get to the prison and use their own means of transport, which is very costly.

Conditions of access are those of a prison. Only people who have been authorized by the President of the Appeal Court can attend hearings. Two controls are carried out before entering the courtroom. Cell phones are confiscated at the entrance, and handed back at end of session.

According to the Minister of Justice, debates are public, since any person who wishes to attend can and even "international organisations" have been allowed in. In practice, the press and families often have to protest outside the courtroom because they are not allowed in.

Journalists are carefully selected. During the first hearing the mission attended, journalist called out to the President to complain that colleagues, in particular journalists from television, had not been let in.

According to Saida Gojamanly, head of the Bureau of Human Rights and Law Respect, the authorities fear that the prisoners -as is the case for Gamidov- might still be very popular and might proselytise. Therefore they told the Presidents of the Court of Appeal to limit as much as possible the number of journalists and audience who attend. Two MPs of the Popular Front party -opposition party- were not authorized to attend Gamidov's trial, as confirmed by Mr. Ali Kerimov, leader of this party, during our interview.

These trials violate the principles of public hearing guaranteed by provisions of article 6 of the ECHR, but also, as we were reminded by Erkin Gadirov, Law professor at the Law university in Baku, they contravene to the Criminal Law code which provides that "hearings are normally public, unless decided otherwise by the judge, for reasons of security and public order only."

Infringements to the rights of defense

All the lawyers we met complained about the difficulties they had to ensure proper defence for their clients.

For instance they were not able to speak to their clients as they wished. They had to ask the prison director (after consultation of the ministry of Justice) or the judge (during hearings) for an authorization to consult with their client. For each visit, a new authorization is needed. They were very
rarely granted the authorization to speak to their client prior to hearings.

Confidentiality is not protected during sessions with their client, even though they have the authorization from the judge and despite legal provisions (article 92.9.2 of Criminal law code) that includes confidentiality and no restrictions on visiting time. Yet, these rights were systematically denied by the prison director.

Lawyers had to wait several months to obtain a visiting permit and be allowed to consult case files. Despite the fact that the Prosecutor had set the date for trial opening for February 2002, it was only in May, during preliminary hearings that lawyers were able to have access to their clients' files, only three weeks before the opening of trial.

Lately Mrs. Seidova Rafiga, Gumbatov's new lawyer who replaced at the last minute one of her colleagues who was ensuring the defence with Mr. Osmanov Elman Isameddin, had only two weeks to plan her defence strategy. She was not even able to obtain a visiting permit to meet her client and assist him on July 15 and 22 hearings.

Finally, no calendar was set for these trials; hearings are planned from one week to the next depending on the judges who change from one time to the next, and who never take into account the lawyers' availability. Because of this, lawyers cannot attend other hearings. Very recently, Gumbatov's lawyers asked for sessions twice a week, and were only able to obtain that the Court agree on weekly sessions.

One can fear that these trials will stretch out over several years while waiting for a political solution, since it is all too obvious that the authorities have no intention of granting these prisoners a fair new trial.

**Conditions of detention**

Lawyers and human rights organisations met during the mission all voiced their concerns about the very poor conditions of detention of most political prisoners and in particular of the three aforementioned ones.

All three were subject to measures of exception during their detention. For instance, from the very beginning of detention, they were kept in isolation in a maximum security prison quarter for several years instead of being held in a normal prison quarter where conditions of imprisonment comply with ECHR norms. They were victims of ill-treatment. Gumbatov was held for fifteen months in a cell with no ventilation and with an electric light left on 24 hours a day, which made room temperature rise to 44 degrees.

According to the lawyers we met, conditions of detention at the Gobustan prison are in total violation with the provisions of article 5 of ECHR and constitute ill-treatment as defined by article 3 of ECHR. They also confirm the isolation measures imposed to these prisoners, in order to avoid them meeting co-detainees who were imprisoned at the time when they were in power.

Lawyers also told us about the difficulty to have access to health care and the deterioration of the prisoners' health condition.

For example, Gamidov has a very serious eye condition; he is nearly blind. He no longer has all his sensorial capacities, and has lost consciousness several times. Gaziyev has lost all his teeth and Gumbatov suffers from tuberculosis. He was only very recently given medication for this in prison.

During the hearings we attended, each prisoner testified on torture and ill-treatment inflicted upon them notably during the early years of detention.

Gamidov and Gumbatov also recalled the pressure exerted on family members. Two of Gumbatov's brothers were arrested and imprisoned in 1995 before being pardoned in 2000. Gamidov's uncle and two of his brothers were also arrested in 1995. They have been freed since.

According to human rights organisations, conditions of detention of these three prisoners reflect the situation of political prisoners in general (lack of medical assistance, jail isolation, ill-treatment, obstacles to relatives' and lawyers' access).

Following its visit in May 2000, the UN Special Rapporteur on Torture expresses its concern that law enforcement officials routinely torture in pre-trial custody, in order to extract confessions or extort bribes from them or family members. Those accused of treason or other political offences were systematically tortured. Furthermore, detainees were frequently detained in temporary holding facilities without being charged well beyond the period prescribed by law. He concludes that conditions of pre-trial detention facilities amounted to cruel and inhuman treatment.
D. The legal system

The trials we have mentioned epitomise the lack of independence of judges, despite the theoretical independence proclaimed by the Constitution.

Judges

Although, as we were told by a representative of the Ministry of Justice, a reform was undertaken in 2000 and a high number of judges were "renewed" (according to the authorities, nearly 60%) the present system still does not guarantee the independence of judges.

To become a judge, one needs to pass an entrance exam, but also -and most importantly- be interviewed by the members of the Judicial Legal Council, and pass the interview.

Yet this Council is made up not only of the Ministry of Justice, but also of the presidents of the highest courts in the country (Constitutional Court, Appeal Court, Criminal Law Court, Court of the autonomous Republic of Nakhichevan) who were all directly appointed by President, for five or ten years, renewable.

Finally, no judge can be appointed without the President's opinion.

According to Erkin Gadirov, professor at the Baku University and Mahir Mushteid-zadeh, lawyer, there cannot presently be a real renewal of judges since junior judges, even if they succeed in the exam, can be eliminated after the interview with the Council. Everyone agrees on the lack of transparency of the Legal Council.

Furthermore, in practice, judges are wary of showing too much "independence" because they are afraid of loosing their job.

Since 2000, the system resembles the French system when it comes to the composition of jurisdictions, and the Anglo-Saxon one for proceedings. For all jurisdictions, there is a double level (lower court, appeal court) and a monitoring court that could be compared to the Supreme Court of the French system, the "Cour de Cassation".

Yet despite the complete overhaul of the legal system in 2000, mentalities have not really evolved and leave little room for respect of the rights of defence and of international conventions for human rights.

Few law professors are familiar with international instruments ratified by Azerbaijan. Some ratifications are very recent, as is the case for the European Convention for Human rights (04/15/2002). Also, teaching of law does not take place in law school, but in the University of international relations. This means that law students generally only have limited legal training. The issue of human rights is only taught alongside international law during a two hours class session in a three months quarter.

Finally, because of the country's economic situation, students are more inclined to specialize in corporate law and taxation.

Lawyers

Despite the guarantees provided by the Constitution, lawyers are also confronted to many obstacles.

The new legislation on lawyers and their activity entered into force on January 1, 2000. The system established for the bar exam has been subject to strong criticism. The bar exam is monitored by a Commission whose neutrality and independence are not guaranteed. Also, the new exam modalities have not yet been applied.

According to Erkin Gadirov and Mahir Mushteid-zadeh, bar authorities tend to be lawyers of the former regime, very conservative and in favour of the government. In fact the President of the bar in Baku was already in place under Soviet rule. Although it is not compulsory to be registered with the bar to practice law, only lawyers who passed the bar exam can defend a client in criminal cases. In criminal cases, the defendant's choice is limited. Furthermore, the defendants cannot ensure their own defence.

Young lawyers are therefore not able to help their clients in criminal matters, except if they belong to the Bar; this state of affairs is denounced by Mahir Mushteid-zadeh, member of the Lawyers Association for the 21st century, with gathers together young lawyers. To this day, this association has no legal existence, since the Ministry of Justice has refused to register it for the last two years.
A. Political parties: obstacles to the right to participate in political activities

Harassment

Members of political parties are regularly harassed because of their political opinions, as we were told by leaders of political opposition parties during the mission.

- Harassment and various means of pressure, including in professional activities.
  The leader of the Musavat party, Mr. Isa Gambar, gives the example of a school headmaster who was fired because he belonged to the party.

- Obstacles to party registration
  The leader of the National Democratic Party (former party of Gamidov), Khalilov Oktay, explained that the party’s registration was cancelled in 1993; ever since then, he has not been able to renew it. Four thousand out of the seven thousand members of the party took refuge in Russia. Other parties such as Aghrar Party, the communist party...are deprived of legal status.

- Prohibition of meetings and demonstrations
  On September 15, the meeting that the Gusar section of the Musavat Party wanted to hold could not take place, and the police arrested all the people who had gathered for the occasion. The section had asked the regional authorities several times for a meeting room to gather, and were not given authorization. Party members then decided to gather in a flat, where the police intervened. The police said this meeting was illegal because the party section was not registered in Gusar; yet this provision is not mentioned in the law.

- Arrests and arbitrary detentions
  Etibar Mamedov, leader of the Party of National Independence, speaks about the situation of two political prisoners, members of his party, arrested in 2000 for defending social rights: Farzali Gasimov from the Sheki region and Hajjaga Mehtiyev from Agdash. The first one was sentenced to six years imprisonment and did not benefit from any reduction of sentence. He was arrested for taking part in the 2000 Sheki event, and accused of hooliganism - accusation that can lead to a criminal sentence, and frequently used to clamp down on opposition forces. Yet there was no real charge against him, as acknowledged by the judge himself. The judge even said he was sorry he could not take another decision but he was afraid for his family. This prisoner is said to be ill at present. Hajjaga Mehtiyeva was sentenced to one year and a half for taking part in a demonstration protesting against the lack of gas and electricity in Agdash in January 2001. He was charged with destruction of public property and rebellion, although once again, there were no real charges against him.

The mission was informed of the case of Faina Kungurova (whose step mother is of Armenian origin), member of the Democratic Party of Azerbaijan. She is currently detained for defending her step sister, who was a victim of neighbourhood troubles because of her origins.

In September and October 2002, several party members were arrested and sentenced. As mentioned above, several representatives of the Gusar section of the Musavat party were taken to the police station on September 15. Eight people were fined and released; three other, including the president of the section, were sentenced to three days in jail.

On November 1, two members of the Azerbaijan Democratic Party were arrested without explanation and taken to the police station N°22 in the region of Nasimi. In their lawyers absence, they were sentenced to ten days imprisonment by the Nasimi regional Court for insubordination towards the police. On the same day, other members of the same party and of the Musavat party were taken in for questioning in the Khatai, Binagadi, Yasamal and Nasimi districts. According to representatives of the Azerbaijan Democratic Party, these events were linked to demonstrations organised by the opposition, and in particular to a demonstration planned on October 5. On the day of this demonstration, all the political activists who had been arrested a few days before (14, according to Democratic Congress, an alliance of ten political...
parties) were released in particular because of pressure from the US authorities.

Finally, it is necessary to mention the indictment pronounced on September 5 of five activists related to the former President of the Republic in exile in Moscow, Ayaz Mutalibov. The Court sentenced them on felony counts. They were judged guilty of planning a putsch in October 2001. The sentences—from five to ten year-imprisonment, were based solely on the testimony of one witness. The five prisoners entered a non-guilty plea. This case comes after the report of the Ministry of National Security made public on July 26. In this report, the Ministry explained that it had prevented the organization of a putsch, said to be planned by Mutalibov and backed by several parties and organisations: Party of Citizen's Union, Committee for the Protection of Mutalibov's Rights, Party Vahdat, Union of Baku and Villages. The way the putsch attempt was dealt with, followed by the iniquitous trial of the alleged organisers is reminiscent of the methods used during the darkest years of the USSR to silence all forms of opposition. This case sheds light on the current political crisis, with the authorities prepared to do anything to stay in place. It should also be read in the light of the Nardaran events and their political justifications.

- Raid against the offices of opposition parties.

On October 2, the Yasamal section of the Azerbaijan Democratic Party was raided by members of the criminal investigation department of the Yasamal district police. They destroyed a large part of equipment and material, and left documents outside the office.

Electoral fraud

All potential political changeover is seriously hindered by electoral fraud, recurrent since 1995. Irregularities and fraud systematically occur during polls, as witnessed by intergovernmental organisations such as the OSCE and the Council of Europe which were present as observers.

OSCE and the Council of Europe issued a common press release after the 1998 elections, which stated that "the election process did not comply with international standards". The latest general elections on November 5, 2000 were "marked by numerous cases of serious irregularities" according to OSCE. This institution notes in particular that opposition parties were not registered, that pressure was exerted against their members. It is nonetheless necessary to signal that the Constitutional Court partially cancelled some results, and new elections took place in several districts.

The example of the August 24, 2002 referendum

This referendum was called by President Aliyev without prior consultation with the parliament. It amends 24 articles of the Constitution and introduces 39 changes, grouped into eight issues concerning various fields, notably:

- Instead of the President of Parliament, the Prime Minister will be the one to stand in if the President resigns or is impeached,
- The President will need only 50% of the votes instead of two thirds to be elected in the first round of elections.
- All candidates to parliamentary elections will be elected by single majority rule instead of proportional system that prevailed for 25 of them.

According to opposition, this referendum aimed at increasing the powers of the President of the Republic and to ensure the continuity of Aliyev's power. These aims are fulfilled, says the opposition. It is only a matter of formality for Aliyev's son to succeed to his father; he only needs to be appointed prime minister. Ilham Aliyev is already vice-president of the majority party, head of the state owned oil company, and representative to the Parliamentary Assembly of the Council of Europe.

During this mission, the issue of the referendum was the main source of concern of those interviewed.

After we left, 27 opposition parties signed up on July 25 a petition demanding, in addition to the postponement of the referendum, the suppression of amendments relating to parliamentary election modalities, and a reform of the central electoral Commission and local Commissions, as well as a debate on these issues in Parliament. They called for a boycott. Several opposition leaders we met believed that the referendum was unconstitutional.

Protest from the opposition, united for this cause, along with reservations from the Council of Europe and the US State Department were not enough, and the referendum took place among the indifference of the international community. No organization made the trip to observe the consultation.

If one relies on official data, the referendum was a great success, since 97% of voters voted in favour. According to the authorities, 88% of the population took part in the vote.

Yet many media, among which the ANS television channel, spoke about numerous irregularities. According to observers
from the opposition party -People's Front of Azerbaijan Party-, interviewed by ANS, several employees of a machine factory were taken to vote at their working place, although they were already registered as voters in other polling stations. Also, according to the Azadliq newspaper, voters complained about receiving several ballot papers and being encouraged to vote in several different places on the same day. According to Turan news agency, pressure was exerted by the authorities on teachers, to get them to make sure that parents did go to vote for the referendum. Co-operative teachers were promised a reward, and refractory ones were threatened with dismissal. Small and medium enterprises were threatened with being closed down if they did not encourage their employees to vote for the referendum. Finally, observers from opposition parties were not allowed into polling stations to monitor the elections.

The Parliamentary Assembly of the Council of Europe in resolution 1305 adopted in September 2002 concludes that the referendum was marked by numerous shortcomings which lead to seriously question the accuracy of these impressive results.

On September 25, four political parties who had observed the referendum released their report that sheds light on irregularities in the voting process. By questioning in particular the official turnout rate, these parties come to the conclusion that the poll is null and void.

B. Social protest movements and NGOs

The Nardaran events

Events that occurred in Nardaran (a town 35 km away from Baku) and events that followed show the problems of civil society when it mobilizes to defend its rights.

Repression that hits Nardaran originates in economic and social claims.

Since 2000, Nardaran residents have repeatedly asked for an improvement in their economic and social situation. As in other towns, they are faced with huge problems (shortage of gas and electricity, unemployment, prohibition for the population to export farm produce to Russia, corruption at customs offices...). The government has paid no attention to these demands. Only in January 2002 did a representative of the Baku government visit Nardaran and started to implement a few measures. On May 7, a major demonstration was organised to demand the improvement of the town's economic situation and the resignation of the new representative of Sabunchi district executive power for Nardaran village. He had just been appointed out of nowhere by the government. In 1999, a list of 15 members from a local committee (Committee of the Elderly) had not been able to run for the local elections. The population had refused to participate in the poll, which means that Nardaran has no local council.

On June 3, eight people chosen by the town residents went to the office of the representative of the Sabunchi district to discuss the issue with the new local representative, on his request. They were arrested and the police searched their homes. To protest against these arrests, considered as arbitrary, the population started to demonstrate. The reaction of the authorities was immediate, which leads the association members we met with to say that this operation had probably been planned in advance.

On June 3, at the beginning of the evening, the regional police, with a backup from the national police, circled the crowd. The repression was of unprecedented violence. The police fired into the crowd, killing one and wounding many. Ten people were seriously injured. Several people, including a journalist from Leader TV, were arrested and some were released a few hours later. Eighteen people were arrested that same day and three the following days. Other waves of arrest took place in the following days. In particular one week after the events, Mr. Alikram Aliyev, of the Islamist Party, was arrested. He is reported to be in very precarious health conditions and suffering from diabetes. On October end, fifteen people are still being held in the framework of this event.

A new wave of arrests took place in September. Mr. Haji Djabrail Alizade, president of the "Association of Baku and villages" and one of the leaders of the protest movement on September 20 was dragged into a car by ten undercover policemen dressed in plain clothes after his 4 year old grand son was threatened with a gun. He was hit and seriously injured in the car. According to the National Committee of Helsinki Citizens' Assembly, this arrest violates Constitutional provisions (art 67) which state that all person detained must be informed of the reasons of the arrest, and the law on police (art. 23) which provides that police forces must show identification and explain to prisoners the reasons for their arrest and read them their rights.

Mr. Haji Djabrail Alizade was brought to the regional Court in Sabunchi on September 22, and he was sentenced to three months imprisonment based on the sole statements of two
policemen. He was accused of disruption of public order (art 220 of Criminal Law Code), organizing or participating in actions to disrupt public order (art 233) and resisting arrest. A legal information proceeding was opened against him on June 28, 2002. Several high ranking authority representatives said that he and his association were involved in the Nardaran events and in a putsch attempt in October 2001 (Statement of the Minister of National security, July 26).

On September 21, five relatives of Mr. Haji Djabrail Alizade went to the custody centre of the organised crime department of the Ministry of Interior where he is held, to bring him food. They were insulted by the police and three of them were arrested: his son Nadir Djabrail oglu Alizade, his nephew Novruzali Nurali oglu Alizade, and his cousin Farman Rahman oglu Djebrayilov. Their custody was prolonged for 10 days on the basis of a decision of the Sabunchi regional Court for "administrative errors". On September 28, before the end of their sentence, those three people were released. Nadir Djabrail oglu Alizade told the local press that he had been subject to ill treatment during his detention in the centre of fight against organised crime. He was pressured to denounce on TV the people who organise social protest actions in Nardaran and to condemn disruption caused by these actions. He refused to do so and was beaten up several times. He was made to sign a statement saying that his brother had not been threatened during their father's arrest.

Since the beginning of the troubles, human rights organisations and village committees have been asking for the opening of an independent inquiry on the circumstances of the events. They have also demanded that the arrested people be freed, and that money be granted to help the injured. They have denounced ill treatments of prisoners, the lack of information on prisoners, the isolation measures inflicted upon them, the impossibility for them to choose their lawyer, irregularities in proceedings, infringements to the criminal law code as well as to the provision of the ECHR ratified by the country. Mr. Haji Djabrail Alizade's arrest exacerbated the tension in Nardaran. School and firms closed in sign of solidarity when demonstrations are regularly organised. The highest authorities still refuse to meet with the villagers, police forces are still deployed and residents feel the threat that arises from this standstill situation.

Since the beginning of the events, the authorities refuse to accept that this conflict has a social and economic origin. According to the authorities, in particular the Junior Home Secretary, villagers are responsible for the violence because they refuse all dialogue with the authorities and these social movements are regarded as political Islamic fundamentalist movements, manipulated by Iran.

The common statement concerning the Nardaran events issued by the Public Prosecutor and the Home Secretary in the State press is characteristic (August 1). According to them, these events are due to "anti-Azerbaijan forces" and are linked to "subversive activities of extremist religious international organisations and certain States who have an interest to increase tension in the region". The goal is to "aggravate the criminal situation in various regions of the Republic" and "change the constitutional order by religious laws". To reach these goals, anti-Azerbaijan forces have "built a religious school in Nardaran" where they teach religious intolerance and civil unrest, and are supported by a "Council of the Elderly which is in fact a religious council" which follows "perverted religious principles inspired by the Islamist radical wahhabite movement".

Yet the Nardaran events are not isolated acts and were preceded by similar protest movements in various regions severely affected by economic hardship (in Nehren, Babek region, in Bananijar, Julfa region and in the town of Sheki). There too, repression was violent. In Sheki in November 2000, a large demonstration was violently dispersed, several demonstrators were arrested and houses were searched.

The government is in fact trying to forcefully control these social movements in order to dissuade the population.

As we were told by the people we met, the authorities refuse to find solutions to the plight of villagers affected by unemployment and are incapable of ensuring proper supply of gas, electricity and water to a region whose resources come primarily from greenhouse cultivation; this refusal illustrates the authorities' lack of interest for the civil population.

Harassment and pressure

NGOs are regularly subjected to harassment.

Recently for example, after the mobilisation of NGOs to denounce violence perpetrated in Nardaran and to demand reparation, the head of the presidential administration accused -in September- human rights defenders of not fulfilling their role and duties, and accused them of using these events to pose themselves as "champions of equity".

Obstacles to registration are common. For instance the
human rights organisation National Committee of Helsinki Citizens Assembly created in 1992 did not manage to be registered before 2001. The Association of Lawyers for the 21st century is still waiting to be registered. The law on non-governmental organisations which entered into force in 2000 does not define registration modalities, which leaves room to arbitrary decisions.

C. The media

Media - in particular radio and TV - are controlled by the regime. The five existing channels are controlled by the Aliyev family even though only one of them is officially a State owned channel.

Opposition newspapers are prosecuted or subjected to financial pressure. In 2001 four newspapers had to close down: Milletin Sesi, Bakinski Boulevard, Femida and Etimad. The ABA channel had to withdraw from the air after pressure from financial services; its equipment had been confiscated during the investigation. Several journalists were charged with libel. Some were sentenced to imprisonment. The case of the newspaper Bakinski Boulevard in 2001 is a perfect illustration of this. The newspaper was closed down by judicial ruling after publishing an article on State corruption; the editor was sentenced to 6 months imprisonment for libel, and the author of the article had to take refuge abroad. Several journalists who were being held in 2001 benefited from an amnesty or were pardoned, as was the case the Babinski Boulevard editor.

Journalists are still physically and psychologically threatened. During summer 2002 journalists of the Hurriyet newspaper received threats related to the publication of an article which denounced the implication of a custom officer in trafficking.

Finally it had to be said that legislation concerning freedom of the press does still not fully comply with regional and international texts and provisions. The Parliamentary Assembly of the Council of Europe, in its September 2002 report, quotes the example of the Law on radio and television broadcast adopted on June 25, 2002 and which constitutes a problem, " in particular when it comes to procedures to be followed by broadcasters to obtain a broadcasting licence".

On August 28, 2002, the President issued a decree on the publication, in the media, of information containing State secrets. Journalists bear the responsibility of publishing information liable to constitute a State secret; prior to publishing, they must consult a Special Presidential Commission. This Commission has seven days to give its opinion, it has the possibility of asking the journalist to reveal their source, and can decide to ban issues that are secret. The term secret is absolutely not defined by the decree. The newspaper can be prosecuted for not complying with the Commission's decision. Faced with a strong reaction from NGOs in particular, in mid-September the president asked his cabinet to prepare as soon as possible a new legislation on State secrets. He also amended some directives of the decree: the delay for the Commission to give its opinion is shortened to 48 hours, and the Commission's right to ask journalists to reveal their source is abolished.

19. See press releases of Association Politzek
20. See below the Nardaran events. The president of this association, resident of Nardaran, was arrested.
21. See report of the Assembly of the Council of Europe, N°7430 for the 1995 elections and N°8256 for the 1998 poll
22. Article 155 of the Constitution prohibits using a referendum to change the parliamentary election system.
23. See the all-Azerbaijan Nardaran Committee of Independent Lawyers group report about Nardaran issues. August 9, 2002.
Azerbaijan
Civil Society and Justice locked by the Aliyev System

Part IV : Conclusion and recommendations

Conclusions

Although president Aliyev restored a certain amount of political stability in the mid-nineties, and launched a series of important reforms, in particular in the legislative area, he very soon blocked the process of democratisation in order to reinforce his own power.

He brought all the reforms that had been launched to a standstill. Yet these reforms are crucial today, in the light of the preoccupying social and economic situation of most of the population, as seen in the numerous social protests movements.

He is also implementing a strategy to neutralize any form of social or political opposition, including through the use of violence, as occurred in Nardaran last June. Various methods are used to that avail: electoral and legislative fraud, harassment, arbitrary arrests...For the first time, representatives of the Council of Europe were not invited to observe the referendum on August 24, since president Aliyev decided it was a matter of domestic policy..

This strategy to stay in power at all cost goes hand in hand with the deterioration of the human rights situation.

The president has given many guarantees in the field of international and regional human rights protection (ratification of the main human rights instruments, adoption of legislation monitored by experts from the Council of Europe, successive waves of releases of prisoners...). Yet these guarantees are only partial and are even used as an alibi to conceal the lack of independence of the judiciary as well as egregious violations of fundamental freedoms.

The case of the new trial of three political prisoners, M. Gamidov, Gumbatov and Gaziyev, is a clear example of this. These three prisoners have been granted a new trial thanks to the pressure from the Council of Europe. But the conditions of these new trials do not guarantee the right to a fair and impartial trial. The authorities still refuse to consider them as political prisoners. These trials are more like a legal mascarade, and the verdict highly predictable. In September, during the parliamentary assembly of the Council of Europe, the president's son, Mr. Ilham Aliyev, using the international situation to counter criticism, said these prisoners were terrorists.

Recommendations

The FIDH, following the conclusions of the international investigation mission, wishes to address the following recommendations to the Azeri authorities:

- concerning the political prisoners Messrs. Gamidov, Gumbatov and Gaziyev

In compliance with Azerbaijan's commitments and in particular with the provisions of the Covenant on Civil and political rights and with the European Convention for the protection of human rights and fundamental freedoms, the FIDH calls upon the Azeri authorities to guarantee the accused their right to a fair trial, including the right to be heard by an independent and impartial court. The FIDH calls upon the Azeri authorities in particular to:

- to hold the hearings of Messrs. Gamidov, Gumbatov and Gaziyev as well as all the other prisoners awaiting a new trial in the courtroom of the relevant jurisdictions, and not in their prison quarters ; the courtroom must be accessible to the public in order to ensure a public hearing.

- to guarantee the principle of presumption of innocence for Messrs. Gamidov, Gumbatov and Gaziyev

- to try Messrs. Gamidov, Gumbatov and Gaziyev in a reasonable time in compliance with ECHR article 6

- to enable lawyers to speak freely with their clients and guarantee the confidentiality of their meetings as well as unrestricted access to files

- to guarantee decent conditions of detention and access to appropriate medical care for Messrs. Gamidov, Gumbatov and Gaziyev as well as for all other prisoners.

The FIDH wishes to underline that unless Azerbaijan complies effectively and immediately with the international instruments that it has subscribed to, the blatant unfairness of the
proceedings underway are characteristic of an arbitrary detention, which means the accused should be released without conditions.

- **from a more general point of view**

The FIDH calls upon the authorities:
- to guarantee the independence and impartiality of judges and legal staff, in particular by reforming the way they are appointed
- to ensure that the law on the bar be revised as soon as possible and to guarantee the independence of lawyers
- to put an end to torture and ill-treatment inflicted in detention centres by law enforcement staff; ensure that impartial investigations be conducted on cases of alleged torture in order to punish the perpetrators
- to release the people who were arbitrarily arrested during the recent Nardaran events; to carry out an impartial investigation on these events in order to bring those who organized these events to court and to compensate the victims.
- to guarantee the freedom of opinion, expression, conscience, association, meeting and peaceful demonstration; to put an end to all forms of harassment and retaliation against political representatives, journalists, NGOs and social protest movements.
- to respect the right to participate in political activities and guarantee free and multiparty elections.
Annex 1 : Azerbaijan's application for membership of the Council of Europe

Opinion No. 222 (2000)[1]

1. The Republic of Azerbaijan applied to join the Council of Europe on 13 July 1996. In Resolution (96) 32 of 11 September 1996 the Committee of Ministers invited the Parliamentary Assembly to give an opinion on this request in accordance with Statutory Resolution 51 (30A).

2. The Parliament of the Republic of Azerbaijan obtained Special Guest status with the Parliamentary Assembly of the Council of Europe on 28 June 1996. This application was considered in the light of the adoption of Recommendation 1247 (1994) on the enlargement of the Council of Europe, in which the Assembly stated that “in view of their cultural links with Europe, Armenia, Azerbaijan and Georgia would have the possibility of applying for membership provided they clearly indicate their will to be considered as part of Europe”.

3. Assembly delegations observed the general election in November 1995 and the presidential election in October 1998. A delegation from the Congress of Local and Regional Authorities of Europe (CLRAE) observed the first municipal elections in December 1999 and in March 2000. Serious shortcomings in some elections were noted. Thus, the Assembly should observe the forthcoming parliamentary elections.

4. Since 1996 Azerbaijan has been taking part in various Council of Europe activities through the intergovernmental cooperation and assistance programmes, and in the work of the Assembly and its committees through its Special Guest delegation.

5. Azerbaijan is already a party to the European Cultural Convention and to the Convention on the Recognition of Qualifications concerning Higher Education in the European Region, as well as to the Open Partial Agreement on Prevention of, Protection against and Organisation of Relief in Major Natural and Technological Disasters. In March 2000, the country deposited the instruments of ratification to eight other European conventions to which it will shortly become a party. Further requests by Azerbaijan to accede to Council of Europe conventions are currently under consideration.

6. The Assembly considers that Azerbaijan is moving towards a democratic, pluralist society in which human rights and the rule of law are respected, and, in accordance with Article 4 of the Statute of the Council of Europe, is able and willing to continue the democratic reforms initiated in order to bring its entire legislation and practice into conformity with the principles and standards of the Council of Europe.

7. To its great satisfaction, the Assembly has been informed that Azerbaijan abolished the death penalty in 1998.

8. In asking the Assembly for an opinion on the membership application, the Committee of Ministers reiterated that “a closer relationship between the Caucasian countries and the Council of Europe would demand not only the implementation of substantial democratic reforms, but also their commitment to resolving conflicts by peaceful means”.

9. The Parliamentary Assembly considers that the accession of both Azerbaijan and Armenia could help to establish the climate of trust needed for a solution to the Nagorno-Karabakh conflict.

10. The Assembly considers that the OSCE Minsk Group is the optimum framework for negotiating a peaceful settlement to this conflict.

11. The Assembly takes note of the letter from the President of Azerbaijan reiterating his country’s commitment to a peaceful settlement of the Nagorno-Karabakh conflict and stressing that Azerbaijan’s accession to the Council of Europe would be a major contribution to the negotiations process and stability in the region.

12. The frequency of the meetings between the presidents of the two countries has been stepped up. The speakers of the parliaments of Azerbaijan, Armenia and Georgia have decided to institute regional parliamentary cooperation, consisting in particular of meetings of the speakers of the parliaments and parliamentary seminars to be held in the capitals of the three countries and in Strasbourg. The first meeting in the region, which was held in Tbilisi in September 1999, made it possible to establish an atmosphere of trust and détente between the parliamentary delegations of Azerbaijan and Armenia.

13. The Assembly calls on the Azerbaijani and Armenian authorities to continue their dialogue with a view to achieving a peaceful settlement of the Nagorno-Karabakh conflict and giving new impetus to regional cooperation.
14. The Parliamentary Assembly takes note of the letters from the President of Azerbaijan, the speaker of the parliament, the Prime Minister and the chairmen of the political parties represented in Parliament, and notes that Azerbaijan undertakes to honour the following commitments:

I. as regards conventions:

a. to sign, at the time of its accession, the European Convention on Human Rights (ECHR) as amended by Protocols Nos. 2 and 11 thereto, and Protocols Nos. 1, 4, 6 and 7;

b. to ratify the ECHR and Protocols Nos. 1, 4, 6 and 7 thereto during the year following its accession;

c. to sign and ratify, within one year of its accession, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and its protocols;

d. to sign and ratify, within one year of its accession, the Council of Europe’s Framework Convention for the Protection of National Minorities;

e. to sign and ratify, within one year of its accession, the European Charter for Regional or Minority Languages;

f. to sign and ratify, within one year of its accession, the European Charter of Local Self-Government;

g. to sign and ratify, within two years of its accession, the European Outline Convention on Transfrontier Co-operation between Territorial Communities and Authorities and its additional protocols and the Council of Europe conventions on extradition, on mutual assistance in criminal matters, on laundering, search, seizure and confiscation of the proceeds from crime, and on the transfer of sentenced persons, and in the meantime to apply the fundamental principles contained therein;

h. to sign the European Social Charter within two years of its accession and ratify it within three years of its accession, and to strive forthwith to implement a policy consistent with the principles contained in the Charter;

i. to sign and ratify, within two years of its accession, the Criminal Law Convention on Corruption and the Civil Law Convention on Corruption;

j. to sign the General Agreement on Privileges and Immunities of the Council of Europe and the additional protocols thereto at the time of its accession, and to ratify these within one year of its accession;

ii. as regards the resolution of the Nagorno-Karabakh conflict:

a. to continue efforts to settle the conflict by peaceful means only;

b. to settle international and domestic disputes by peaceful means and according to the principles of international law (an obligation incumbent on all Council of Europe member states), resolutely rejecting any threatened use of force against its neighbours;

iii. as regards domestic law:

a. to revise legislation on elections, particularly the Law on the Central Electoral Commission and the Electoral Law, taking account of the recommendation put forward by the international observers during previous elections, so that the next general elections in autumn 2000 can confirm definitively the progress made and their results can be accepted by the majority of the political parties that will participate in the elections, and can be considered as free and fair by international observers;

b. to amend, before the next local elections, the current legislation governing the powers of local authorities so as to give them greater responsibilities and independence, taking into account the recommendations made in this respect by the Congress for Local and Regional Authorities in Europe (CLRAE);
Azerbaijan
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c. to continue the reforms aimed at strengthening the independence of the legislature vis-à-vis the executive, so that the former can exercise the right to put parliamentary questions to members of the government;

d. to adopt, within one year of its accession, the Code of Criminal Procedure, taking account of the observations by the Council of Europe experts;

e. to adopt, within one year of its accession, the law on the Ombudsman;

f. to adopt, within one year of its accession, a law on combating corruption and, within two years of its accession, a state programme on combating corruption;

g. to adopt, within two years of accession, a law on alternative service in compliance with European standards and, in the meantime, to pardon all conscientious objectors presently serving prison terms or serving in disciplinary battalions, allowing them instead to choose (when the law on alternative service has come into force) to perform non-armed military service or alternative civilian service;

iv. as regards human rights and fundamental freedoms:

a. to sign an agreement with the International Committee of the Red Cross (ICRC) guaranteeing unrestricted and unreserved access by the latter to prisoners;

b. to release or to grant a new trial to those prisoners who are regarded as “political prisoners” by human rights protection organisations, especially Mr Iskander Gamidov, Mr Alikram Gumbatov and Mr Raqim Gaziyev;

c. to prosecute members of the law-enforcement bodies who have infringed human rights (particularly the prohibition of torture) in the course of their duties;

d. to guarantee freedom of expression and the independence of the media and journalists, and particularly to exclude the use of administrative measures to restrict the freedom of the media;

e. to re-examine and amend the law on the media, within two years of its accession at the latest;

f. to turn the national television channel into a public channel managed by an independent administrative board;

g. to adopt, within three years of its accession, a law on minorities which completes the provisions on non-discrimination contained in the constitution and the penal code and replaces the presidential decree on national minorities;

h. to re-examine and amend, at the latest within one year of its accession, the rules governing registration of associations and appeals procedures;

v. as regards the monitoring of commitments:

a. to co-operate fully in the implementation of Assembly Resolution 1115 (1997) on the setting up of an Assembly Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee); and

b. to co-operate fully in the monitoring process established pursuant to the declaration adopted by the Committee of Ministers on 10 November 1994 (95th session).

15. The Parliamentary Assembly notes that Azerbaijan shares fully its understanding and interpretation of the commitments entered into, as spelt out in paragraph 14 and intends:

i. to re-examine and amend the law on the Bar, at the latest within three years of its accession;

ii. to re-examine the conditions of access to the Constitutional Court and grant access also to the Government, the Prosecutor General, courts at all levels and – in specific cases – to individuals, at the latest within two years of its accession;
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iii. to re-examine and amend the procedures for appointing judges and the duration of their term of office, at the latest within three years of its accession.

16. On the basis of these commitments, the Assembly is of the opinion that, in accordance with Article 4 of the Statute of the Council of Europe, Azerbaijan is able and willing to fulfil the provisions of Article 3 of the Statute, setting forth the conditions for membership of the Council of Europe: “Every member of the Council of Europe must accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms, and collaborate sincerely and effectively in the realisation of the aim of the Council of Europe.”

17. With a view to ensuring compliance with these commitments, the Assembly has decided to monitor the situation in Azerbaijan closely, with immediate effect from the date of accession, pursuant to its Resolution 1115 (1997).

18. On the understanding that the commitments set out above are firm and will be fulfilled within the stipulated time limits, the Assembly recommends that the Committee of Ministers:

i. invite Azerbaijan to become a member of the Council of Europe;

ii. allocate six seats to Azerbaijan in the Parliamentary Assembly;

iii. and requests that the necessary additional resources be made available.

19. Furthermore, in order to enable Azerbaijan to honour its commitments and obligations as a member state, the Assembly also recommends that the Committee of Ministers support the specific cooperation and assistance programmes required for implementation of the obligations and commitments entered into by this country.

[1] Assembly debate on 28 June 2000 (21st Sitting) (see Doc. 8748, report of the Political Affairs Committee, rapporteur: Mr Baumel, and Doc. 8757, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Clerfayt).

Text adopted by the Assembly on 28 June 2000 (21st Sitting).

SG/Inf(2001)34 / 24 October 2001

Cases of alleged political prisoners in Armenia and Azerbaijan

I. Information provided by the Secretary General


I. Information provided by the Secretary General

1. On 31 January 2001, in the context of the post-accession monitoring procedures with respect to Armenia and Azerbaijan, the Ministers’ Deputies decided that “cases of alleged political prisoners in these countries be transmitted to [me] by Delegations to the Committee of Ministers [...]”. They also approved my initiative to refer these cases to a group of independent experts, mandated to prepare “a confidential opinion on the said cases indicating whether the persons in question may be defined as political prisoners on the basis of objective criteria in the light of the case-law of the European Court of Human Rights and Council of Europe standards”. The experts were instructed to transmit their opinion to me by 30 June 2001. The deadline was later extended to 16 July 2001.

2. The Ministers’ Deputies also requested me to submit, on a confidential basis, the experts’ opinion, as soon as available, to the Committee of Ministers’ monitoring group GT-SUIVI AGO.

3. In February 2001, I appointed three experts:

- Professor Stefan Trechsel, University of Zurich, former President of the European Commission of Human Rights;
- Professor Evert Alkema, University of Leiden, extraordinary member of the Dutch Council of State and former member of the European Commission of Human Rights;
- Mr Alexander Arabadjiev, former judge at the Constitutional Court of Bulgaria and former member of the European Commission of Human Rights. The participation of Mr Arabadjiev as an independent expert terminated - upon his request – subsequent to his election as a member of the Bulgarian Parliament on 17 June 2001.

4. On 18 July 2001, I informed the Ministers’ Deputies that I had received the experts’ report. I also provided the authorities of the two States concerned, on a strictly confidential basis, with relevant extracts of the report. They were asked to make comments, if they so wished, on those parts which concerned them directly, within a period of one month, so as to ensure that the Monitoring Group GT-SUIVI AGO would be in a position to obtain the report together with comments by early September 2001.

5. In August 2001, I received comments of the Armenian and Azerbaijan authorities. They were transmitted to the experts, who subsequently, provided me with their observations.

6. Herein is the full text of the experts’ report. The Addendum to their report appears in Addendum I to the present document, while the comments of the authorities of the two countries concerned and the observations of the experts can be found in Addendum II.

7. In the light of developments, and following the request by the Parliamentary Assembly, I decided to make these documents public on 24 October 2001.
II. Report of the independent experts

Strasbourg, 16 July 2001

Cases of alleged political prisoners in Armenia and Azerbaijan

Report transmitted to the Secretary General of the Council of Europe by the independent experts:

Messrs Stefan Trechsel,
Evert Alkema and
Alexander Arabadjiev*

- Professor Stefan Trechsel, University of Zurich, former President of the European Commission of Human Rights;
- Professor Evert Alkema, University of Leiden, extraordinary member of the Dutch Council of State and former member of the European Commission of Human Rights;
- Mr Alexander Arabadjiev, former Judge at the Constitutional Court of Bulgaria and former member of the European Commission of Human Rights. The participation of Mr Arabadjiev as an independent expert terminated – upon his request – subsequent to his election as a member of the Bulgarian Parliament on 17 June 2001.

I. Introduction

1. Armenia and Azerbaijan are members of the Council of Europe since 25 January 2001.

2. On 31 January 2001, in the context of the post-accession monitoring procedures with respect to the two States, the Ministers’ Deputies decided, upon the proposal of the Secretary General of the Council of Europe, Mr Walter Schwimmer, to appoint independent experts to inquire into cases of alleged political prisoners in Armenia and Azerbaijan.

3. The experts were mandated to prepare a confidential opinion on cases referred to them, indicating whether the persons in question may be defined as political prisoners on the basis of objective criteria in the light of the case-law of the European Court of Human Rights and Council of Europe standards, and to transmit their Opinion to the Secretary General by 30 June 2001. The deadline was later extended to 16 July 2001 due to delays in the translation of judgements into English.

4. On 31 January 2001, the Ministers’ Deputies also decided that cases of alleged political prisoners should be transmitted to the Secretary General by Delegations of member States before 28 February 2001. In complying with this request, a number of Delegations submitted such information. Two of them also referred to a list made available by the Secretary General of the Parliamentary Assembly (see Appendix).

5. Despite several requests that the cases contain specific information (full name of prisoner, date of arrest, legal status of prisoner, offence for which person is charged or has been convicted, reasons for which person could be regarded as a political prisoner), only a few cases were presented to the experts with the required details within the agreed time-limit.

6. More specifically, two cases of alleged political prisoners in Armenia were submitted to the experts. As concerns Azerbaijan, with respect to which a substantial amount of cases were referred to them, the experts decided to select 23 “pilot cases”, on the understanding that their conclusions would apply, mutatis mutandis, to all other similar cases (for details see paragraphs 15 to 17).
7. On 4 and 18 April 2001, respectively, requests for information and observations concerning the selected cases were submitted to the authorities of the two countries concerned as well as to the Delegations that had referred the said cases to the Secretary General. The full texts of judgements were also requested.

8. The experts visited Armenia from 4 to 5 May 2001 and Azerbaijan from 7 to 12 May 2001. Discussions during the second visit were hampered by the fact that the information requested had not been provided on time.

9. The experts take this opportunity to thank the authorities of both countries for their hospitality and co-operation during the above-mentioned visits. Likewise, they wish to express their gratitude to the prisoners they met, their lawyers, NGOs and others for their assistance.

II. Determination of objective criteria to identify "political prisoners" in Armenia and Azerbaijan

10. In order to fulfil their mandate, the experts first determined objective criteria by which detained persons could be classified as political prisoners. The following criteria were adopted on 3 May 2001:

A person deprived of his or her personal liberty is to be regarded as a “political prisoner”:

a. if the detention has been imposed in violation of one of the fundamental guarantees set out in the European Convention on Human Rights and its Protocols (ECHR), in particular freedom of thought, conscience and religion, freedom of expression and information, freedom of assembly and association;

b. if the detention has been imposed for purely political reasons without connection to any offence;

c. if, for political motives, the length of the detention or its conditions are clearly out of proportion to the offence the person has been found guilty of or is suspected of;

d. if, for political motives, he or she is detained in a discriminatory manner as compared to other persons; or,

e. if the detention is the result of proceedings which were clearly unfair and this appears to be connected with political motives of the authorities.

The allegation that a person is a “political prisoner” must be supported by prima facie evidence; it is then for the detaining State to prove that the detention is in full conformity with requirements of the ECHR as interpreted by the European Court of Human Rights in so far as the merits are concerned, that the requirements of proportionality and non-discrimination have been respected and that the deprivation of liberty is the result of fair proceedings.

11. The above criteria were provided, inter alia, to officials of both countries concerned, several Council of Europe Delegations, prisoners interviewed by the experts and their lawyers, and representatives of NGOs. No substantial objections were raised to these criteria.
III. Opinion

12. In applying the above criteria, the experts have reached the following conclusions, details of which are set out in the Addendum to this Report.

1. Armenia

13. Two cases were referred to them, those of Mr. Ashot BLEYAN (Case No. 4) and Mr Arkady VARDANIAN (Case No. 6).

14. The experts express the opinion that:

- Mr. Ashot BLEYAN (Case No. 4) is not a political prisoner.
- Mr. Arkady VARDANIAN (Case No. 6) is not a (political) prisoner.

2. Azerbaijan

15. The experts were provided with several lists of alleged political prisoners. The most comprehensive list was that of the Human Rights Center of Azerbaijan, transmitted by the Parliamentary Assembly to the Secretary General of the Council of Europe. It contained over 700 names (see Appendix).

16. Given the amount of cases submitted, the timeframe within which the experts had to work and the difficulties encountered in obtaining the necessary information, the experts felt compelled to limit their attention to a restricted number of cases. Also, preference had to be given to cases for which some information was initially made available to the experts. This decision was taken and the selection of cases was made on the assumption that the experts' conclusions would apply, mutatis mutandis, to the other cases. Thus, if the examination of specific cases has led to the conclusion that persons concerned were political prisoners, it follows that other persons held in the same or in similar circumstances are also political prisoners. It is then for the detaining State to prove that the detention is in conformity with the ECHR (see, in this connection, the last sentence of the established criteria in paragraph 10 above).

17. In addition to the three persons mentioned in Opinion No. 222 (2000) of the Parliamentary Assembly on Azerbaijan’s application for membership to the Council of Europe, adopted on 28 June 2000, the experts chose, as “pilot cases”, typical cases linked to specific historical events. In fact, such events led to the arrest of a considerable number of persons.

18. The following 23 “pilot cases” were retained for consideration:

GAMIDOV Iskander, (Case No. 1), GUMBATOV Alikram (Case No. 2), GAZIYEV Raqim (Case No. 3), AMIRASLANOV Elchin Samed oglu (Case No. 5), EFENDIYEV Natig (Case No. 7), HADJIYEV Adil Khanbaba (Case No. 8), MUSTAFAYEV Siyavush Firudin oglu (Case No. 9), HADJIYEV Fahmin Ahmedpasha oglu (Case No. 10), ABLAYEV Habib (Case No. 11), RAMAZANOV Avaz (Case No. 12), QURBANOVA Ajdar Mammed og. Iu (Case No. 13), IMRANOVA Nariman Shamo oglu (Case No. 14), KAZYMOV Afri Nazir oglu (Case No. 15), ABDULLAYEV Qalib Jamal oglu (Case No. 16), GUSEYNOVA Suret Davud oglu (Case No. 17), SAFIKHANOVA Ilgar (Case No. 18), AKHUNDOV Ruhulla (Case No. 19), AKBEROVA Isay Isay oglu (Case No. 20), SAMELOVA Sadiq (Case No. 21), SISSOYEV Anatoly (Case No. 22), ABBASOVA Elhan (Case No. 23), AGAYOVA Rafik (Case No. 24), GUSEYNOVA Guseynbala (Case No. 25).

Cases Nos. 1, 2, and 3 concern the persons specifically mentioned in Opinion No. 222 (2000) of the Parliamentary Assembly.
19. The experts express the opinion that:

- GAMIDOV Iskander (Case No. 1) is a political prisoner.
- GUMBATOV Alikram (Case No. 2) is a political prisoner.
- GAZIYEV Raqim (Case No. 3) is a political prisoner.
- AMIRASLANOV Elchin Samed oglu (Case No. 5) is a political prisoner.
- EFENDIYEV Natig (Case No. 7) is a political prisoner.
- HADJIYEV Adil Khanbaba (Case No. 8) is a political prisoner.
- MUSTAFAYEV Siyavush Firudin oglu (Case No. 9) is a political prisoner.
- HADJIYEV Fahmin Ahmedpasha oglu (Case No. 10) is not a political prisoner.
- ABUYEV Habib (Case No. 11) is not a political prisoner.
- QURBANOV Ajdar Mammed oglu (Case No. 13) is not a political prisoner.
- IMRANOV Nariman Shamo oglu (Case No. 14) is a political prisoner.
- KAZYMOV Arif Nazir oglu (Case No. 15) is a political prisoner.
- ABDULLAYEV Qalib Jamal oglu (Case No. 16) is a political prisoner.
- GUSEYNOV Suret Davud oglu (Case No. 17) is a political prisoner.
- SAFIKHANOV Ilgar (Case No. 18) is a political prisoner.
- AKHUNDOV Ruhulla (Case No. 19) is not a political prisoner.
- AKBEROV Israyıl Isa oglu (Case No. 20) is a political prisoner.
- SAMEDOV Sadiq (Case No. 21) is not a political prisoner.
- SISOYEV Anatoliy (Case No. 22) is a political prisoner.
- ABBASOV Elhan (Case No. 23) is a political prisoner.
- AGAYEV Rafik (Case No. 24) is a political prisoner.
- GUSEYNOV Guseynbala (Case No. 25) is a political prisoner.

The Case No. 12 (RAMAZANOV Avaz) is struck off the list due to a lack of information.

Appendix

Memorandum, dated 19 February 2001, from the Secretary General of the Parliamentary Assembly to the Secretary General of the Council of Europe (list of alleged political prisoners in Azerbaijan)

Note

The table appearing in this appendix was provided by the Human Rights Center of Azerbaijan, as indicated in the memorandum dated 19 February 2001 (see next page).

The experts have included an additional column (on the right) in which information transmitted by the Azerbaijan authorities is provided (on 27 March 2001) together with supplementary information from the Human Rights Center of Azerbaijan on 19 February and on 19 June 2001.

Explanations (terms used by the authorities of Azerbaijan):

D: “Died”
P: “Pardoned”
R: “Released”
U.C.: “Under consideration”
U.R.: “Under retrieval”
N.I.: “No information”;

(?) : Where such question marks have been placed in this column by the experts, this signifies that the information available is uncertain.
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