



Declassified*
AS/Jur (2021) 12
17 June 2021
ajdoc12 2021

Committee on Legal Affairs and Human Rights

Reported cases of political prisoners in Azerbaijan: follow-up to [Resolution 2322 \(2020\)](#)

Follow-up report

Rapporteur for follow-up: Ms Thorhildur Sunna ÆVARSDÓTTIR, Iceland, SOC

1. Introduction

1. The present report was prepared in accordance with my mandate under Rule 50.1. of the Assembly's Rules of Procedure to ensure follow-up to Assembly [Resolution 2322 \(2020\)](#) on reported cases of political prisoners in Azerbaijan. [Resolution 2322](#) was adopted on 30 January 2020. On 7 May 2020, the Bureau extended the current mandates of rapporteurs for follow-up by six months.

2. Procedure

2. As rapporteur for follow-up, I had expected that my primary source of information would be the Azerbaijan delegation. This would be in accordance with the general duty of co-operation incumbent on every delegation to the Assembly and, in this case, paragraph 11.3. of [Resolution 2322 \(2020\)](#), which specifically called on the delegation to co-operate with me, including by "providing information on the activities of the Azerbaijani Parliament and other authorities to implement this Resolution".

3. I therefore wrote to Mr Seyidov, the head of the Azerbaijani delegation, on 7 October 2020, asking him to send me information on implementation of paragraph 11 of [Resolution 2322 \(2020\)](#) by 13 November 2020, with a view to discussion at the Committee's meeting in December. On 22 October 2020, the secretariat of the Azerbaijani delegation confirmed receipt of my letter.

4. I did not receive any reply from Mr Seyidov. I brought this matter to the attention of the Committee at its meeting on 8 December 2020. The Committee agreed to ask the Chairperson to write to Mr Seyidov, inviting him to reply to my earlier letter. The Chairperson did so on 18 December 2020.

5. On 22 December 2020, Mr Seyidov replied to the Chairperson's letter, criticising my actions as rapporteur and denying the existence of political prisoners in Azerbaijan. He also referred in very vague terms to the effects of unspecified judicial reforms. He then presented information on a "National Action Plan for 2020-2022 for promotion of open government", covering issues relating to civil society, digitalisation in the judicial system, and judicial annulment of administrative acts; a Supreme Court decision to clarify different courts' jurisdictions; and unspecified penal and criminal law reforms resulting from a 2019 Presidential Decree. Finally, he accused me of unspecified breaches of the Assembly's Code of Conduct for rapporteurs. Unfortunately, Mr Seyidov did not reply to the very clear and specific questions raised in my letter; indeed, the information in his letter of 22 December 2020 was of only very limited use for an objective assessment of implementation of [Resolution 2322 \(2020\)](#).

* Document declassified by the Committee on 22 June 2021.

6. On 23 December 2020, the Chairperson replied to Mr Seyidov, rejecting his criticisms of my work as rapporteur, reminding him that [Resolution 2322 \(2020\)](#) had been adopted by the Assembly as a whole, recalling his obligation to co-operate with me as a duly mandated rapporteur, and asking him again to reply to my letter of 7 October 2020 at his earliest convenience.

7. Mr Seyidov still did not reply to my letter. I brought this matter to the attention of the Committee at its meeting on 27 January 2021. The Committee agreed to ask the Chairperson to write to the President of the Assembly to inform him that at the Committee's request, he would be raising the matter of Mr Seyidov's refusal to co-operate with me at the next meeting of the Bureau of the Assembly. I understand that following the Bureau meeting, there was an exchange of letters between Mr Seyidov and the President.

8. In the end, Mr Seyidov never replied to my letter of 7 October 2020, in which I requested information on implementation of [Resolution 2322 \(2020\)](#).

9. In the absence of information from the delegation, on 29 April 2021, I contacted Mr Seyidov, via the secretariat, asking him to nominate a representative of the Azerbaijani authorities to participate in a hearing on follow-up to [Resolution 2322 \(2020\)](#) that would take place during the Committee's meeting on 17 May 2021. The following day, the Azerbaijani delegation confirmed that Mr Seyidov had received my invitation.

10. The hearing took place as planned, with the participation of experts Ms Leyla Yunus, director of the Institute for Peace and Democracy, and Mr Rasul Jafarov, chairman of the Baku Human Rights Club. Mr Seyidov did not nominate a representative of the authorities, and no such representative took part in the hearing. Mr Kamal Jafarov of the Azerbaijani delegation, however, participated actively. The results of the hearing, along with relevant information from other sources, appear in the appended table.

3. Conclusions

11. Most provisions of [Resolution 2322 \(2020\)](#) have not been implemented by the Azerbaijani authorities. The only exceptions are the inexcusably late quashing of the convictions of Mr Ilgar Mammadov and Mr Rasul Jafarov (para. 11.4.3. of the resolution) and the late submission of partial information to the Committee of Ministers in the context of its supervision of relevant judgments of the European Court of Human Right (para.11.4.4. of the resolution). Further details are set out in the appended table.

12. As a result of the foregoing, the problem of political prisoners in Azerbaijan, as identified and described in [Resolution 2322 \(2020\)](#), has been neither duly recognised nor adequately addressed by the authorities, let alone resolved. The Committee may wish to consider whether this situation requires further specific attention from the Assembly.

APPENDIX: Information and conclusions on the implementation of Assembly [Resolution 2322 \(2020\)](#)

Provision of Resolution 2322 (2020)	Information from the Azerbaijani delegation	Information from other sources	Comments of the Rapporteur for follow-up	Conclusion
11. The Assembly therefore calls on:	-	-	-	-
11.1. the Azerbaijani Parliament and its members and the Azerbaijani Government to recognise formally all of the findings of the European Court of Human Rights in its judgments establishing a violation of Article 18 of the Convention, including the existence of the “troubling pattern” [of politically motivated misuse of the criminal justice system], as a necessary precondition for the success of the measures required to implement [the Court’s judgments in the relevant cases] fully and effectively;	<p>In his letter of 22 December 2020, Mr Seyidov stated that he would “like to reiterate once again that there is [sic] no ‘political prisoners’ in Azerbaijan. Stating otherwise would amount to denial of existence of the rule of law and the justice in our country.”</p> <p>At the committee hearing on 17 May 2021, Mr Kamal Jafarov, member of the Azerbaijani delegation, stated that as an independent parliamentarian, he was not obliged to recognise the Court’s judgments or Assembly resolutions.</p>	<p>At the hearing on 17 May 2021, Ms Yunus stated that neither the Azerbaijani parliament, its members, nor the government had formally recognised the Court’s finding of the existence of the “troubling pattern”.</p>	<p>All of the available information indicates that the action called for by the Assembly has not been taken.</p>	Not implemented
11.2. the members of the Azerbaijani delegation to the Parliamentary Assembly and their colleagues in the Azerbaijani Parliament to use their legislative and executive oversight roles to ensure that all necessary measures are	<p>Both Mr Seyidov in his letter to the Chairperson and Mr Kamal Jafarov during the hearing on 17 May 2021 referred to legal reforms, some of which came after adoption of Resolution 2322 (2020), but without giving any</p>	<p>At the hearing on 17 May 2021, Ms Yunus stated that the Azerbaijani parliament was not independent of the executive and would be unable to take the suggested action.</p> <p>Mr Rasul Jafarov stated that he had discussed the issue of political prisoners with the head of the Azerbaijani</p>	<p>I can only conclude from the lack of detailed information, including from the delegation in general and from Mr Seyidov and Mr Kamal Jafarov in particular, that nothing relevant has yet</p>	Not implemented

<i>taken to implement fully and effectively the Court's judgments and prevent further recurrence of politically motivated arbitrary detention;</i>	indication of how these reforms were relevant to implementing the Court's judgments and preventing recurrence of politically motivated arbitrary detention.	parliament human rights committee and hoped that this might lead to tangible results in future.	been done to achieve this very specific purpose.	
<i>11.3. the Azerbaijani delegation to the Parliamentary Assembly to co-operate with the rapporteur in the course of her work on follow-up to the present Resolution, in accordance with Rule 50, paragraph 1, of the Assembly's Rules of Procedure, including by providing information on the activities of the Azerbaijani Parliament and other authorities to implement this Resolution;</i>	<p>The head of the delegation, Mr Seyidov, did not respond to repeated requests for specific information made by the Rapporteur for follow-up, the Committee and its Chair.</p> <p>Mr Seyidov did not respond to the invitation to nominate a representative of the authorities to participate in the hearing on 17 May 2021.</p> <p>At the hearing on 17 May 2021, however, Mr Kamal Javarov, member of the delegation, stated that the delegation had never refused to co-operate.</p>	None	<p>The delegation was not only given every opportunity to co-operate with me, it was strongly and repeatedly encouraged to do so.</p> <p>Given the hostile and misleading nature of the letters sent by Mr Seyidov to the chairperson of our Committee and to the President of the Assembly, I cannot agree with Mr Kamal Jafarov that the delegation did not refuse to co-operate with me.</p>	Not implemented
<i>11.4. the Azerbaijani Government to:</i>	-	-	-	-
<i>11.4.1. subject the cases of persons on the most extensive, detailed and regularly updated lists of alleged political prisoners to review by an independent and impartial body and to release those found to be political prisoners in</i>	Mr Kamal Jafarov stated that a great many prisoners, including many figuring on lists of political prisoners, had been released following presidential pardons in spring 2020 and 2021.	<p>At the hearing on 17 May 2020, Ms Yunus stated that many people in high-profile cases pre-dating Resolution 2322 (2020) were still in prison.</p> <p>Mr Rasul Jafarov stated that several relevant cases, including those relating to the 2018 Ganja events (which were mentioned in my report) and those of prisoners serving life sentences since</p>	<p>I recall that a similar request had previously been made in Assembly Resolutions 2184 and 2185 (2017).</p> <p>I note that presidential pardons are not equivalent to review by an independent and impartial body.</p>	Not implemented

<p>accordance with the definition set out in Resolution 1900 (2012);</p>		<p>1996 (which had been mentioned in several Assembly resolutions), were still outstanding. He also stated that the release of 'political prisoners' following presidential pardons would not prevent incidents of politically motivated arbitrary detention in future.</p>	<p>I also recall that in Resolution 2322 (2020), the Assembly stated that "pardons are no substitute for an independent judiciary that prevents unjust and politically motivated detention in the first place".</p> <p>I can only conclude from the lack of information from the delegation in general, and from Mr Seyidov and Mr Kamal Jafarov in particular, that the requested action has not been taken.</p>	
<p>11.4.2. take a holistic approach, addressing problems relating to the judiciary, the Prosecutor General's office, the police, the detention system and administrative detention together in a coherent and co-ordinated way, <u>so as to ensure the non-repetition of politically motivated arbitrary detention, as required by the European Court of Human Rights; [emphasis added]</u></p>	<p>Both Mr Seyidov in his letter to the Chairperson and Mr Kamal Jafarov during the hearing on 17 May 2021 referred to changes to the criminal law, some of which came after adoption of Resolution 2322 (2020), but without giving any indication of how these reforms were relevant to implementation of the European Court's judgments or the problem of political prisoners generally.</p>	<p>At the hearing on 17 May 2021, Ms Yunus stated that judges were still not independent in Azerbaijan. She stated that in April 2020, a judge who had released an opposition activist was asked by the President's office to tender his resignation, and the following day was dismissed by the Judicial and Legal Council.</p> <p>Mr Rasul Jafarov stated that implementation of the earlier reforms had led to an increase in the number of acquittals and the use of non-custodial pre-trial preventive measures, although not in 'political' cases. These developments were, however, not enough to resolve the fundamental issue.</p> <p>On 9-11 March 2021, the Committee of Ministers 'strongly reiterated' its call for "targeted and effective steps" to address the root causes of misuse of the criminal</p>	<p>The information provided by Mr Kamal Jafarov on reforms introduced before Resolution 2322 (2020) was adopted had already featured in my report. The information provided by Mr Rasul Jafarov on the effect of these reforms had also been reflected in my report.</p> <p>In Resolution 2322 (2020), the Assembly stated that it was "yet to be convinced, however, that the measures taken thus far will suffice to achieve the specific results required by the Court."</p> <p>I have not received any further information that would now lead me to a different conclusion.</p>	<p>Not implemented</p>

		<p>law and retaliatory prosecutions, including further measures to strengthen the independence of the judiciary and the prosecutor's office.</p> <p>The Azerbaijani government did not provide any further information to the Committee of Ministers in advance of its meeting on 7-9 June 2021. The Committee of Ministers therefore reiterated its strong call to take steps to address the root causes of the violations and invited the Azerbaijani authorities to provide updated information by 31 July 2021.</p>	<p>This is the view also of the Committee of Ministers.</p>	
<p><i>11.4.3. take promptly every possible step towards full implementation of the judgments of the European Court of Human Rights, so as to ensure, amongst other things, that Mr Ilgar Mammadov and Mr Anar Mammadli are able to stand as candidates in elections and that Mr Rasul Jafarov can resume his professional activities as a lawyer;</i></p>	<p>At the hearing on 17 May 2021, Mr Kamal Jafarov stated that the Azerbaijani Supreme Court had quashed the convictions of Mr Mammadov and Mr Rasul Jafarov in April 2020. He stated that the cases of other applicants were pending before the Supreme Court but had been delayed by the impact of the Covid-19 pandemic.</p>	<p>In response to Mr Kamal Jafarov's statement about delays due to Covid-19, Ms Yunus stated that the Plenum of the Supreme Court had met in May and September 2020 and in February and April 2021, when it could have addressed the outstanding cases, but did not.</p> <p>On 11 March 2021, the Committee of Ministers adopted an Interim Resolution on the Mammadli group of cases, in which it 'deeply deplored' the Azerbaijani authorities' failure to achieve <i>restitutio in integrum</i> for the remaining applicants, including by quashing their convictions; and 'exhorted' the authorities to put an "immediate end" to this situation by taking the necessary measures as a "key priority and with the utmost urgency", and to submit the relevant information by 30 April 2021.</p>	<p>I recall that the judgments in the cases of Mr Mammadov, Mr Mammadli and Mr Rasul Jafarov date from May 2014, March 2016 and April 2018 respectively. In May 2019, the European Court ruled that Azerbaijan had refused to implement its judgment in Mr Mammadov's case.</p> <p>The 2020 parliamentary elections were brought forward from November to February and thus took place before Mr Mammadov's conviction was quashed, so he was unable to stand as a candidate.</p> <p>Mr Mammadli's case is still pending before the Supreme Court. He too was unable to stand as a candidate in the</p>	<p><i>Not implemented in general</i></p> <p><i>The individual measures in the Jafarov case were implemented only after an inexcusable delay.</i></p>

		On 27 May 2021, the Azerbaijani government informed the Committee of Ministers that the relevant cases were still pending before the Supreme Court, and stated that the Committee would be “duly informed about the scheduled dates and the outcomes of the hearings”.	February 2020 parliamentary elections.	
<i>11.4.4. co-operate fully with the Committee of Ministers in its supervision of the implementation of judgments of the European Court of Human Rights, especially under its enhanced procedure, including by promptly submitting detailed and comprehensive action plans setting out the measures to be taken and by providing full and up-to-date information in good time before relevant meetings of the Committee of Ministers.</i>	None	<p>In relation to the group of cases concerning politically motivated misuse of the criminal justice system, the Azerbaijani government last submitted an updated action plan to the Committee of Ministers in September 2019. Since adoption of Resolution 2322 (2020), the government provided information on the quashing of the convictions of Mr Mammadov and Mr Rasul Jafarov in February 2021; and on the expiry of certain measures relating to other applicants, the payment of just satisfaction, and other unresolved problems in May 2021 (four weeks after the Committee of Ministers’ deadline).</p> <p>In relation to the group of cases concerning administrative detention, the Azerbaijani government provided information in February 2021 on applicants’ individual situations.</p> <p>At its meeting on 9-11 March 2021, the Committee of Ministers reiterated its “deep concern that more than five years after the first judgment [on administrative detention] became final the authorities have yet to present an action plan”.</p>	<p>I recall that the Committee of Ministers has been calling for submission of an action plan on general measures to address the problem of administrative detention since June 2017.</p> <p>I note that this provision of Resolution 2322 (2020) concerns only procedural requirements and not the content of action plans or the adequacy of measures taken or proposed.</p>	<p>Not implemented as regards submission of action plans</p> <p>Partially implemented otherwise (some information provided late)</p>

