

**SG/Inf (2004) 1**

9 January 2004

## **Cases of alleged political prisoners in Azerbaijan**

### **Secretary General's interim report concerning his Independent Experts' second mandate**

#### **Summary**

In April 2002 Professors Stefan Trechsel and Evert Alkema accepted the Secretary General's proposal to resume their task as Independent Experts and provide opinions on whether or not the remaining group of prisoners in Azerbaijan, out of a list of 716 initially submitted to them in 2001, may be regarded as political prisoners on the basis of objective criteria adopted in their first report<sup>1</sup>.

From 73 Opinions adopted by the Independent Experts in May, September and December 2003, the Experts determined that:

- 31 persons were political prisoners;
- three persons were no longer political prisoners, and
- 39 persons were not political prisoners.

Of the 31 persons considered to be political prisoners, 25 have been released and the unserved part of the term of imprisonment of one person was reduced by half subsequent to a Presidential Decree (Pardon) issued on 29 December 2003. Also, four persons are to be re-tried.

The Independent Experts must still complete work on 54 outstanding cases.

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<sup>1</sup> See documents SG/Inf(2001)34, and addenda thereto, and SG/Inf (2003)15. Both these documents are available on the Council of Europe's Internet Site: [www.coe.int/sq](http://www.coe.int/sq).

### The Independent Experts' 1<sup>st</sup> mandate (2001)

1. In Opinion No. 222 (2000) of the Parliamentary Assembly on Azerbaijan's application for membership to the Council of Europe, adopted over three and a half years ago, on 28 June 2000, Azerbaijan undertook "to release or to grant a new trial to those prisoners who are regarded as "political prisoners" by human rights protection organisations ..." (paragraph 14 iv b).

2. After Armenia and Azerbaijan became member States of the Council of Europe on 25<sup>th</sup> January 2001, the Committee of Ministers decided to look into cases of alleged political prisoners in both countries. In this context, it approved my proposal to instruct (at that time) three Independent Experts<sup>2</sup> to inquire into cases referred to it. On 18 July 2001, I informed the Committee of Ministers that I had received the Experts' report and, in the light of developments in Azerbaijan, decided to make the report public on 24 October 2001<sup>3</sup>. Political follow-up to the Independent Experts' report is now being undertaken by the Committee of Ministers (notably its GT-SUIVI.AGO Monitoring Group) and the Parliamentary Assembly.

### The Independent Experts' 2<sup>nd</sup> mandate (as from 2002)

3. In April 2002 Professors Stefan Trechsel and Evert Alkema accepted my proposal to resume their task as Independent Experts and to provide opinions on whether or not the remaining group of prisoners in Azerbaijan, out of the list of 716 initially submitted to them in 2001, may be regarded as political prisoners on the basis of the objective criteria adopted in their first report. This new task is presently being carried out. In April 2003 this list was reduced to 212 cases (see doc. SG/Inf (2003)15, especially paras 4 and 8 therein).

4. A substantial number of prisoners, out of the original 'list of 716', have now been released. Some of them have been pardoned by Presidential Decree(s) further to informal contacts undertaken between my Independent Experts and the Azerbaijani authorities. A certain number of other prisoners have also been released because their terms of imprisonment have come to an end.

5. My Independent Experts instituted, in co-operation with the Azerbaijani authorities, the following procedure with respect to their 2<sup>nd</sup> mandate:

<b>Informal confidential procedure (possible settlement/release)</b>	<b>Formal confidential procedure</b>	
<p>Independent Experts' <b><u>Provisional</u> opinion:</b></p> <p><u>informal</u> transmission, to the Azerbaijani authorities, of summary provisional opinions, for observations with a view to settlement/release of persons concerned</p>	<p>→ Independent Experts' <b><u>Draft</u> opinion:</b></p> <p><u>formal</u> transmission of draft opinions to the Azerbaijani authorities for observations</p>	<p>→ Independent Experts' <b><u>Opinion</u>:</b></p> <p>Transmission of definitive opinions to the Secretary General</p>

<sup>2</sup> Mr Stefan Trechsel, Professor of Criminal Law and Procedure at the University of Zurich, Switzerland, and a former member and President of the European Commission of Human Rights; Professor Evert Alkema, member of the Dutch Council of State, and Mr Alexander Arabadjiev, at the time member of the Bulgarian Constitutional Court, both also former members 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 in June 2001.

<sup>3</sup> For background information, see footnote 1 above. See also, in this connection, article by Mr Stefan Trechsel : "The notion of "political prisoner" as defined for the purpose of identifying political prisoners in Armenia and Azerbaijan", Vol. 23, *Human Rights Law Journal* (2002), pp. 293-300 (French version available in Vol. 14, *Revue Universelle des Droits de l'Homme* (2002), pp. 169-176).

6. The Azerbaijani authorities were requested to provide my Independent Experts with the transcripts of Azerbaijani-language judgments of all cases by September 2002. Unfortunately, in many instances, the Azerbaijani authorities were unable to provide the requested transcripts within the agreed timeframe. Transcripts have been provided in small batches between July 2002 and the present day.<sup>4</sup> This has invariably caused considerable delays in the processing of cases. This also explains why the Experts have not been able to consider cases submitted to them in numerical and/or alphabetical order.

7. A total of 73 Opinions, with respect to this 2<sup>nd</sup> mandate, were transmitted to me in 2003: 12 on 12 May 2003, 22 on 29 September 2003 and 39 on 11 December 2003. I, in turn, provided copies of these Opinions to the Azerbaijani authorities - in confidence - so that the latter be given the opportunity to take all necessary measures to comply with commitments entered into.

8. Out of this set of 73 Opinions, my Experts determined that:

- **31 persons were political prisoners.** In this connection, the Azerbaijani authorities have taken the following measures concerning most of these cases: **25 persons have been released** and the unserved part of one person's prison sentence has been reduced by half subsequent to a Presidential Decree (Pardon) issued on 29 December 2003. **Also, four persons are to be re-tried** (as well as 2 pilot cases considered as political prisoners back in 2001 [Messrs Kazymov and Amiraslanov])
- **Three persons were no longer political prisoners.**
- **39 persons were not political prisoners.**

9. A list of Opinions rendered with respect to the 73 cases is appended to the present document. The full texts of the Opinions will be issued, in due course, as an Addendum to this document.

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10. Messrs Trechsel and Alkema, my Independent Experts, have not yet completed their 2<sup>nd</sup> mandate. The Experts are presently working on 54 cases. They hope to be able to finish their work by September of this year, if not earlier.

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<sup>4</sup> The final set of three missing transcripts of judgments is to be transmitted to my Experts in early 2004.

## APPENDIX:

### List of the 73 Opinions rendered in 2003 by the Secretary General's Independent Experts

#### A. 31 persons considered to be political prisoners

(i) Persons released (25) subsequent to Presidential Decree (Pardon) of 29 December 2003:

62/716	AKBEROV Tavakkul Sahladar oglu ( <i>Opinion of 29 September 2003</i> )
76/716	ALIRZAYEV Maqsad Alirza oglu ( <i>Opinion of 11 December 2003</i> )
94/716	ALIYEV Ilqar Jafar oglu ( <i>Opinion of 11 December 2003</i> )
163/716	BABAYEV Samir Abdulazim oglu ( <i>Opinion of 11 December 2003</i> )
200/716	DJAFAROV Rovshan Vaqif oglu ( <i>Opinion of 29 September 2003</i> )
250/716	HASANOV Hasan Mahammad oglu ( <i>Opinion of 11 December 2003</i> )
260/716	HSANOV Yusif Mirza oglu ( <i>Opinion of 29 September 2003</i> )
273/716	HUSEYNOV Chingiz Nariman oglu ( <i>Opinion of 11 December 2003</i> )
297/716	HUSEYNOV Tofiq Panah oglu ( <i>Opinion of 11 December 2003</i> )
320/716	ISMAYILOV E'tibar Hamid oglu ( <i>Opinion of 11 December 2003</i> )
330/716	ISMAYILOV Ramiz Mikayil oglu ( <i>Opinion of 29 September 2003</i> )
389/716	MAMMEDOV Adil Sabir oglu ( <i>Opinion of 11 December 2003</i> )
390/716	MAMMEDOV Ahmed Bahlul oglu ( <i>Opinion of 29 September 2003</i> )
396/716	MAMMEDOV Djalal ( <i>Opinion of 11 December 2003</i> )
405/716	MAMMEDOV Ilqar Bazirkhan oglu ( <i>Opinion of 11 December 2003</i> )
426/716	MAMMEDOV Shahin Alisimiran oglu ( <i>Opinion of 11 December 2003</i> )
452/716	MIRZOYEV Faiq Agakhan oglu ( <i>Opinion of 29 September 2003</i> )
508/716	NOVRUZOV Ibrahim Hasan oglu ( <i>Opinion of 29 September 2003</i> )
566/716	QULIYEV Kamran ( <i>Opinion of 11 December 2003</i> )
608/716	RZAYEV Etibar S. oglu ( <i>Opinion of 29 September 2003</i> )
644/716	SHAFIYEV Adalat (Dadan) Ali oglu ( <i>Opinion of 29 September 2003</i> )
646/716	SHAFIYEV Qazanfar Ali oglu ( <i>Opinion of 29 September 2003</i> )
659/716	SOLTANOV Soltan Shamil oglu ( <i>Opinion of 11 December 2003</i> )
685/716	VELIYEV Djeyhun Hanbaba [Yagub] oglu ( <i>Opinion of 11 December 2003</i> )
692/716	YAGNALIYEV Namiq Fikret oglu ( <i>Opinion of 11 December 2003</i> )

(ii) Persons (4) to be re-tried:

215/716	EMCHIYEV Rasul Nadjmeddin oglu ( <i>Opinion of 12 May 2003</i> )
403/716	MAMMEDOV Hamlet Aladdin oglu ( <i>Opinion of 29 September 2003</i> )
523/716	POLADOV Safa Alim oglu ( <i>Opinion of 12 May 2003</i> )
621/716	SADYQOV Faiq Babakishi oglu ( <i>Opinion of 12 May 2003</i> )

(iii) Unserved part of terms of imprisonment of one person reduced by half:

159/716	BABAKISHIYEV Vagif Alish oglu ( <i>Opinion of 29 September 2003</i> )
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(iv) Azerbaijani authorities decision not yet known:

35/716	AGAYEV Fakhraddin Tahmaz oglu ( <i>Opinion of 11 December 2003</i> ) [On 12 <sup>th</sup> December 2003 the authorities informed the Experts that Mr AGAVEV was mentally ill & that a medical commission is to examine his case]
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#### B. Three persons no longer considered to be political prisoners

222/716	FEYZULLAYEV Irakli ( <i>Opinion of 11 December 2003</i> )
324/716	ISMAYILOV Ilham Ca'di oglu ( <i>Opinion of 29 September 2003</i> )
657/716	SHUKUROV Vugar ( <i>Opinion of 11 December 2003</i> )

**C. 39 persons not considered to be political prisoners**

- 22/716 ABDULLAYEV Shamsi Vahid oglu (*Opinion of 12 May 2003*)  
 24/716 ABULOV Nadir Shaban oglu (*Opinion of 29 September 2003*)  
 37/716 AGAYEV Ismayil Bashir oglu (*Opinion of 29 September 2003*)  
 49/716 AHMEDOV Mahir Teyyub oglu (*Opinion of 29 September 2003*)  
 101/716 ALIYEV Mobud (ALIYEV Mobud Alimursal oglu) (*Opinion of 29 September 2003*)  
 105/716 ALIYEV Sadykh Mikayil oglu (*Opinion of 29 September 2003*)  
 131/716 AMIRASLANOV E'tibar (*Opinion of 11 December 2003*)  
 136/716 ASADOV Seymur [Teymur] (*Opinion of 11 December 2003*)  
 153/716 AZAYEV Eldar (*Opinion of 11 December 2003*)  
 170/716 BAKAYEV [Bakarov] Rasim Hadjimirza oglu (*Opinion of 11 December 2003*)  
 191/716 DJABIYEV Samandar Hayyat oglu (*Opinion of 11 December 2003*)  
 198/716 DJAFAROV Rashad Agarza oglu (*Opinion of 12 May 2003*) (**released**)  
 207/716 DJALILOV Elman Djalal oglu (*Opinion of 11 December 2003*)  
 258/716 HASANOV Rasim Qazanfar oglu (*Opinion of 11 December 2003*)  
 266/716 HUMBATOV Sakhavat Veli oglu (*Opinion of 12 May 2003*)  
 275/716 HUSEYNOV Elkhan Komissar oglu (*Opinion of 11 December 2003*)  
 277/716 HUSEYNOV Fazil Zulfugar oglu (*Opinion of 12 May 2003*)  
 331/716 ISMAYILOV Rashid Nurulla oglu (*Opinion of 12 May 2003*)  
 350/716 KERIMOV Dayanat Kerim oglu (*Opinion of 11 December 2003*)  
 386/716 MAMMEDALIYEV Sahib Nureddin oglu (*Opinion of 11 December 2003*)  
 444/716 MELIKOV Avtandil (*Opinion of 11 December 2003*)  
 448/716 MIKAYILOV Djeyhun Misir oglu (*Opinion of 11 December 2003*)  
 450/716 MIRZAYEV Saday Mammedali oglu (*Opinion of 12 May 2003*)  
 461/716 MUKHTAROV Tahmaz Nadir oglu (*Opinion of 29 September 2003*)  
 474/716 MUSTAFAYEV Elshad Teyyub oglu (*Opinion of 12 May 2003*)  
 475/716 MUSTAFAYEV Hasan Huseyn oglu (*Opinion of 11 December 2003*)  
 476/716 MUSTAFAYEV Magsad Teyyub oglu (*Opinion of 12 May 2003*)  
 510/716 NURALIYEV Samir Rzaabala oglu (*Opinion of 29 September 2003*)  
 537/716 QASIMOV Asad Ramazan oglu (*Opinion of 11 December 2003*)  
 550/716 QAYIBOV Intiqam Yusif oglu (*Opinion of 11 December 2003*)  
 563/716 QULIYEV Fizuli Djavanshir oglu (*Opinion of 11 December 2003*)  
 584/716 RAHIMOV Faiq (RAHIMOV Faiq Feiruz oglu) (*Opinion of 29 September 2003*)  
 612/716 RZAYEV Maherram (*Opinion of 11 December 2003*)  
 617/716 SADIROV Yusif Huseyn oglu (*Opinion of 12 May 2003*)  
 625/716 SAFARALIYEV Alfat (*Opinion of 11 December 2003*)  
 641/716 SARABI Bakhtiyar Rahman oglu (*Opinion of 29 September 2003*)  
 649/716 SHAHMURADOV Yashar Khasay oglu (*Opinion of 11 December 2003*)  
 662/716 SULEYMANOV Iftikhar (*Opinion of 11 December 2003*)  
 673/716 TAGIYEV Ikram Seyfulla (*Opinion of 11 December 2003*)