



General Assembly

Distr.: General
26 September 2012

Original: English

Human Rights Council

Twenty-first session

Agenda item 4

Human rights situations that require the Council's attention

Note verbale dated 24 September 2012 from the Permanent Mission of the Republic of Armenia to the United Nations Office and other international organizations in Geneva addressed to the President of the Human Rights Council

I would like to draw to your attention to the latest case of blatant violation of human rights in the Republic of Azerbaijan in connection with the pardoning and further glorification of Azeri serviceman Ramil Safarov.

On 19 February 2004, 26-year-old Armenian Army Lieutenant Guren Margaryan, while asleep, was hacked to death by Ramil Safarov, a lieutenant of the Azerbaijani Army, wielding an axe. Both were participants in an English language training course within the framework of the NATO-sponsored "Partnership for Peace" programme held in Budapest.

According to a Budapest police officer, Safarov committed the murder with unusual cruelty. The victim's head was practically severed from his body.

Immediately after murdering Lieutenant Guren Margaryan, Ramil Safarov attempted to murder another Armenian participant in the course, officer Hayk Mukuchyan, who was staying in another room. Fortunately, the second attempt did not succeed. When detained by the Hungarian police, Safarov confessed to the murder of Guren Margaryan and expressed his regret that he had not managed to kill the other Armenian officer.

On 16 April 2006, the Hungarian court of first instance sentenced Safarov to life imprisonment without right of appeal until 2036. Judge Andras Vaskuti cited the premeditated nature and brutality of the crime and the fact that Safarov had shown no remorse for his deeds as the reasons for the sentence. The court considered the fact that the murder was committed based on ethnic hatred an aggravating circumstance. On 22 February 2007, the Hungarian Supreme Court upheld the ruling following an appeal filed by Safarov's lawyer.

It is noteworthy that this heinous crime has consistently received public praise at the official level in Azerbaijan and was cited as an example of patriotism for Azerbaijani youth. Numerous organizations and State officers named the axe murderer a "hero of the nation".

The Government of Hungary was informed on numerous occasions by the Armenian authorities about the environment of justification and glorification of the murderous act of

Ramil Safarov, cultivated in Azerbaijan at the official level, including by the President of Azerbaijan.

The Government of Hungary could not have failed to note the numerous public statements of Azerbaijani officials at different levels regarding this issue, which should have been sufficient grounds to doubt the continued enforcement of the sentence in Azerbaijan.

The Government of Hungary, at all official levels, consistently and until the very last moment, assured the Government of Armenia that it would not take any steps whatsoever that would result in the termination of imprisonment by the perpetrator of this heinous murder, and explicitly excluded the prospect of any option for the extradition or transfer of the prisoner. The last official communication from the Republic of Armenia addressed to the Ministry of Foreign Affairs of Hungary was submitted on 24 August 2012.

Despite numerous communications from the Government of Armenia, the Ministry of Public Administration and Justice of Hungary, in its communication of 31 August 2012, announced that it had authorized transfer of Ramil Safarov to Azerbaijan. In its decision, the Ministry made reference to the Council of Europe Convention on the Transfer of Sentenced Persons of 1983.

The transfer of Ramil Safarov was executed without any further delay.

Armenia considered the above decision by the Government of Hungary an unfriendly act, undermining the good cooperative relations between Armenia and Hungary. The Government of Hungary should have foreseen the implications of its decision to transfer Ramil Safarov, which effectively resulted in the termination of a sentence being served by a perpetrator of a murderous act. The manner in which the Government of Hungary acted in this matter is also a matter of serious concern.

As a consequence, Armenia has decided to suspend diplomatic relations and all official contacts with Hungary., Hungarian authorities subsequently tried to justify the act of transfer, and publicized on 2 September 2012 the copy of the note by which the Azerbaijani authorities had provided diplomatic assurances to Hungary. However, the fact of being cheated at the State level by Azerbaijan does not exempt the Government of Hungary of its moral responsibility for sponsoring a grave criminal act. Moreover, Armenia has always warned that this would be the consequence of transfer of Safarov to Azerbaijan.

As proof of the reasons for the constant cautioning by Armenia, Ramil Safarov was immediately granted a full pardon by the President of Azerbaijan and released from custody upon his arrival in Azerbaijan. Moreover, he was hailed and glorified as a national hero, promoted to the military rank of major by decree of the Minister for Defence, assigned an apartment and was paid his salary for the eight years that he spent in imprisonment in Hungary.

The practice of encouraging violence on ethnic grounds, racism and terrorism at the State level has endangered all efforts of the international community to protect human rights worldwide. The unjustifiable act by the President of Azerbaijan has raised great concern in the international community and has been strongly condemned by major international organizations and human rights bodies, as well as by numerous States. Statements expressing deep concern and regret were delivered by the Secretary-General, the United Nations High Commissioner for Human Rights, the Council of Europe, the European Parliament, the European Commissioner for Human Rights, the Parliamentary Assembly of the Council of Europe, the European Commission against Racism and Intolerance and the Collective Security Treaty Organization.

I would like to mention some especially important reactions of the international community.

In a joint statement, the co-Chairpersons of the Minsk Group of the Organization for Security and Cooperation in Europe (OSCE) stressed “the damage the pardon and any attempts to glorify the crime have done to the Nagorno Karabakh peace process and trust between the sides.”

On 6 September 2012, the spokesperson for the Secretary-General, during his daily press briefing, stated:

The Secretary-General is concerned about the developments surrounding the case of Mr. Safarov since his transfer on 31 August 2012 to Azerbaijan and subsequent pardon by Azerbaijani authorities. The United Nations underscores the responsibility of Member States to adhere to international standards and principles of rule of law in criminal cases in order to ensure accountability and fight impunity. As highlighted by the Organization for Security and Cooperation in Europe Co-Chairs in their recent statement, we hope that this issue will not damage the Nagorno-Karabakh peace process and trust between the sides. There is no alternative to a peaceful settlement of the Nagorno-Karabakh conflict.

On 7 September 2012, the Spokesperson for the United Nations High Commissioner for Human Rights, in his press briefing, stated:

We are seriously concerned about the case of Ramil Safarov, an Azerbaijani military officer who was sentenced to life in prison in Hungary for the brutal 2004 murder of an Armenian officer, Gurgen Markaryan, who was taking part in the same NATO training programme in Hungary. The murder was clearly ethnically motivated.

The concerns relate to the fact that, around a week ago, Safarov was extradited from Hungary to Azerbaijan, where instead of serving out the rest of his sentence, he was pardoned by the President, publicly praised, and promoted by the Defence Ministry. This has resulted in an international furore.

International standards regarding accountability for serious crimes should be upheld. Ethnically motivated hate crimes of this gravity should be deplored and properly punished – not publicly glorified by leaders and politicians.

We are also in full agreement with the Co-Chairs of the OSCE Minsk Group who earlier this week expressed deep concern about “the damage the pardon and any attempts to glorify the crime have done to the [Nagorno-Karabakh] peace process and trust between the two sides.

On 13 September 2012, the European Parliament adopted resolution entitled “Azerbaijan: the case of Ramil Safarov”, the full text of which is attached to the present letter.*

Armenia expects the international community to continue to react promptly to such explicit cases of concern and unacceptable developments, which have undermined respect for justice, human rights and human dignity.

I would appreciate it if you could circulate the present letter and the annex thereto as a document of the twenty-first session of the Human Rights Council under the agenda item 4.

(signed) Charles Aznavour

* Reproduced in the annex as received, in the language of submission only.

Annex

[English only]

European Parliament resolution of 13 September 2012 on Azerbaijan: the Ramil Safarov case (2012/2785(RSP))

The European Parliament,

- having regard to its previous resolutions on the situation in Azerbaijan in particular those concerning human rights,
- having regard to the established practice of international law regarding transfer, namely the Convention on the Transfer of Sentenced Persons, under which it was agreed that cooperation should be developed in order to further the ends of justice and the social rehabilitation of sentenced persons, by giving them the opportunity to serve their sentences within their own society,
- having regard to the statement issued by its President, Martin Schulz, on 5 September 2012 concerning the pardon granted to Ramil Safarov in Azerbaijan,
- having regard to the joint statement issued by the High Representative of the Union for Foreign Affairs and Security Policy, Catherine Ashton, and Commissioner Štefan Füle on 3 September 2012 concerning the release of Mr Safarov,
- having regard to the statement issued by the Secretary-General of the Council of Europe, Thorbjørn Jagland, on 4 September 2012,
- having regard to the official letter received by the Ministry of Public Administration and Justice of Hungary on 15 August 2012 from the Deputy Minister of Justice of the Republic of Azerbaijan, Vilayat Zahirov,
- having regard to its resolution of 18 April 2012 on the negotiations of the EU-Azerbaijan Association Agreement,⁽¹⁾
- having regard to the statement issued by the Hungarian Prime Minister, Viktor Orbán, on 3 September 2012, in which he gave an assurance that Hungary had acted in accordance with its international obligations,
- having regard to the Partnership and Cooperation Agreement between the EU and Azerbaijan, which entered into force in 1999, and to the ongoing negotiations between the two parties on a new association agreement to replace the previous one,
- having regard to Rules 122(5) and 110(4) of its Rules of Procedure,
 - A. whereas Ramil Safarov had been jailed in a Hungarian prison since 2004 after brutally killing an Armenian colleague during a course sponsored by NATO's Partnership for Peace Programme in Budapest; whereas Mr Safarov had pleaded guilty and had expressed no remorse, defending his action on the grounds that the victim was Armenian;
 - B. whereas on 31 August 2012 Mr Safarov, a lieutenant of the Azerbaijani armed forces who had been convicted of murder and sentenced to life imprisonment in Hungary, was transferred to Azerbaijan at the longstanding request of the Azerbaijani authorities;

C. whereas immediately after Mr Safarov was transferred to Azerbaijan the Azerbaijani President, Ilham Aliyev, pardoned him in line with the Constitution of the Republic of Azerbaijan and Article 12 of the Convention on the Transfer of Sentenced Persons;

D. whereas Article 9 of the Convention on the Transfer of Sentenced Persons, to which Hungary and Azerbaijan are both signatory parties, states that a person sentenced in the territory of one state may be transferred to the territory of another in order to serve the sentence imposed on him or her, provided that the conditions laid down in that convention are met;

E. whereas the Deputy Minister of Justice of the Republic of Azerbaijan, Vilayat Zhirov, sent an official letter to the Ministry of Public Administration and Justice of Hungary on 15 August 2012, in which he stated that the execution of the decisions of foreign states' courts regarding the transfer of sentenced persons to serve the remaining part of their prison sentences in the Republic of Azerbaijan were carried out in accordance with Article 9(1)(a) of the convention, without any conversion of their sentences; whereas he further gave an assurance that, according to the Criminal Code of the Republic of Azerbaijan, the punishment of a convict serving a life sentence could only be replaced by a court with a term of imprisonment for a specified period, and that the convict could be released on conditional parole only after serving at least 25 years of his or her prison sentence; and whereas the Azerbaijani authorities subsequently denied having given any diplomatic assurances to the Hungarian authorities;

F. whereas Lieutenant Safarov received a glorious welcome in Azerbaijan and a few hours after his return was granted a presidential pardon, set free and promoted to the rank of major during a public ceremony;

G. whereas the decision to set Mr Safarov free triggered widespread international reactions of disapproval and condemnation;

H. whereas on 31 August 2012 the Armenian President, Serzh Sargsyan, announced that Armenia was suspending its diplomatic relations with Hungary;

I. whereas Azerbaijan participates actively in the European Neighbourhood Policy and the Eastern Partnership, is a founding member of Euronext and has committed itself to respect democracy, human rights and the rule of law, which are core values of these initiatives;

J. whereas Azerbaijan has taken up a non-permanent seat in the United Nations Security Council (UNSC) for the 2012-2013 period and committed itself to uphold the values enshrined in the UN Charter and the Universal Declaration of Human Rights;

K. whereas Azerbaijan is a member of the Council of Europe and a party to the European Convention on Human Rights (ECHR) as well as to a number of other international human rights treaties, including the International Covenant on Civil and Political Rights;

1. Stresses the importance of the rule of law and of honouring commitments made;

2. Deplores the decision by the President of Azerbaijan to pardon Ramil Safarov, a convicted murderer sentenced by the courts of a Member State of the European Union; regards that decision as a gesture which could contribute to further escalation of the tensions between two countries, and which is exacerbating feelings of injustice and deepening the divide between those countries, and is further concerned that this act is

jeopardising all peaceful reconciliation processes within the societies concerned and may undermine the possible future development of peaceful people-to-people contact in the region;

3. Considers that, while the presidential pardon granted to Mr Safarov complies with the letter of the Convention on the Transfer of Sentenced Persons, it runs contrary to the spirit of that international agreement, which was negotiated to allow the transfer of a person convicted on the territory of one state to serve the remainder of his or her sentence on the territory of another state;

4. Considers the presidential pardon granted to Mr Safarov as a violation of the diplomatic assurances given to the Hungarian authorities in Azerbaijan's request for transfer on the basis of on the Convention on the Transfer of Sentenced Persons;

5. Deplores the hero's welcome accorded to Mr Safarov in Azerbaijan and the decision to promote him to the rank of major and pay him eight years' back salary upon his arrival, and is concerned about the example this sets for future generations and about the promotion and recognition he has received from the Azerbaijani state;

6. Takes the view that the frustration in Azerbaijan and Armenia over the lack of any substantial progress as regards the peace process in Nagorno-Karabakh does not justify either acts of revenge or futile provocations that add further tension to an already tense and fragile situation;

7. Expresses its support for the ongoing efforts of the European External Action Service (EEAS), the EU Special Representative for the South Caucasus and the Member States to defuse tensions and ensure that progress is made towards peace in the region;

8. Supports the Co-Chairs of the OSCE Minsk Group in their efforts to secure substantial progress in the peace process in Nagorno-Karabakh with a view to finding a lasting, comprehensive settlement in accordance with international law;

9. Insists that the EU should play a stronger role in the settlement of the conflict in Nagorno-Karabakh by supporting the implementation of confidence-building measures which will bring together Armenian and Azerbaijani communities and spread ideas of peace, reconciliation and trust on all sides;

10. Reiterates its position that the association agreement currently being negotiated between the EU and Azerbaijan should include clauses and benchmarks relating to the protection and promotion of human rights and the rule of law;

11. Condemns all forms of terrorism and the use of threats of terrorism;

12. Instructs its President to forward this resolution to the EEAS, the European Council, the Commission, the respective governments and parliaments of the Republic of Azerbaijan and the Republic of Armenia, the Council of Europe, the OSCE and the UN Special Rapporteur on human rights and counter-terrorism.