



人权理事会
第二十一届会议
议程项目 4
需要理事会注意的人权情况

亚美尼亚共和国常驻联合国日内瓦办事处及其他国际组织代表团 2012 年 9 月 24 日致人权理事会主席的普通照会

我谨提请您注意阿塞拜疆共和国最近不仅赦免了阿塞拜疆军人 Ramil Safarov, 还对其行为大加推崇, 这是对人权的公然侵犯。

2004 年 2 月 19 日, 阿塞拜疆中尉 Ramil Safarov 趁 26 岁的亚美尼亚中尉 Gurgen Margaryan 睡觉之际, 用斧头将其砍死。两人当时正在参加北约“和平伙伴关系”方案在布达佩斯举办的英语培训课程。

据布达佩斯警察称, Safarov 的谋杀行为极其残忍, 他几乎将受害者的脑袋整个砍下来。

谋杀了 Gurgen Margaryan 中尉后, Ramil Safarov 随即又企图到另一个房间谋杀另一名亚美尼亚军官 Hayk Mukuchyan。所幸这次没有成功。Safarov 被匈牙利警方逮捕时, 承认谋杀了 Gurgen Margaryan, 并对未能杀死另一名亚美尼亚军官表示遗憾。

2006 年 4 月 16 日, 匈牙利初审法院判处 Safarov 终身监禁, 剥夺其上诉权至 2036 年。Andras Vaskuti 法官援引犯罪行为的预谋性质和残忍性以及 Safarov 毫无悔改之意, 作为判决依据。法院认定基于族裔仇恨这一事实构成该谋杀的加重情节。2007 年 2 月 22 日, 匈牙利最高法院在收到 Safarov 律师的上诉后, 维持原判。

值得注意的是, 这一令人发指的罪行得到了阿塞拜疆官方的广泛颂扬, 并作为对阿塞拜疆青年实施爱国主义教育的范例。许多组织和国家官员都将这名斧头杀人犯誉为“民族英雄”。

亚美尼亚当局多次告知匈牙利政府，阿塞拜疆官方，包括总统在内，都对 Ramil Safarov 的谋杀行为持维护态度并大加推崇。

匈牙利政府不可能没有注意到阿塞拜疆各级官员就该事件发表的众多公开言论，单凭这些言论，就足以对阿塞拜疆是否将继续执行判决表示怀疑。

匈牙利各级政府直至最后一刻，一直向亚美尼亚政府保证不会采取任何将导致这一令人发指的罪行的实施者终止监禁的行动，并明确排除引渡或转移该囚犯的任何可能性。亚美尼亚共和国致匈牙利外交部的最后一份正式信函于 2012 年 8 月 24 日提交。

尽管亚美尼亚政府多次致函，匈牙利公共行政与司法部仍在 2012 年 8 月 31 日的信函中宣布授权将 Ramil Safarov 转移至阿塞拜疆。公共行政与司法部在决定中提到了 1983 年欧洲理事会《被判刑者转移公约》。

转移 Ramil Safarov 的决定毫不拖延地得到了执行。

亚美尼亚认为匈牙利政府的上述决定是不友好的行为，损害了亚美尼亚与匈牙利之间的友好合作关系。匈牙利政府本应预见转移 Ramil Safarov 的决定的后果，这实际上导致杀人犯终止服刑。匈牙利在这个问题上的行为方式也令人严重关切。

因此，亚美尼亚决定终止与匈牙利的外交关系及一切官方接触。之后，匈牙利当局试图为其转移行为辩解，并于 2012 年 9 月 2 日公布了阿塞拜疆向匈牙利提供外交保证的照会。然而，被阿塞拜疆政府欺骗这一事实不能免除匈牙利政府纵容严重犯罪行为的道德责任。此外，亚美尼亚一直警告匈牙利将 Safarov 转移至阿塞拜疆可能导致这种后果。

亚美尼亚一直的警告不是没有道理的，Ramil Safarov 一到阿塞拜疆就得到了阿塞拜疆总统的完全赦免，并且不再被拘留。此外，阿塞拜疆把他捧成民族英雄，国防部的法令提拔他为少校，分给他一套公寓，还补发了他在匈牙利坐牢八年期间的工资。

国家一级鼓励基于族裔的暴力、种族主义和恐怖主义的做法危害了国际社会在世界范围内保护人权的一切努力。阿塞拜疆总统的不当行为引起了国际社会的深切关注，遭到国际组织和人权机构，以及许多国家的严厉谴责。联合国秘书长、联合国人权事务高级专员、欧洲委员会、欧洲议会、欧洲人权委员会、欧洲委员会会议、欧洲反对种族主义和不容忍委员会以及集体安全条约组织均发表声明，对此表示关切和遗憾。

我想提及国际社会特别一些重要的反应。

欧洲安全与合作组织(欧安组织)明斯克小组联合主席在一份联合声明中强调了“赦免和任何试图推崇犯罪的做法对纳戈尔诺—卡拉巴赫和平进程以及双方信任造成的伤害。”

2012 年 9 月 6 日，秘书长发言人在每日新闻简报中称：

秘书长对 Safarov 先生 2012 年 8 月 31 日被转移至阿塞拜疆以及之后被阿塞拜疆当局赦免一案的发展表示关切。联合国强调会员国在刑事案件中有义务遵守国际标准和人权原则，以确保追究责任和打击有罪不罚。正如欧洲安全与合作组织联合主席在最近的声明中强调的，我们希望这个问题不要影响纳戈尔诺-卡拉巴赫和平进程以及双方之间的信任。和平解决纳戈尔诺-卡拉巴赫冲突没有其他方法。

2012 年 9 月 7 日，联合国人权事务高级专员发言人在新闻简报中称：

我们对 Ramil Safarov 案深表关切，这名阿塞拜疆军官在 2004 年残忍地谋杀了一同在匈牙利参加北约培训课程的亚美尼亚军官 Gurgen Markaryan，在匈牙利被判处终身监禁。这起谋杀显然有族裔动机。

我们表示关切是因为，匈牙利一周前将 Safarov 引渡回阿塞拜疆，他不但没有继续服刑，反而被总统赦免，受到公众称赞，而且被国防部提拔。此事引起了国际轰动。

关于追究严重罪行责任的国际标准应予以坚持。如此严重的有族裔动机的仇恨罪行应受到谴责和适当惩罚，而不是得到领导人和政治家的公开推崇。

我们完全同意欧安组织明斯克小组联合主席的声明，他们于本周早些时候对“赦免和任何试图推崇犯罪的做法对[纳戈尔诺-卡拉巴赫]和平进程以及双方信任造成的伤害”深表关切。

2012 年 9 月 13 日，欧洲议会通过了题为“阿塞拜疆：Ramil Safarov 案”的决议，全文载于本照会附件。^{*}

亚美尼亚希望国际社会继续对这类案件迅速作出反应，这类案件值得关切且事态发展令人无法接受，它们破坏了对司法、人权和人类尊严的尊重。

敬请将本信及其附件作为人权理事会第二十一届会议议程项目 4 下的文件分发为荷。

Charles Aznavour (签名)

^{*} 附件不译，原文照发。

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 Zahirov, 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 Euronest 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.
