

# SHOWDOWN IN STRASBOURG

## THE POLITICAL PRISONER DEBATE IN OCTOBER 2012



Berlin  
February 2013

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## BACKGROUND TO A DRAMATIC VOTE

It was the most dramatic vote in the history of the Parliamentary Assembly (PACE) of the Council of Europe: a vote on the definition of “political prisoner” and whether or not PACE had the responsibility to monitor the state of fundamental rights in member states.

To understand just how much was at stake on 3 October 2012 in PACE, it is important to understand what led to this vote.

In December 2009 the German member, Christoph Straesser, was given a mandate to present a “Definition of political prisoners” to PACE. He was appointed by the [Committee on Legal Affairs and Human Rights](#)

In June 2010 Straesser invited three respected international judges to the committee: one from Switzerland, one from the Netherlands, and one from Spain. Following the hearing, the committee agreed with a definition of political prisoner which Straesser presented in a memorandum.

This definition had in fact first been developed by legal experts appointed by the general secretary of the Council of Europe in 2001. It had been applied to two countries – Armenia and Azerbaijan – and to hundreds of individual cases. It had been used in a number of PACE resolutions and by a succession of special PACE rapporteurs.

So why had this definition suddenly become controversial?

Azerbaijani members of PACE claimed that the definition had never been accepted in a formal vote by the whole assembly.

They also argued that as a result there was *no* definition, and thus Straesser was also unable to assess whether in fact there were any political prisoners in Azerbaijan at all.<sup>1</sup>

Then, on 13 April 2011 a group of 35 PACE members, led by Agustin Conde Bajen from Spain, submitted a motion which called on PACE to set up “objective criteria” on how to identify “a genuine political prisoner” before any report on an individual country is prepared.<sup>2</sup> The text stressed that this was urgent:

“Because of their high importance, these criteria should be adopted by the Assembly before any report on political prisoners in a particular case or country is prepared, as a general definition has to be clear before, and not during or after, the preparation of an individual report.

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<sup>1</sup> See also ESI Picture story on [Ilham the Magician](#).

<sup>2</sup> “Criteria for the definition of a political prisoner” (Doc. 12587), motion for resolution. 13 April 2011. <http://assembly.coe.int/ASP/Doc/XrefViewHTML.asp?FileID=12668&Language=EN>

In the interest of all member states of the Council of Europe, the process of establishing criteria for the definition of a political prisoner should be considered without delay.”

In fact, Christoph Straesser submitted such a definition without much delay to the legal committee in summer 2012. It was also narrowly accepted there.

Now something extraordinary happened. A number of PACE members suggested on 3 October 2012 that in fact the Assembly should not and did not have the right to discuss and vote on a definition after all.<sup>3</sup> An amendment was suggested (Amendment 2) that was designed to undermine all of Straesser’s work. It stated:

“The Parliamentary Assembly confirms that the interpretation and application of any criteria defining a political prisoner are the exclusive competence of the **European Court of Human Rights, which is the only authority to assess violations of fundamental rights and freedoms**, as stipulated in the European Convention for Human Rights and its Protocols.”<sup>4</sup> [emphasis added]

Two remarkable things happened next.

First a majority of members of the very committee that had appointed Straesser in 2009 and had approved his definition twice before (in June 2010 and in June 2012) now decided that PACE had no authority “to assess violations of fundamental rights and freedoms.”

Second, a number of the most prominent supporters of a definition to be adopted by the assembly “without delay” in April 2011 argued in October 2012 that the assembly should never do so.

Among those who changed their mind were some of the most prominent apologists of the Azerbaijani regime: Mike Hancock (UK), Tadeusz Iwinski (Poland), Patrick Moriau (Belgium), and Agustin Conde (Spain).

Suddenly Straesser faced the prospect that the definition he had presented, accepted for more than a decade before, reaffirmed in his committee in June 2010 and then approved in his committee in June 2012 would be undermined by an amendment arguing that the European Court of Human Rights, and not PACE, “is the only authority to assess violations of fundamental rights and freedoms.”

The debate on the definition of political prisoners thus turned into a debate about the very legitimacy of *any* assessment of fundamental rights and freedoms in PACE.

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<sup>3</sup> Belgian MP Patrick Moriau and 5 other members (Pasquale Nessa - Italy, Agustin Conde - Spain, Øyvind Vaksdal - Norway, Younal Loutfi - Bulgaria, George Loukaides - Cyprus) proposed Amendment 2

<sup>4</sup> PACE, Verbatim transcript of the debate on 3 October 2012 at 3.30 pm.

<http://assembly.coe.int/Main.asp?link=/Documents/Records/2012/E/1210031530E.htm>

The debate that took place on 3 October was one of PACE's most contentious. It was one of the most well-attended debates in the organization's history. It was also the one with the closest ever result at the end of the debate.

Below are excerpted quotes and highlights from the debate. The full transcript from the assembly can be found on PACE's [website](#).

### **President of the Assembly:**

The next item of business this afternoon is the debate on the report entitled "The definition of political prisoner", [Document 13011](#), presented by Mr. Straesser.

May I remind colleagues that speaking time in the debates today is limited to three minutes.

I now call Mr Straesser, the rapporteur.

### **Christoph Straesser (Germany):**

*"I oppose the view...that the Parliamentary Assembly should refrain from talking about [political prisoners]. If this position were adopted, members might as well go home."*



*Christoph Straesser (born in 1949) is a German Social Democrat from Muenster. In March 2009, Straesser was appointed rapporteur for political prisoners in Azerbaijan by the PACE Committee on Legal Affairs and Human Rights. In December 2009, the Committee gave him a second mandate – to report on a definition of the term "political prisoner." Throughout his term Azerbaijan refused to issue him a visa for a fact-finding visit to the country.*

It is three years since the Committee on Legal Affairs and Human Rights has given me this remit to look into the subject of political prisoners. The

Committee has assumed two things: first, that such prisoners exist, and secondly, that the Council of Europe should take action.

In 2001 and 2002 a committee of experts agreed upon a definition which has subsequently been used in four resolutions and recommendations adopted between 2001 and 2005 on Azerbaijan and Armenia by this assembly. There was no ambiguity over the definition of a political prisoner.

Any questioning undermines the work of the Assembly over the previous 10 years. It is, therefore, not enough to talk only about the term itself. The debate should rather be about the direction the Council of Europe wishes to go.

I oppose the view advocated by some that the Parliamentary Assembly should refrain from talking about the matter on the grounds that it is more properly within the remit of the European Court of Human Rights.

If this position were adopted members might as well go home.

### **Pietro Marcenaro (Italy):**

*“Amendment 2 aims to neuter the report and to mortgage the future activity of the Council of Europe.”*



**Voted against Azerbaijan’s amendment**

*Mr. Marcenaro (born in 1946) has been a member of PACE since 2006. He is a member of the Committee on Legal Affairs and Human Rights, and has served as rapporteur of PACE’s Political Affairs Committee on Reconciliation in Former Yugoslavia. In Italy he is a member of the centre-left Democrat Party and president of the Italian Senate’s Human Rights Commission.*

The socialist group has decided, virtually unanimously, to support the report of Mr. Straesser emphatically.

It is difficult for everyone to accept that in civilised countries there could exist torture, or political prisoners, but these things do exist. The victims of such repression look to the Council of Europe as one potential source of help in their

fight. There is much talk of human rights defenders: who are these political prisoners if not defenders of human rights?

Mr Straesser has quoted the views of Amnesty International. Given the importance attached to civil society, the stance of such authoritative organisations should give food for thought. Their expert opinions are not expressed lightly.

The amendment 2 aims to neuter the report and to mortgage the future activity of the Council of Europe. What do those who tabled the amendment hope to achieve by this? Do they want to deny hope to political prisoners?

Everyone has a duty to take a stand and to resist the lobbying which had affected this whole discussion.

### **Mailis Reps (Estonia):**

*“If we do not vote for the resolution today, we are giving a right to these people – whether we are talking about the result of lobbying, threatening, blackmailing or any other means – to say that the issue of political prisoners is not to be dealt with by this Parliamentary Assembly.”*



**Voted against Azerbaijan’s amendment**

*Ms. Mailis Reps (born in 1975) joined PACE in 2003 – 2005 as a substitute, and in 2007 as a member. She is also on the Committee on Legal Affairs and Human Rights. In Estonia, she belongs to the Estonian Centrist Party, and has served as education minister from 2002-03, and again in 2005-07. She is a PACE co-rapporteur on Ukraine.*

We have a very sensitive question before us: on what things can we agree in this Council of Europe?

I hope that we can all agree that this is the institution of the rule of law, democracy and human rights – our values and principles.

Based on that, I hope that we can all agree that having political prisoners is unacceptable, in whatever country.

The second question before us is: who are these prisoners? The question raised in the report is whether or not we need a definition.

By an overwhelming majority we agreed a few years ago that we needed to look into this matter.

Today, we have a proposal before us for the Parliamentary Assembly to establish the definition of “political prisoner”. That is where all the mess begins – the confusion; the pause; the not getting a visa for Azerbaijan; the unfair treatment; and all the different procedural questions.

However, the issue is: If we do not vote for the resolution today, we are giving a right to these people – whether we are talking about the result of lobbying, threatening, blackmailing or any other means – to say that the issue of political prisoners is not to be dealt with by this Parliamentary Assembly.

I hope that we can all agree that that should not be the case.

I ask colleagues to read Amendment 2, because it suggests that the only authority to assess violations of fundamental rights and freedoms should be the European Court of Human Rights.

That is nonsense, and anyone who sensibly reads that amendment cannot vote for it.

If we do not vote for the resolution of Mr Straesser as he submitted it, we send the message that the issue of political prisoners should not be dealt with by the Parliamentary Assembly. That would be a disaster.

## **Elena Nikolaeva (Russian Federation):**

*“International law does not have the concept of political prisoners.”*



**Voted for Azerbaijan’s amendment**

*Ms. Elena Nikolaeva (born in 1969) joined PACE in 2012, as a member of the European Democrat Group. In Russia she is a deputy from the United Russia party.*

I thank Mr Straesser, who has been guided by the best intentions in his consideration of these complicated issues.

However, international law does not have the concept of political prisoners.

Interpreting the criteria relating to political prisoners falls within the remit of the European Court of Human Rights.

It is doubtful whether someone who is habitually involved in political activity but has committed a crime should escape without punishment. Political involvement should not exempt a person from responsibility under the law.

It is necessary to comply with the principle of punishment applying to all. The [European Democrat Group](#) has doubts about the resolution, but is happy with the amendment [two], so it will vote accordingly.

## **Tiny Kox (Netherlands):**

*“We all know that history shows that the adoption of the report will not lead governments to release political prisoners.”*



**Voted for Azerbaijan’s amendment**

*Mr. Tiny Kox (born in 1953) came to PACE as a substitute between 2003 – 2007, and as a full member starting in 2007. He is a member of the Group of the Unified European Left. In December 2010, he led the PACE delegation to observe the Russian parliamentary elections.*

In this Assembly, it is our duty to stand firm on the protection of the political rights of all the citizens of our member states and against brutal violations of those rights, such as arresting, convicting and imprisoning political opponents. It happens throughout Europe, we know it, and we should do something about it.

I thank Mr Straesser for all the work he has done, but my group is not convinced that his report and resolution are a solution to the problem.

We all know that history shows that the adoption of the report will not lead governments to release political prisoners.

The European Court of Human Rights is the final legal authority. Also in paragraph 4 we have no definition of terrorism.

This resolution and report are not yet ready for a final decision by this Chamber. So on behalf of my group I propose that the Assembly refers the report and the resolution back to the committee.

This is not a matter on which we can go 50:50, as it should have the broad support of the whole Assembly.

## **Mevlut Cavusoglu (Turkey):**

*“This is nonsense. This undermines the credibility of this Organisation. We cannot set standards like this.”*



**Voted for Azerbaijan’s amendment**

*Mr. Mevlut Cavusoglu (born in 1968) is the chairman of the Turkish delegation to PACE. He served on the Committee on Migration, Refugees and Population from 2006 – 2008, and the Monitoring Committee between 2003 – 2010. Cavusoglu was PACE President between 2010 and 2012.*

I think that everyone in this Chamber agrees that we do not want any political prisoners in the member states. That is why the Assembly needs a proper definition of political prisoners.

We gave a mandate to our rapporteur and, as he said, he has been working on the report for three years.

When we look at the resolution, we see that it is only five paragraphs long.

Please do not connect this to any country. We are a standard-setting Organisation. We set it not only for the 47 member states, but for the European Union, other international organisations, including the United Nations, the courts, academic circles and think tanks.

We are not stupid; the rapporteur does not need to remind us of the previous definitions.

In the three years, did the rapporteur organise any hearings in the committee? No.

Did he bring the judges of the ECHR together? No.

Did he work with experts or academics? No.

Everyone accepts that he was supposed to bring the judges of the Court together to make the proper definition. In the end, he came to the Assembly with what I am sorry to say is nonsense.

This is nonsense. This undermines the credibility of this Organisation. We cannot set standards like this. This is not the standard we should be setting.

People say that if we do not accept the resolution, the Assembly will lose its credibility. I think that if we do accept it, the Assembly will lose its credibility.

When we make the proper definition we can rely on it. This is not the definition.

### **Marina Schuster (Germany):**

*“Lobbying in this case by Azerbaijan had been unmatched in its brazenness. The Assembly should not be influenced by it. It was time to nail its colours to the mast.”*



**Voted against Azerbaijan’s amendment**

*Marina Schuster (born in 1975) is a member of the German Bundestag from the Free Democratic Party. As a member of the Bundestag Committee for Human Rights, Schuster has been actively following the situation with human rights and democracy in Eastern Partnership countries and in Russia. She joined PACE in 2010, is First Vice Chairperson of the Committee on Legal Affairs and Human Rights, as well as a member of the Monitoring Committee.*

I thank the rapporteur for having carried out an extraordinarily difficult task. The Committee has entrusted him with this task because it wanted a definition to exist.

In response to Mr Cavusoglu: it is not true that no hearings had taken place with experts.

In July 2010 the Committee had heard from experts. The experts had concluded that the criteria previously in use were acceptable.

Human Rights Watch supported the definition and had called on the Assembly to speak out.

Lobbying in this case by Azerbaijan had been unmatched in its brazenness.

The Assembly should not be influenced by it. It was time to nail its colours to the mast.

### **Viola von Cramon-Taubadel (Germany):**

*“As a former President of the Assembly, Mr Cavusoglu should have known better than to make such a speech. I would never have thought that a former President could talk such nonsense.”*



**Voted against Azerbaijan’s amendment**

*Viola von Cramon-Taubadel (born in 1970), is a member of the German Green Party, and sits on the PACE Monitoring Committee. Von Cramon-Taubadel has been an outspoken critic of human rights violations in Azerbaijan.*

Mr Cavusoglu’s speech is incredible. As a former President of the Assembly, he should have known better than to make such a speech. I would never have thought that a former President could talk such nonsense.

In response to Mr Kox: if one asked the Turkish or Azeri governments whether they had any political prisoners they would not admit it. But it was clear that such people existed, sometimes held on remand or in an administrative detention, but political prisoners nonetheless.

It was a key task of the Assembly to define the term. The amendment agreed in Committee earlier in the day would mean that members of the Assembly would not be able to discuss the matter in future. Only the Court would be able to discuss it.

This would undermine the mandate of the Assembly. I support the report but oppose the amendments.

I also criticise the intimidation of the rapporteur. This undermines the role of the Assembly.

### **Andres Herkel (Estonia):**

*“The amendment tabled by Mr Moriau seem to have the sole aim of destroying the report. I strongly support Mr Straesser and the report and call on members to do the same today.”*



**Voted against Azerbaijan’s amendment**

*Andres Herkel (born in 1962), has been a member of PACE since 2003. He was the longest-serving PACE rapporteur on Azerbaijan, from 2004 until 2010. He is chairperson of the PACE Monitoring Committee and is a member of PACE’s Group of the European People’s Party.*

Mr Straesser and I have similar backgrounds and we both learnt a lot about political prisoners from Azerbaijan.

Several years ago, when I became the monitoring rapporteur in Azerbaijan, I visited many former politicians in prison. For us they were, of course, political prisoners but when we talked to President Aliev he told us that they did not have political prisoners.

The need for a clear definition is obvious.

The report before us now is based on long-held high-level expertise, as were the hearings of the Committee on Legal Affairs and Human Rights.

The amendment tabled by Mr Moriau seems to have the sole aim of destroying the report. I strongly support Mr Straesser and the report and call on members to do the same today.

### **Mike Hancock (UK):**

*“Why has this debate been obsessed with political prisoners who may or may not be in prison in Azerbaijan, when this Assembly knows that so many countries have alleged political prisoners?”*



**Voted for Azerbaijan’s amendment**

*Michael Hancock (born in 1946) is a British Liberal Democrat. He has been a member of PACE since 1997 and sits on the Monitoring Committee. Hancock served as a PACE election observer in Azerbaijan in 2008 and 2010, praising the conduct of the votes both times. Hancock has consistently supported Azerbaijan in parliamentary debates. In January 2011, he signed a statement praising Azerbaijan’s “speedy improvement towards democratisation and legal state-building.” Hancock is one of the Vice Chairs of the Azerbaijan All-Party Parliamentary Group in the UK.*

Why are we here today discussing this report? Because there is an unclear view of what a “political prisoner” is.

And what does the report say to us? It asks us to reaffirm support for the criteria that we have been using up till now.

How does reaffirming the thing that has led to so much confusion help the situation in the Parliamentary Assembly?

Why has this debate been obsessed with political prisoners who may or may not be in prison in Azerbaijan, when this Assembly knows that so many countries have alleged political prisoners?

The rapporteur shakes his head, but in his opening remarks he mentioned the country of Azerbaijan by name four times. He mentioned that there were other countries but he did not name them. Why this obsession with political prisoners in Azerbaijan?

I think it is because he was, wrongly, refused a visa there.

The instruction from the Committee on Legal Affairs and Human Rights was quite clear: to come up with a unified, recognisable and simple definition of “political prisoner”.

We in the United Kingdom have had many terrorists over the years; 13 of them starved themselves to death to prove that they were not terrorists, but political prisoners. That was not 100 years ago but 20 years ago, and the British Government stood by and allowed these men to commit suicide by starving themselves to death because we did not recognise any international definition of what a political prisoner was.

You say in your report, “Oh, it’s not a problem for Spain, because ETA can be dealt with”; “Oh, it’s not a problem for Turkey, because the PKK can be dealt with”. How? Your report is very thin, Mr Straesser– it does not go into any detail.

To say today that, after three years of debate and dialogue, the best we can do as an Assembly of parliamentarians is simply to redefine something that is already internationally recognised as a failure and that is not good enough.

We could and should have done better, and those political prisoners who are being held in many of the countries of this Assembly will not benefit from the reaffirming of what we cannot deliver on now.

They were expecting a more precise definition that no one could fail to understand. That is the failure of your report, Mr Straesser.

## **Leonid Slutsky (Russian Federation):**

*Whatever the outcome of this afternoon's debate, the text of the resolution would be used for political pressure and it was unfortunate that any drug dealer, terrorist or murderer would be able to claim that they were in fact a political prisoner.*



**Voted for Azerbaijan's amendment**

*Leonid Slutsky (born in 1968) is a Russian MP from the nationalist "Liberal Democratic Party" led by Vladimir Zhirinovskiy. He has been a member of PACE since 2004. In 2009, he was awarded an "Order of Friendship" by Azerbaijani president Ilham Aliyev. From 2005 until 2009, Slutsky served as a Monitoring Committee co-rapporteur on Monaco together with Pedro Agramunt. In April 2006, Slutsky organized a North Pole expedition for Monaco's prince Albert II, one of the world's wealthiest monarchs; in April 2007, he received Monaco's national award called the Order of Grimaldi.<sup>5</sup> These incidents were criticized in PACE and led the Assembly to introduce stricter rules in the code of conduct for rapporteurs.<sup>6</sup>*

The definition of a political prisoner is not yet clear and there remains too much room for manoeuvre.

Whatever the outcome of the afternoon's debate, the text of the resolution would be used for political pressure and it was unfortunate that any drug dealer, terrorist or murderer, such as Anders Behring Breivik, would be able to claim that they were in fact a political prisoner.

I recall the saying that "the road to hell is paved with good intentions".

I regret that this Resolution would lead only to division and recommend that a joint committee of the Assembly and the European Court of Human Rights be appointed to consider the matter in greater detail.

<sup>5</sup> <http://www.peacefond.ru/structure/chairman/?id=31>

<sup>6</sup> <http://www.assembly.coe.int/ASP/Doc/XrefViewPDF.asp?FileID=12774&Language=EN>

### **Serhiy Sobolev (Ukraine):**

*“If the Council of Europe does not adopt this definition, that will be the start of a very dangerous process that began in the 1930s in Germany and the Soviet Union.”*



**Voted against Azerbaijan’s amendment**

*Serhiy Sobolev (born in 1961) is an MP from Ukraine and has been a member of PACE since 2010, when he joined the Group of the European People’s Party. He sits on the Monitoring Committee.*

Mr Straesser, you are a brave man, and I thank you for such an excellent report.

You can hear in this Chamber how many people want to pressure you not to make this decision, but remember that those who opposed the fascists and communists who killed millions of people were political prisoners.

Remember that in the Soviet Union, when millions of people were killed by the Stalinist and other regimes, all of them, according to the resolution of the Russian Federation, Ukraine and other post-Soviet countries, were declared to be political prisoners.

So when we hear now that we do not have such a definition, that is a lie.

If the Council of Europe does not adopt this definition, that will be the start of a very dangerous process that began in the 1930s in Germany and the Soviet Union, when millions of people were killed because of their ideological or other point of view.

If we agree to the second amendment, thousands of people will wait years for a decision from the European Court of Human Rights.

The report is brave and timely. With regard to all four items, there should be no political prisoners across our continent.

Why is this Organisation comprised of 47 members and not 48? It is because Lukashenko's regime in Belarus is a regime of political prisoners.

This report is a way out of the problem. Thank you.

### **Tadeusz Iwinski (Poland):**

*“The definition of ‘political prisoner’ seems, to some extent at least, to belong to a political category – it is delicate or even ‘tricky,’ as the Americans would say.”*



**Voted for Azerbaijan's amendment**

*Tadeusz Iwinski (born in 1944), a former Polish communist, is a member of the Polish Sejm representing the Democratic Left Alliance. He has been a member of PACE since 1992, where he sits on the Monitoring Committee and is one of the Vice Chairpersons of the Socialist Group. Iwinski has traveled to Azerbaijan on numerous occasions. In January 2011, Iwinski presented a very uncritical report on the 2010 Azerbaijani parliamentary elections to the Assembly.*

I am speaking as a scholar rather than as a politician. It is difficult to get everyone's agreement on any definition in the social sciences.

For example, although the definition of “prisoner of war” seems to be clear we still encounter bizarre interpretations of it even today.

The definition of “political prisoner” seems, to some extent at least, to belong to a political category – it is delicate or even “tricky”, as the Americans would say.

Many Spaniards could see it in the light of ETA's activities, Britons could see it in the light of the IRA's operations and Turks could consider it in the light of the PKK.

Many people could perceive the members of the band Pussy Riot as political prisoners, and the Tymoshenko case in Ukraine could be seen as equally controversial.

The rapporteur is right to state in paragraph 4: “Those deprived of their personal liberty for terrorist crimes shall not be considered political prisoners if they have been prosecuted and sentenced for such crimes according to national legislation and the European Convention on Human Rights”. However, as has been mentioned, there is no approved definition of “terrorism”.

The amendment proposed to the draft resolution is reasonable. By and large, we need to avoid the situation described colourfully in the Chinese proverb about two people sleeping in the same bed but having quite different dreams.

### **Lise Christoffersen (Norway):**

*“I find it useful to ask two questions – who gains, and who loses? We need to consider who gains from casting doubt on and getting rid of our 10-year-old agreement on the criteria defining a political prisoner, and who loses. The answer is obvious, is it not?”*



**Voted against Azerbaijan’s amendment**

*Lise Christoffersen (born in 1955) is a member of the Norwegian Parliament representing the Labour Party. In PACE, she serves as First Vice Chairperson of the Monitoring Committee. In 2009, Christoffersen was nominated by the Socialist Group to serve as a co-rapporteur on Azerbaijan but was outmanoeuvred by Joseph Debono Grech from Malta, who was elected instead of her.*

This report on the definition of political prisoner has somehow turned out to be controversial, and I wonder why.

Council of Europe members must commit themselves to releasing or re-trying these prisoners – that happened in 2001 when Azerbaijan and Armenia became Council of Europe members.

The Committee of Ministers, in accordance with the advice of three independent experts on human rights, at that time drew up a list of criteria, in the light of European Court of Human Rights case law, determining who could be defined as a “political prisoner”.

All the relevant bodies of the Council of Europe agreed on this, including this Assembly.

So why do we have this controversy? What will be the consequences of rejecting this advice?

I find it useful to ask two questions – who gains, and who loses? We need to consider who gains from casting doubt on and getting rid of our 10-year-old agreement on the criteria defining a political prisoner, and who loses.

The answer is obvious, is it not?

Political prisoners – prisoners of conscience – will be the losers, as their cases will be weakened. The authorities of some of the member states still subject to monitoring for breaking fundamental human rights will gain.

We could also consider a further question: why was the appointed rapporteur denied access to one of the most relevant countries to visit when he was fact-finding?

Yesterday, we all received a letter from Amnesty International and Human Rights Watch. Those well-regarded human rights organisations urged us to support the report and keep the criteria alive, and that is more than good enough for me.

### **Pedro Agramunt (Spain):**

*“I agree with the other speakers who have said that this matter has been dealt with over-hastily by the Assembly.”*



**Voted for Azerbaijan’s amendment**

*Pedro Agramunt (born in 1951), a Spanish senator and businessman from Valencia, has been the Monitoring Committee’s co-rapporteur for Azerbaijan since 2010. He traveled to Azerbaijan as a PACE election observer in 2003, 2005 and 2010, and was a member of the PACE mission to the constitutional referendum in Azerbaijan in March 2009.*

My concern is exclusively the problem of terrorism: this is the crucial issue for Spain.

Two days ago a claim was made in the Spanish press that ETA prisoners are political prisoners. Paragraph 3 might make it easier for some of the people serving sentences for terrorism in Spain being given the status of political prisoners.

This is a concern shared by my Spanish colleagues.

In Spain, the lines are drawn by the Constitutional Court. Amendment 2 seems, therefore, to be in line with the practice in that country.

I agree with the other speakers who have said that this matter has been dealt with over-hastily by the Assembly.

Haste in politics was a poor counsel; the implications of this report should have been debated at some length, but this had not been the case.

**President of the Assembly:**

Thank you.

I must now interrupt the list of speakers.

I call Mr Straesser to reply. You have five and a half minutes.

**Christoph Straesser (Germany):**

*“The definition had been used previously in this Assembly and had not been criticised. I find it difficult to understand why some members thought the process has been hasty when it has taken three years.”*

I thank all those who have taken part in the debate for their constructive comments. I also thank those who had opposed the resolution.

As a parliamentarian, I have been affected by this. I have been particularly affected by a former President of the Assembly condemning something that had been used in the past by the Assembly.

I do not wish to say anything else on that topic.

The point of departure is important. The definition of political prisoner is not new; I as rapporteur have been asked to provide a report on something that already exists.

A number of members of the Assembly have been at the Committee hearings at which this had been discussed.

The definition had been used previously in this Assembly and had not been criticised.

I find it difficult to understand why some members thought the process has been hasty when it has taken three years.

I would have been happy to receive motions that could have led to consensus, but none arrived. I am sure that no consensus can be reached.

I ask Mr. Agramunt to look again at paragraph 4. I almost regret including this as a compromise at the behest of Mr Agramunt's Spanish colleague.

Ms Christoffersen commented that there would be winners and losers: if the Assembly does not act decisively the losers would be those affected by its indecision.

Mr Hancock had talked about Azerbaijan. I have been criticised by human rights institutions for not having spent enough time in Azerbaijan. In January I will submit a separate report on that country.

If Amendment 2 is accepted the whole substance of the report would disappear.

I call upon the Assembly to reject the report in its entirety if Amendment 2 is agreed!

### **President of the Assembly:**

The debate is now closed.

Mr Kox wishes to move the report back to the Committee on Legal Affairs and Human Rights. Does anyone wish to oppose this motion? Somebody does wish to do so.

I call Ms Reps to oppose the motion. You have 30 seconds.

### **Mailis Reps (Estonia):**

Members of the Assembly. We have discussed this for three years. We have come down to a definition with the best of our knowledge and the best expertise, based on the opinions of different experts, and it is here for us to vote on. Further delay will not help.

### **President of the Assembly:**

The Assembly will now vote on the motion to refer the report “The Definition of Political Prisoner,” Document 13011, back to the committee. Those who vote yes are in favour of the reference back. Those who vote no are against the reference back and are ready for us to vote on the other provisions on the motion.

The vote is open.

*(Voting occurs.)*

The procedural motion has been **defeated** and we shall therefore proceed.

We come to Amendment 2, tabled by Mr Moriau, Mr Nessa, Mr Loutfi, Mr Conde, Mr Vaksdal and Mr Loukaides, which is, in the draft resolution, to replace paragraph 3 with the following paragraph:

“The Parliamentary Assembly confirms that the interpretation and application of any criteria defining a political prisoner are the exclusive competence of the European Court of Human Rights, which is the only authority to assess violations of fundamental rights and freedoms, as stipulated in the European Convention for Human Rights and its Protocols.”

I call Mr Conde to support Amendment 2.

### **Agustin Conde Bajen (Spain):**



**Voted for Azerbaijan’s amendment**

*Agustin Conde Bajen (born in 1965) has been a member of PACE since 2009, when he joined within the European People’s Party. He is also on the Committee on Legal Affairs and Human Rights. In Spain Conde serves as a Senator since 2004 within the People’s Party, of which he has been a member since 1991. Until 2011, Conde acted as the spokesperson for the Senate Judiciary Committee.*

I am in favour of the report. My only objection was encapsulated by the amendment.

The European Convention on Human Rights said that all matters of interpretation should be decided by the European Court of Human Rights. The amendment would not deprive the Assembly of any powers.

**President of the Assembly:**

Does anyone wish to speak against the amendment?

I call Mr Straesser.

**Christoph Straesser (*Germany*):**

Mr Conde has suggested that the Assembly should not discuss such matters.

I disagree with Mr Conde.

I urge the Assembly not to emasculate itself.

**President of the Assembly:**

The vote is open.

The result is:

**89 for Amendment 2  
89 against Amendment 2  
5 abstentions**

**Under the Rules of Procedure, Amendment 2 is rejected.**

We will now proceed to vote on the whole of the draft resolution contained in Document 13011, as amended.

The vote is open.

**The draft resolution in Document 13011, as amended, is adopted with 100 votes for, 64 against and 12 abstentions.**

**Table 1: Who voted with Azerbaijan on Amendment 2?**

MEMBER	COUNTRY	POLITICAL GROUP
Tamerlan AGUZAROV	Russia	EDG
Olga BORZOVA	Russia	EDG
Natalia BURYKINA	Russia	EDG
Vyacheslav FETISOV	Russia	EDG
Nadezda GERASIMOVA	Russia	EDG
Leonid KALASHNIKOV	Russia	UEL
Alexey KNYSHOV	Russia	EDG
Anvar MAKHMUTOV	Russia	EDG
<b>Elena NIKOLAEVA</b>	Russia	EDG
Alexey PUSHKOV	Russia	EDG
Alexander SIDYAKIN	Russia	EDG
<b>Leonid SLUTSKY</b>	Russia	SOC
Yury SOLONIN	Russia	EDG
Valeriy SUDARENKOV	Russia	SOC
Svetlana ZHUROVA	Russia (total Russia: 15)	EDG
<b>Pedro AGRAMUNT</b>	Spain	EPP/CD
José María BENEYTO	Spain	EPP/CD
<b>Agustín CONDE</b>	Spain	EPP/CD
Arcadio DÍAZ TEJERA	Spain	SOC
Antonio GUTIÉRREZ	Spain	SOC
Alejandro MUÑOZ-ALONSO	Spain	EPP/CD
Eva PARERA	Spain	EPP/CD
Ángel PINTADO	Spain	EPP/CD
Jordi XUCLÀ	Spain (total: 9)	ALDE
Pelin Gündes BAKIR	Turkey	EDG
Deniz BAYKAL	Turkey	SOC
<b>Mevlüt ÇAVUSOGLU</b>	Turkey	EDG
Saban DISLI	Turkey	EPP/CD
Tülin ERKAL KARA	Turkey	EPP/CD
Burhan KAYATÜRK	Turkey	EPP/CD
Ertugrul KÜRKCÜ	Turkey	UEL
Nursuna MEMECAN	Turkey (total: 8)	ALDE
Aydin ABBASOV	Azerbaijan	SOC
Sabir HAJIYEV	Azerbaijan	SOC

Rafael HUSEYNOV	Azerbaijan	ALDE
Fazil MUSTAFA	Azerbaijan	ALDE
Rovshan RZAYEV	Azerbaijan	EPP/CD
Samad SEYIDOV	Azerbaijan (total: 6)	EDG
Otto CHALOUPKA	Czech Republic	EDG
Jana FISCHEROVÁ	Czech Republic	EDG
Katerina KONECNÁ	Czech Republic	UEL
Ladislav SKOPAL	Czech Republic	SOC
Dana VÁHALOVÁ	Czech Republic (total: 5)	SOC
Shpëtim IDRIZI	Albania	ALDE
Kastriot ISLAMI	Albania	SOC
Lajla PERNASKA	Albania	EPP/CD
Arenca TRASHANI	Albania (total: 4)	EPP/CD
Maria GIANNAKAKI	Greece	NR
Liana KANELLI	Greece	UEL
Foteini PIPILI	Greece	EPP/CD
Miltiadis VARVITSIOTIS	Greece (total: 4)	EPP/CD
Yuliya L'OVOCHKINA	Ukraine	EDG
Oleksiy PLOTNIKOV	Ukraine	SOC
Ivan POPESCU	Ukraine	SOC
Valeriy PYSARENKO	Ukraine (total: 4)	EPP/CD
Christopher CHOPE	United Kingdom	EDG
Roger GALE	United Kingdom	EDG
<b>Mike HANCOCK</b>	United Kingdom	ALDE
Edward LEIGH	United Kingdom (total: 4)	EDG
Rossana BOLDI	Italy	EDG
Pasquale NESSA	Italy	EPP/CD
Luigi VITALI	Italy (total: 3)	EPP/CD
Karin ANDERSEN	Norway	UEL
Ingjerd SCHOU	Norway	EPP/CD
Øyvind VAKSDAL	Norway (total: 3)	EDG
Josep Anton BARDINA PAU	Andorra	ALDE
Sílvia Eloísa BONET PEROT	Andorra (total: 2)	SOC
Guy COËME	Belgium	SOC
Patrick MORIAU	Belgium (total: 2)	SOC
Younal LOUTFI	Bulgaria	ALDE
Yanaki STOILOV	Bulgaria (total: 2)	SOC
Axel E. FISCHER	Germany	EPP/CD
Katrin WERNER	Germany (total: 2)	UEL
Ana GUTU	Moldova	ALDE

Grigore PETRENCO	Moldova (total: 2)	UEL
Darina GABÁNIOVÁ	Slovakia	SOC
Pavol GOGA	Slovakia (total: 2)	SOC
Milica MARKOVIC	Bosnia and Herzegovina	SOC
Frano MATUŠIĆ	Croatia	EPP/CD
Thierry MARIANI	France	EPP/CD
Ie VEJKEY	Hungary	EPP/CD
Þuriður BACKMAN	Iceland	UEL
Joseph DEBONO GRECH	Malta	SOC
Valentina RADULOVIC-ŠCEPANOVIC	Montenegro	SOC
<b>Tiny KOX</b>	Netherlands	UEL
<b>Tadeusz IWINSKI</b>	Poland	SOC
Miloš ALIGRUDIC	Serbia	EDG
Carina HÄGG	Sweden	SOC
Alfred HEER	Switzerland	ALDE

**Table 2: Which countries voted with Azerbaijan on Amendment 2?**

Country	Number of Votes for Amendment Two	Total Delegates in PACE
Russia	15	18
Spain	9	12
Turkey	8	12
Azerbaijan	6	6
Czech Republic	5	7
Albania	4	4
Greece	4	7
Ukraine	4	12
United Kingdom	4	18
Italy	3	18
Norway	3	5
Andorra	2	2
Belgium	2	7
Bulgaria	2	6
Moldova	2	5
Slovakia	2	5
Germany	2	18
Bosnia and Herzegovina	1	5
Croatia	1	5
France	1	18
Hungary	1	7
Iceland	1	3
Malta	1	3
Montenegro	1	3
Netherlands	1	7
Poland	1	12
Serbia	1	7
Sweden	1	6
Switzerland	1	6

There were nine countries where the majority of delegates was present and voted with Azerbaijan: **Russia (15/18), Spain (9/12), Turkey (8/12), Azerbaijan (6/6), Czech Republic (5/7), Albania (4/4), Greece (4/7), Norway (3/5), Andorra (2/2).**

**Table 3: Who voted with Christoph Straesser on Amendment 2?**

MEMBER	COUNTRY	POLITICAL GROUP
Marieluise BECK	Germany	ALDE
<b>Marina SCHUSTER</b>	Germany	ALDE
Erich Georg FRITZ	Germany	EPP/CD
Joachim HÖRSTER	Germany	EPP/CD
Anette HÜBINGER	Germany	EPP/CD
<b>Viola von CRAMON-TAUBADEL</b>	Germany	SOC
Jerzy MONTAG	Germany	SOC
Marlene RUPPRECHT	Germany	SOC
Frank SCHWABE	Germany	SOC
<b>Christoph STRAESSER</b>	Germany	SOC
Andrej HUNKO	Germany (total: 11)	UEL
Bernard FOURNIER	France	EPP/CD
François ROCHEBLOINE	France	EPP/CD
Marie-Jo ZIRMANN	France	EPP/CD
Bernadette BOURZAI	France	SOC
Jean-Pierre MICHEL	France	SOC
René ROUQUET	France (total: 6)	SOC
Luca VOLONTÈ	Italy	EPP/CD
Karl ZELLER	Italy	EPP/CD
Paolo CORSINI	Italy	SOC
<b>Pietro MARCENARO</b>	Italy	SOC
Federica MOGHERINI REBESANI	Italy (total: 5)	SOC
Kerstin LUNDGREN	Sweden	ALDE
Marietta de POURBAIX-LUNDIN	Sweden	EPP/CD
Jonas GUNNARSSON	Sweden	SOC
Carina OHLSSON	Sweden	SOC
Björn von SYDOW	Sweden (total 5)	SOC
Urs SCHWALLER	Switzerland	EPP/CD
Andreas GROSS	Switzerland	SOC
Liliane MAURY PASQUIER	Switzerland	SOC
Luc RECORDON	Switzerland	SOC
Eric VORUZ	Switzerland (total 5)	SOC
Donald ANDERSON	United Kingdom	SOC

Joe BENTON	United Kingdom	SOC
Alan MEALE	United Kingdom	SOC
Sandra OSBORNE	United Kingdom	SOC
John E. TOMLINSON	United Kingdom (total: 5)	SOC
Naira ZOHRABYAN	Armenia	ALDE
Levon ZOURABIAN	Armenia	ALDE
Zaruhi POSTANJYAN	Armenia	EPP/CD
Armen RUSTAMYAN	Armenia (total: 4)	SOC
Kimmo SASI	Finland	EPP/CD
Anne-Mari VIROLAINEN	Finland	EPP/CD
Susanna HUOVINEN	Finland	SOC
Riitta MYLLER	Finland (total: 4)	SOC
Dalia KUODYTE	Lithuania	ALDE
Arune STIRBLYTE	Lithuania	ALDE
Egidijus VAREIKIS	Lithuania	EPP/CD
Emanuelis ZINGERIS	Lithuania (total: 4)	EPP/CD
Ankie BROEKERS-KNOL	Netherlands	ALDE
Hans FRANKEN	Netherlands	EPP/CD
Peter van DIJK	Netherlands	NR
Klaas de VRIES	Netherlands (total 4)	SOC
Dzhema GROZDANOVA	Bulgaria	EPP/CD
Irena SOKOLOVA	Bulgaria	EPP/CD
Latchezar TOSHEV	Bulgaria (total: 3)	EPP/CD
Margus HANSON	Estonia	ALDE
<b>Mailis REPS</b>	Estonia	ALDE
<b>Andres HERKEL</b>	Estonia (total: 3)	EPP/CD
Lolita CIGANE	Latvia	EPP/CD
Boriss CILEVICS	Latvia	SOC
Aleksandrs SAKOVSKIS	Latvia (total: 3)	SOC
Serhiy HOLOVATY	Ukraine	ALDE
Olena BONDARENKO	Ukraine	EPP/CD
<b>Serhiy SOBOLEV</b>	Ukraine (total: 3)	EPP/CD
Robert BIEDRON	Poland	SOC
Marek BOROWSKI	Poland (total: 2)	SOC
Sonja ABLINGER	Austria	SOC
Stefan SCHENNACH	Austria (total: 2)	SOC
Ferenc KALMÁR	Hungary	EPP/CD
Vilmos SZABÓ	Hungary (total: 2)	SOC
Deirdre CLUNE	Ireland	EPP/CD
Michael McNAMARA	Ireland (total: 2)	SOC

Doris FROLT	Liechtenstein	EPP/CD
Gebhard NEGELE	Liechtenstein (total: 2)	EPP/CD
Vesna MARJANOVIC	Serbia	SOC
Stefana MILADINOVIC	Serbia (total: 2)	SOC
Mikuláš DZURINDA	Slovakia	EPP/CD
Luboš BLAHA	Slovakia (total: 2)	SOC
Gülsün BILGEHAN	Turkey	SOC
Haluk KOÇ	Turkey (total: 2)	SOC
Ismeta DERVOZ	Bosnia and Herzegovina	EPP/CD
Nikolaj VILLUEN	Denmark	UEL
Theodora TZAKRI	Greece	SOC
Birkir Jón JÓNSSON	Iceland	ALDE
Anne BRASSEUR	Luxembourg	ALDE
<b>Lise CHRISTOFFERSEN</b>	Norway	SOC
Ana Catarina MENDONÇA	Portugal	SOC
György FRUNDA	Romania	EPP/CD

**Table 4: Which countries voted with Christoph Straesser on Amendment 2?**

Country	Number of Votes on Amendment 2	Total Delegates in PACE
Germany	11	18
France	6	18
Italy	5	18
Sweden	5	6
Switzerland	5	6
United Kingdom	5	18
Armenia	4	4
Finland	4	5
Lithuania	4	4
Netherlands	4	7
Bulgaria	3	6
Estonia	3	3
Latvia	3	3
Poland	2	12
Ukraine	3	12
Austria	2	6
Hungary	2	7
Ireland	2	4
Liechtenstein	2	2
Serbia	2	7
Slovakia	2	5
Turkey	2	12
Bosnia and Herzegovina	1	5
Denmark	1	5
Greece	1	7
Iceland	1	3
Luxembourg	1	3
Norway	1	5
Portugal	1	7
Romania	1	10

There were ten countries where the majority of delegates was present and voted against Azerbaijan: **Germany (11/18), Sweden (5/6), Switzerland (5/6), Armenia (4/4), Finland (4/5), Lithuania (4/4), Netherlands (4/7), Estonia (3/3), Latvia (3/3), Lichtenstein (2/2).**