



Resolution 2022 (2014)¹

Final version

Measures to prevent abusive use of the Convention on the Transfer of Sentenced Persons (ETS No. 112)

Parliamentary Assembly

1. The Convention on the Transfer of Sentenced Persons (ETS No. 112) provides for the transfer of foreign prisoners to their home countries. Its purpose is primarily humanitarian, to improve prospects of rehabilitation and reintegration of prison inmates into society.
2. Since its entry into force in 1985, the convention has enabled, facilitated or accelerated the repatriation of hundreds of prisoners, and the Parliamentary Assembly considers it to be a valuable instrument for international co-operation in penal matters.
3. The Assembly notes with concern that the convention was invoked in order to justify the immediate release, upon transfer to Azerbaijan, of Mr Ramil Safarov, an Azerbaijani soldier convicted of murdering an Armenian fellow participant on a “Partnership for Peace” training course in Hungary, sponsored by the North Atlantic Treaty Organization (NATO). Upon his arrival in Azerbaijan, he was welcomed as a national hero and granted an immediate pardon – long before the expiry of the minimum sentence set by the Hungarian court – and a retroactive promotion as well as other rewards.
4. While recognising that States Parties, by virtue of Article 12 of the convention, have a sovereign right to grant pardons and amnesties to persons sentenced to a term of imprisonment, the Assembly recalls that the principle of good faith in international relations, recognised, *inter alia*, by the Vienna Convention on the Law of Treaties, and the principles of the rule of law require that treaties be interpreted in line with their objects and purposes.
5. The Assembly therefore:
 - 5.1. condemns the use of Article 12 of the convention by Azerbaijan in the case of Mr Safarov as a violation of the principles of good faith in international relations and of the rule of law;
 - 5.2. confirms its position, expressed in [Recommendation 1527 \(2001\)](#) on the operation of the Council of Europe Convention on the Transfer of Sentenced Persons – critical analysis and recommendations, that the convention is not designed to be used for the immediate release of prisoners upon return to their home country;
 - 5.3. underscores the importance of applying the convention in good faith and, in interpreting its provisions, adhering to the principles of the rule of law, in particular in transfer cases that might have political or diplomatic implications;
 - 5.4. recommends to States Parties to the convention to make, where appropriate, ad hoc arrangements between a sentencing and an administering State in the form of an addendum to a transfer agreement under the convention, which would spell out mutual expectations and provide for adequate assurances by the administering State.

1. *Text adopted by the Standing Committee*, acting on behalf of the Assembly, on 18 November 2014 (see [Doc. 13540](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Christopher Chope).

See also [Recommendation 2057 \(2014\)](#).