

110TH CONGRESS
1ST SESSION

H. CON. RES. 183

Calling on the Government of the Republic of Azerbaijan to immediately release Farhad Aliyev and Rafiq Aliyev from detention during trial, to assure that their right to a fair and open trial before an independent and impartial tribunal will be carried out, and to comply with all its international human rights agreements and commitments respecting the rule of law, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 12, 2007

Mr. HASTINGS of Florida (for himself, Mr. McCOTTER, and Mr. ACKERMAN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Affairs

CONCURRENT RESOLUTION

Calling on the Government of the Republic of Azerbaijan to immediately release Farhad Aliyev and Rafiq Aliyev from detention during trial, to assure that their right to a fair and open trial before an independent and impartial tribunal will be carried out, and to comply with all its international human rights agreements and commitments respecting the rule of law, and for other purposes.

Whereas, on October 19, 2005, the former Minister of Economic Development of Azerbaijan, Farhad Aliyev, known as a leading advocate of pro-market reforms, was arrested during Azerbaijan's parliamentary campaign for

allegedly planning a coup d'état, and he has been detained in solitary confinement, without family visitation rights, continuously since that time in violation of Azeri and international law;

Whereas, on October 19, 2005, Rafiq Aliyev, the brother of Farhad, a leading businessman and former President of the oil company AzPetrol, was arrested for allegedly failing to declare foreign currency in his possession prior to an international flight from Baku airport, and has also been detained in solitary confinement continuously since that time in violation of Azeri and international law;

Whereas their pre-trial detentions exceeded the maximum period permitted by Azeri law and the indictment containing the charges for which they are now facing trial was not presented until March 1, 2007, and does not include the charges relating to the alleged coup, which have been separated and remain untried for an indefinite period of time;

Whereas the Aliyevs have been denied sufficient time and resources to review evidence and prepare adequately for trial, nor have they been permitted to see their international legal representatives;

Whereas Farhad Aliyev has been denied a medical examination by doctors of his own choice, despite the clear recommendation of the Council of Europe (Council Resolution 1545);

Whereas the Aliyev brothers are now facing trial on other charges, including embezzlement, tax evasion, and illegal privatization, and the families of Farhad and Rafiq Aliyev have been the subject of intimidation, harassment, and illegal search and seizure of property;

Whereas Farhad and Rafiq Aliyev vigorously deny all the accusations against them, claiming that the charges are based on false evidence and are politically motivated;

Whereas, after the commencement of pre-trial and trial proceedings in May 2007, international trial observers, including representatives of the United States and British Embassies, the press, international organizations, non-governmental organizations, and their British lawyer representing them before the European Court of Human Rights were all excluded from attending the proceedings, in violation of Azeri and international law;

Whereas in September and November 2006, applications were filed with the European Court of Human Rights on behalf of Farhad and Rafiq, respectively, alleging violations of rights guaranteed under the European Convention on Human Rights, including violations of the right to liberty, unlawful and arbitrary pre-trial detention, poor conditions of detention, the absence of a fair trial, the arbitrary prohibition on correspondence with and visits from their families, and violations of property rights;

Whereas during this period, Farhad and Rafiq Aliyev have on numerous occasions petitioned for release from pre-trial detention, including more recently under the relevant provisions of Azerbaijan's Criminal Procedure Code and Article 5 of the European Convention on Human Rights, on the grounds that the maximum period for their pre-trial detention had expired, and were consistently denied;

Whereas Farhad and Rafiq Aliyev further petitioned for release from detention in both the preliminary hearings and during trial proceedings under the relevant provisions of Azerbaijan's Criminal Procedure Code and Article 5 of

the European Convention on Human Rights, and were denied;

Whereas the Republic of Azerbaijan is a member of the Organization for Security and Cooperation in Europe (OSCE), the Council of Europe, the United Nations Human Rights Council, and a signatory to the Energy Charter Treaty and the European Convention on Human Rights;

Whereas the Department of State Country Reports on Human Rights Practices, 2006, issued on March 6, 2007, stated that the Government of Azerbaijan's human rights record remains poor, and it continues to commit numerous abuses;

Whereas the Country Reports on Human Rights Practices, 2006, further stated that, although Azeri law prohibits arbitrary arrest and detention, the Government of Azerbaijan generally did not observe these prohibitions in practice, and official impunity remained a problem, specifically citing the cases of the Farhad Aliyev and Rafiq Aliyev in this regard;

Whereas Amnesty International's 2007 Human Rights Report stated that Farhad Aliyev and Rafiq Aliyev were denied rights to due process, a fair trial, medical care and, initially upon being detained, legal counsel of their own choosing, among other violations;

Whereas Human Rights Watch World Reports for 2007 also cites the cases of Farhad and Rafiq Aliyev as a pattern of politically-motivated arrests in Azerbaijan;

Whereas according to the OSCE Representative on Freedom of the Media, Azerbaijan has the highest number of arrested journalists among all the 56 OSCE Member States;

Whereas at present seven journalists are imprisoned in Azerbaijan, and over 20 journalists have openly asked for political asylum abroad;

Whereas the Government of Azerbaijan has rejected repeated calls by the United States Government, the OSCE, the Council of Europe, and other international organizations to revise the criminal code so as to decriminalize slander and defamation;

Whereas violent attacks against journalists have become alarmingly frequent, and, along with other constraints on independent media, have elicited the public concern of the OSCE Representative on Freedom of the Media and international human rights organizations;

Whereas restrictions imposed on opposition and independent Azeri media outlets have constrained their access to the trial of Farhad and Rafiq Aliyev, making it difficult for the Azeri public and the international community to receive objective information;

Whereas the arbitrary imprisonment and violation of human rights against the citizens of Azerbaijan in violation of OSCE commitments on freedom from arbitrary arrest or detention, the right to a fair trial, and violations of other international agreements, are of serious concern to the Congress; and

Whereas Azerbaijan is an important strategic ally of the United States, serving as a key source and transit route for the export of Caspian oil to Western markets, and a strong energy security policy requires the United States to deal with stable and reliable countries to the extent possible; Now therefore, be it

1 *Resolved by the House of Representatives (the Senate*
2 *concurring), That—*

3 (1) Congress—

4 (A) calls on the Government of the Repub-
5 lic of Azerbaijan to immediately release Farhad
6 Aliyev and Rafiq Aliyev from detention during
7 trial and to assure that their right to a fair and
8 open trial before an independent and impartial
9 tribunal established by law will be carried out;

10 (B) calls on the Government of Azerbaijan
11 to immediately implement visitation rights for
12 family and medical and international legal ad-
13 visers for Farhad and Rafiq Aliyev, consistent
14 with the relevant provisions of Azeri law and
15 Article 8 of the European Convention; and

16 (C) calls on the Government of Azerbaijan
17 to fulfill its international obligations, including
18 obligations relating to its membership in the
19 Council of Europe, the Organization for Secu-
20 rity and Cooperation in Europe (OSCE), the
21 Convention on Human Rights, and the Energy
22 Charter Treaty; and

23 (2) it is the sense of Congress that—

24 (A) the United States Government should
25 use all available means, including diplomatic

1 channels, to encourage the Government of Azer-
2 baijan to release Farhad and Rafiq Aliyev from
3 detention during trial;

4 (B) the United States Government should
5 use all available means, including diplomatic
6 channels, to encourage the Government of Azer-
7 baijan to release the imprisoned journalists and
8 aggressively identify and prosecute those indi-
9 viduals who beat and attack journalists;

10 (C) the United States Government should
11 coordinate actions with the OSCE, the Council
12 of Europe, and other appropriate international
13 organizations; and

14 (D) the OSCE should continue to monitor
15 these legal proceedings for compliance with all
16 commitments under the Helsinki Final Act.

○