



**Submission to the Committee against Torture in relation to its
examination of the fourth periodic Report of Azerbaijan**

56th Session of the Committee against Torture
26 October 2015

I. Introduction

Already in its last Concluding Observations on Azerbaijan in 2009, the Committee against Torture (CAT) recommended that Azerbaijan fully guarantee and protect the right of freedom of opinion and expression of human rights defenders (HRD)¹ and introduce legal mechanisms and practical measures to that effect because it was concerned about the harassment of HRD as well as the lack of due process in the criminal convictions of individuals who expressed their opinions.² Unfortunately, the situation has dramatically worsened since 2009. Starting in 2012, the crackdown of civil society organisations (CSOs) and HRD has intensified. Dozens of political activists and critical journalists have been harassed by restrictive legislation and arbitrary detained and charged with fabricated accusations such as fraud, illegal business, or hooliganism. In unfair trials HRD have been sentenced to long-term imprisonment to punish them for their human rights activities and for raising their voice against a corrupt government.

At the same time, Azerbaijan is barely cooperating with international organizations. The United Nations Subcommittee on the Prevention of Torture (SPT) had to suspend its visit to Azerbaijan in September 2014 as its delegation was prevented from visiting several places and was barred from completing its work despite repeated attempts.³ Moreover, Azerbaijan has a total of 126 judgments by the European Court of Human Rights (ECtHR) that are awaiting execution. The majority of those judgments are related to the harassment of CSO and HRD. Further, the Organisation for Security and Co-operation in Europe (OSCE) recently announced that it cancels its mission to observe the election in November 2015 because of the restrictions the Azeri government imposed on the OSCE mission.⁴

Against this background, this shadow report is intended to provide information and analysis of the government's abuse of its criminal legal system as well as its use of torture and other ill-treatment to break and destroy HRD for their human rights work. The report particularly highlights the legal restrictions of the work of HRD (Section III), the arbitrary detention and criminal prosecution of HRD (Section IV), the harassment of defense lawyers who represent HRD (Section V), and torture and ill-treatment in detention to break HRD (Section VI).

This report is largely based on information brought to the attention of the International Partnership of Human Rights (IPHR) and the World Organisation against Torture (OMCT) by domestic and international Non-governmental Organisations (NGO) representatives, lawyers and family members of detained HRD. The origin and identity of sources is frequently not revealed because it would endanger the source him or herself, his or her family, or his or her client.

¹ For the purpose of this report the term HRD is understood to also include human rights activists, journalists, and NGO representatives who carry out HRD activities and are therefore targeted by the authorities.

² Concluding Observation on Azerbaijan, UN Doc. CAT/C/AZE/CO/3, 8 December 2009, para. 21.

³ SPT, Press Release, *Prevention of Torture: UN human rights body suspends Azerbaijan visit citing official obstruction*, 17 September 2014, available online:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15047&LangID=E>. However, during its second visit in April 2015, the SPT had unhindered access to places of detention, see SPT, Press Release, *Azerbaijan visit: UN torture prevention body welcomes unhindered access, urges more safeguards*, 24 April 2015, available online:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15886&LangID=E>.

⁴ OSCE Press Release, *Restrictions imposed by Azerbaijan compel cancellation of parliamentary election observation mission, says ODIHR Director Link*, available online:

<http://www.osce.org/odihr/elections/azerbaijan/181611>.

II. Political Context

The crackdown on HRD and CSOs has to be understood against the background of the long-standing conflict between Azerbaijan and Armenia over the Nagorno-Karabakh territory as well as President Aliyev's efforts to consolidate power and to establish an autocracy. The following thus briefly explains these two elements.

Azerbaijan is an oil and gas rich country situated in the South Caucasus that gained independence after the dissolution of the USSR in 1991. At that time, the country was drawn into a bloody conflict over the **Nagorno-Karabakh territory** mostly occupied by Armenians who wanted to create a separate state. The tensions started in 1988 and had grown into a full scale-war in 1990. As the result of the conflict 30,000 people were killed, and hundreds of thousands were displaced.⁵ Although a ceasefire was reached in 1994 the status of the territory remains disputed and negotiations are ongoing. The conflict is dividing society and often serves as the justification for oppressive policies of the government. For instance, the accusation of espionage for Armenia is often used in court proceedings to destroy the reputation of civil society activists, most notably of HRD Leyla and Arif Yunus.

The conflict in the Nagorno-Karabakh region was an important factor for the consolidation of power of one family – the Aliyevs. President Heydar Aliyev came to power in 1993 and was able to secure a ceasefire in the Nagorno-Karabakh territory and relative stability a year later. Heydar Aliyev served two consecutive terms until his death in 2003 when his son and current president Ilham Aliyev assumed power.

The **system of power** in Azerbaijan is based on **patronage and oppression**. Although the separation of powers is guaranteed by the constitution, the executive branch fully dominates both the legislature and the judiciary. Ever since Ilham Aliyev took office, he is using politically motivated prosecutions to oppress powerful oligarchs, opposition leaders, and possible political competitors. This rapid consolidation of power was further enabled by growing oil revenues. In addition, in 2009 Ilham Aliyev successfully put a referendum through that lifted the limitation of the consecutive terms in office for the president.

Although **elections** have never been fair and free in Azerbaijan, electoral standards have further deteriorated since President Ilham Aliyev is in office. The 2010 parliamentary elections were marred by candidate and voter intimidation, multiple voting, ballot stuffing, restrictions on media freedom as well as disabling of registration for certain candidates.⁶ As a result, neither of the opposition parties - Popular Front and Musavat- won a single seat. The Office for Democratic Institutions and Human Rights (OSCE) voiced similar concerns for the 2013 presidential elections and urged Azerbaijan to meet its commitments for genuine and democratic elections.⁷ Improvements are unfortunately not in sight. Quite the contrary, for the 2015 elections, taking place on 1 November, the OSCE announced that it will cancel its observation mission altogether. The OSCE noted that the restrictions imposed by Azerbaijan would make it impossible to carry out an effective and credible observation mission.⁸

After the unfair 2013 elections discontent within opposition groups and civil society grew. More and more HRD started publishing information on president's involvement in corruption and criticized Aliyev's power. For instance, HRD voiced concerns over the forceful displacement of people in the preparation for the Eurovision contest in Baku. The event, which was supposed to promote Aliyev's

⁵ Anna Nigmatulina, *Tensions reignite in the Nagorno-Karabakh conflict*, Aljazeera, 9 March 2015, available online: <http://www.aljazeera.com/indepth/features/2015/03/tensions-reignite-nagorno-karabakh-conflict-150303121751335.html>.

⁶ Freedom House, *Nations in Transit 2014, Azerbaijan*, available online: <https://freedomhouse.org/report/nations-transit/2014/azerbaijan>.

⁷ OSCE, *Republic of Azerbaijan, Presidential Election 9 October 2013, OSCE/ODIHR Election Observation Mission, Final Report*, 24 December 2013, available online: <http://www.osce.org/institutions/110015?download=true>.

⁸ OSCE Press Release, *Restrictions imposed by Azerbaijan compel cancellation of parliamentary election observation mission, says ODIHR Director Link*, available online: <http://www.osce.org/odihr/elections/azerbaijan/181611>.

image and that of a prosperous Azerbaijan, was overshadowed by the campaign “Sing for Democracy” organized by Human Rights House leader Rasul Jafarov and other activists. The campaign turned the attention of an international audience to the lack of democratic freedoms in Azerbaijan. Subsequently, Rasul Jafarov was imprisoned on a range of politically motivated charges of tax evasion, abuse of power, illegal business activities, and embezzlement.⁹

In addition, the government responded to the rising activism with a **general crackdown on civil society**, imposing high fines for participation in and organization of unauthorized protests. Amendments to NGO laws were introduced with stricter registration requirements, restrictions on funding, and higher fines for administrative offenses, which made the day-to-day operation of civil organizations increasingly difficult.¹⁰ Moreover, most key figures of the human right movement have been imprisoned.¹¹

It is further important to note that **high-level corruption** remains the hallmark of the regime – President Aliyev’s family, state officials and their relatives continue to amass significant personal wealth. According to Transparency International’s Corruption Perceptions Index 2014, Azerbaijan ranks 126 out of the 174 countries assessed, with a score of 29 on a scale from 0 (highly corrupt) to 100 (very clean).¹² The government has initiated some anti-corruption reforms in the country. A new anti-corruption law was adopted and a National Action Plan to Combat Corruption for 2012–2015 has been developed. However, high-level corruption remains unaddressed in particular due to the lack of transparency on the ownership of assets. According to legislative amendments introduced in 2012 information on the ownership of companies, including names and share of the owners, can only be released on court orders, as part of a police investigation, on the orders of a financial monitoring agency, or by consent of the company owner. The complete lack of whistleblower protection puts everyone who starts investigating transfer of assets and corrupt deals at risk. The most prominent case in this regard is Khadija Ismayilova, investigative journalist, who published information on corrupt deals of the president’s family. After that, she was imprisoned on charges of incitement to suicide, embezzlement and tax evasion.¹³

In sum, Azerbaijan is moving towards a **consolidated autocracy** with rapidly diminishing space for freedom where elections are becoming window dressing only, where freedom of speech does not exist, where freedom of assembly is systemically violated, and where rights of citizens are not protected.

III. Legal Restrictions of the Work of HRD

In the last two years, Azerbaijan has amended several laws that severely restrict activities of HRD. In 2009 and 2013, the government amended the **Law on Non-governmental Organisations** aiming at strengthening the government’s oversight of NGOs. Amendments have been made on the establishment and registration procedure of NGOs. Registration has been made mandatory to acquire legal personality as well as to open a bank account, buy property and enjoy tax preferences.¹⁴ Registration is further a pre-requisite to receive grants and funding.¹⁵ In practice, it is very difficult to register an NGO. Typically, NGOs are requested to submit a variety of documents not required under

⁹ Rasul Jafarov’s case is explained and mapped out in more detail below under section IV.

¹⁰ For more information see section III.

¹¹ For more information see the cases explained under section IV.

¹² Transparency International, *The State of corruption: Armenia, Azerbaijan, Georgia, Moldova and Ukraine*, available online:

http://www.transparency.org/whatwedo/publication/the_state_of_corruption_armenia_azerbaijan_georgia_moldova_and_ukraine.

¹³ Her case is explained in more detail below under section IV.

¹⁴ Council of Europe, Venice Commission, *Opinion on the Law on Non-Governmental Organisations as amended of the Republic of Azerbaijan*, CDL-AD(2014)043, 15 December 2014, para. 43, available online: <http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD%282014%29043->.

¹⁵ Art. 4(4) of the Law on Grants 1998, English translation provided by the Organization for Security and Co-operation Europe, Legislationline.org, available online: <http://www.legislationline.org/documents/id/6471>.

the law and receive multiple requests for corrections.¹⁶ This has resulted in very lengthy and prolonged procedures. Some NGOs have tried in vain for years to register.¹⁷ The CAT has repeatedly criticized such registration procedures.¹⁸

The Law on Non-governmental Organisations has been complemented by other laws and executive decrees, most notably the **Law on Grants** and the **Code of Administrative Offences**. The former requires grant agreements to be registered with the Ministry of Justice. Failure to do so can be heavily fined and even lead to the confiscation of property held by the organization or a member of that organization. In addition, the Law on Grants requires foreign donors to sign an agreement with the Ministry of Justice, to have a registered branch or representative in Azerbaijan and to have obtained the right to transfer grants to Azerbaijan.¹⁹ Amendments to the Code of Administrative Offences introduced penalties for providing false information during the registration procedure. Not defining for the term “false information”, the Code provides for possibility of arbitrary or selective application of such penalties. The Code further provides for the personal liability of the NGO representatives who fail to register a grant agreement with the Ministry of Justice.²⁰ Also punishable is the implementation of projects without a registered grant agreement as well as the acceptance of donations without a registered agreement.²¹ These amendments have resulted in the dissolution of NGOs,²² the imposition of financial penalties, the freezing of assets,²³ and, as will be shown in the next section, in heavy prison sentences of NGO representatives.

The Venice Commission as well as the ECtHR have repeatedly criticized these laws and their application. The ECtHR has found the registration procedure incompatible with the right to freedom of association even prior to the 2009 and 2013 amendments.²⁴ A 2014 study by the Venice Commission concluded that the registration procedure, the restriction on receiving grants and donations, the

¹⁶ Council of Europe, Venice Commission, *Opinion on the Law on Non-Governmental Organisations as amended of the Republic of Azerbaijan*, CDL-AD(2014)043, 15 December 2014, para. 46, available online: <http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD%282014%29043->.

¹⁷ For instance, the Election Monitoring and Democracy Studies Center (EMDSC) was established in 2008 and has not managed to register till today.

¹⁸ See e.g. the Concluding Observations on Belarus, UN Doc. CAT/C/BLR/CO/4, 7 December 2011, para. 25, where the CAT was concerned about the refusal to register NGOs. See also Concluding Observation on Rwanda, UN Doc. CAT/C/RWA/CO/1, 26 June 2012, para. 17.

¹⁹ Article 2(5) of the Law on Grants reprinted in Venice Commission, *Laws on Amendments to the Law on Non-governmental Organisations adopted on 15 February 2013 and on the Amendments to the Law on Grants introduced on 17 October 2014 of the Republic of Azerbaijan*, CDL-REF(2014)053, 25 November 2014, available online: <http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF%282014%29053-e>.

²⁰ For amendments of the Code of Administrative Offences see Council of Europe. Committee of Ministers, 1193 meeting, 4–6 March 2014, DH-DD(2014)39, available online: <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2420038&SecMode=1&DocId=2094470&Usage=2>.

²¹ Art. 24(2.2) of the Law of Non-Governmental Organisations referring to the Code of Administrative Offences.

²² The Human Rights House was forced to cease all its activities in 2011: Press Release, *Human Rights House Azerbaijan closed down by Azerbaijani authorities*, 11 March 2011, available online: <http://humanrightshouse.org/Articles/16060.html>.

²³ In 2014 the accounts of the Institute for Peace and Democracy were frozen, see The Observatory for the Protection of Human Rights Defenders, *Azerbaijan, Crackdown on Human Rights Defenders Intensifies as Baku Games Approach, International Fact-Finding Mission Report*, April 2015, p. 19, available online: <http://www.omct.org/files/2015/04/23097/azerbaijanobsang2015web.pdf>.

²⁴ The registration regulations under the Law on non-governmental Organisations prior to 2009 and 2013 amendments have been found to be incompatible with the freedom of association, see e.g. *Ramazanova and Others v. Azerbaijan* (Appl. No. 44363/02), Judgment (First Section), 1 February 2007. The Venice Commission concluded in 2011 that the emended version of the law “have further added complications to an already complicated and lengthy procedure”, see Venice Commission, *Opinion on the Compatibility with Human Rights Standards of the Legislation on Non-governmental Organisations of the Republic of Azerbaijan*, 19 October 2011, CDL-AD(2011)035, available online: <http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD%282011%29035-e>.

enhanced supervision by the government, penalties for minor offences as well as the possibility to dissolve NGOs for minor irregularities was incompatible with Azerbaijan's international human rights obligations.²⁵ In particular, the Law on Non-governmental Organisations, the Law on Grants and the Code of Administrative Offences are in conflict with Azerbaijan's obligations under Article 2 of the Convention. The CAT has repeatedly criticized laws that interfere with internal affairs of NGOs and that allow to suspend or liquidate their activities on vague administrative grounds to be incompatible with the Convention.²⁶

IV. Arbitrary Detention and Criminal Prosecution of HRD

Azerbaijan has a long history of intimidating civil society through criminal prosecution. Ever since its independence from the Soviet Union in 1991, Azerbaijan has resorted to arbitrary detention and prosecution of government critics resulting in hundreds of political prisoners.²⁷ While arbitrary detention has been a political tactic of the government and the president to consolidate power, the current crackdown of civil society organisations and harassment of HRD has been unparalleled. Since the beginning of 2013, the government targeted a large group of HRD including the most well-known and respected activists and has charged them with lengthy prison sentences for multiple crimes in violation of its obligation under the Convention against Torture.²⁸

Since Azerbaijan's last review by the CAT in 2009, dozens of HRD and political dissidents have been **arbitrarily detained**. There are no reasonable suspicions let alone any evidence that the accused and charged HRDs may have committed an offence. Rather, HRD are detained with the sole purpose of silencing and punishing them for criticizing the government. In fact, several HRD have been detained shortly after members of government have publicly denounced their activities. For instance, the day after the Head of the Presidential Administration accused journalist Khadija Ismayilova of treason for publishing an article on the government's involvement in corruption, she was detained.²⁹ The fact that HRD have been arrested at around the same time – mostly in 2014 – and have been accused of similar criminal activities evidences arbitrary detention.

HRD are typically indicted with **fabricated charges** defying any evidence. Charges include tax evasion, illegal business activities, abuse of office, possession of weapons, possession of drugs, hooliganism or treason.³⁰ Several HRD have been charged and convicted for activities contrary to the Law on Non-Governmental Organisations and the Law on Grants described above. Because NGOs continued to operate despite the government's inactivity in registering the organization, HRD were charged and detained.³¹

²⁵ Council of Europe, Venice Commission, *Opinion on the Law on Non-Governmental Organisations as amended of the Republic of Azerbaijan*, CDL-AD(2014)043, 15 December 2014, available online: <http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD%282014%29043-e>.

²⁶ See e.g. Concluding Observation on Kyrgyzstan, UN Doc. CAT/C/KGZ/CO/2, 20 December 2013, para. 16(c); Concluding Observation on the Russian Federation, UN Doc. CAT/C/RUS/CO/5, 11 December 2012, para. 12.

²⁷ Council of Europe, Parliamentary Assembly, *The follow-up to the issue of political prisoners in Azerbaijan*, 14 December 2012, Doc. 13079, para. 7, available online: <http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=19217&lang=en>.

²⁸ See e.g. the Concluding Observations on Belarus, UN Doc. CAT/C/BLR/CO/4, 7 December 2011, para. 25, where the CAT found threats and acts of criminal prosecution, arrests, raids on offices and acts of intimidation incompatible with Articles 2, 12, and 16 of the Convention; see also Concluding Observations on Turkmenistan, UN Doc. CAT/C/TKM/CO/1, 15 June 2011, para. 13; Concluding Observation on Uzbekistan, UN Doc. CAT/C/UZB/CO/4, 10 December 2013, para. 8.

²⁹ Ramiz Mehdiyev, *The world order of double standards and modern*, First News, 3 December 2014, available online: <http://www.1news.az/chronicle/20141203110515850.html> (in Russian).

³⁰ For more information on charges and convictions see the case studies below.

³¹ Intigam Aliyev was accused of not having registered grants from the Human Rights House Foundation and the National Endowment for Democracy, see Observatory for the Protection of Human Rights Defenders, Urgent Appeal, *Azerbaijan: Still ongoing judicial harassment against Mr. Rasul Jafarov*, available online:

Trials of HRD have been heavily criticized by numerous international organisations as well as national and international NGOs for being **unfair** and not meeting international standards.³² The way trials are orchestrated are a demonstration of power by the government. Several accused have been placed in a cage separate from their lawyers although there has never been a risk of absconding or resorting to violence.³³ Rather, HRD are humiliated and depicted as extremely dangerous criminals. Moreover, the prosecution is frequently allowed to ask unrelated questions and to make lengthy irrelevant pleadings that are related to private circumstances and aim at depicting the accused as a dubious and untrustworthy person and a traitor of his or her own country. At the same time, exonerating testimonies provided by witnesses are disregarded by courts.³⁴ For instance, in the case of Rasul Jafarov, who is *inter alia* accused of embezzlement causing damage to third parties, all 15 witnesses called by the prosecutor testified that they had not suffered any damage from the accused and requested that their victim status be withdrawn. The court, however, did not do so and Rasul Jafarov was convicted for embezzlement.³⁵

It has further been observed that **interpretation** from Azeri into Russian for some of the HRD was **inadequate**. Interpretation was not only of very poor quality, interpreters were also advised by the respective presiding judge not to translate certain parts of the accused's pleadings and motions.³⁶ This seriously impinges the fairness of the proceeding.

Inadequate interpretation and the fact that the accused are not placed with their lawyers make their right to participate in their trial ineffective and illusory and render the proceedings unfair. All trials of HRD that have been concluded in the last two years lead to convictions and lengthy prison sentences. Inappropriate instructions of interpreters as well as allowing the prosecutor to elaborate on irrelevant facts and circumstances imply that judges are biased and that **courts are neither independent nor impartial**. It is also important to recall here that the judiciary is largely controlled by the executive branch of the government. For instance, the Minister of Justice is the Chairman of the Legal-Judicial Council that is responsible for the administration of justice including the election of judges. Moreover,

<https://www.fidh.org/en/region/europe-central-asia/azerbaijan/16826-azerbaijan-ongoing-judicial-harassment-against-mr-rasul-jafarov>.

³² See for instance the press release by Michel Forst, Special Rapporteur on the situation of human rights defenders; Maina Kiai, Special Rapporteur on the rights to freedom of peaceful assembly and of association; David Kaye, Special Rapporteur on freedom of opinion and expression; Mónica Pinto, Special Rapporteur on the independence of judges and lawyers; Dainius Pūras, Special Rapporteur on the right to health; and Seong-Phil Hong, Chair-Rapporteur of the UN Working Group on Arbitrary Detention, "*Deeply depressing*" - *UN experts condemn latest prison sentencing of rights defenders in Azerbaijan*, 20 August 2015, available online: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16337&LangID=E#sthash.Pn3jHFif.dpuf>.

³³ For instance Rasul Jafarov, see Observatory for the Protection of Human Rights, *If you can't beat them, jail them: The Case of Human Rights Defender Rasul Jafarov, International Judicial Observation Mission*, June 2015, pp. 7–9, available online: <http://www.omct.org/files/2015/06/23196/azerbaijanobsang2015web.pdf>; Intigam Aliyev, see Observatory for the Protection of Human Rights Defenders, Press Release, *Azerbaijan: Intigam Aliyev's sentence upheld following a summary trial*, available online: <http://www.omct.org/human-rights-defenders/statements/azerbaijan/2015/07/d23276/>.

³⁴ Contact.az, *Witnesses Testify in Favor of Leyla Yunus*, 28 July 2015, available online: <http://www.contact.az/docs/2015/Social/072800124374en.htm#.Vio9DmQrJjR>.

³⁵ For details of the different stages of Rasul Jafarov's procedure see Observatory for the Protection of Human Rights, *If you can't beat them, jail them: The Case of Human Rights Defender Rasul Jafarov, International Judicial Observation Mission*, June 2015, pp. 7–9, available online: <http://www.omct.org/files/2015/06/23196/azerbaijanobsang2015web.pdf>.

³⁶ Report of the trial observation mission of the Observatory for the Protection of Human Rights Defenders on the trial of Leyla and Arif Yunus on 10 August 2015, before the Baku Grave Crimes Court, on file with authors.

it is the Prosecutor's Office that has to approve candidates for the Legal-judicial Council.³⁷ There is thus a lack of independence from the executive branch.³⁸

In addition, national and international **trial observers** have been prevented from attending trials. Numerous hearings were held in small courtrooms that were filled with members of the judiciary or the government making it impossible for independent observers to access the hearings. There were also no compensatory measures in order to ensure that the public has access to the hearings.³⁹ This violates the right to transparent and public judicial proceedings.

Several international organisations have condemned the detention and conviction of HRD and have called for their immediate release. The Chair of the OSCE Parliamentary Assembly's Committee on Democracy, Human Rights and Humanitarian Questions, Isabel Santos, for instance, expressed concern about "politically motivated court decision to lock away one of Azerbaijan's most prominent and courageous human rights defenders".⁴⁰ A joint statement by 5 UN Special Rapporteurs and the Chairman of the UN Working Group on Arbitrary Detention called the "criminalization of those working for the promotion and protection of human rights in the country" deeply concerning. They further urged the authorities of Azerbaijan to "put an end immediately to all forms of persecution against human rights activist in the countries" and said that "Leyla and Arif Yunus [...], Anar Mammadli, Raasul Jafarov and Intigam Aliyev [...] have been targeted because of their legitimate human rights work."⁴¹

More details on the trials and convictions of HRD are described in the cases below.

Cases on Harassment and Criminalization of NGOs and HRD

LEYLA AND ARIF YUNUS

Human rights activist Leyla Yunus is a co-founder and director of the Institute for Peace and Democracy (IPD). She has long fought for human rights and against political persecution, corruption, human trafficking and violations of the right to property in her country. Moreover, she has worked on gender-based issues and was a member of a group that compiled a list of political prisoners in Azerbaijan. Together with her husband Arif Yunus, she has also worked towards the reconciliation of Azerbaijan and Armenia in light of the conflict in the Nagorno-Karabakh region.⁴² She received the

³⁷ See the Law on the Judicial Council (Law No. 818-IIQ), adopted on 28 December 2004, for an unofficial Russian translation see http://base.spinform.ru/show_doc.fwx?rgn=8322.

³⁸ The lack of independence of the judiciary from the executive branch is relevant under Articles 2 and 10 of the Convention against Torture, see e.g. Concluding Observation on the third periodic report of Kazakhstan, UN Doc. CAT/C/KAZ/CO/3, 12 December 2014, para. 15; Concluding Observations on the second periodic report of Kyrgyzstan, UN Doc. CAT/C/KGZ/CO/2, 20 December 2013, para. 12.

³⁹ Report of the trial observation mission of the Observatory for the Protection of Human Rights Defenders on the trial of Leyla and Arif Yunus on 15 July 2015 before the Baku Grave Crimes Court, on file with authors.

⁴⁰ OSCEPA, *Azerbaijan in 'anti-democratic free trial', says OSCE PA's Santos following Yunus verdict*, available online: <https://www.oscepa.org/news-a-media/press-releases/2306-azerbaijan-in-anti-democratic-free-fall-says-osce-pa-s-santos-following-yunus-verdict>.

⁴¹ Press release by Michel Forst, Special Rapporteur on the situation of human rights defenders; Maina Kiai, Special Rapporteur on the rights to freedom of peaceful assembly and of association; David Kaye, Special Rapporteur on freedom of opinion and expression; Mónica Pinto, Special Rapporteur on the independence of judges and lawyers; Dainius Pūras, Special Rapporteur on the right to health; and Seong-Phil Hong, Chair-Rapporteur of the UN Working Group on Arbitrary Detention, *"Deeply depressing" - UN experts condemn latest prison sentencing of rights defenders in Azerbaijan*, 20 August 2015, available online: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16337&LangID=E#sthash.Pn3jHFif.dpuf>.

⁴² See The Observatory for the Protection of Human Rights Defenders, *Azerbaijan – Crackdown on Human Rights Defenders Intensifies as Baku Games Approach – International Fact-Finding Mission Report*, April 2015, p. 24, available online: <http://www.omct.org/files/2015/04/23097/azerbaijanobsang2015web.pdf>; Freedom Now and Human Rights House Network, *Breaking point in Azerbaijan*, May 2015, p. 40, available online: <http://www.freedom-now.org/wp-content/uploads/2015/05/Breaking-Point-Azerbaijan1.pdf>.

distinction of “Chevalier de l’Ordre National de la Légion d’Honneur” from the French government in 2013, was awarded the Polish Prize of Sérgio Vieira de Mello in October 2014 and was among the three finalists for the Sakharov Prize. Leyla Yunus’ husband, Arif Yunus, is a historian and headed the Conflictology Department of the Institute for Peace and Democracy (IPD) for almost 30 years.

On 25 April 2014 Leyla and Arif Yunus’ bank accounts were frozen at the request of the Prosecutor General’s Office. On 28 April 2014 the couple was detained at the Baku Heydar Aliyev Airport, their luggage was searched without presenting them any court order, their passports were confiscated and a laptop, a video camera, USB flash drives and paper records seized, while they were denied the right to see their lawyer. They were released the same day. The next day, Ms. Yunus was called to testify in criminal proceedings against journalist Rauf Mirqadirov by the grave crimes department of the General Prosecutor’s Office. After the interrogation that lasted for nine hours the IDP premises were searched and all computers and books belonging to her husband as well as printed documents including the business card of an Armenian historian were seized. The IDP’s bank accounts were frozen shortly afterwards.⁴³

After having been forcibly brought to the grave crimes department of the General Prosecutor’s Office on 30 July 2014, Leyla Yunus was questioned for six hours and accused of conspiring with Armenian intelligence officials to recruit and pass secrets. She was immediately charged under Articles 178.3.2 (large-scale fraud), 192.2.2 (illegal entrepreneurship), 213.1 (large-scale tax evasion), 274 (high treason), 320.1 and 320.2 (falsification of official documents) of the Criminal Code and subsequently held in detention where she remains today.⁴⁴

On 30 July 2014, also Arif Yunus was questioned by the grave crimes department of the General Prosecutor’s Office and subsequently charged under Articles 178.3.2 (large-scale fraud) and 274 (high treason) of the Criminal Code. He was first placed in pre-trial detention and later under house arrest. On 5 August 2014 he was again arrested for violating his conditional sentence.⁴⁵ He has remained in detention since.

The joint trial against Leyla and Arif Yunus began on 15 July 2015. They were both placed in a glass courtroom cage during the court hearing. Since they are Russian-speaking and the hearing was held in Azeri, an interpreter was sitting near the cage. However, interpretation was inadequate. The interpreter did not translate all the statements made by the prosecutor and was instructed by the judge not to translate certain parts of Ms. Yunus’ statements. Furthermore, their lawyers’ motions requesting the authorisation for the accused to sit beside their lawyers were rejected.⁴⁶

In all the hearings, the court prevented trial observers from entering the courtroom by holding the hearing in a very small room in which seats were filled with security personnel and court employees. Only a small number of observers were thus able to attend and report on the trial.⁴⁷

On 13 August 2015 the trial ended with a prison sentence of 8 and a half years for Ms. Yunus who was found guilty of fraud, illegal entrepreneurship, tax evasion and falsifying official documents.⁴⁸ Mr. Yunus was sentenced to 7 years in prison for the same offences.⁴⁹

⁴³ See *Yunusova and Yunusov v. Azerbaijan* (Appl. No. 68817/14), Communicated Case, 5 January 2015; The Observatory for the Protection of Human Rights Defenders, *Azerbaijan: Beginning of the first trial against Ms. Leyla Yunus and Mr. Arif Yunusov*, 16 July 2015, available online: <http://www.omct.org/human-rights-defenders/urgent-interventions/azerbaijan/2015/07/d23266/>; The Observatory for the Protection of Human Rights Defenders, *Azerbaijan – Crackdown on Human Rights Defenders Intensifies as Baku Games Approach – International Fact-Finding Mission Report*, April 2015, p. 24, available online: <http://www.omct.org/files/2015/04/23097/azerbaijanobsang2015web.pdf>.

⁴⁴ The Observatory for the Protection of Human Rights Defenders, *Azerbaijan: Beginning of the first trial against Ms. Leyla Yunus and Mr. Arif Yunusov*, 16 July 2015, available online: <http://www.omct.org/human-rights-defenders/urgent-interventions/azerbaijan/2015/07/d23266>.

⁴⁵ Ibid.

⁴⁶ See The Observatory for the Protection of Human Rights Defenders, *Azerbaijan: Press Release: Trial against Ms. Leyla and Mr. Arif Yunus to open after a year in custody*, 10 July 2015, available online: <http://www.omct.org/human-rights-defenders/statements/azerbaijan/2015/07/d23259/>.

⁴⁷ Ibid.

The Council of Europe Commissioner for Human Rights said he was “appalled and saddened by Baku Court’s decision”⁵⁰ and Secretary General Jagland stated that he was going to request the full details of the judgment and the evidence presented against the defendants from the Azerbaijani authorities and that the conviction would eventually have to be examined by the ECtHR.⁵¹

The appeal trial, which opened before the Baku Grave Crimes Court on 12 October 2015, is still ongoing.⁵² Ms. and Mr. Yunus also faces separate charges of treason, a crime carrying a life sentence.⁵³

The ECtHR communicated the application on the Yunus case on 5 January 2015.⁵⁴ On 20 April 2015 the Council of Europe Commissioner for Human Rights submitted a third party intervention to their case, stating that “[t]he case of Leyla and Arif Yunus illustrates the pattern of repression that has emerged in Azerbaijan in recent years whereby human rights defenders are harassed through restrictive NGO legislation and selectively targeted with criminal prosecutions on charges that defy credibility.”⁵⁵

EMIN HUSEYNOV

As director of the Institute for Reporters’ Freedom and Safety (IRFS), the leading non-governmental organisation focusing on the protection of journalists’ rights in Azerbaijan, Emin Huseynov has advocated for hundreds of journalists, bloggers and HRDs under threat in his country and the region. As such he has long been the victim of harassment and threats. In 2003, for instance, he suffered a spinal injury caused by police brutality during a demonstration.⁵⁶ Further, he was arrested on 14 June 2008 and ill-treated in police detention.⁵⁷ The ECtHR found that Azerbaijan had violated the prohibition against torture, the right not to be arbitrarily detained as well as the right to peaceful assembly.⁵⁸

On 5 August 2014 Mr. Huseynov was stopped at Heydar Aliyev International Airport by the authorities and – without any explanation – prevented from travelling to Istanbul where he was to receive medical treatment.⁵⁹ Three days later, on 8 August 2014, the police searched his home as well

⁴⁸ See The Observatory for the Protection of Human Rights Defenders, *Azerbaijan: Verdict against Leyla and Arif Yunus is outrageous and must be nullified*, 31 August 2015, available online: http://www.omct.org/files/2015/08/23320/azerbaijan_2015.08.13_press_release_en_final.pdf.

⁴⁹ Ibid.

⁵⁰ Council of Europe, *Commissioner appalled by sentences against Leyla and Arif Yunus*, 13 August 2015, available online: <http://www.coe.int/en/web/commissioner/-/commissioner-appalled-by-sentences-against-leyla-and-arif-yunus>.

⁵¹ Council of Europe, *Statement issued by the Spokesperson of Secretary General Jagland on the verdict in the cases of Leyla and Arif Yunus in Azerbaijan*, 14 August 2015, available online: <https://go.coe.int/ttc6Z>.

⁵² See The Observatory for the Protection of Human Rights Defenders, *Azerbaijan: Time for justice in the case against Leyla and Arif Yunus*, 16 October 2015, available online: http://www.omct.org/files/2015/10/23426/azerbaijan_2015.10.16_press_release_en.pdf.

⁵³ See BBC, *Azerbaijan jails rights activists Leyla and Arif Yunus*, 13 August 2015, available online: <http://www.bbc.com/news/world-europe-33905690>; Human Rights Watch, *Azerbaijan: Ailing Rights Defenders’ Trial Travesty of Justice*, 6 August 2015, available online: <https://www.hrw.org/news/2015/08/06/azerbaijan-ailing-rights-defenders-trial-travesty-justice>.

⁵⁴ *Yunusova and Yunusov v. Azerbaijan* (Appl. No. 68817/14), Communicated Case, 5 January 2015.

⁵⁵ See Council of Europe, *Azerbaijan: Commissioner Muižnieks intervenes in Leyla and Arif Yunus’ case before the European Court of Human Rights*, 20 April 2015, available online: <http://www.coe.int/de/web/commissioner/-/azerbaijan-commissioner-muiznieks-intervenues-in-leyla-and-arif-yunus-case-before-the-european-court-of-human-rights>.

⁵⁶ See Freedom Now and Human Rights House Network, *Breaking point in Azerbaijan*, May 2015, p. 38, available online: <http://www.freedom-now.org/wp-content/uploads/2015/05/Breaking-Point-Azerbaijan1.pdf>.

⁵⁷ See OMCT, *Azerbaijan: Severe beatings in detention and risk of impunity*, 17 June 2008, available online: <http://www.omct.org/urgent-campaigns/urgent-interventions/azerbaijan/2008/06/d19401/>.

⁵⁸ *Emin Huseynov v. Azerbaijan* (Appl. No. 59135/09), Judgment (First Section), 7 May 2015.

⁵⁹ See Freedom Now and Human Rights House Network, *Breaking point in Azerbaijan*, May 2015, p. 38, available online: <http://www.freedom-now.org/wp-content/uploads/2015/05/Breaking-Point-Azerbaijan1.pdf>.

as the IRFS offices and seized all organisational documents and equipment. The same day Mr. Huseynov went into hiding in order to avoid arrest. He was staying at the Swiss Embassy in Baku from 18 August 2014 onwards, which the Embassy officially admitted on 11 February 2015.

Mr. Huseynov was charged with abuse of office (Article 308 of the Criminal Code), tax evasion (Article 213) and illegal business activity (Article 192) and on 19 August 2014 the Nasimi District Court in Baku ordered his pre-trial detention.

Separate charges were brought against IRFS.⁶⁰ On 17 October 2014, the Tax Audit Department of the Ministry of Taxes issued a decision ordering the IRFS to pay 94,891.85 Azerbaijani manat of “unpaid taxes” as well as a financial sanction of 48,665.56 manat for not paying taxes on time – more than 120,000 EUR in total.

Mr. Huseynov left Azerbaijan on 12 June 2015 on the plane of the Swiss Foreign Minister Didier Burkhalter, who attended the opening ceremony of the European Games in Baku, and arrived in Bern, Switzerland the day after. The government of Azerbaijan responded to Mr. Huseynov’s escape with depriving him of his citizenship, making him a stateless person. He applied for political asylum in Switzerland.⁶¹

KHADIJA ISMAYILOVA

Award-winning investigative journalist Khadija Ismayilova has reported widely on corruption at the highest levels of the Azeri government since 2010. Her investigations included, *inter alia*, the level of involvement of President Ilham Aliyev’s daughter Azu Aliyeva in the banking sector, her co-ownership of a holding which has won a number of unpublished calls for tender and overtaken all of the associated services of Azerbaijan Airlines, the national airline company, and airport transportation services, the duty-free and the technical air service operations, a number of offshore companies registered under her name and the AIMROC consortium which is responsible for the lucrative Chovdar gold and silver mine that belongs to three Panamanian companies chaired and conducted by the President’s wife and daughters. There have been no public comments on these revelations by the authorities and/or presidential office.⁶²

Ms. Ismayilova was detained several times at the Baku international airport upon her return from human rights conferences abroad and travel bans were imposed on her. At the end of October 2014 an investigation was opened. She was arrested on 5 December 2014 and put in pre-trial detention. The day before her arrest, the Head of the Presidential Administration, Ramiz Mekhtiev, had issued a document accusing Ms. Ismayilova and employees of Radio Free Europe/Radio Liberty (RFE/RL) of treason.⁶³

Her arrest was condemned by the OSCE Representative on Freedom of the Media, Dunja Mijatovic, as well as a number of domestic and international NGOs.⁶⁴ Also the Secretary General of the Council of Europe, Thorbjørn Jagland, made an official statement calling for her immediate release.⁶⁵

⁶⁰ Ibid.

⁶¹ See Joint Statement of 89up, ARTICLE 19, Committee to Protect Journalists, Index on Censorship, International Federation for Human Rights (FIDH), International Media Support, Pen American Centre, People in Need, Platform, Solidarity with Belarus Information Office and World Organisation Against Torture (OMCT), *Anniversary of human rights defender’s arrest marks one year of unprecedented repression in Azerbaijan*, 30 July 2015, available online: http://www.omct.org/files/2015/07/23283/azerbaijan_2015.07.30_sfr_statement.pdf.

⁶² See The Observatory for the Protection of Human Rights Defenders, *Azerbaijan – Crackdown on Human Rights Defenders Intensifies as Baku Games Approach – International Fact-Finding Mission Report*, April 2015, p. 27, available online: <http://www.omct.org/files/2015/04/23097/azerbaijanobsang2015web.pdf>.

⁶³ See Freedom Now and Human Rights House Network, *Breaking point in Azerbaijan*, May 2015, p. 76, available on line: <http://www.freedom-now.org/wp-content/uploads/2015/05/Breaking-Point-Azerbaijan1.pdf>.

⁶⁴ See OSCE, *Arrest of journalist latest case of crackdown of free media in Azerbaijan, says OSCE Representative*, 5 December 2014, available at <http://www.osce.org/fom/130076>; Human Rights Watch,

Initially Ms. Ismayilova was charged with inciting suicide (Article 125 of the Criminal Code). On 13 February 2015 new charges of large-scale embezzlement (Article 179.3.2.), illegal business (Article 192.2.2), tax evasion (Article 213.1) and abusing official powers (Article 308.2) were brought against her, which were related to a raid on 26 December 2014 in the premises of RFE/RL. The charges of inciting suicide were dropped on April 2015.⁶⁶

The trial began on 7 August 2015.⁶⁷ Independent journalists and activists were barred throughout the proceedings and only some representatives of foreign embassies able to attend. On 1 September 2015 Ms. Ismayilova was convicted and sentenced to 7 and a half years in prison. In her defiant closing statement she described the government of President Ilham Aliyev as a “repression machine” and her trial as an “express” one riddled with illegalities and a predetermined outcome. Furthermore, she said “I might be in prison, but the work will continue” and that she was now going to have the opportunity to expose abuses in the penitentiary services.⁶⁸

The OSCE Representative on Freedom of the Media, Dunja Mijatović, and the Council of Europe Commissioner for Human Rights, Nils Muižnieks, condemned the sentence.⁶⁹ Already on 26 August 2015 the ECtHR had communicated an application on her case lodged on 8 June 2015.⁷⁰

RASUL JAFAROV

Rasul Jafarov is a co-founder and chairman of the “Human Rights Club”, a non-governmental organisation specialised in the protection of human rights, which has been denied legal registration by the Ministry of Justice and Azerbaijani courts since its establishment in December 2010. Nevertheless, Mr. Jafarov continued his advocacy activities supported by the National Endowment for Democracy, the Open Society Foundation, the German Marshall Fund, and the OSCE.⁷¹

In December 2012, he launched the “Art for Democracy” campaign to support youth mobilisation to fight for justice through art as well as dissenting artists who are victims of harassment by the authorities. At the beginning of 2012 ahead of the Eurovision song contest hosted in Baku the same year, Mr. Jafarov belonged to the main organisers of the “Sing for Democracy” campaign which not only highlighted the increasing human rights violations in Azerbaijan, but also documented cases of forced eviction for the construction of the “Crystal Hall” competition site. Moreover, he took part in compiling a comprehensive list of political prisoners being held in Azerbaijan, which was published ahead of 2013 presidential election. At the time of his arrest he was working on an update of this list

Azerbaijan: Investigative Journalist Arrested – Wake-Up Call to International Partners, 5 December 2014, available online: <https://www.hrw.org/news/2014/12/05/azerbaijan-investigative-journalist-arrested>.

⁶⁵ See OSCE, *Secretary General Jagland calls for immediate release of Azerbaijani journalist Khadija Ismayilova*, 9 December 2014, available online: http://www.coe.int/de/web/secretary-general/news-2014/-/asset_publisher/EYIBJNjXtA5U/content/secretary-general-jagland-calls-for-immediate-release-of-azerbaijani-journalist-khadija-ismayilova?_101_INSTANCE_EYIBJNjXtA5U_viewMode=view.

⁶⁶ See The Observatory for the Protection of Human Rights Defenders, *Azerbaijan: Press Release: Investigative journalist Khadija Ismayilova sentenced to 7.5 years in jail*, 1 September 2015, available online: http://www.omct.org/files/2015/09/23346/azerbaijan_2015.09.01_pr_en.pdf.

⁶⁷ See RFE/RL, *Azerbaijani Journalist Ismayilova's Trial Begins in Baku*, 7 August 2015, available online: <http://www.rferl.org/content/azerbaijan-trial-khadija-trial/27175451.html>.

⁶⁸ See The Guardian, *Azerbaijan journalist Khadija Ismayilova vows to continue fight from prison*, 1 September 2015, available online: <http://www.theguardian.com/world/2015/sep/01/azerbaijan-khadija-ismayilova-verdict>.

⁶⁹ See OSCE, *OSCE Representative and Council of Europe Commissioner for Human Rights condemn sentencing of journalist Khadija Ismayilova in Azerbaijan*, 1 September 2015, available online: <http://www.osce.org/fom/179391>.

⁷⁰ ECtHR, *Ismaylova v. Azerbaijan* (Appl. No. 30778/15), Communicated Case, 26 August 2015.

⁷¹ See Freedom Now and Human Rights House Network, *Breaking point in Azerbaijan*, May 2015, p. 52, available online: <http://www.freedom-now.org/wp-content/uploads/2015/05/Breaking-Point-Azerbaijan1.pdf>.

as well as a campaign “Sport for Democracy” to alert about the dire human rights situation in Azerbaijan ahead of the European Games held in Baku in June 2015.⁷²

Mr. Jafarov’s bank accounts were frozen in early July 2014, followed by a travel ban that was imposed on him at the end of the same month. He was invited to the Prosecutor General’s Office for questioning as a witness on 30 July 2014 and again on 2 August 2014. On the second occasion, upon his arrival at the premises of the Prosecutor General’s Office, he was arrested and placed in pre-trial detention. Although he was accused of failing to register the grants that supported his work, he was charged with a number of Criminal Code violations, namely large-scale tax evasion (Article 213.1), illegal entrepreneurship (Article 192.2.2), and abuse of power (Article 308.2); later forgery and embezzlement were added instead of instead of being charged under the NGO Regulation laws.⁷³

Shortly before and after Mr. Jafarov’s arrest, a number of articles were published about him in the state media describing him as “a spy of foreign countries” and “a traitor” and politicians from the ruling political party made deprecatory statements about recently arrested NGO activists.⁷⁴

The trial before the Baku Grave Crimes Court began on 15 January 2015 and resulted in a sentence of 6 and a half years in prison.⁷⁵ The decision was almost entirely upheld by the Baku Court of Appeal, which only dismissed the charge of tax evasion and therefore reduced his sentence by three months on 31 July 2015.⁷⁶

On 2 June 2015 the United Nations Special Rapporteur on the situation of human rights defenders, Michel Forst, had criticised the “relentless prosecution and repression of prominent rights activists in Azerbaijan” and called for their immediate release ahead of the inaugural European Games in Baku, specifically mentioning the case of Mr. Jafarov.⁷⁷

On 3 December 2014 the ECtHR communicated an application on Mr. Jafarov’s case lodged on 10 October 2014.⁷⁸ On 30 March 2015 the Council of Europe Commissioner for Human Rights intervened as a third party to the case.⁷⁹

HILAL MAMMADOV

Journalist and minority rights defender Hilal Mammadov is considered to be the leader of the Talysh community and defender of their rights since his “predecessor” died in detention in 2009. He was editor-in-chief of the “Tolishi-Sado” (Voice of Talysh) bilingual Azerbaijani-Talish newspaper, chairman of the Talish Cultural Centre, leader of the Novruzali Mammadov Defence Committee from

⁷² See The Observatory for the Protection of Human Rights Defenders, *Azerbaijan – Crackdown on Human Rights Defenders Intensifies as Baku Games Approach – International Fact-Finding Mission Report*, April 2015, p. 23, available online: <http://www.omct.org/files/2015/04/23097/azerbaijanobsang2015web.pdf>; ECtHR, *Rasul Jafarov v. Azerbaijan*, (Appl. No. 69981/14), Communicated Case, 3 December 2014.

⁷³ Ibid.

⁷⁴ See ECtHR, *Rasul Javarov v. Azerbaijan*, (Appl. No. 69981/14), Communicated Case, 3 December 2014.

⁷⁵ See The Observatory for the Protection of Human Rights Defenders, *Azerbaijan: Rasul Jafarov sentenced to 6.5 years of jail for human rights work*, 16 April 2015, available online: http://www.omct.org/files/2015/04/23093/azerbaijan_160415.pdf.

⁷⁶ See The Observatory for the Protection of Human Rights Defenders, *Azerbaijan: Dismay as Rasul Jafarov is sentenced to 6 years and 3 months imprisonment in appeal*, 31 July 2015, available online: http://www.omct.org/files/2015/07/23292/azerbaijan_2015.07.31_pr_english.pdf.

⁷⁷ Press Release by Michel Forst, the Special Rapporteur on the Situation of Human Rights Defenders, *Azerbaijani activists must be freed before the Baku 2015 Games*, 2 June 2015, available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16029&LangID=E>.

⁷⁸ ECtHR, *Rasul Jafarov v. Azerbaijan* (Appl. No. 69981/14), Communicated Case, 3 December 2014.

⁷⁹ Council of Europe, Commissioner for Human Rights, *Third party intervention by the Council of Europe Commissioner for Human Rights under Article 36, paragraph 3, of the European Convention on Human Rights, to the case of Rasul Javarov v. Azerbaijan (Application No. 69981/14)*, 30 March 2015, available online: <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2728486&SecMode=1&DocId=2259070&Usage=2>.

2007 to 2009 and has been the chairman of the Committee for Rehabilitation of Detainees since 2009.⁸⁰

Shortly before his arrest in May 2012 he published a short video on social networks to raise the population's awareness of the Talysh community. The video repeated the phrase "Who are you? Come on, goodbye" and became very popular in Azerbaijan and Russia with more than 20,000,000 views. Despite a warning by the authorities that he would face retaliatory measures, Mr. Mammadov gave an interview about the song to a film crew of the Russian TV channel NTV and invited them to attend a Talysh folklore party on 13 June 2012, during which he criticised the government for its handling of the 2012 Eurovision song contest and the marginalisation of the Talysh people.

A few days later, on 21 June 2012, Mr. Mammadov was arrested, questioned about his political views and ethnic identity, and beaten by the officers until he lost consciousness. On 21 and 22 June 2012 the applicant was detained handcuffed and was deprived of food and water. On 22 June 2012 drug charges (illegal preparation, possession, purchase, transportation and sale of narcotic substances in large quantities; Article 234.4.3 of the Criminal Code) were brought against him, allegedly because of substances similar to heroin found during a body search conducted at the police station as well as a search carried out in his flat without any court order the same day. Mr. Mammadov submitted a written comment for the records noting that the narcotic substances did not belong to him. On 3 July 2012 new criminal offences, namely high treason (Articles 274) and incitement to ethnic, racial, social or religious hatred and hostility (Article 283.2.2), were added to his charges. He lodged a series of requests and appeals against his pre-trial detention as well as complaints concerning his ill-treatment during his arrest and at the police station, all of which were unsuccessful. Furthermore, on 26, 28 and 29 November 2012 Mr. Mammadov was beaten and injured by his mentally ill cell mate in a Kurdakhani prison despite his lawyers' previous requests to remove him from the cell. On 21 December 2012 his file was transferred to the Baku Grave Crimes Court for trial and the first hearing of the semi-closed trial took place on 9 January 2013. On 27 September 2013 he was sentenced to five years in prison.⁸¹

In November 2013 the UN Working Group on Arbitrary Detention concluded that his detention was arbitrary and called for his immediate release.⁸² On 4 November 2014 the ECtHR communicated an application on his case lodged on 19 November 2012.⁸³ On 24 February 2015 the Council of Europe Commissioner for Human Rights made a third party intervention.⁸⁴

ANAR MAMMADLI

Mr. Anar Mammadli is the co-founder and Chairman of the Election Monitoring and Democracy Studies Center (EMDSC), which has been carrying out independent election monitoring in Azerbaijan. He contributed to programs and events on monitoring of elections, participation and education of voters, as well as the design of materials and reports during 13 elections in Azerbaijan.

⁸⁰ See The Observatory for the Protection of Human Rights Defenders, *Azerbaijan – Crackdown on Human Rights Defenders Intensifies as Baku Games Approach – International Fact-Finding Mission Report*, April 2015, p. 29, available online: <http://www.omct.org/files/2015/04/23097/azerbaijanobsang2015web.pdf>.

⁸¹ See ECtHR, *Hilal Mammadov v. Azerbaijan* (Appl. No. 81553/12), Communicated Case, 4 November 2014; The Observatory for the Protection of Human Rights Defenders, *Azerbaijan: Sentencing to five years in prison of Mr. Hilal Mammadov*, 3 October 2013, available online: <http://www.omct.org/human-rights-defenders/urgent-interventions/azerbaijan/2013/10/d22398/>.

⁸² See Human Rights Council, Working Group on Arbitrary Detention, *Hilal Mammadov v. Azerbaijan* (Comm. No. 59/2013), UN Doc. A/HRC/WAGD/2013/59, 10 March 2014.

⁸³ ECtHR, *Hilal Mammadov v. Azerbaijan* (Appl. No. 81553/12), Communicated Case, 4 November 2014.

⁸⁴ See Council of Europe, Press Release, *Commissioner Muiznieks intervenes in cases concerning Azerbaijan before the European Court of Human Rights*, 24 February 2015, available online: <http://www.coe.int/en/web/commissioner/-/commissioner-muiznieks-intervenes-in-cases-concerning-azerbaijan-before-the-european-court-of-human-rights>.

Since the EMDSC's establishment in 2008, Mr. Mammadli repeatedly tried to register it. Until today, the government refused to register the EMDSC. Nevertheless, the EMDSC has conducted electoral monitoring activities. In 2010, it published a report concluding that the parliamentary elections did not comply with national legislation as well as international standards and can therefore not be considered to have been free and fair. The EMDSC further reported irregularities during the presidential elections in October 2013.

In the same month, the EMDSC offices were searched and print materials, press releases, reports, financial documents, and two computers were confiscated. The General Prosecutor's Office initiated an investigation against Mr. Anar Mammadli for tax evasion, abuse of authority and illegal business. He was further accused of receiving a large amount of foreign funding that had not been registered and of intending to influence the election results. On 16 December 2013, he was arrested and placed in pre-trial detention.

On 26 May 2014, Mr. Mammadli was condemned to 5 and a half years in prison. On 3 December 2014, the ECtHR communicated his case.⁸⁵

For his human rights work Mr. Mammadli was awarded the Vaclav Havel Human rights Prize by the Parliamentary Assembly of the Council of Europe in September 2014.⁸⁶

V. Harassment of Defense Lawyers who Represent HRD

Since 2014, the government is seriously harassing lawyers who are representing HRD and torture victims violating its obligations under Article 2 of the Convention.⁸⁷ This is mostly done in two ways. First, the prosecutor is **summoning** lawyers as **witnesses** to the trial of their client. Claiming a conflict of interest, the court then removes the lawyer concerned from the case.

Second, lawyers have been facing **disbarment** at the request of the Azerbaijan Bar Association. Disbarment means de-registration for life disabling a lawyer from defending any case in domestic courts but also before the ECtHR. Claiming inappropriate conduct in court, the Azerbaijan Bar Association has initiated proceedings before domestic courts to disbar human rights lawyers who represented HRD. This raises serious concerns on the independence of the Azerbaijan Bar Association as well as the judiciary that decided to remove those lawyers from the bar.

The removal of lawyers who have been representing HRD by arbitrarily summoning them as witnesses or by disbarment, is a violation of the right to be represented by a lawyer of one's own choice and violates the right to fair trial.

The cases below further illustrate how lawyers are prevented from defending human rights activists.

Cases on the Harassment of Defense Lawyers

JAVAD JAVADOV

Mr. Javad Javadov was one of the lawyers of Ms. Leyla Yunus. During a hearing on 24 October 2014, Mr. Javadov criticized the judicial process of Ms. Leyla Yunus by highlighting the lack of evidence-based decisions and the fact that the investigators have never visited Ms. Yunus during the detention period.

⁸⁵ *Mammadli v. Azerbaijan* (Appl. No. 47145/14), Communicated Case, 3 December 2014.

⁸⁶ Council of Europe, Parliamentary Assembly Press Release, *Vaclav Havel Human Rights Prize 2014 awarded to Anar Mammadli*, 29 September 2014, available online: <http://assembly.coe.int/nw/xml/News/News-View-en.asp?newsid=5220&lang=2>.

⁸⁷ See e.g. Concluding Observation on China, UN Doc. CAT/C/CHN/CO/4, 12 December 2008, para. 18, where the CAT found the harassment of defence lawyers incompatible with Article 2 of the Convention; see also See e.g. Concluding Observation on Kyrgyzstan, UN Doc. CAT/C/KGZ/CO/2, 20 December 2013, para. 16.

On 29 October 2014, Mr. Javadov was removed as a lawyer from Ms. Yunus' case after the prosecution summoned Mr. Javadov as a witness to the case of Ms. Yunus. However, the Prosecutor's Office has neither explained the reasons for removing Mr. Javadov from the case, nor given any information on why he was called a witness.

KHALID BAGIROV

Mr. Khalid Bagirov was a lawyer of Ms. Leyla Yunus, Mr. Rasul Jafarov and of Mr. Ilgar Mammadov. On 5 November 2014 Mr. Bagirov wanted to visit Ms. Yunus in prison but was denied access. The management of the remand facility referred to a letter from the Investigation Department on Grave Crimes of the General Prosecutor's Office informing about Mr. Bagirov's dismissal from representing Ms. Leyla Yunus. On 10 December 2014, Mr. Bagirov was informed that his lawyer's license was suspended for inappropriate conduct in court and that the Azerbaijan Bar Association had filed a lawsuit requesting his disbarment.⁸⁸

The first hearing took place in February 2015 before the Nizami District Court, which rejected all the motions filed by Mr. Bagirov. In another hearing on July 2015, the Court upheld the request filed by the Azerbaijan Bar Association to order the disbarment of Mr. Bagirov for alleged inappropriate conduct in court. Mr. Bagirov was notified of the date of the hearing on the eve of July 10. As a consequence, he did not have sufficient time to prepare his defense and alert potential independent trial observers, which constitutes a violation of his right to a fair trial. The Court rejected Mr. Bagirov's request to suspend the hearing until the following week in order to prepare his closing arguments. The judge only gave him 15 minutes for preparation. Shortly after Bagirov's arguments, the court upheld the request of the Bar Association.

Following his suspension from the bar, Mr. Bagirov filed an application to the ECtHR. On 13 July 2015, the ECtHR informed him that his application will be considered with priority. In July 2015, the ECtHR also communicated an earlier application of Mr. Bagirov that concerned the suspension of his lawyers license for a year in 2011.⁸⁹ This suspension came shortly after Mr. Bagirov voiced critic on the police.

VI. Torture and Ill-treatment in Detention to Break HRD

HRD have been systematically ill-treated and tortured in detention with the aim to break their resistance, to punish them for their human rights activities and to demonstrate strength and power.

While the treatment of HRD in prison has been generally harsh, some have even been exposed to **torture**. The lawyer of Mr. Ilgar Mammadov reported that prison guards severely tortured Mr. Mammadov to force him to request for pardon. Prison guards severely beat Mr. Mammadov and continued kicking him when he was already lying on the floor. The warden of the prison then further threatened him that he will not come out of the prison alive.⁹⁰ When his lawyer visited Ilgar Mammadov he had bruises on his neck and head. Mr. Hilal Mammadov was beaten by police officers until he lost consciousness when he was arrested in June 2012.⁹¹

Several detained HRD suffer from serious health conditions and are **not provided with adequate health care**. This situation amounts to torture, inhuman or degrading treatment. Neither Arif Yunus heart condition, nor Intigam Aliyev's insomnia and dramatic weight loss, and Leyla Yunus diabetes,

⁸⁸ See also the Council of Europe, Committee of Ministers, Interim Resolution CM/ResDH(2015)156, *Execution of the judgment of the European Court of Human rights Ilgar Mammadov against Azerbaijan* raising concern about Bagirov's suspension of his licence, available online: <https://wcd.coe.int/ViewDoc.jsp?id=2362755&Site=CM>.

⁸⁹ *Bagirov v. Azerbaijan* (Appl. No. 81024/12), Communicated case, 6 July 2015.

⁹⁰ Contact.az *Ilgar Mammadov is severely beaten in prison*, 19 October 2015, <http://www.contact.az/docs/2015/Politics/101900133500ru.htm#.VieMqROqqko> (available in Russian only)

⁹¹ See the description of his case under section IV.

hepatitis C, hepatomegaly, lost eyesight and weight loss have been treated. As a result, all three HRD suffer greatly and will most likely not be able to restore their health. In particular Leyla Yunus condition is so severe that she can no longer be treated in a prison setting. Not releasing her on humanitarian grounds or transferring her to an adequate facility amounts to torture.⁹² Arif Yunus further had collapsed during one of the court hearings and was unconscious for several minutes. Although the doctor from the National Security Prison, who accompanied him to the hearing, said that he was **unfit to stand trial**, the judge decided to continue the hearing the next day.

Most HRD are held under **deplorable prison conditions**: access to hot water is rarely provided; food is of inadequate quantity and quality; 4 inmates share a space of 12 to 14 sqm; lights are never switched off; and there is no ventilation or cooling system necessary for the hot summer months. These conditions are all the worse for detainees who suffer from severe health conditions as described above.

Detained HRD also reported physical **attacks by cellmates**. Leyla Yunus, for instance, was exposed to repeated beating by her cellmate. For weeks no measures were taken to ensure the protection of Ms. Yunus.⁹³ The attacks left visible bruises on her head. Also Ilgar Mammadov⁹⁴ was recently attacked by his cellmate who bit him in his head, breast and, neck and abused him verbally.

Finally, HRD are **treated degradingly** during court hearings when they are placed in **glass cages** although there is no risk that they resort to violence and non of the HRD is accused of violent crimes.⁹⁴ Neither has the safety of the HRD ever been at risk during court hearings. On the contrary, prosecution and the court depict HRD as extremely dangerous criminals and humiliate them in their own eyes as well as in the eyes of the public. The ECtHR has repeatedly found that such placements in cages during trials amount to degrading treatment.⁹⁵

Torture and other ill-treatment endured by some of the HRD is described in more detail below.

Cases on Torture and other Ill-treatment of HRD

INTIGAM ALIYEV

Intigam Aliyev human rights lawyer and Chairman of the Legal Education Society, currently serving a 7 and a half years prison sentence, was detained on 8 August 2014 upon charges of conducting illegal business, with a large gain in profit, evasion of taxes or social insurance contributions, and abuse of authority.

On 8 and 9 August 2014 during the searches of Mr. Aliyev's office and home, all his medical files were seized and were not returned back to the relatives. Relatives had to appeal to hospitals, which

⁹² FIDH, *Azerbaijan: Trial against Leyla and Arif Yunus: Fainting of Mr. Yunusov and hurdles to trial observers*, 3 August 2015, available online: <https://www.fidh.org/en/region/europe-central-asia/azerbaijan/azerbaijan-trial-against-leyla-and-arif-yunus-fainting-of-mr-yunusov>; OSCE, Parliamentary Assembly, *Azerbaijan in 'anti-democratic free trial', says OSCE PA's Santos*, 13 August 2015, available online, <https://www.oscepa.org/news-a-media/press-releases/2306-azerbaijan-in-anti-democratic-free-fall-says-osce-pa-s-santos-following-yunus-verdict>.

⁹³ Observatory for the Protection of Human Rights Defenders, *Azerbaijan: Trial against Leyla Yunus and Arif Yunusov: Fainting of Mr. Yunusov and hurdles to trial observers*, 3 August 2015, available online: <http://www.omct.org/human-rights-defenders/urgent-interventions/2015/08/d23294/>

⁹⁴ For instance Rasul Jafarov, see Observatory for the Protection of Human Rights Defenders, *If you can't beat them, jail them: The Case of Human Rights Defender Rasul Jafarov, International Judicial Observation Mission*, June 2015, pp. 7–9, available online: <http://www.omct.org/files/2015/06/23196/azerbaijanobsang2015web.pdf>; Intigam Aliyev, see Observatory for the Protection of Human Rights Defenders, *Azerbaijan: Intigam Aliyev's sentence upheld following a summary trial*, 23 July 2015, available online: <http://www.omct.org/human-rights-defenders/statements/azerbaijan/2015/07/d23276/>.

⁹⁵ See e.g. *Khodorkovskiy v. Russia* (Appl. No. 5829/04), Judgment (First Section), 31 Mai 2011, paras. 125 & 126; *Ashot Harutyunyan v. Armenia* (Appl. No. 34334/04), Judgment (Third Section), 15 June 2010, paras. 125–129.

Mr. Aliyev was visiting before detention, to restore the data on his health condition needed for further medical treatment.

As a result of the lack of proper treatment, Intigam Aliyev suffered heavy headaches and severe insomnia, which lasted for several months. In addition, Mr. Aliyev is able to sleep for only few hours a day and mainly only after taking medicine, which makes him very tired. He has severe pains in his back as well as pains and cramps in the right part of his body, in particular in his right leg. This pain is intensified when he sits or tries to sleep. Moreover, his eyesight has worsened in detention and he has not been provided with relevant ophthalmologic and medical care. His family and lawyers witnessed his suffering and deteriorating health during meetings.

As a result of poor his health condition, Mr Aliyev lost weight dramatically. He weighed 70 kilograms when he entered the detention facility, and several months after his family had to provide him with clothes of two to three sizes smaller (exact weight loss is unknown). On 30 November 2014, during a meeting with his family he felt sick and asked the guardian to take him out of the room for a minute. According to his daughter, he looked very pale and exhausted when he returned.

Detention conditions of Intigam Aliyev also amount to degrading treatment and are unacceptable considering his poor health. There is no ventilation and cooling system in the facility, where temperature in August and September was high. In October and the beginning of November when it is very cold in Azerbaijan cells are not provided with any heating, since the heating system in prison operates as of 15 November irrespective of the weather conditions.⁹⁶ Other unacceptable conditions in his cell include the following:

- Hot water in the cell is provided only twice a week for taking a bath, other times the detainees use only cold water.
- His cell is very small: 4 inmates share approximately 12-14 sqm. The window in the cell is very small.
- The light is never switched off in the cell, not even at night. This causes problems for Mr. Aliyev who suffers from insomnia.
- The quality of food in prison is very low and portions are very limited. For instance, in one month four people are given half a kilo granulated sugar. There is no stove to heat the food provided by family and there is no refrigerator to keep food. This causes malnutrition.

LEYLA AND ARIF YUNUS

Detention and conditions of imprisonment of Mr. and Mrs. Yunus are amounting to torture, inhuman and degrading treatment.

On April 28, 2014 Leyla and Arif Yunus were detained for the first time at the Baku International Bina Airport while boarding an international flight to Doha, Qatar, where they were to attend an international event. They were kept in the same room from 22:30 till 3:40 in the morning of the following day without the possibility to access lavatories. At approximately 3:40 in the morning Leyla and Arif Yunus were put in a car and taken to their residence. There, investigators demanded that they open their apartment but did not present a warrant for the search. When Ms. Yunus wanted to use the lavatory she was followed by male policemen. At the same time Arif Yunus had a cardiac episode due to stress and collapsed in the staircase. A journalist witnessing the episode called an ambulance. Although the ambulance arrived promptly, the police prevented the medical personnel from approaching Mr. Yunus and taking him to the hospital for more than 30 minutes.⁹⁷ After arriving at the Clinical Medical Center, Arif Yunus was in the intensive care unit for two days and then transferred to the regular ward, where he stayed for 18 days. He was diagnosed with third degree hypertension and a hypertensive episode. He was discharged on 7 May 2014.

⁹⁶ See Meydan TV, *Azerbaijan without political prisoners*, October 2014, available online: <http://www.meydan.tv/az/site/politics/3789/Siyasi-m%C9%99hbuslar-haqq%C4%B1nda-hesabat.htm>.

⁹⁷ Obyektiv TV, <https://www.youtube.com/watch?v=HRBgZAsVU3g>.

On 30 July 2014, Ms. Yunus was arrested again on charges of treason, large-scale fraud, forgery, tax evasion, and illegal business. Mr. Yunus was arrested on August 5 for violating his conditional sentence.⁹⁸

Leyla Yunus stated that since her arrest she was continuously exposed to beating by cellmates in Baku Investigative Detention Facility Kurdakhany. In particular, on 6 September 2014, Ms. Yunus' cellmate who had previously verbally harassed her and thrown plates and dishes at her, assaulted her. Ms. Leyla Yunus called for help and when a prison ward arrived she reported the attack and asked to see the prison administration. The UN Working Group on Business and Human Rights visited Ms. Yunus on 27 August 2014 and witnessed her bruises. No measure has been taken to either punish the cellmate nor to ensure the protection of Ms. Yunus.⁹⁹ In addition, on at least two occasions, Ms. Yunus was beaten by prison ward F. Yagubov. According to her lawyer, she was attacked on 11 December 2014 and on 20 June 2015 resulting in damages to her left eye.¹⁰⁰

On 11 December 2014, prison workers entered Ms. Yunus cell, dragged her out of her bed, pulled her out of the cell and pushed her through the corridor to the punishment ward and deprived her from meals. According to Ms. Yunus' statement there was not particular reason for such a treatment.

With regard to detention conditions, Leyla Yunus is kept in a cell with 5 other prisoners. One of her cell-mates frequently smokes, which is negatively affecting Ms. Yunus health. She further states that inmates often humiliate and attack her because of the treason charge. Moreover, there is no supply of hot water to the cell and constant shortages of electricity. Ms. Yunus has also been deprived from parcels with special food that she needs due to her severe diabetes.

In November 2014 Ms. Yunus reported that she had post-operational aches in her urethras. She also suffered from neuralgia. The absence of appropriate medical treatment led to further deterioration of Ms. Yunus health. She has hepatomegaly - a liver enlargement and deterioration. According to the statement of Ms. Yunus' lawyer, as of February 2015, she has lost 16 kilograms since her arrest.

Leyla Yunus further reported that since March 31, 2015 she started seeing dark spots in front of her left eye. She was examined by an ophthalmologist in pre-trial detention and informed that the process of opacity of the vitreous body was taking place. However, no measures have been taken.

Arif Yunus also suffers from poor health conditions. He had to take drugs against insomnia, and suffers from high blood pressure. There is very little information available regarding the situation of Mr. Arif Yunus since he is being held at the Investigative Prison of the Ministry of National Security, the only prison in Azerbaijan which is not subordinated to the Ministry of Justice. This situation puts him at a high risk of facing torture and ill treatment. The absence of a proper medical unit in this prison has been denounced by various international human rights bodies such as the CAT or the European Committee for the Prevention of Torture (CPT)¹⁰¹.

In the hearing on 3 August 2015, Mr. Yunus collapsed due to worryingly high arterial pressure. The doctor of the National Security prison who came to the court said that Mr. Yunus' health did not allow him to further participate in the trial. Nevertheless, the judge decided to continue the hearing the day after.¹⁰²

⁹⁸ Observatory for the Protection of Human Rights Defenders, *Trial against Leyla Yunus and Arif Yunusov: Fainting of Mr. Yunusov and hurdles to trial observers*, 3 August 2015, available online: <http://www.omct.org/human-rights-defenders/urgent-interventions/2015/08/d23294/>.

⁹⁹ Ibid.

¹⁰⁰ Meydan TV, *Leyla Yunus: They want to destroy us physically*, 15 July 2015, available online: <http://bit.ly/1i8yvAZ>.

¹⁰¹ Observatory for the Protection of Human Rights Defenders, *Concerns over the deterioration of the health of Leyla Yunus, Arif Yunusov and Anar Mammadli while in arbitrary detention*, 13 February 2015, available online: <https://www.fidh.org/International-Federation-for-Human-Rights/eastern-europe-central-asia/azerbaijan/16979-concerns-over-the-deterioration-of-the-health-of-leyla-yunus-arif-yunusov>.

¹⁰² Observatory for the Protection of Human Rights Defenders, *Azerbaijan: Trial against Leyla Yunus and Arif Yunusov: Fainting of Mr. Yunusov and hurdles to trial observers*, 3 August 2015, available online: <http://www.omct.org/human-rights-defenders/urgent-interventions/azerbaijan/2015/08/d23294/>.

According to a report of the Observatory for the Protection of Human Rights Defenders from the court hearing on August 10, 2015 both Ms. and Mr. Yunus looked extremely ill, and Mr. Yunus was accompanied by a doctor in the courtroom and had to take some medicines while sitting in the glass cage during the hearing.¹⁰³

Many human rights organizations¹⁰⁴ as well as the Chair of the OSCE Parliamentary Assembly's Committee on Democracy, Human Rights and Humanitarian Questions, Isabel Santos called for immediate release of Leyla and Arif Yunus on humanitarian grounds.¹⁰⁵

ILGAR ELDAR OGLU MAMMADOV

Ilgar Mammadov, an opposition politician and blogger, was arrested on 4 February 2013 and charged with the organization of or participation in mass disorder accompanied by violence. On 22 May 2014, the ECtHR found that the Articles 5.1 and 5.4 (right to freedom), 6.2 (presumption of innocence) and 18 (limitations on use of restrictions on rights) in connection with Article 5 of the European Convention on Human Rights were violated. The ECtHR thus concluded that Ilgar Mammadov was imprisoned for his critical political views and should be released.¹⁰⁶

Despite the ECtHR's judgment and despite several resolutions of the Committee of Ministers,¹⁰⁷ Mr. Mammadov remains in prison. From the very beginning of his detention, Mammadov stated that he has been pressured to ask for pardon. He was subject to both psychological pressure and physical assaults. The first attack happened on 29 July 2015. In the evening during when spending time outside his cell, Ilgar Mammadov was attacked by another prisoner allegedly for his political views. He also bit Ilgar Mammadov in his head, breast, and neck. Mr. Mammadov, understanding that it was a provocation, did not respond but just tried to dodge. The provocateur was dragged away by another prisoner. The alleged aim of this attack was to scare him. In addition, prison wards give constant hints that if he does not ask for pardon, he would not be released and neither appeals of Western powers, nor decisions of the ECtHR would help him.¹⁰⁸

A similar incident happened on 16 October 2015. According to the complaint filed by his lawyer, Javad Javadov, Ilgar Mammadov was requested to come to the office of the deputy administrator of the prison #2 at 15:30. Two employees of the prison Shakir and Chyngiz (family names are not known) started beating him. Then he was pushed to the office of the administrator of the prison, Mr. Eyvaz Askerov, where the beating continued. Mr. Mammadov was thrown to the floor and attackers were kicking him. The head of the prison administration told Mr. Mammadov that he would not come

¹⁰³ Observatory for the Protection of Human Rights Defenders, *Azerbaijan: Developments in the ongoing trial against Leyla and Arif Yunus*, 10 August 2015, available online: <http://www.omct.org/human-rights-defenders/urgent-interventions/2015/08/d23313/>.

¹⁰⁴ See e.g. Observatory for the Protection of Human Rights Defenders, *Azerbaijan: Trial against Leila and Arif Yunus: Fainting of Mr. Yunusov and hurdles to trial observers*, 3 August 2015, available online: <https://www.fidh.org/en/region/europe-central-asia/azerbaijan/azerbaijan-trial-against-leyla-and-arif-yunus-fainting-of-mr-yunusov>.

¹⁰⁵ OSCE, Parliamentary Assembly Press Release, *Azerbaijan in 'anti-democratic free trial', says OSCE PA's Santos following Yunus verdict*, 13 August 2015, available online: <https://www.oscepa.org/news-a-media/press-releases/2306-azerbaijan-in-anti-democratic-free-fall-says-osce-pa-s-santos-following-yunus-verdict>.

¹⁰⁶ *Ilgar Mammadov v. Azerbaijan*, (Appl. No. 15172/13), Judmgnet (First Section), 22 May 2014, para. 143.

¹⁰⁷ Council of Europe, Committee of Ministers Press Release, *Ilgar Mammadov must be immediately released and his physical integrity granted by Azerbaijani authorities*, 24 October 2015, available online: <https://wcd.coe.int/ViewDoc.jsp?id=2361903>

¹⁰⁸ See e.g. Kavkazskij Uzel, ReAL's leadership states that Ilgar Mammadov is forced to write a petition for mercy" (Кавказский Узел, «Руководство движения ReAL заявило о принуждении Ильгара Мамедова к прошению о помиловании»), 2 August 2015, available online: <https://www.kavkaz-uzel.ru/articles/266489/> (in Russian).

out of prison alive. Mr. Mammadov's lawyer stated that he saw bruises on the neck and head when he visited him.¹⁰⁹

VII. Recommendations

Based on the information above, we ask the CAT to recommend the State party to:

- (a) Recognize that human rights defenders are at risk and have been targeted for reprisals due to the performance of their human rights activities, which play an important role in a democratic society;
- (b) Guarantee the effective protection, safety and physical integrity of human rights defenders in face of the threats and attacks to which they are vulnerable on account of their activities;
- (c) Take all necessary measures to ensure that all human rights defenders are able to conduct their work and activities freely by particularly refraining from enacting legislation that impedes the ability of human rights defenders to conduct their activities;
- (d) Refrain from prosecuting and convicting human rights defenders for their human rights activities;
- (e) Investigate promptly, thoroughly and impartially all allegations of harassment, arbitrary arrest, detention, torture and ill-treatment of human rights defenders, including those listed above, prosecute and punish appropriately those found guilty, and provide the victims with redress;
- (f) Release all human rights defenders who are in detention in retaliation for their human rights work;
- (g) Refrain from disbarring, harassing and impeding the independent work of defense lawyers;
- (h) Ensure that no individual or group will be subjected to prosecution in reprisal for cooperating with United Nations or any other international, regional, or national human rights entities;
- (i) Ensure the full independence and impartiality of the judiciary in the performance of its functions in line with the relevant international standards;
- (j) Redouble efforts to bring living conditions in all prisons into line with international standards and the Standard Minimum Rules for the Treatment of Prisoners and ensure the basic needs of detainees with regard to sanitation, food and water;
- (k) Provide medical care and prompt hospitalization for detainees, including for Leyla and Arif Yunus and Intigam Aliyev, who are suffering from serious medical conditions.

With regard to the follow-up procedure, we further ask the CAT to request the State party to provide information on the steps taken to protect human rights defenders.

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¹⁰⁹ Contact.az, *Ilgar Mammadov is severely beaten in prison*, 19 October 2015, available online: <http://www.contact.az/docs/2015/Politics/101900133500ru.htm#.VieMqROqqko>.