

SUBMISSION FOR THE UN UNIVERSAL PERIODIC REVIEW (UPR) OF AZERBAIJAN

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This submission has been prepared for the third cycle review of Azerbaijan in the framework of the Universal Periodic Review (UPR) by International Partnership for Human Rights (IPHR). In the preparation of this document, IPHR has used information from Azerbaijani partners, who for security reasons are not mentioned as co-contributors. The submission, which focuses on key concerns with respect to freedom of association, assembly and expression and the civil society environment in Azerbaijan, was finalized in October 2017.

International Partnership for Human Rights (IPHR) is an independent, non-governmental organisation founded in 2008. Based in Brussels, IPHR works closely together with civil society groups from different countries to raise human rights concerns at the international level and promote respect for the rights of vulnerable communities in repressive environments. IPHR has special consultative status with the United Nations Economic and Social Council.

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1. Freedom of association

1.1. Legislation adopted in recent years has seriously restricted freedom of association in Azerbaijan and made it extremely difficult for independent NGOs to operate in the country. Independent NGOs have also been targeted by criminal investigations and persecution of their leaders, forcing many of them to suspend their work. Azerbaijan's once vibrant civil society has significantly declined.

NGO registration

1.2. The process of registering NGOs is lengthy and complicated and allows for wide government discretion. Numerous human rights and pro-democracy NGOs have been unable to obtain registration. At the same time, due to recent legislative amendments, in particular on funding (see below), it is now close to impossible for unregistered NGOs to operate in the country.

1.3. The European Court of Human Rights (ECtHR) has issued several rulings against Azerbaijan on the arbitrary denial of NGO registration and recently began its communication with the government on a complaint filed by the founders of eight NGOs over the refusal to register their organisations on various pretexts.

1.4. Foreign NGOs are not allowed to operate in Azerbaijan without state registration, the process of which also allows for a high level of government discretion and arbitrary denials.

Access to funding

1.5. Existing legislation seriously restricts access to foreign funding for NGOs. In order to provide grants to Azerbaijani NGOs, foreign donors need to have offices registered in the country, obtain approval from the Ministry of Justice, and secure the Ministry of Finance's opinion on the financial-economic expediency of grants. All grant agreements, including sub-grants must be registered with the government. Any grants/donations over 200 manat (approx. 100 EUR) must be transferred through banks. The conduct of bank or other financial operations in relation to grants is not possible, unless the registration requirements have been met.

1.6. In January 2017, the Cabinet of Ministers adopted amendments to the rules on the registration of foreign grants for the stated purpose of simplifying the procedure. These amendments, among others, allowed both donors and grant recipients to request permission for donors to issue grants and shortened the period for considering such requests. However, they did not abolish most problematic requirements, including the requirement for NGOs to register grants in the first place, and the government retains broad powers to approve or deny the registration of grants.

Government control and oversight

1.7. Authorities enjoy wide powers to oversee and inspect NGO activities, without adequate safeguards against abuse. NGOs are subject to excessive reporting requirements: they are required to report several times a year to different state bodies, including the Tax Agency, the Social Protection Fund, the State Statistical Committee and the Finance Ministry. This creates a heavy burden on NGOs.

1.8. NGOs that fail to comply with reporting or other requirements risk heavy fines or the suspension or closure of their activities.

Persecution of NGOs

1.9. The current pattern of persecution of NGOs includes intrusive inspections and raids of NGOs; the freezing and blocking of their bank accounts; criminal investigations of NGOs and their leaders; and travel bans, arrests and politically motivated convictions targeting NGO leaders. Because of such harassment, well-known human rights NGOs have been forced to stop their activities or move their operations into exile.

1.10. Currently the bank accounts of numerous NGOs remain blocked, as a result of which they cannot operate. Most leaders of these NGOs have left the country or are subject to bans on travelling abroad.

1.11. Several international NGOs and donor organisations previously operating in Azerbaijan have also had their accounts frozen as part of spurious criminal investigations and have been forced to close their in-country offices.

1.12. The repressive measures taken against NGOs have been accompanied by hostile and stigmatizing language by government officials, accusing NGOs and their leaders of promoting “foreign interests”, advocating “non-traditional” values and threatening national security.

1.13. International human rights bodies, including recently the UN Human Rights Committee and the UN Special Rapporteur on human rights defenders¹ have severely criticized the persecution of NGOs.

Recommendations

1.14. Azerbaijan’s government should:

- Implement the recommendations of international human rights bodies regarding freedom of association, and cooperate constructively with the ECtHR on cases relating to this right.
- Bring NGO legislation into compliance with international human rights standards, including by simplifying the legal framework for NGO and grant registration, easing NGO reporting requirements, and abolishing the harsh penalties for violations.

- Ensure that NGOs can carry out their activities without undue interference and harassment and that they are not subject to criminal investigations, raids and freezing of their accounts in retaliation for their legitimate activities.

2. Freedom of peaceful assembly

2.1. Azerbaijan's Law on Assemblies requires protest organisers to notify authorities in advance, which in practice is interpreted as meaning that advance permission is needed. The law also provides for problematic restrictions, e.g. it allows for banning assemblies near government buildings and transportation routes and for prohibiting "venues for holding assemblies political" protests during events of "state importance". Authorities may designate specific.

2.2. Those who hold protests in violation of the requirements of the law may face sanctions, including fines and administrative arrest. Legal amendments adopted in recent years have significantly increased the size of fines and the length of administrative arrest that may be imposed.² Organizing or participating in assemblies in violation of the law may also result in up to two years' imprisonment under the Criminal Code.³

2.3. Police frequently disperse and suppress peaceful protests using excessive force and detain and bring participants to justice for alleged violations. "Preventive" arrests of activists prior to planned protests are also used to obstruct protests. Journalists covering peaceful assemblies are sometimes detained and warned.

2.4. In one worrying example, authorities detained dozens of opposition activists, using excessive force during peaceful protests held ahead of the controversial constitutional referendum on 26 September 2016⁴. A number of participants were sentenced to administrative penalties. In another, recent example, police summoned, warned and detained over 60 opposition activists ahead of a peaceful anti-corruption rally, held in Baku on 23 September 2017 in agreement with local authorities. Part of them were fined or sentenced by court to up to 15 days' administrative arrest. Facial recognition cameras were used by police to monitor and intimidate participants.

2.5. The authorities' repressive approach to peaceful protests has been criticized by international human rights bodies, including the UN Human Rights Committee and the UN Special Rapporteur on human rights defenders.⁵ The ECtHR is currently considering several cases involving allegations of violations of freedom of assembly in Azerbaijan. Among these is a case where six youth activists were detained and fined in August 2014 for participating in a flash mob in support of an arrested human rights defender.

Recommendations

2.6. Azerbaijan's government should:

- Stop restricting the right to freedom of assembly in ways that are not compatible with its international obligations.

- Fully cooperate with the ECtHR on cases that involve alleged violations of freedom of assembly and execute the court's decisions.
- Promptly and effectively investigate all cases of excessive use of force, arbitrary arrest and detention of peaceful protesters, including in connection with the opposition rallies in September 2016 and September 2017 and bring the perpetrators to justice.
- Refrain from preventively detaining activists ahead of protests.

3. Freedom of expression and the media

Repressive media climate

3.1. The media and free speech climate in Azerbaijan is extremely repressive.

3.2. There is no editorial independence of state-owned media, and self-censorship is widespread among private media, especially on issues related to the ruling elite.

3.3. The authorities have relentlessly cracked down on independent and opposition media, including by blocking their websites, initiating tax evasion investigations and raiding their offices, and harassing, prosecuting and imprisoning their staff. As a result, all independent and opposition media outlets have been forced to suspend their activities in the country.

3.4. Radio Free Europe/Radio Liberty's (RFE/RL's) Baku bureau was raided and sealed by authorities on tax-related claims in December 2014, forcing it to close down in May 2015. The investigation has dragged on ever since 2014, without resulting in any charges, leading RFE/RL to file a complaint with the ECtHR.⁶ RFE/RL journalists have been intimidated, detained, questioned and subjected to travel bans. Already in 2008, RFE/RL was banned from the country's airwaves, along with other international broadcasters.

3.5. In May 2017, the websites of RFE/RL and four other independent outlets: the *Azadliq* newspaper, *Meydan* TV, and the online *Turan TV* and *Azerbaijan Saati* were blocked by court for allegedly posting unlawful information. This measure came after they published critical reports about the appointment of the country's first lady as vice president and corruption allegations involving the president's family and inner circle.

3.6. *Azadliq*, the last remaining opposition newspaper had already previously been forced to cease publication following the arrest of its financial director, **Faiq Amirli** in August 2016 and the blocking of its accounts. Amirli was sentenced to three years in prison in July 2017 on tax evasion and other charges; in September 2017, his sentence was replaced by a suspended one on appeal. Journalists working for *Azadliq* have also been summoned, interrogated and arrested by police. Its journalists **Seymur Hezi** and **Elchin Ismayilli** are both currently behind bars on charges considered politically motivated.

3.7. A tax evasion investigation was opened against the Berlin-based online *Meydan* TV in April 2016 and number of *Meydan* TV journalists reporting from Azerbaijan have been banned from travelling abroad. Several family members of exiled journalists working with the outlet were arrested and imprisoned on trumped-up

charges in 2015-2016, but were subsequently released. *Meydan* TV terminated its in-country operation in Azerbaijan in December 2014 due to concerns about the safety of its staff.⁷

3.8. The *Turan* News Agency, the country's last independent media outlet, has been subjected to concerted pressure. In August 2017, tax authorities launched a tax evasion investigation against it, raided its office and froze its accounts, forcing it to suspend its activities. The agency's director **Mehman Aliyev** was arrested on tax evasion and related charges. After two weeks in pre-trial detention, he was released on 11 September but subjected to a travel ban. The investigations against him continues and the agency's accounts were re-frozen after being accessible for three days.

Relentless crackdown on critical voices

3.9. In the last few years, the Azerbaijani authorities have arrested and imprisoned dozens of human rights defenders, civil society activists, journalists, bloggers and dissidents on politically motivated grounds. As documented by IPHR⁸, this crackdown has involved systematic abuse of the criminal justice system, with charges of tax evasion and other financial crimes used to punish well-known human rights advocates and to criminalise their legitimate activities. The trials in these cases have been characterised by gross violations of fair trial rights, and the defendants have been held in cruel, inhuman or degrading conditions and denied adequate medical assistance. Authorities have failed to properly investigate allegations of torture and ill-treatment against detainees.

3.10. A number of individuals targeted in the crackdown have been released since late 2015 as a result of international pressure, including human rights advocates **Anar Mammadli, Rasul Jafarov, Intigam Aliyev, Leyla and Arif Yunus**, as well as investigative journalist **Khadija Ismayilova** who were all arrested in 2013-2014 and subsequently imprisoned on trumped-up charges in retaliation for their work. However, their convictions have not been overturned and the accounts of their organisations remain frozen. Aliyev and Ismayilova are subject to bans on travelling abroad. After the Yunus couple left the country, the authorities continued to pursue the case against them and ordered them to return, which they refused to do.⁹ Many others previously imprisoned for exercising freedom of expression and other fundamental rights remain behind bars and new arrests have been carried out, resulting in what Azerbaijani human rights defenders call "revolving door" policies. Many human rights advocates and government critics have been forced to leave the country due to persecution. Family members of exiled activists and journalists have been targeted by harassment and intimidation.

3.11. These are only a few, recent cases that illustrate the ongoing crackdown, in addition to the cases mentioned above:

- Azerbaijan's authorities have persistently failed to release opposition activist **Ilgar Mammadov**, although the ECtHR ruled in 2014 that he was detained because of his criticism of the government and the Council of Europe's Committee of Ministers¹⁰ has repeatedly called for his release. In November 2016, Azerbaijan's Supreme Court rejected Mammadov's appeal based on the ECtHR ruling and upheld his seven-year sentence.¹¹ Recently the Committee of Ministers launched an initiative to return Mammadov's case to the ECtHR for so-called infringement procedures because of Azerbaijan's failure to execute the court ruling.¹²

- Blogger **Mehman Huseynov**, known for his hard-hitting reports on high-level corruption and his criticism of the ruling regime, was sentenced to two years in prison in May 2017 after exposing police abuse to which he was subjected when detained earlier the same year.¹³ Instead of properly investigating his torture allegations, authorities prosecuted him for defamation. In September 2017, the Supreme Court returned his case for reconsideration at the appeals level, but failed to order his release.¹⁴
- Journalist **Afgan Mukhtarli** was abducted in Georgia in May 2017, only to resurface in Azerbaijani custody, where he has since been held on illegal border crossing and other charges. Georgia's authorities have failed to provide any satisfactory explanation regarding this case.¹⁵ Prior to his abduction, Mukhtarli had prominently reported on corruption allegations involving Azerbaijan's ruling family.
- **Ilkin Rustamzada**, a youth activist, was sentenced to eight years in prison on charges of hooliganism and organizing riots in 2014. Prior to his arrest, Rustamzada mobilised a series of peaceful protests against hazing and violence in the army.¹⁶ While other activists sentenced together with him have been released, he remains behind bars.

3.12. According to an Azerbaijani civil society working group documenting cases of political prisoners using Council of Europe criteria, there are currently over 150 such prisoners in the country. These include journalists, bloggers, human rights defenders, opposition activists, protest participants and others detained on politically motivated grounds.¹⁷

Recommendations

3.13. Azerbaijan's government should:

- Close spurious criminal investigations against independent/opposition media outlets, unblock their websites and enable them to resume operation in the country.
- Stop arresting, prosecuting and imprisoning journalists, bloggers, human rights defenders, civil society activists and dissidents on politically motivated grounds.
- Release all who are currently behind bars in retaliation for their legitimate exercise of freedom of expression and other fundamental rights.
- Lift all arbitrary travel bans imposed on journalists, human rights defenders and activists.
- Ensure that relatives of exiled journalists, defenders and activists are not subjected to intimidation and harassment.
- Comply with the ECtHR ruling on Ilgar Mammadov's case and cooperate constructively with the ECtHR on other cases concerning freedom of expression.

¹ Concluding observations of the Human Rights Committee on the fourth periodic report of Azerbaijan (CCPR/C/AZE/CO/4), November 2016 and Report of the Special Rapporteur on the situation of human rights defenders on his mission to Azerbaijan (A/HRC/34/52/Add.3), February 2017. The Special Rapporteur concluded that the “already challenging environment for NGOs has turned into a total crisis”.

² International Partnership Group for Azerbaijan, “Azerbaijan: New laws further erode rights to freedom of expression and peaceful assembly,” 17 May 2013, <http://www.civicsolidarity.org/article/690/azerbaijan-new-laws-further-erode-rights-freedom-expression-and-peaceful-assembly>

³ Article 169.1 of the Criminal Code.

⁴ This referendum concerned a series of amendments to the constitution, including, among others, an extension of the president's term of office. They were all approved. The limit on how many times an individual can serve as president had been dropped already before.

⁵ Concluding observations of the Human Rights Committee on the fourth periodic report of Azerbaijan (CCPR/C/AZE/CO/4), November 2016 and Report of the Special Rapporteur on the situation of human rights defenders on his mission to Azerbaijan (A/HRC/34/52/Add.3), February 2017.

⁶ RFE/RL, “RFE/RL Takes Azerbaijani Case To European Court”, 13 September 2017, <https://pressroom.rferl.org/a/rferl-takes-azerbaijani-case-to-european-court/28733657.html>

⁷ *Meydan* TV press release, 9 December 2017, <https://www.meydan.tv/en/site/news/3988/meydan-tv-baku-office-terminates-its-operation.htm>

⁸ IPHR, *Justice behind bars: The persecution of civil society in Azerbaijan* (report based on trial monitoring missions, interviews with lawyers, journalists and human rights defenders, and analyses of case documents), December 2015, <http://iphronline.org/justice-behind-bars-in-azerbaijan-20151201.html>

⁹ Joint NGO appeal: Prevent misuse of INTERPOL in the case of prominent Azerbaijani human rights defenders, June 2017, <http://iphronline.org/joint-ngo-appeal-prevent-misuse-interpol-case-prominent-azerbaijani-human-rights-defenders.html>

¹⁰ The Committee of Ministers is responsible for supervising the execution of ECtHR judgements.

¹¹ See joint statement by IPHR and 43 other members of the CSP and the Sport for Rights coalition, <http://iphronline.org/azerbaijan-time-justice-ilgar-mammadov.html>

¹² Decision CM/Del/Dec(2017)1294/H46-2 of the Council of Europe's Committee of Ministers, September 2017.

¹³ See joint statement by 24 NGOs, “Azerbaijan: Crackdown on Free Expression Accelerates With Conviction of Prominent Blogger”, 3 March 2017, <http://iphronline.org/azerbaijan-crackdown-free-expression-accelerates-20170304.html>

¹⁴ Institute for Reporters' Freedom and Safety (IRFS), “Azerbaijan Court Fails to Release Journalist Mehman Huseynov”, 2 October 2017, <https://www.irfs.org/news-feed/azerbaijan-court-fails-to-release-journalist-mehman-huseynov/>

¹⁵ See more in IPHR, Freedom Now and the International Human Rights Education and Monitoring Center, *Repression beyond borders: Exiled Azerbaijanis in Georgia* (report based on the findings of fact-finding mission), September 2017, at <http://iphronline.org/repression-beyond-borders-exiled-azerbaijanis-georgia.html>

¹⁶ IPHR, “Azerbaijan: #Freeilkin!”, December 2016, at: <http://iphronline.org/azerbaijan-freeilkin-campaign.html>

¹⁷ *A Unified List of Political Prisoners in Azerbaijan*, covering the period up to 28 August 2017, https://www.humanrightsclub.net/wp-content/uploads/2017/08/Political-Prisoners-Report_Azerbaijan-August_2017.pdf