

# Key concerns and recommendations on the protection of fundamental rights in Azerbaijan

**October 2018**

This briefing paper was prepared by Democracy Monitor, Human Rights Club and International Partnership for Human Rights (IPHR). It provides an overview of current key issues with respect to freedom of association, freedom of peaceful assembly and freedom of expression and the media in Azerbaijan. The briefing paper was finalized on 9 October 2018.

**“Democracy Monitor” Public Union (DeMo)** is a non-profit, non-governmental organization which works in the fields of monitoring, advocacy, legal aid, humanitarian research and educational work on civil and political rights, non-discrimination and equality law, women’s empowerment as well as promotion of democratic institutions and confidence-building in communities and societies affected by conflicts in the South Caucasus. The Monitor was established as a national NGO in June 2002, but obtained state registration only on 31 January 2007. It is member of CIVICUS-World Alliance for Citizen Participation, the Coalition for Rebuilding of Trust formed by the Norwegian Helsinki Committee and six CSOs in the South Caucasus. The Monitor is also a member of the National Platform of NGOs of the Eastern Partnership programme of the European Union.

**Human Rights Club (HRC)** was founded on Human Rights Day (10 December) in 2010 by a group of young Azerbaijani human rights defenders. The main aim of the HRC is to promote protection of and respect for human rights and fundamental freedoms, and broader democratic development in Azerbaijan. The HRC monitors human rights developments in the country, conducts investigations into reports of violations, campaigns on cases of concern, and engages in advocacy on the national, regional, and international level. The HRC’s main target groups are youth, human rights defenders, journalists, bloggers, and civic and political activists, as well as other individuals whose rights are infringed. The HRC is delivering existing problems in the field of human rights to the local and international community via various campaigns. Sing for Democracy, Online Expression Initiative, Art for Democracy, the Working Group on Unified List of Political Prisoners are among of these activities.

**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.

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## Introduction

Since the previous EU-Azerbaijan human rights dialogue in October 2017, the political context and human rights situation have not improved in the country. The authorities continue to rule based on a system of patronage and oppression, unfair elections, and a high level of corruption which mean that Azerbaijan is moving towards a consolidated autocracy. The crackdown on civil society and free speech continues. In a positive and unexpected development on 13 August 2018 the prison sentence on Ilgar Mammadov, political prisoner and leader of the REAL political movement was changed to a suspended one, after he had spent 5 years in prison. In two separate rulings European Court of Human Rights (ECtHR) found his imprisonment illegal and politically motivated. Mammadov remains banned from travelling abroad until 13 August 2020 and his charges still stand. However, outstanding issues remain concerning pervasive violations of the fundamental freedoms of association, expression and assembly and the authorities' persecution of critics or perceived critics continues unabated.

## Freedom of association

A series of amendments to national legislation adopted since 2009 has seriously restricted the right to freedom of association in Azerbaijan and made it extremely difficult for independent NGOs to operate in the country. The authorities have targeted independent NGOs with criminal investigations, raids of their offices, freezing of their accounts and persecution of their leaders. As a result, the country's once vibrant civil society has been diminished significantly.

In its December 2014 Opinion on the amendments to NGO legislation in Azerbaijan,<sup>1</sup> the Venice Commission concluded that “the cumulative effect of those stringent requirements, in addition to the wide discretion given to the executive authorities regarding the registration, operation and funding of NGOs, is likely to have a chilling effect on the civil society, especially on those associations that are devoted to key issues such as human rights, democracy and the rule of law.”

Following amendments adopted in 2014 national legislation now provides for a cumbersome registration procedure for NGOs that allows for wide government discretion; far-reaching restrictions for NGOs on concluding grant agreements and accessing foreign funding; extensive state control NGO activities and excessive reporting obligations; harsh penalties for violations of legal requirements applicable to NGOs; and broad grounds for suspending and closing down NGOs.

In the concluding observations adopted after its November 2016 review of Azerbaijan's compliance with the International Covenant on Civil and Political Rights (ICCPR), the UN Human Rights Committee denounced the crackdown on NGOs, including highly restrictive legislation and practices that prevent them from “operating freely and without fear of retribution for their legitimate activities”.<sup>2</sup>

In the outcome report on his visit to Azerbaijan in September 2016, the UN Special Rapporteur on the situation of human rights defenders said that he was “struck to observe the drastic impediments to the right to freedom of association caused by the legislative amendments to laws regulating civil society operations”. He stated that the “already challenging environment for NGOs has turned into a total crisis”.<sup>3</sup>

The adoption and implementation of restrictive legislation and policies, combined with the stigmatizing

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1 Venice Commission Opinion 787/2014

2 Human Rights Committee, Concluding observations on the fourth periodic report of Azerbaijan (CCPR/C/AZE/CO/4), November 2016.

3 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.

language used by government officials have also fueled negative and hostile public attitudes toward NGOs, especially those working on human rights, democracy, elections etc.,. In a trend similar to that seen in other countries of the region, human rights NGOs and their leaders have been accused of promoting the interests of foreign donors, advocating “non-traditional” values, threatening national security and the like.

## **ESTABLISHMENT AND REGISTRATION OF NGOS**

The process of NGO registration is lengthy and complicated and allows for wide government discretion with respect to approving or denying applications. Numerous NGOs dealing with human rights and democracy issues have been unable to obtain registration of their organizations. These include Human Rights Club, whose appeal on refusal of registration is currently under consideration at the European Court of Human Rights and the Election Monitoring and Democracy Studies Centre, chaired by Anar Mamadli which the Ministry of Justice refused to register several times. Support to Public Initiatives led by Gubad İbadoghlu, the Institute of Democratic Initiatives led by Akif Gurbanov, the Institute of Economic Analysis led by Mahammad Talibli, and the Society for Democratic Reforms chaired by Oktay Gulaliyev. Although the Public Association for Assistance to Free Economy chaired by Zohrab Ismayil was already registered in the past, the organization is currently unable to renew its registration with the Ministry of Justice as registered NGOs are obliged to do every two years as the Ministry is refusing re-registration to most NGOs. At the same time, as a result of legislative amendments adopted in recent years, in particular with respect to obtaining funding (see more below), it is now almost impossible for unregistered NGOs to operate in the country.

Without state registration NGOs are effectively prevented from operating due to the fact that they cannot open a bank account or receive (foreign) funding. For registered organizations, any changes to the founding documents or administrative details (change of address or phone number) have to be registered with the Ministry of Justice and an extract of the registration certificate obtained in order that the NGO can continue to work. Failure to comply with this requirement could potentially result in administrative liability.

Although the registration of NGOs was problematic even before 2014, at that time most international organizations were present in the country and were able to receive grants, but following the country wide crackdown in 2014-2015 this changed. Many international NGOs were forced to close down their offices in Azerbaijan due to the fact that many were not able to comply with the cumbersome state registration requirements for branches of foreign organizations. Branches of international organizations are required to sign an agreement of a limited duration with the government which includes provisions that international organizations will comply with the vaguely defined criteria to “respect the national and moral values of the Azerbaijani nation”.<sup>4</sup> Failure to comply with this requirement may result in financial penalties.

The European Court of Human Rights (ECtHR) has issued several rulings against Azerbaijan in cases involving the arbitrary denial of registration to NGOs. In 2017 the court began its communication with the

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4 See comments by the Venice Commissions [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL\(2011\)090-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL(2011)090-e)

According to Article 3.2 of the Rules on negotiations for and signing of agreement for registering representation of foreign non-governmental organization in the Republic of Azerbaijan, indicated by the decision of the Cabinet of Ministers of the Republic of Azerbaijan on 16 March 2011, during the negotiation process foreign organization should agree to accept numerous conditions, and one of these conditions is to respect national and moral values of the Azerbaijani nation (Article 3.2.2). Since such negotiations as a rule is responsibility of the Ministry of Justice they require foreign NGOs to comply with this condition

Azerbaijani government on complaints filed by the representatives of nine NGOs regarding the refusal to register the organizations on various pretexts.<sup>5</sup> The organizations, which work on issues related to human rights, legal education, media development and the provision of social and cultural support, argue that their rights as protected by article 6 (the right to a fair trial) and article 11 (freedom of association) of the European Convention on Human Rights were violated. Most of the NGOs are represented by the well-known Azerbaijani human rights lawyer Intigam Aliyev. In connection with Aliyev's arrest in August 2014, law enforcement officials searched his office and confiscated documents related to this complaint to the ECtHR, although these documents were unrelated to the charges initiated against him. Therefore the organizations also allege a violation of article 34 of the convention, which safeguards the right of individuals to file complaints with the court and obliges state parties not to hinder in any way the effective exercise of this right.<sup>6</sup> Aliyev was sentenced to seven and a half years in prison in April 2015 on politically-motivated charges of tax avoidance, illegal entrepreneurship and abuse of power; in March 2016, he was released on appeal on a suspended sentence. He remains subject to a travel ban. On 20 September 2018 ECtHR in its judgment on the case *Aliyev vs. Azerbaijan* found that arrest of Intigam Aliyev was politically motivated, and aimed at silencing and punishing him for his human rights work.<sup>7</sup>

## ACCESS TO FUNDING

In recent years, various legislative changes have seriously damaged NGO financial independence and sustainability. Amendments to the Law of the Republic of Azerbaijan "On Grants" dated 17 October 2014 reduced the number of grant-making organizations operating in the country. The amendments specified that foreign legal entities may only act as donors after obtaining approval to give grants<sup>8</sup> in Azerbaijan from the relevant executive authority which decides on the financial-economic expediency of the grant in question

Access to funding for NGOs has been severely curtailed as a result of these legislative amendments. Both donor organizations and recipients are required to obtain approval from the authorities before activities can be implemented. There is a complicated three-step procedure for a grant to be made accessible: (a) the donor organization must obtain permission to provide grants; (b) registered NGOs must register a grant agreement; and (c) NGOs must register each service agreement signed with any foreign organization, company or individual before it is implemented. Non-compliance with these requirements could result in the suspension of NGO activities and administrative or financial penalties. Bank or other financial operations relating to these grants cannot be carried out unless the registration requirements have been complied with in full.

On 11 January 2017, the Cabinet of Ministers adopted amendments to the rules on registration of foreign grants, for the stated purpose of simplifying procedures of registering and obtaining permission to use grants. These new regulations, which do not have the force of law, allow both donors and grant recipients to request permission for donors to issue grants and shorten the periods for the consideration of requests to register grants. However, the amendments did not address abolish most of the problematic requirements in place, including the requirement for NGOs to register grants in the first place, and the government still retains broad powers to approve or deny the registration of grants. To-date there is no available data on how many organizations have managed to use this simplified procedure.

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5 The two stage communication took place in 2017, but there is not ECtHR decision yet on the case. In the beginning of September 2018 the ECtHR has started communication on cases of freezing bank accounts of NGOs and human rights defenders;

6 See Application no 11612/10: Elchin Mammad oglu MAMMAD against Azerbaijan and 8 other applications, communicated in January 2017, [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-171421%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-171421%22]})

7 CASE OF ALIYEV v. AZERBAIJAN (Applications nos. 68762/14 and 71200/14)

8 See Law on Grants, article 2.5

## GOVERNMENT CONTROL AND OVERSIGHT

National law grants wide powers to the authorities to oversee and inspect the activities of NGOs, but does not provide adequate safeguards against abuse. NGOs are subject to excessive reporting requirements: they are required to provide quarterly reports to the Tax Agency, the Social Protection Fund and the State Statistical Committee, as well as annual reports to the Tax Agency, the Social Protection Fund and the Ministry of Finance. This creates an additional administrative burden on NGOs and many of them experience difficulties in meeting these reporting obligations.

NGOs that fail to comply with reporting requirements or other requirements risk penalties, including substantial fines or the suspension or closure of their activities.

## PERSECUTION OF NGOS

In Azerbaijan, there are no specific policies or mechanisms in place to protect representatives of civil society organizations and human rights defenders from online or offline threats and harassment. Organizations working on human rights, election monitoring, democracy or rule of law are considered to be doing “political work” and are often stigmatized with the label of “fifth column” by government officials, leading to the de-legitimization of critical views and voices. Senior government officials have described NGOs as paid political activists who are trying to help foreign interests.<sup>9</sup>

In their recent conclusions regarding the situation in Azerbaijan, the UN Human Rights Committee and the UN Special Rapporteur on human rights defenders raised particular alarm about the pattern of persecution of individual NGOs and their representatives. The UN Special Rapporteur urged the Government of Azerbaijan to “stop criminalization of peaceful and legitimate activities by human rights defenders, release all detained defenders and rescind criminal and administrative sanctions against them and their families.”<sup>10</sup>

Despite expectations, the presidential pardon issued in May 2018 on the eve of the 100<sup>th</sup> Anniversary of the Independence of Azerbaijan, did not extend to any of the political prisoners listed in the European Parliament’s (EP) Committee on Foreign Affairs report of May 2018<sup>11</sup>; and in fact other persons were detained on administrative charges for peacefully exercising their constitutional rights, including members of opposition parties and human rights lawyer Emin Aslan. He was released from detention in July 2018 but his right to travel remains restricted, on somewhat unclear grounds.

## RECOMMENDATIONS

The authorities of Azerbaijan should be requested to:

- Bring legislation and regulations affecting NGOs into compliance with international human rights standards, including by simplifying the legal framework for NGO and grant registration, as well as the current, onerous NGO reporting requirements; abolishing the harsh penalties for violations of various requirements relating to NGO operation and activities; and allowing both domestic and foreign NGOs to operate without compulsory government registration, if they so wish.

9 For example <https://www.azernews.az/nation/114672.html> and <https://en.president.az/articles/25414>

10 <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20554>

11 European Parliament recommendation of 4 July 2018 to the Council, the Commission and the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy on the negotiations on the EU-Azerbaijan Comprehensive Agreement (2017/2056(INI)), the final report was adopted by the EP plenary in July 2018

- Ensure that the legal and administrative framework is conducive to allowing HRDs to carry out their work unhindered
- Promptly implement the outstanding recommendations and decisions of international and regional human rights mechanisms and courts;
- Refrain from criminalizing and defaming the peaceful and legitimate activities of independent civil society organizations or individuals;
- Drop criminal charges against NGO leaders and employees, rescind travel bans and unblock their bank accounts, in line with the resolutions and recommendations of international and regional mechanisms;
- Implement the recommendations made by the Venice Commission in its opinion from 2014, as well as the recommendations pertaining to freedom of association made by the UN Human Rights Committee and the UN Special Rapporteur on human rights defenders in their recent findings on the situation in Azerbaijan;
- Involve the Council of Europe Parliamentary Assembly, the Venice Commission and OSCE/ODIHR in the process of improving laws governing freedom of association and the current practice in Azerbaijan. For this purpose, the Secretary General of the Council of Europe and PACE, as well as the relevant structures of the OSCE Parliamentary Assembly must encourage the Azerbaijani government to cooperate with the Venice Commission and OSCE/ODIHR and conduct an examination of the NGO Legislation by international experts;
- Fully cooperate with the ECtHR on the consideration of cases involving allegations of violations of the right to freedom of association and execute the decisions handed down.

**The international community, the European Union, the Council of Europe, the United Nations, and OSCE should:**

- a. Continue monitoring the situation of human rights defenders in Azerbaijan and intensify their efforts to empower and support them, including through political, legal and financial assistance;
- b. Engage with the government to encourage meaningful and regular dialogue between the authorities and civil society, in order to ensure that institution-building, development and other programmes are participatory and human rights compliant;
- c. Advocate for and support the government of Azerbaijan in formulating a concrete action plan to implement the outstanding decisions and recommendations made by international and regional organizations and mechanisms, in consultation with civil society.

## Freedom of peaceful assembly

Azerbaijan's Law on Assemblies requires the organizers of protests to notify the relevant authorities at least five days in advance. In practice, this requirement is interpreted by the authorities as meaning that advance permission is needed. By law, assemblies may be banned in the vicinity of government buildings, transportation routes, prisons and military facilities. Assemblies considered to be of a "political" nature may be banned in connection with election days or events of state importance and any assemblies may be prohibited during states of emergency. The law also states that authorities may impose other restrictions on the venue, place and time of assemblies, in accordance with the requirements for permissible limitations on the right to freedom of peaceful assembly set out by international law. Moreover, the authorities may designate a list of special venues for holding assemblies, from which the organizers are expected to choose.

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 to which those found guilty of violations may be sentenced.<sup>12</sup> Organizing or participating in assemblies in violation of the law may also be punished by up to two years in prison under the Criminal Code.<sup>13</sup>

Police frequently use excessive force to disperse and suppress peaceful and detain and prosecute participants for their involvement in protests held without prior agreement with authorities. In some cases, journalists covering peaceful protests have been briefly detained and warned.

In December 2016, the ECtHR began its communication on another case involving a civil society activist, Ilkin Rustamzade, who was targeted in apparent retaliation for exercising his right to freedom of peaceful assembly.<sup>14</sup> Rustamzade was detained and placed in pre-trial custody in May 2013 on charges of "hooliganism" after he was accused of recording and posting a video of a Harlem shake flash mob, in which he has denied participating. Later additional charges were initiated against him and in 2014, he was sentenced to eight years in prison, following a trial that human rights defenders consider politically motivated and aimed at punishing him for his efforts to mobilize peaceful rallies against violence and suspicious deaths in the army.<sup>15</sup> In his application to the ECtHR, Rustamzade argues that his right to liberty and security was violated when he was arrested without any evidence that he had committed a criminal offence.

After reviewing the situation in Azerbaijan in November 2016, the UN Human Rights Committee expressed concern about the frequent use of excessive force, detention and administrative and criminal penalties against persons participating in peaceful protests, including protests of the NIDA Youth Movement, the protest organized by the opposition Popular Front Party on 17 September 2016 and other demonstrations ahead of the constitutional referendum of 26 September 2016.<sup>16</sup>

### RECENT CASES INCLUDE

On 6 to 7 March 2018 up to 20 department heads of the Musavat party were summoned to the police

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12 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>

13 Article 169.1 of the Criminal Code

14 Application no 38239/16: Ilkin Bakir oglu RUSTAMZADE against Azerbaijan lodged on 20 June 2016, <http://hudoc.echr.coe.int/eng?i=001-170235>

15 See more information about his case at: <http://iphronline.org/azerbaijan-freeilkin-campaign.html>

16 CCPR/C/AZE/CO/4 CCPR/C/AZE/CO/4



station and were warned against participating in the activities organized by the National Council and Musavat.

On 10 March 2018 Popular Front Party (APFP) members were arrested before a rally held on 10 March planned by APFP, the Musavat Party and the NIDA Civic Movement. **Agil Maharramli**, a member of the Presidium of APFP, **Tahir Aghayev**, member of Khatai branch, **Yalchin Abdullayev**, deputy chairman of Binagadi branch, **Hikmat Aliyev**, member of the branch, were sentenced to 15 days' administrative detention and **Faig Naghiyev**, deputy chairman of Khatai district, **Bashir Tarverdiyev**, member of Binagadi branch, to 20 days' administrative detention. More than 50 members of Musavat party were summoned to police departments on the eve the rally, and police officers pressured them not to participate in the rally. Nearly 20 members of NIDA movement were summoned to police stations or were warned not to attend the rally by a police officer in the field.

On 28 May 2018 the REAL Party held a peaceful march on the 100th anniversary of the Azerbaijan Democratic Republic. However, police arrested party activists taking part in the march for "disobeying the police". Azer Gasimli, a board member of REAL, was sentenced to 30 days in administrative detention on 29 May. On the same day, another member of the party, Elmin Hamza, was also sentenced to imprisonment for 25 days on charges of resisting the police. At the same time, another member of the party Arastun Bakhshaliyev was sentenced to 30 days' administrative detention. On 30 May another member of the party, Nariman Mujahid, was also found guilty of disobeying police orders and was sentenced to 30 days' administrative detention. Party member Anar Mammadov was sentenced to 10 days' administrative detention on 7 June. The real reason for the arrests of the party activists is believed to be their active participation in the 28 May rally.

## RECOMMENDATIONS

The authorities of Azerbaijan should be requested to:

- Respect the right to freedom of peaceful assembly and refrain from restricting this right in ways that are not compatible with its obligations under international law, including the European Convention on Human Rights;
- Fully cooperate with the ECtHR on the consideration of cases involving allegations of violations of the right to freedom of peaceful assembly and execute the decisions handed down;
- Refrain from imposing restrictions on peaceful assemblies and ensure that any necessary restrictions do not violate the right to peaceful assembly, are prescribed by law, are proportionate and necessary in a democratic society, and still allow demonstrations to take place within eye-sight and sound of their object and target audience;
- Ensure honest, meaningful and regular consultation between the authorities and civil society on strategic cooperation on the field;
- Implement the recommendations of the UN Human Rights Committee and the UN Special Rapporteur on human rights defenders relating to peaceful assembly. In particular, they should promptly and effectively investigate all cases of excessive use of force, arbitrary arrest and detention of peaceful protesters, including in connection with the rallies held prior to the constitutional referendum in September 2016 and the anti-corruption rally held in September 2017 and bring the perpetrators to justice; they should also cease the practice of preventive detention.

# Freedom of expression and the media

## REPRESSIVE MEDIA CLIMATE

The climate for media and free speech in Azerbaijan is extremely repressive. This is illustrated by the fact that Azerbaijan was ranked 163rd among 180 countries in the 2018 World Press Freedom Index published by Reporters without Borders.<sup>17</sup>

There is no editorial independence of state-owned media in Azerbaijan, and self-censorship is widespread amongst private media, especially on issues related to the president and his family members. Offending the honour and dignity of the president, including on the internet is a criminal offense and penalties for this offense were recently increased, in particular if committed online.

In March 2017, Azerbaijani parliament adopted legislative amendments to the law on Information, Informatization and Protection of Information. These amendments grant discretionary powers to government institutions, including the Ministry of Communication, High Technologies and Transportation, the Azerbaijan Press Council, the Prosecutor's Office and others to block websites if prohibited information which poses a danger to the state or society is detected. On paper, the website owners must remove such content within 8 hours of official notification. However, in practice, many of the websites that are blocked claim that no such requests or notices have been made.

Here, the Azerbaijani authorities rely on legislative amendments passed in 2017 to the "Law on Information, Informatization and Protection of Information". According to these amendments, if a website contains prohibited information that poses danger to state or society ("special circumstances"), the relevant authority can block the website without a court order within eight hours of notifying the manager and editor of a website. The lack of necessity for a court order (although in regular circumstances it must be obtained) has allowed the authorities to block some of the most prominent news outlets in Azerbaijan.

Since May 2017, over 20 websites have been blocked in Azerbaijan, including Azadliq Radio (Radio Free Europe/Radio Liberty Azerbaijan Service) and its international service, Radio Free Europe Radio Liberty, Azadliq Newspaper (independent of the Azadliq radio), Meydan TV, Turan TV and Azerbaijan Saadi (Azerbaijan Hour), OCCRP (Organized Crime and Corruption Reporting Unit), abzas.net, obyektiv.tv and others.

Media outlets Radio Azadliq (Radio Free Europe/Radio Liberty Azerbaijani service<sup>18</sup>), Meydan TV, and Azerbaijan SAATI, remained blocked following a claim by the prosecutor's office in March 2017 that they posed a threat to national security.<sup>19</sup> Since the introduction of the legal amendments, the number of blocked websites has risen to over a dozen. The Ministry of Transport, Communication, and High Technologies has so far failed to provide accurate lists of websites blocked in relation to violations of Articles 13.3.6 of the Law on Information, Informatization and Access to Information. In the absence of this publicly available list, host and internet service providers cannot inform or officially warn the owners of the resource that their website/online platform will no longer be available to the public.

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17 <https://rsf.org/en/ranking>

18 IRFS, "Government Blocks Access to Azadliq.info and Azadliq.org Websites in Azerbaijan", 27 March 2017, <https://www.irfs.org/news-feed/government-blocks-access-to-azadliq-info-and-azadliq-org-websites-in-azerbaijan/>

19 RFE/RL, "Azerbaijani Court Orders Block On RFE/RL Website", 12 May 2017, <https://www.rferl.org/a/azerbaijan-rferl-service-website-court-orders-blocked/28482679.html>

## INDEPENDENT JOURNALISTS CONTINUE TO BE TARGETED

On 3 August, 2018 - Elkhan Shukurlu, founder and editor of a news website [strategq.az](http://strategq.az) was questioned at the prosecutor's office, according to Azadliq Radio, Azerbaijan Service for Radio Free Europe. Shukurlu said he was questioned about a story the website ran in 2017 that relied on an external information source. Shukurlu did not disclose any further details not to violate the rules of the investigation. In 2015, Shukurlu was among a number of news site editors who received official warnings from the authorities after running a story about a reshuffle at the Ministry of National Services. Shukurlu was among journalists who declined a government offer of free housing in 2017.

On 27 July 2018 - Ismayil Islamoglu, employee of the online television channel, Kanal 13, was reported by Voice of America Azerbaijan Service to have been taken from his home by two plain clothed officers. Islamoglu's relatives told Voice of America that he was taken to the Main Police Office Department. Islamoglu was warned that his social media posts that were critical of the music festival "Jara" which is organized by the former son-in-law of the President Ilham Aliyev, Araz Agalarov. Islamoglu criticized the authorities for allowing Agalarov to invite a singer of Armenian dissent and let her perform at the festival.

Azadliq Radio, the Azerbaijan Service for Radio Free Europe reported that on 14 July 2018 - Journalists Konul Ali and Rufat Bakhishbayli were questioned at the Baku City Prosecutor office as witnesses. Ali and Bakhishbayli both work for [bastainfo.com](http://bastainfo.com), a news website affiliated with opposition party Musavat. In addition, the Deputy Chairman of Musavat party Youth Branch was also questioned as a witness. All three were questioned about the work at [bastainfo.com](http://bastainfo.com), which has been blocked in Azerbaijan since 10 July 2018 while under investigation in relation to Article 313 of the Criminal Code (intentionally spreading false coverage). In a statement issued by the party, it demands that the authorities cease pressure against party members and its news website.

Additionally, on 1 August 2018 the Azerbaijan Press Agency (APA) Holding<sup>20</sup>, a company that owns Azerbaijan Press Agency website as well as a number of other news sites, stopped the work of its online platforms. The director of APA Holding Vusale Mahirgizi stated that the company took the decision to suspend the work of its news sites after encountering problems. Mahirgizi said in a Facebook post that the company was looking into these issues and will clarify the situation once there was more information. However, there are reports that APA Holding affiliated websites were shut down after they misquoted a statement from President Ilham Aliyev. On 1 August while President Aliyev was overseeing the delivery of housing and cars to "disabled veterans of the Chernobyl accident, the Nagorno-Karabakh war, and family members of the soldiers killed in the war in Baku's Garadagh District" he said, "if the Armenian authorities continue the occupation [of Nagorno-Karabakh], we will continue our policy of isolation [of Armenia] and bring Armenia to its knees". However, according to the official transcript published on the President's website the head of state said "If Armenia continues to stall the negotiations, Azerbaijan will continue its isolation policy and further weaken Armenia."

Azerbaijan Service for Radio Free Europe Radio Liberty reported that on 7 August, 2018 – a court in Baku blocked access to an online news site [az24saat.org](http://az24saat.org) reported. According to the website's director Vugar Gurdganli, the publication received an email from the Electronic Security Service at the Ministry of Transport, Communication and High Technologies to remove four articles that mentioned President Ilham Aliyev's aid Ali Hasanov. Gurdganli said he was given eight hours to remove the content. However the website mentioned in the official order from the Electronic Security Service was [az24saat.org.az](http://az24saat.org.az) – whereas Gurdganli's website operates under the domain name [az24saat.org](http://az24saat.org). Previously [az24saat.org](http://az24saat.org).

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20 APA was established in 2004 and offers coverage of both international and domestic developments. It is one of primary sources of news for most TV, radio stations, newspapers and other news outlets.

org operated under 24saat.org however it was blocked in the country in May 2017 along a number of other websites and independent news sites critical of the government. The website moved its services to az24saat.org and continued its work until it was blocked following a court order on 7 August 2018.

According to Radio Free Europe Radio Liberty, on 19 September 2018 – Azer Kazimzade, blogger and administrator of Dusun TV page on Facebook was threatened by three men who came to his apartment in Tbilisi after following him home. Kazimzade left Azerbaijan in 2017, relocating to the capital of Georgia, Tbilisi. Speaking to the Azerbaijan RFE service, Kazimzade said one of the men introduced himself as a police officer. After Kazimzade called the Georgian police, the three men left. Kazimzade was questioned at the police station the same day before being sent home. The police in Georgia opened an investigation into the incident. Human rights organizations in Tbilisi provide legal service to Kazimzade, and the office of the Georgian Public Defender is also following the case.

On 29 May 2017 investigative journalist Afgan Mukhtarli was abducted in Tbilisi, the capital of Georgia, and reappeared in the custody of Azerbaijani border police the following day. He said he had been abducted and trafficked across the border by unknown people, who accused him of a range of offences including smuggling. He was sentenced to 6 years prison term in January 2018.<sup>21</sup> The Georgian authorities opened an investigation however to-date no effective results of this investigation are known. Mukhtarli had prominently reported on corruption allegations involving Azerbaijan's ruling family. (See case Annex for more details)

On 9 January 2017, police officers detained and held blogger Mehman Huseynov overnight in incommunicado detention. He reported that he was beaten by the police and subjected to electric shocks while in custody. On 3 March 2017, a court in Baku sentenced him to two years in prison for "defaming" police officers. In July 2018 Mehman Huseynov was refused permission to visit his terminally-ill mother at the intensive care unit of the hospital. Following a public outcry and campaign Huseynov was allowed to leave prison to attend his mother's funeral. On 24 August 2018 Huseynov's lawyer appealed for his early release as he had served more than half of his sentence. However, in September 2018 the Garadagh district court did not satisfy the appeal.

## RESTRICTIONS ON INTERNET FREEDOM

According to Freedom House 2018 Azerbaijan Internet Freedom Report Azerbaijan is partly free when it comes to overall internet freedom in the country.<sup>22</sup> The opposition does not have access to television broadcasting rights (which remains a key source of news access amongst the wider population); civil society has been silenced; independent media is blocked as is opposition media; while critical voices have been either arrested or forced out of the country.

In a country where there are no other avenues left, the only remaining place to influence public opinion is through online social platforms. However, the authorities are already using various methods against online dissidence to close down this remaining free space. In late 2017 and early 2018 scores of Azerbaijani citizens have been questioned for posting critical commentary on Facebook, or simply liking a social media status, or clicking "attend" for political rallies. There are currently at least three bloggers who are serving a prison term - **Mehman Huseynov; Rashad Ramazanov, Ilkin Rustamzada.** Journalists and news media editors are often "invited" for questioning at the prosecutor's office where they are asked about critical comments they made on Facebook, and told to remove comments or not post comments at all. In more severe cases, the families of online activists are subject to harassment from the authorities.

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21 <http://iphronline.org/high-price-speaking-azerbaijani-journalist-sentenced-six-years-prison-trumped-charges.html>

22 <https://freedomhouse.org/report/freedom-world/2018/azerbaijan>

Other cases of state pressure upon bloggers include: in January 2018 the family of blogger and founder of a Facebook page “Made in Azerbaijan” Mahammad Mirzali experienced pressure from the authorities. His father was briefly detained and then released in exchange for his brother-in-law. The family denounced Mirzali but the blogger refuses to stop his work.

On 29 January 2018 Meydan 2018 TV’s Facebook Page, an independent media outlet based in Berlin, was hacked at around 10.00 am Baku time. Two days before this two Meydan TV’s reporters’ Facebook profiles had also been hacked. As a result of this hack all post were deleted and some 100.000 followers removed. Other incidents of hacking which took place in January 2018, include against the 2013 presidential candidate Cemil Hasanli, head of the Popular Front party Ali Karimli, Deputy Chairman of Musavat party Tofiq Yagublu and political activist Namizad Safarov. Periodically the profiles of well known individuals such as journalist Khadija Ismayil or scholar Altay Goyushov are subject to trolling. Analysis indicates that some of the profiles are bots while others are managed or registered under real people.

On 19 December 2017, during a court hearing of the case filed by the blocked websites against the Ministry of Communication, High Technologies and Transportation, a representative from the ministry claimed that the websites were blocked on orders from the Chief Prosecutor’s office.

Addressing the courtroom, Bakhtiyar Mammadov, who testified on behalf of the ministry said Meydan TV, Radio Azatliq (RFE/RL’s Azerbaijani service), Azadliq newspaper (unrelated to Azadliq Radio), Turan TV, and Azerbaijan Hour were the first on the list of websites to be blocked following legal amendments. “We received a letter from the prosecutor’s office telling us to take immediate measures against these websites,” said Mammadov. The Baku Court of Appeal subsequently ruled against unblocking the online news outlets.

Additionally, the Azerbaijani authorities have also launched criminal investigations against several opposition media platforms as well as social media users following an assassination attempt against a mayor in the city of Ganja that coincided with mass power outage across the country as a result of an incident on the country’s main thermal power plant on 3 July 2018. Some 14 people were arrested for their posts on social media platforms. The authorities “accused the authors of the posts of “supporting terrorism” and “disrupting socio-political stability” in Azerbaijan, among other offenses”.

## **RECOMMENDATIONS**

The Azerbaijani authorities should be requested to:

- Cease persecution of independent media outlets, including by closing politically motivated criminal investigations targeting them, stopping blocking their websites and enabling them to resume operation in the country.
- Put an end to digital attacks and the use of surveillance technology on opposition and independent websites and online newspapers;
- Put an end to the ongoing pattern of arrest, prosecution and imprisonment of journalists, bloggers, human rights defenders, civil society activists and dissident voices on politically motivated grounds. Release all of those who are currently behind bars in retaliation for their legitimate exercise of freedom of expression and other fundamental rights.
- Carry out prompt, thorough and impartial investigations into any allegations of torture and ill-treatment of individuals held in detention and bring those responsible to justice.

- Lift all arbitrary travel bans imposed on journalists, human rights defenders and activists.
- Ensure that relatives of exiled journalists, human rights defenders and activists are not subjected to intimidation and harassment.
- Take concrete and effective measures to implement the recommendations relating to freedom of expression issued by the Human Rights Committee, the Special Rapporteur on the situation of human rights defenders and other international bodies.

## Crackdown on the legal profession

Amendments introduced to the Code of Civil and Administrative Procedure and the Bar Act in late 2017 prohibit practicing lawyers, who are not members of the Bar Association from appearing in the court. The “Group of Practicing Lawyers” launched a campaign against this law in 2017 and argues that three types of legal representation should be possible in Azerbaijan: bar lawyers, non-bar lawyers, and practitioners. The law as approved and in force prevents the few lawyers working on political and religious cases from participating in court proceedings or legal representation of any kind.<sup>23</sup>

The Azerbaijan Bar Association, which is closely tied to and influenced by the government, has limited the bar to only 934 lawyers, most of whom refuse to act in politically sensitive cases.. The Bar Association is notorious for disbarring members who have acted in political cases, or bringing disciplinary measures for alleged violations of “rules of ethics” against them. The following lawyers have been disbarred: Khalid Bagirov, Elchin Namazov, Farhad Mehdiyev, Aslan Ismayilov, Muzaffar Bakhishov and Alaif Hasanov, Yalchin Imanov, Elchin Sadigov (who is not yet disbarred, although the Bar Association Disciplinary Committee is currently considering his case after the General Prosecutor’s Office submitted a complaint about him two weeks ago<sup>24</sup>), Asabali Mustafayev and Nemet Karimli<sup>25</sup>. Nemat Karimli represented Afgan Mukhtarli – who was kidnapped in Georgia and brought across the border to Azerbaijan where he was found guilty of smuggling 10,000 EUR, illegally crossing the Georgia-Azerbaijan border and resisting police. (See case description in Annex for further information).

23 <http://iphronline.org/azerbaijan-legislative-amendments-raise-alarm.html>

24 For more information please the link: <https://bit.ly/2O9sEzj>

25 <http://iphronline.org/justice-under-threat-in-azerbaijan-as-bar-association-bans-yet-more-independent-lawyers.html>

# Annex

## Individual Cases

**Afgan Mukhtarli** is an Azerbaijani journalist and political dissident who wrote about social and political issues including corruption and the crackdown on human rights organizations for local and international media outlets. Following years of harassment against him and his family, Mukhtarli and his wife Leyla Mustafayeva, also a journalist, left Azerbaijan and fled to Georgia in January 2015, where he continued to write about events in Azerbaijan. On 29 May 2017, Afgan Mukhtarli was abducted in Tbilisi, on his way home from a café, and was handed over to the Azerbaijani authorities near the Georgia-Azerbaijan border with EUR 10,000 worth of cash allegedly planted in his pocket. Shortly before his abduction, he wrote an article for Meydan TV about the abductions and kidnappings of government critics. He was also in the process of writing an article about the financial investments of the family of President Aliyev. After his abduction, he was held in pre-trial detention until 12 January 2018 when a regional court sentenced him to six years in prison on charges of illegal border crossing, smuggling and violently resisting a law enforcement official. Lawyer Nemat Karimli jointly with lawyer Elchin Sadigov took his case on illegal arrest, torture, ill-treatment, violations of the rights to liberty, freedom of expression through the national court instances and sent the case to the European Court for Human Rights on articles 3, 5, 6, 7, 10, 14.

On 9 January 2017, a group of plainclothes officers attacked well-known blogger and journalist **Mehman Huseynov**, blindfolded and gagged him with towels, forced a bag over his head and took him to the Nasimi district police station, where police administered electroshocks to his groin, and punched him. The next day, police officers brought him to court, where he was found guilty of disobeying police orders and fined 200 manat (about 100 EUR). Huseynov went public about the abuses he suffered at the police station and filed a complaint with the prosecutor's office. The authorities formally opened an inquiry into his allegations but swiftly closed it, claiming the allegations were groundless. On 27 April 2017, a court of appeal upheld the prosecutor's decision to close the investigation. While the authorities failed to conduct a credible investigation into Huseynov's torture allegations, he was instead charged with defamation, a criminal offense on the basis of a complaint from the Nasimi police chief. After only two hearings, a Baku court found Huseynov guilty and sentenced him to two years in prison on 3 March 2017. Several appeals were rejected by the courts in Azerbaijan on behalf of Mehman Huseynov<sup>26</sup>, the latest on 24 August 2018 when a regional court in Garadagh ruled against the motion for conditional release of the blogger Mehman Huseynov.

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26 12 April, 2017 - Blogger Mehman Huseynov's appeal was rejected by the Baku court of appeals, independent Azerbaijan service for Radio Free Europe Radio Liberty reported. Huseynov's lawyer Elchin Sadigov said they will file an appeal to the Supreme Court, and described the appeal court's decision as illegal and failing to observe legal norms. UPDATE: 25 June, 2018 - The Azerbaijan Supreme Court upheld the two-year prison sentence handed down to Mehman Huseynov in March 2017, Radio Free Europe / Radio Liberty's Azerbaijan service reported. Huseynov was not present at the hearing. His lawyer said the case would now be taken up with the European Court of Human Rights.

UPDATE: 24 August 2018 - A regional court in Garadag ruled against the motion for conditional release of the blogger Mehman Huseynov, Radio Free Europe/ Radio Liberty's Azerbaijan Service reported.

Speaking to Azadliq Radio, Huseynov's lawyer, Shahla Humbatova said the court made this decision based on the report submitted by the administration of the penitentiary where Huseynov is being held. The report concluded, Huseynov failed to reform during his time in prison.

In May 2016, **Giyas Ibrahimov** and **Bayram Mammadov** from the NIDA Youth Movement were arrested after Mammadov posted a photo on Facebook of a graffiti message they had sprayed on a statue of Heydar Aliyev, the late former president of Azerbaijan and the father of the current president. Both men were arrested on spurious drug charges and sentenced to ten years' imprisonment, in October and December 2016, respectively. They were allegedly tortured repeatedly in police custody. Ibrahimov's lawyer sent a complaint about the torture to the General's Prosecutor's Office in July 2017 but no investigation has been carried out to date. The Ombudsman's Office stated that it would investigate the case but has not taken any action to date. On 24 September 2018 young activist, graffiti prisoner Giyas Ibrahimov serving prison sentence in jail N2 was not allowed to read at night, as his mother Shura Amiraslanova reported.

**Ilkin Rustamzada**, a youth activist, was subjected to pressure by authorities after using Facebook to mobilize participants for several well-attended, peaceful rallies that were held in Baku in early 2013 under the slogan "No more soldier deaths". The purpose of these rallies was to protest against hazing and non-combatant deaths in the army. Ilkin Rustamzada was first sentenced to administrative detention for being involved in protests that had not been sanctioned by authorities. However, there was more to come: in May 2013, he was arrested on criminal charges of organizing mass riots and hooliganism and a year later, he was convicted along with seven other youth activists and sentenced to eight years in prison. While Ilkin Rustamzada's co-defendants have all been released by now, he remains behind bars. Human rights defenders believe that he was imprisoned in retaliation for peacefully exercising his rights to freedom of expression, association and assembly. On 7 July 2018 Ilkin sent a public message through his family about the ill-treatment he is suffering in prison number 13. His hair was forcibly shaved off while his hands were handcuffed behind his back.

On 4 June 2018 the human rights lawyer **Emin Aslan** was detained by plainclothes police officers in Baku. No information was available as to the reasons why he was detained, nor about where he was being held. Emin recently obtained his LL.M degree from the US University of Syracuse and returned to Azerbaijan four days prior to his detention. Two days after his apprehension, the Narimanov District Court sentenced him to 30 days' administrative detention for 'disobeying the police'. Emin Aslan was closely cooperating with the online Meydan TV writing articles for the media outlet, and it is believed that he was detained in retribution for these activities.