



NO HOLDS BARRED: AZERBAIJAN'S HUMAN RIGHTS CRACKDOWN IN ALIYEV'S THIRD TERM

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Acknowledgments and methodology

This report is a publication of the Sport for Rights campaign, a coalition of international organisations working to draw attention to the unprecedented human rights crackdown taking place in Azerbaijan. The campaign was founded in 2014, and initially focussed on the human rights situation surrounding the inaugural European Games, which were held in Azerbaijan in June 2015.

Now, Sport for Rights continues to expose the widespread human rights violations being perpetrated by the Azerbaijani authorities in the aftermath of the European Games, and in the run-up to the 1 November 2015 parliamentary elections. The coalition continues to keep an eye on upcoming sporting events, such as the Formula One race scheduled to take place in Baku in July 2016, and their implications for the human rights situation in the country.

This report was researched, drafted, and edited by local and international experts affiliated with the Sport for Rights campaign. In researching for this report, these experts extensively monitored the local and international media; examined NGO publications; scrutinised transcripts, decisions, reports, and other documents of international bodies; attended relevant meetings and events at international bodies; observed trial proceedings in Baku in cases of political prisoners; and interviewed a range of stakeholders within Azerbaijan and in the international human rights community.

Sport for Rights coalition members sign on to campaign statements, letters, and other publications on a case-by-case basis, so this report does not necessarily reflect the full positions of every organisation involved with the campaign.

For more information on Sport for Rights or the human rights situation in Azerbaijan, please check out our Facebook page <https://www.facebook.com/sport4rights> and our Twitter feed <https://twitter.com/SportForRights>, or contact us at info@sportforrights.org.

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RECOMMENDATIONS

To address the serious problems outlined in this report and improve the human rights situation in Azerbaijan, Sport for Rights has developed a series of recommendations to the Azerbaijani authorities and the international community.

Sport for Rights calls on the **Azerbaijani authorities** to enact the following measures as a matter of urgent priority:

- Immediately and unconditionally release all political prisoners, including journalists Nijat Aliyev, Araz Guliyev, Parviz Hashimli, Seymur Hezi, Khadija Ismayilova, Hilal Mammadov, Rauf Mirkadirov, and Tofiq Yagublu; bloggers Abdul Abilov, Faraj Karimli, Omar Mammadov, Rashad Ramazanov, and Ilkin Rustamzade; human rights defenders Intigam Aliyev, Rasul Jafarov, Taleh Khasmammadov, Anar Mammadli, Arif Yunus, and Leyla Yunus; NIDA civic movement activists Rashadat Akundov, Mammad Azizov, and Rashad Hasanov; opposition activist Yadigar Sadikhov; and opposition REAL movement chairman Ilgar Mammadov, whose release was ordered by the European Court of Human Rights.
- Put a stop to the endless cycle of politically motivated arrests and imprisonment. Cease practices of violence, threats, and intimidation against political prisoners whilst in custody, and ensure they receive adequate medical treatment and have unfettered access to all medicines and special food they may require.
- Drop the criminal investigations into all independent media outlets and NGOs, including the Institute for Reporters' Freedom and Safety (IRFS), Obyektiv TV, Meydan TV, and RFE/RL's Baku Bureau.
- Undertake a full and transparent investigation into the murder of journalist and IRFS Chairman Rasim Aliyev, and prosecute all those responsible, including those who carried out the attack, the masterminds behind the attack, and any medical staff who acted negligently in treating Aliyev. Investigate and prosecute all cases of violence against journalists, including past murders.
- Take seriously all reports of threats against journalists, ensuring that they are provided with adequate protection. Investigate reports of officials involved in such threats, and prosecute those responsible – such as Minister of Youth and Sport Azad Rahimov in connection with the reported threat against Emin Milli.
- Cease practices of pressuring the relatives of journalists, human rights defenders, and political activists.
- Reinstate the Azerbaijani nationality of exiled human rights defender and IRFS Director Emin Huseynov, and cease such practices of retribution against exiled journalists, activists, and dissidents.
- Remove the arbitrary travel bans on journalists and human rights defenders, including photojournalist and blogger Mehman Huseynov, IRFS lawyer Gunay Ismayilova, and the staff of Meydan TV, and cease restrictions on freedom of movement as a form of retribution for government critics.

- Abolish regressive legislation restricting exercise of the right to freedom of assembly, including provisions for excessive fines for organisation or participation in unsanctioned protests, which should be proportional to the average salary.
- Cease the requirement for permission from local authorities to hold demonstrations, adhering instead to provisions in the Constitution requiring advanced notification only. Allow peaceful public gatherings in central Baku and other city centres.
- Prosecute police and other officials who use excessive force to disperse peaceful gatherings, and who interfere with the ability of journalists to cover such gatherings.
- Abolish regressive legislation restricting the ability of independent media and NGOs to operate, specifically amendments made over the past two years to the laws on media, non-governmental organisations, freedom of peaceful assembly, the right to obtain information, registration of legal entities and commercial secrets, as well as criminal defamation provisions. Ensure that national legislation – and the implementation thereof – complies with Azerbaijan’s international obligations.
- Reconsider its decision to close the Organisation for Security and Co-operation in Europe (OSCE) Office in Baku; enter into a new Memorandum of Understanding (MoU) with the OSCE, addressing the shortcomings of the previous one and strengthening the ability of the Project Coordinator’s Office to act.

Sport for Rights calls on the **international community** to undertake the following steps to hold Azerbaijan accountable for its human rights obligations:

- Increase pressure on the Azerbaijani authorities to immediately and unconditionally release all political prisoners and to put a stop to the cycle of politically motivated arrests.
- Implement specific measures to follow up on the large body of existing documentation containing concrete recommendations to the Azerbaijani authorities, such as the September resolution of the European Parliament, and the June resolution of the Parliamentary Assembly of the Council of Europe (PACE) on ‘the functioning of democratic institutions in Azerbaijan’.
- Explore the possibility of imposing sanctions on individual government officials complicit in human rights abuses. Refrain from inviting top government officials to visit European capitals unless clear democratic reforms are implemented, starting with the release of political prisoners.
- Put a stop to business as usual in other areas of bilateral and multilateral relations with Azerbaijan. Introduce clear human rights benchmarks in negotiations on other areas, such as energy cooperation.
- Refrain from visiting Azerbaijan in connection with the parliamentary elections, and avoid making statements that could be construed as endorsing an illegitimate vote. Take action to hold accountable any national politicians or Members of the European Parliament who participate in dubious private monitoring missions intended to legitimise this unfair process.
- To the Council of Europe: suspend the credentials of the new Azerbaijani PACE delegation until political prisoners are released.

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- To the Council of Europe: suspend any leadership positions held by Azerbaijani delegates – including in the PACE Bureau, Standing Committee, and Monitoring Committee – until political prisoners are released.
- To the OSCE: launch the Moscow Mechanism to appoint a team of human rights experts to undertake a mission to Azerbaijan and develop a detailed report with concrete recommendations to address the human rights crisis in the country.
- To the OSCE: take a stronger position with regard to Azerbaijan's refusal to allow an OSCE presence in the country, and hold Azerbaijan accountable for complying with the requests and recommendations of the OSCE Representative on Freedom of the Media.
- To the EU: suspend any negotiations towards a strategic partnership with Azerbaijan until political prisoners are released. Implement all recommendations of the European Parliament's September resolution on Azerbaijan, including exploring possible sanctions against Azerbaijani officials.
- To the UN: ensure a more consistent UN approach to human rights in Azerbaijan, ceasing policies that appear to be double standards. Hold UNESCO accountable for its freedom of expression mandate with regard to Azerbaijan. Hold the Azerbaijani government accountable for cooperating with all UN bodies and experts tasked with examining human rights issues in the country.
- To EITI: unless legislation impeding the work of NGOs is repealed, and key civil society leaders released from prison, EITI should suspend Azerbaijan in line with its mandate, and make clear the criteria for needed reforms before considering reinstating the country.
- To the EBRD: conduct a thorough assessment of the human rights situation and state of democratic reforms in Azerbaijan, and make a statement expressing clear concern about the on-going crackdown in the country.
- To the EIB: ensure greater transparency and accountability (including before the European Parliament) on how, and on the basis of which assessment, it provides loans to countries bound by EU agreements. In the meantime, provide a clear incentive to the Azerbaijani government to undertake concrete and measurable steps towards reform, which would be directly linked to the Bank's level of investment in the country.
- To global oil and energy companies and foreign investors: ensure that human rights are considered at the contracting stage with Azerbaijan, in line with the United Nations Guiding Principles on Business and Human Rights.
- Support the remaining independent media and NGOs in Azerbaijan, as well as the growing network of exiled journalists and human rights defenders who continue to operate from outside of the country.
- Sustain focus on developments in the country in the aftermath of the parliamentary elections and the run-up to next year's Formula One European Grand Prix in Baku. React regularly, and publicly, as the crackdown is likely to continue worsening in the absence of serious international attention.

EXECUTIVE SUMMARY

No holds barred: Azerbaijan's human rights crackdown in Aliyev's third term is a publication of the Sport for Rights campaign. Sport for Rights is a coalition of international organisations working to highlight the human rights situation in Azerbaijan in the context of sporting events such as the Baku 2015 European Games and the upcoming 2016 Baku European Grand Prix.

The report examines the human rights situation in Azerbaijan over a two-year period, starting with President Ilham Aliyev's re-election to a third term in office in October 2013 through an election marred by fraud and irregularities. Now, on the eve of the 1 November 2015 parliamentary elections, the human rights situation in the country is worse than ever before.

In the run-up to the parliamentary elections – and the aftermath of the June 2015 European Games – Azerbaijani authorities are working more aggressively than ever to silence the very few remaining critical voices in the country. There are now dozens of political prisoners, including eight journalists, five bloggers, six human rights defenders, three activists of the NIDA civic movement, an opposition activist, and an opposition leader whose release has been ordered by the European Court of Human Rights. Azerbaijan's independent media remain particularly under attack, and independent civil society is nearly fully paralysed.

At the same time, in Aliyev's third term, Azerbaijan's international relations have seriously deteriorated, particularly in recent months as the ruling regime has reacted harshly to international condemnation of the on-going human rights crackdown in the country. The Aliyev government has shut down the OSCE's in-country presence, and the Azerbaijani parliament has withdrawn from the Euronest Parliamentary Assembly and threatened to impose sanctions on European lawmakers. The 1 November parliamentary elections are set to take place with no observers from the OSCE or the European Parliament, and Azerbaijan's future as a member of the Council of Europe hangs in the balance.

The report contains Sport for Rights' analysis of these issues, as well as a series of recommendations to the Azerbaijani authorities and the international community on urgent measures needed to improve the dire human rights situation in the country. Following the recommendations and an introduction, the report is then divided into two main parts.

Part I of the report looks at Azerbaijan's deteriorating international relations, with chapters dedicated to the following institutions: the Council of Europe; the OSCE; the European Union; the United Nations; and economic bodies, including the Extractive Industries Transparency Initiative, the European Bank for Reconstruction and Development, and the European Investment Bank.

Part II of the report details the situation of fundamental freedoms in Azerbaijan on the eve of the November 2015 parliamentary elections, with chapters on freedom of expression, freedom of assembly, and freedom of association. Sport for Rights' conclusion follows Part II.

INTRODUCTION

On 19 October 2013, Ilham Aliyev was sworn in for his third five-year term as Azerbaijan's president. Ten days before, he had won nearly 85 per cent of the vote in an election that credible international and local observers reported was seriously flawed. Azerbaijani officials, however, dismissed the criticism as "biased" and based on information provided by the opposition. Aliyev has held power since 2003, when he succeeded his father, long-time ruler Heydar Aliyev.

At the time, the transfer of power from Heydar Aliyev to his son raised hopes that the Soviet-style regime would become more moderate. However, 10 years later these hopes have been disappointed. Rather than implement democratic reforms, Ilham Aliyev has instead continued many of his father's practices, including his strategy of authoritarian rule. During the 10 years Ilham Aliyev has been in power, Azerbaijan has consistently backslid from its democratic commitments, a trend which has been sharply exacerbated since his election to a third term in office.

Unlike Aliyev's previous inauguration ceremonies, held at enormous, luxurious venues and marked with abundant festivities, the third inauguration event was organised hastily and held quietly at Azerbaijan's parliament, the Milli Mejlis. Unusually, diplomats and other foreign guests were not invited to the ceremony, which was described by the president's press secretary, Azer Gasimov, as "in keeping" with the leader's preference for modest events.¹

This explanation raised eyebrows among the then-vibrant, active civil society and international community. In 2003, for example, when Aliyev was first sworn into office, the inauguration ceremony was followed by an elaborate dinner at the Gulistan Palace for 500 guests, including foreign dignitaries and diplomats, along with a few senior managers of international oil companies.

This time, however, the international community was not welcome. Many believed the main reason for this snubbing of foreign diplomats was the West's criticism of the election. European leaders did not rush to send their congratulations to Aliyev. A congratulatory note from U.S. President Barack Obama came embarrassingly late, more than a month after the U.S. State Department declared that the "election fell short of international standards".²

The international condemnation of the election was a slap in the face for the third-time president. Someone needed to pay the price. Aliyev could hardly order the arrests of staff from the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), whose 10 October preliminary statement of findings highlighted "serious shortcomings that need to be addressed in order for Azerbaijan to fully meet its OSCE commitments".³ Instead, the Azerbaijani government forced the closure of the OSCE Office in Baku – first by downgrading it to a Project Coordinator, then eventually revoking its mandate altogether.

1 <http://en.apa.az/print/201391>

2 <http://www.state.gov/r/pa/prs/ps/2013/10/215283.htm>

3 <http://www.osce.org/odihr/elections/106901>

As for the other credible non-government organizations such as the Election Monitoring and Democracy Studies Center [that] reported similar shortcomings [as the OSCE/ODIHR],⁴ there were quite a few, most of them internationally recognised. It hardly seemed possible that Aliyev could target them all -- but that, he did.

The Azerbaijani authorities launched an unprecedented crackdown on independent civil society and media in the wake of the October 2013 presidential election. They started by taking legal action against the Election Monitoring and Democracy Studies Centre (EMDSC), Azerbaijan's largest and most experienced domestic election-monitoring organisation, which had dared to tell the truth about that deeply flawed election.⁵

The raid of the EMDSC's Baku office began around 11:00 am on 31 October 2013, and lasted for five hours. Authorities seized computers and documents. The Prosecutor General's Office opened an investigation "regarding irregularities recorded at the Election Monitoring and Democracy Studies Centre".⁶

The raid on this election-watchdog NGO signalled a sharp and very serious escalation of the country's deepening human rights crisis. "It's a clear message to the government's critics: Don't get involved in any issues that question [the] legitimacy of the presidential election", said the chairman of another NGO, the Institute for Reporters' Freedom and Safety (IRFS), Emin Huseynov, at the time.⁷ Subsequent developments proved Huseynov correct – but even so, he hardly could have predicted that eight months later, he would be forced into hiding at the Swiss embassy in Baku, fearing imminent arrest himself.

EMDSC Chairman Anar Mammadli was arrested a day before politicians, including UK Foreign Secretary William Hague, signed a deal for the pipeline that would feed into the Euro-Caspian Mega Pipeline and transport 16 billion cubic metres per year of offshore gas from Azerbaijan to southern Italy. Now, the European Bank for Reconstruction and Development approved a loan of EUR 700 million for the Euro-Caspian Mega Pipeline, while the European Investment Bank is considering an investment ten times larger. In the meantime, Mammadli remains behind bars, serving a 5.5-year sentence for illegal entrepreneurship, tax evasion, and abuse of power for allegedly seeking to influence the election results – all spurious and politically motivated charges.

On 29 September 2014, amidst Azerbaijan's frantic crackdown, the Parliamentary Assembly of the Council of Europe awarded the Vaclav Havel Human Rights Prize to Mammadli. The prize is named after the late Czech president, playwright, and world-renowned democracy campaigner, recognising outstanding work in support of civil society and the defence of human rights.

Following Mammadli's arrest, Azerbaijan's rubber-stamp parliament, dominated by ruling party and "independent" MPs who support the government, hastily introduced new legislation placing additional restrictions on independent NGOs. Several months later, that piece of legislation would become the pretext for arresting independent human rights defenders and freezing the bank accounts of dozens of other NGOs.

4 As referred to in the U.S. State Department statement of 10 October 2013: <http://www.state.gov/r/pa/prs/ps/2013/10/215283.htm>

5 http://www.epde.org/tl_files/EPDE/EPDE%20PRESS%20RELEASES/EMDS's%20expllan%20on%20el%20obs%2017.10.13.pdf

6 <https://www.hrw.org/news/2013/12/18/azerbaijan-prominent-election-monitor-arrested>

7 <http://flnka.ru/digest/4574-irfs-azerbaijani-authorities-have-kick-off-post-election-repressions.html>

The stage was set for an unprecedented crackdown, the worst in Azerbaijan since the Soviet era. Meanwhile, the international media turned its attention to the country, which was also preparing to host the inaugural European Games in June 2015. The timing of the crackdown, in the run-up to the Games, was no coincidence. Bolstered by their experience hosting the Eurovision Song Contest three years before, the Azerbaijani authorities set their sights on the few remaining individuals who dared to express criticism or dissent. Now, four months after the Games and on the eve of the parliamentary elections, there is still no end in sight to the perpetual cycle of repression.

PART I

AZERBAIJAN'S DETERIORATING INTERNATIONAL RELATIONS

To understand the unprecedented human rights crackdown taking place in Azerbaijan, it helps to first examine the growing rift between Azerbaijan and the international community.

Since Aliyev's election to a third term as president, the Azerbaijani authorities have become particularly emboldened in their relations with the West, confident that the widespread violations taking place at home would not effect their bilateral and multilateral relations in any significant way.

This attitude was perhaps most clearly evidenced in December 2014, in a 60-page manifesto published by Azerbaijani Presidential Chief of Staff Ramiz Mehdiyev.⁸ In the document, titled "The World Order of Double Standards and Modern Azerbaijan", Mehdiyev heavily criticised the United States, which he accused of fomenting instability and promoting "colour revolutions" including in Azerbaijan. An entire chapter was spent naming and shaming Azerbaijani journalists, human rights defenders, and NGOs Mehdiyev referred to as the "fifth column" and "employees that advance the interests of the United States" – the same individuals that are now behind bars, and the same organisations that have since been effectively shut down by the authorities.

But the Azerbaijani government's criticism has not been limited to the United States. Indeed, since the publication of Mehdiyev's manifesto, top Azerbaijani officials have expressed increasing hostility towards Western officials and international bodies that have dared to comment on the human rights situation in Azerbaijan. With a growing intensity in the period surrounding the European Games, authorities attributed any unfavourable coverage of the country to an unspecified anti-Azerbaijani international campaign, denying the existence of political prisoners and other human rights violations, and accusing anyone who suggested otherwise of being biased or working towards ulterior motives.

In the months that have followed the European Games, the Azerbaijani authorities' continued acts of repression and growing belligerence have started to result in serious consequences for Azerbaijan's international relations – particularly with the European Parliament and the OSCE. Key developments at specific international institutions are described in this part of the report.

⁸ <http://azertag.az/store/qfs/MEHDIYEV-AN%20SON.pdf>

Azerbaijan and the Council of Europe

A small French town near the German border, Strasbourg, is a European hub, the official seat of both the Council of Europe and the European Parliament. The 24 June 2014 session of the Parliamentary Assembly of the Council of Europe (PACE) seemed no different from any other. The Palais de l'Europe, the Council of Europe's principle building, was buzzing with the hustle of visiting parliamentarians from 47 member states. They were speaking, voting, answering e-mails and phone calls, and coming in and out of the main hall.

That day, a glass podium was brought in as the Assembly was expecting a guest. Azerbaijani President Ilham Aliyev was coming to deliver a speech to mark the start of Azerbaijan's six-month chairmanship of the Council of Europe Committee of Ministers – a regular procedure when the head of the state chairing the Council addresses the Assembly.

Aliyev took the stage, firm and confident, ready to deliver his speech on “successful development”, “very rapid economic and political transformation”, and “all the fundamental freedoms [being] provided in Azerbaijan”.

Then something highly unusual – indeed, something unprecedented – occurred. A group of 24 young Azerbaijanis who had their mouths covered with black tape and wore t-shirts bearing pictures of Azerbaijani political prisoners stood up in the gallery and started to shout “Release political prisoners!”.

The group, comprised of Azerbaijanis living abroad, was protesting Aliyev's continued insistence that his government was protecting the rights of its citizens; that there were no political prisoners in Azerbaijan; and that freedom of speech and expression were protected in the country. “All fundamental freedoms are respected in Azerbaijan,” said the Azerbaijani leader fifteen minutes later.⁹

That day, it was not only the group of protesters observing Aliyev's speech from the gallery. The best and brightest of Azerbaijani civil society were in attendance: lawyer Intigam Aliyev, who has litigated hundreds of cases before the European Court of Human Rights, free speech advocate Emin Huseynov, democracy activist Rasul Jafarov, and others.

British Labour Party politician Paul Flynn had these people in mind when he took the floor to address Aliyev: “Politicians and journalists have been falsely accused and imprisoned in Azerbaijan and elections have been rigged: I have spoken to the people involved”, he said.

Aliyev was visibly angered by the statement; he accused Flynn of lying, and denied both the imprisonment of journalists and the alleged rigging of the election. This question, along with several other challenging questions on Azerbaijan's human rights record, drew a heated reaction from Aliyev, who dismissed the accusations as “lies” and “defamation”.

Aliyev also said that the Azerbaijanis observing and protesting his speech from the gallery were “a young generation” of those who “created chaos, provoked the civil war and then ran away”. “They do not understand, because they do not know what happened in 1992 and 1993. It is not their fault, but they have been misled. We are therefore ready to engage in round table discussions with your participation”, said Aliyev, seemingly calm.

⁹ <http://en.president.az/articles/12149>

After the session, Aliyev left the room surrounded by his aides and members of the Azerbaijani delegation, who rushed to show him their admiration and respect. He did not look up when one of the protesters shouted from the gallery. It did not appear that he had even noticed these people, let alone their protest.

But Aliyev does not seem to have forgotten this humiliation.

i

When Azerbaijan joined the Council of Europe on 25 January 2001, it agreed not only to honour the obligations incumbent on all member states under Article 3 of the organisation's Statute,¹⁰ but also to a number of specific commitments, set out in Opinion No. 222 (2000)¹¹ on Azerbaijan's application for membership of the Council of Europe. On the basis of those commitments, which obliged Azerbaijan to guarantee fundamental freedoms and human rights, PACE decided that, in accordance with Article 4 of the Statute of the Council of Europe,¹² "Azerbaijan was able and willing" to fulfil the provisions of Article 3 of the Statute,¹³ setting forth the conditions for membership of the Council of Europe: "Every member of the Council of Europe must accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms, and collaborate sincerely and effectively in the realization of the aim of the Council (of Europe)".

Despite some hopes within the Council of Europe that the transfer of power from Heydar Aliyev to his son, Ilham – who had himself been the head of Azerbaijan's PACE delegation from 2001 to 2003 and elected as a member of the PACE Bureau – would result in improved compliance with Council of Europe commitments, the level of repression has instead grown. Journalists have been killed in broad daylight,¹⁴ and civil society leaders are languishing behind bars.

In a mockery of the very values of the Council of Europe, the crackdown reached unprecedented lows during Azerbaijan's chairmanship of the Committee of Ministers, when the Azerbaijani civil society partners of the Council of Europe were either thrown into jail or forced into hiding for safety. While visiting Azerbaijan in November 2014, the Council's Human Rights Commissioner Nils Muižnieks said: "All of my partners in Azerbaijan are in jail. Azerbaijan will go down in history as the country that carried out an unprecedented crackdown on human rights defenders during its chairmanship".¹⁵

ii

Crackdowns on peaceful dissent have long been a hallmark of Azerbaijan's ruling establishment, and there was already ample legal latitude for the persecution of government critics when Azerbaijan undertook the rotating chairmanship of the Committee of Ministers of the Council of Europe. Azerbaijan's chairmanship has been characterised by its

10 <http://conventions.coe.int/Treaty/en/Treaties/Html/001.htm>

11 <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta00/EOP1222.htm>

12 <http://conventions.coe.int/Treaty/en/Treaties/Html/001.htm>

13 Ibid

14 During Ilham Aliyev's presidency, four journalists have been murdered and one has died in state custody in Azerbaijan. They are: Rasim Aliyev (severely beaten and died later in hospital in August 2015); Rafiq Tagi (stabbed and died later in hospital in November 2011); Novruzali Mammadov (died in a Baku prison hospital in August 2009 while serving a 10-year jail term on politically motivated charge); Alim Kazimli (died in June 2005 from a brain haemorrhage that developed as a result of being beaten in a Baku police station in December 2004); and Elmar Huseynov (murdered in March 2005).

15 <https://www.indexoncensorship.org/2014/11/nils-muiznieks-azerbajans-reprisals-brave-activists-journalists-must-stop-now/>

intensified and expanded actions against human rights defenders, journalists, bloggers, activists, and civil society organisations.

When Azerbaijan took over the Chairmanship, Aliyev's government was expected to demonstrate its commitment to European values. "Azerbaijan's chairmanship of the Council of Europe will put its violations of human rights in the spotlight", wrote Secretary-General of the Council of Europe Thorbjørn Jagland in May 2014.¹⁶ "Two years after the Eurovision Song Contest in Baku, Azerbaijan will be in the spotlight again during the next six months. I sincerely hope the government and its authorities will use this opportunity to demonstrate their will to improve the country's human-rights record. Not for the sake of the Council of Europe, but for the sake of the people of Azerbaijan", Jagland stressed.¹⁷

But unfortunately, Jagland's hopes did not transpire. By the end of Azerbaijan's chairmanship of the Committee of Ministers and a year into Aliyev's third presidential term, the rights to freedoms of expression, assembly, and association were under severe attack, despite the fact that these rights are explicitly guaranteed by the Azerbaijani Constitution and the European Convention on Human Rights, to which Azerbaijan is party.

In 2013 and 2014, the Azerbaijani parliament adopted regressive amendments to the law on NGOs, further restricting the right to freedom of association in contradiction to the 2011 opinion of the Council of Europe Venice Commission recommending a number of critical reforms.¹⁸ The space for independent civil society was rapidly shrinking, in part due to major restrictions imposed on foreign funding for NGOs. In December 2014, the Venice Commission issued another opinion on this law, concluding 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", and recommending another series of reforms which the Azerbaijani authorities have, to date, ignored.¹⁹

As a result of this regressive legislation, journalists, human rights defenders, political activists, and other government critics have all faced extensive restrictions of their rights. The main targets during that period were the Council of Europe's partners in Azerbaijan – the human rights defenders who had cooperated with the institution for many years, seeking to implement democratic change in their country. These defenders – and often their family members as well – have been subjected to threats, arbitrary detention, surveillance, administrative and judicial harassment, defamation, and more generally, stigmatisation by the Azerbaijani authorities and state-controlled media.

The Aliyev regime used Azerbaijan's six-month chairmanship to clamp down on alternative voices, in large part succeeding in silencing the country's beleaguered civil society. At the start of the chairmanship, the total figure of political prisoners in the country totalled 80, per a consolidated list compiled by human rights defenders Rasul Jafarov and Leyla Yunus, with broad support from other independent NGOs.²⁰ Now, estimates are even higher, but it has become impossible to obtain complete information due to the fact that Jafarov, Yunus, and others working on such issues have since been imprisoned themselves.

The authorities' restrictions on the rights to freedom of association and expression had

¹⁶ <http://www.politico.eu/article/council-of-europe-is-not-blind-to-azerbaijans-violations/>

¹⁸ [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2011\)035-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2011)035-e)

¹⁹ [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2014\)043-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2014)043-e)

²⁰ http://nhc.no/no/Updated+list+of+political+prisoners+in+Azerbaijan.b7C_wlrMX3.ips

other serious implications for Azerbaijani civil society. In 2014, foreign funding became *de facto* and *de jure* banned in Azerbaijan. A nationwide wave of inspections of NGOs by prosecutors and tax officials in March and April 2014 (within the first year of Aliyev's third term) marked the beginning of the application of this law.

By the end of the country's Committee of Ministers chairmanship, Azerbaijanis who dared to express any form of criticism or dissent were facing far worse repression and violations than at the start.

iii

On 7 July, during a speech at the fifth meeting of Azerbaijani diplomatic service bodies at the Ministry of Foreign Affairs, President Aliyev claimed that he had never been challenged on human rights bilaterally by European leaders.²¹

"Some people, who call themselves the opposition or human rights activists here, believe that when someone says something to us, and we will fulfil it. They are naive people. To put it mildly, either they are really naive or just want to create such an opinion. During these 11 years, European leaders bilaterally never spoke a word to me in connection with our internal policies. Today I say this for the first time. Of course, international organizations must say that because it is their political life. We just need to know this", he said.

In truth, since Aliyev began his third presidential term, he has been criticised publicly, and reportedly privately, by top Council of Europe officials – including the Human Rights Commissioner, the President of PACE, and the Secretary-General.

For example, in a serious move, on 7 October, Council of Europe Secretary-General Thorbjørn Jagland announced his decision to withdraw the Council's participation in the Joint Working Group on human rights. The purpose of the Joint Working Group, which also included a representative of the Council of Europe and reconvened in October 2014, was to revive the dialogue between civil society and the Azerbaijani authorities.

According to the statement issued by the Council's spokesperson, "the overall situation of human rights defenders in the country has deteriorated dramatically. An increasing number of human right defenders has recently been imprisoned, and the Council of Europe has received worrying reports about unacceptable detention conditions".²²

Earlier in the year, the Secretary-General issued several other statements of concern, including on the murder of Rasim Aliyev, journalist and chairman of the country's leading media freedom NGO, IRFS. The Secretary-General said he was "shocked [by] this tragic event" which "should serve as a last reminder to the authorities and society as whole that the country cannot continue like this: all must re-engage, and all must be done, to restore internal dialogue and trust between civil society and the authorities".²³

On many occasions – both private and public - the Secretary-General called for implementation of the European Court on Human Rights judgment in the case of opposition politician Ilgar Mammadov, whose case is particularly notable because of the authorities' persistent targeting of him in the face of widespread international condemnation.

On 22 May 2014 – while Azerbaijan was chairing the Committee of Ministers - the Court

21 <http://www.azadliq.org/content/article/25448937.html>

22 http://www.coe.int/en/web/portal/-/council-of-europe-leaves-azerbaijan-human-rights-working-group?redirect=http://www.coe.int/en/web/portal/home?p_p_id=101_INSTANCE_DibKFqn-pE518&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&p_p_col_id=column-1&p_p_col_count=2

23 <http://www.coe.int/en/web/media-freedom/-/secretary-general-thorbj-rn-jagland-condemns-attack-on-azerbaijani-journalist-rasim-aliyev>

ruled that Mammadov's arrest and detention was unjustified, concluding that the true reason for his seven-year prison sentence was a blog entry that was critical of the government. The Court found that the Azerbaijani authorities had breached four rights embedded in the European Convention on Human Rights when they arrested Mammadov, including his right to the presumption of innocence, the use of his rights, his right to liberty and security, and his right to judicial review. The judgment called for Mammadov's release.²⁴ Mammadov, however, remains imprisoned, which has led the Council of Europe Committee of Ministers to issue two interim resolutions reiterating the call for his release.²⁵

Mammadov has reported multiple instances of attack and torture in prison. On 30 July, Natig Jafarli, executive secretary of the Republican Alternative (REAL) Movement – the party headed by Mammadov – spoke of the pressure against Mammadov in jail. "Those who organised the attack against Ilgar Mammadov, made sure that there would be no traces of the violence. Their aim was not to injure Ilgar Mammadov, but rather intimidate and frighten him. Ilgar Mammadov has long been under pressure to write a petition for a presidential pardon. They have made it very clear that if he doesn't sign a petition for pardon, he will not be released, and no appeals of the West or the European Court of Human Rights will help him".²⁶

Council of Europe Commissioner for Human Rights Nils Muižnieks has undertaken several visits to Azerbaijan and frequently commented on the deteriorating human rights situation. For example, on 24 November 2014, he expressed his "pain" at Azerbaijan's crackdown on the country's human rights defenders. Muižnieks said: "The Council of Europe's primary friends and partners in the country have almost all been targeted. While this pains me deeply, it also makes practical cooperation between Azerbaijan and the Council of Europe extremely difficult. The reprisals must stop. Now".²⁷ Muižnieks has also issued third-party interventions in a number of Azerbaijani cases at the European Court of Human Rights, including human rights defenders Intigam Aliyev, Rasul Jafarov, Anar Mammadli, and Leyla and Arif Yunus.²⁸

PACE President Anne Brasseur has repeatedly and strongly condemned human rights violations taking place in Azerbaijan. In her opening address for the PACE autumn session on 28 September, Brasseur stated, "Over the past two years, indeed, the human rights situation in Azerbaijan has deteriorated significantly. The people targeted, the type of charges, the length of the sentences and the blatant irregularities in the conduct of the trials all cast doubt on the authorities' willingness to respect the fundamental values of the Council of Europe". She also stressed that the recent convictions of Leyla Yunus, Arif Yunus and Khadija Ismayilova were "deeply troubling".²⁹

On 16 October, a PACE press release publicised the fact Brasseur had written a letter to President Aliyev expressing "deepest concerns" over the human rights situation in the country. In the letter, Brasseur listed four particularly "worrying developments", including physical attacks against jailed human rights defenders and civil society activists,

24 <http://hudoc.echr.coe.int/eng?i=001-144124>

25 <https://wcd.coe.int/ViewDoc.jsp?id=2361903>

26 <https://www.meydan.tv/en/site/news/7278/Ilgar-Mammadov-assaulted-in-prison.htm>

27 <http://bit.ly/1r0dcpp>

28 <http://www.coe.int/en/web/commissioner/country-monitoring-azerbaijan>

29 http://website-pace.net/web/apce/president/-/asset_publisher/slfXcAeVeuF0/content/opening-statement-september-2015-part-session/maximized;jsessionid=BD188FF5590D-DC496ABEEFFA9B886BBB?redirect=http%3A%2F%2Fwebsite-pace.net%2Fweb%2Fapce%2F-president%3Bjsessionid%3DBD188FF5590DDC496ABEEFFA9B886BBB%3Fp_p_id%3D101_IN-STANCE_slfXcAeVeuF0%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3D-view%26p_p_col_id%3Dcolumn-2%26p_p_col_pos%3D2%26p_p_col_count%3D6

listing Ilgar Mammadov, Intigam Aliyev, and Leyla and Arif Yunus.³⁰

Despite the effective lobbying efforts of the Azerbaijani regime at PACE, the Assembly itself has not been silent on human rights violations in Azerbaijan. Over the years, PACE has adopted a large body of decisions and resolutions condemning human rights violations and recommending steps to the Azerbaijani government to improve the situation and comply with its Council of Europe obligations.

Most recently, on 5 June, PACE debated and adopted a resolution on 'the functioning of democratic institutions in Azerbaijan', which called on the authorities to release all political prisoners, including those who have co-operated with PACE. The resolution contained a series of recommendations to the Azerbaijani authorities as part of PACE's on-going monitoring of the country – including steps to reinforce democratic "checks and balances" in the system, ensure a fairer electoral framework, and further boost judicial independence.³¹

Aliyev reacted to the resolution by dismissing it, calling it "a piece of paper" with no leverage³² And indeed, it seems he had no reason to take the resolution seriously, as within a matter of months, the regime's lobbying efforts at PACE were once again paying off.

Despite the fact that in an unprecedented move, the European Parliament, the OSCE/ODIHR, and the OSCE Parliamentary Assembly have all cancelled their monitoring missions for Azerbaijan's 1 November parliamentary elections, the PACE monitoring mission will go ahead – a move human rights groups have expressed concern will only serve to help legitimise an illegitimate vote. And so far, it seems they were right.

On 23 September, the PACE pre-election monitoring mission issued a statement that seemed to be an exercise in wilful blindness towards the real situation in the country. "A large number of independent interlocutors stressed that progress has been made since the last parliamentary election five years ago, and that the country should not be isolated", the statement read, adding "during a round-table meeting with a large number of NGOs, human rights defenders and civil society activists, interlocutors unanimously called for this election observation mission by PACE to go ahead".³³

PACE's monitoring delegation to the last election in Azerbaijan - the October 2013 presidential election that saw Aliyev re-elected to a third term – was also problematic. The delegation claimed, in a joint statement with the European Parliament delegation, to have observed a "free, fair and transparent electoral process".³⁴ This statement sharply contrasted with the findings of the OSCE/ODIHR, as well as the findings of the EMDSC, the country's largest and most experienced domestic monitoring organisation.

Although the broader European Parliament later distanced itself from the statement made by its monitoring delegation by adopting a resolution recognising the OSCE/ODIHR's findings, PACE made no such move. The PACE statement in October 2013 can be viewed as political endorsement of Aliyev's third term in office, and the 23 September statement of this pre-election monitoring mission confirms that a number of PACE delegates remain willing to help legitimise a fraudulent election. That renders any other resolutions or decisions by the body on the human rights situation in the country – no matter how strongly worded – effectively useless.

30 <https://wcd.coe.int/ViewDoc.jsp?id=2370823&Site=DC&BackColorInternet=F5CA75&BackColorIntranet=F5CA75&BackColorLogged=A9BACE>

31 <http://www.assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?FileID=21953&lang=EN>

32 <http://en.trend.az/azerbaijan/politics/2416654.html>

33 <http://assembly.coe.int/nw/xml/News/News-View-en.asp?newsid=5779&lang=2>

34 <http://assembly.coe.int/nw/xml/News/News-View-EN.asp?newsid=4699&lang=2&cat=31>

Conclusion

Since Aliyev's election to a third term in office, relations between Azerbaijan and the Council of Europe have dramatically deteriorated, largely because of the ruling regime's crackdown on fundamental rights, and partly as a result of Aliyev's threatening rhetoric towards the Council of Europe and its leaders, and decisions and documents issued by the body.

As a Council of Europe member state, Azerbaijan has undertaken to respect fundamental freedoms. Joining the Council of Europe raised expectations the Azerbaijani people's expectations in the 1990s, when Azerbaijan was still a fragile state, struggling to recover after the collapse of the Soviet Union. The hope was that Council of Europe membership would enable Azerbaijanis to take part in public debates and make their voices heard in Europe.

Through accession, Azerbaijan was offered an opportunity to share its experience with other countries, and to participate closely in defining norms with regard to human rights, rule of law and democracy at the European level. This important opportunity is now under serious threat because of Aliyev's repressive policies, which have raised questions within the Council of Europe as to whether Azerbaijan deserves to retain its membership – and rightly so given the fact that even after chairing the organisation, its implementation of its commitments as a member state are at an all-time low.

The Azerbaijani government must take immediate and concrete steps to remedy this situation and start to uphold its Council of Europe obligations and avoid further damaging an already fragile relationship that cannot be repaired through paid lobbyists and corrupted European politicians. And the Council of Europe, for its part, must take immediate and concrete action to start truly holding Azerbaijan accountable before the organisation becomes even further discredited – starting with ensuring that the report of the PACE election-monitoring mission reflects the reality of the dire state of affairs on the ground.

Azerbaijan and the OSCE

On 3 June, with five months left until the parliamentary elections, the Azerbaijani government gave the Organisation for Security and Cooperation in Europe (OSCE) one month's notice to close down its Baku operations. The Ministry of Foreign Affairs sent an official *note verbale* stating that it did "not see any more need for the activity of the OSCE Project Coordinator in Baku", and giving the OSCE until 4 July "for completing the technical issues arising from the termination of the Memorandum".³⁵

In doing so, the Azerbaijani government unilaterally terminated the Memorandum of Understanding it had signed with the OSCE on 24 September 2014. Prior to this, in January 2014, the OSCE office in Baku had been downgraded to the status of "project coordinator". The downgrade in mandate came at the request of the Azerbaijani government, which cited the country's "significant progress" since the OSCE office in Baku was opened in 1999.

This move should be viewed in the context of the broader crackdown, and as part of Azerbaijan's significant pushback in meeting its international commitments and obligations, in particular those related to human rights and fundamental freedoms. In the words of the Chair of the OSCE Parliamentary Assembly's Committee on Democracy, Human Rights and Humanitarian Questions, Isabel Santos, "the anti-democratic free fall continues in Baku".³⁶

"Practically all independent media representatives and media NGOs" in Azerbaijan "have been purposefully persecuted under various, often unfounded and disturbing charges," said the OSCE's Representative on Freedom of the Media, Dunja Mijatovic, in November 2014.³⁷ Notably, the Azerbaijani government has since stopped responding to Mijatovic's requests to visit the country in line with her mandate.³⁸

Although this criticism may have unsettled officials in Aliyev's administration and some members of the parliament, it had no impact on Azerbaijan's implementation of its OSCE commitments.

ii

Perhaps the only OSCE institution taken seriously by the Aliyev regime has been the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), the predominant international election-monitoring body in the OSCE region.

The OSCE/ODIHR has observed a total of nine elections in Azerbaijan since 1995, including the 2003 presidential election through which Ilham Aliyev initially came to power, and the subsequent presidential (2008 and 2013) and parliamentary (2005 and 2010) elections since he has been in office. None of these elections met international standards for fair and free elections, as highlighted in the OSCE/ODIHR's reports.³⁹

The most recent Azerbaijani election monitored by ODIHR was the presidential election in October 2013. In its *Election Observation Mission Final Report*, the OSCE/ODIHR concluded that the election "was undermined by limitations on the freedoms of expression,

35 NOTE VERBALE: In diplomatic language, a memorandum or note not signed, sent when an affair has continued a long time without any reply, in order to avoid the appearance of an urgency, which, perhaps, the affair does not require; and, on the other hand, not to afford any ground for supposing that it is forgotten, or that there is no intention of not prosecuting it any further, is called a verbal note.

36 <http://www.osce.org/pa/177266>

37 <http://www.osce.org/fom/126534>

38 See, for example, <http://www.osce.org/fom/151301> and <http://www.osce.org/fom/179391>

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

assembly and association that did not guarantee a level playing field for candidates. Continued allegations of candidate and voter intimidation and a restrictive media environment marred the campaign. Significant problems were observed throughout all stages of election day processes and underscored the serious nature of the shortcomings that need to be addressed in order for Azerbaijan to fully meet its OSCE commitments for genuine and democratic elections”.⁴⁰

Some observers believed that the unprecedented human rights crackdown that overwhelmed the country in the wake of the presidential election was initiated personally by Aliyev in response to the West’s broad criticism of the election, based on the OSCE/ODIHR report. The October 2013 election was indeed important for Aliyev, as it was conducted after the February 2009 referendum to overturn the constitutional limitation on presidential terms.⁴¹ The amendment allowed Aliyev to remain in office indefinitely. It was therefore important to Aliyev that the OSCE/ODIHR, and the West more broadly, lend an air of legitimacy to his third term – which opposition groups argued he had no constitutional right to assume.⁴²

When this support was not forthcoming, Aliyev employed a sophisticated range of tactics to suppress all forms of dissent to ensure that the next important vote – the November 2015 parliamentary elections – would take place without scrutiny by independent domestic watchdogs, a crucial component of the OSCE/ODIHR’s observation missions.

After putting many of their potential critics in jail and forcing others into exile, the Azerbaijani authorities finally decided to send an invitation to the OSCE/ODIHR to observe the parliamentary elections. From 12 to 14 August, the OSCE/ODIHR undertook a Needs Assessment Mission (NAM) to Azerbaijan. The purpose of the mission was to assess the pre-election environment and preparations needed for the elections. Based on this assessment, the NAM recommended the deployment of an election observation mission for the 1 November parliamentary elections. In addition to a core team of experts, the OSCE/ODIHR requested the secondment by OSCE participating States of 30 long-term observers to follow the election process countrywide, as well as 350 short-term observers to follow election day procedures, including voting, counting, and the tabulation of results.⁴³

However, in a communication of 31 August, Azerbaijan’s Permanent Mission to the OSCE stated that the authorities were ready to accept only six long-term and up to 125 short-term OSCE/ODIHR observers. Due to the restrictions imposed by the Azerbaijani authorities, the OSCE/ODIHR stated that it had no choice but to cancel its mission to observe the country’s 1 November parliamentary elections.⁴⁴

Shortly after the news about the OSCE/ODIHR’s cancellation became public, OSCE Parliamentary Assembly (OSCE PA) President Ilkka Kanerva decided the OSCE PA delegation would also refrain from observing the 1 November parliamentary elections in Azerbaijan. Addressing the OSCE PA’s Standing Committee meeting in September in Ulaanbaatar, President Kanerva said: “The Azerbaijan government has imposed restrictions on the work of our traditional OSCE partner, ODIHR. As a result, ODIHR has been forced to cancel their planned observation mission in Azerbaijan. I think it is only appropriate that if our very vital and close partner ODIHR cannot observe, that we also don’t observe in Azerbaijan.”⁴⁵

40 <http://www.osce.org/institutions/110015?download=true>

41 <http://bit.ly/Uy7NQd>

42 See, for example: <http://www.theguardian.com/commentisfree/2013/oct/08/azerbaijan-election-aliyev-dynasty-polls>

43 <http://www.osce.org/odihr/elections/azerbaijan/179216?download=true>

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

45 <https://www.oscepa.org/news-a-media/press-releases/2343-osce-parliamentary-assembly-will-not-send-observers-to-azerbaijan-if-odihr-does-not-says-pa-president>

Conclusion

During Aliyev's third term, Azerbaijan's relations with the OSCE have sharply deteriorated. Azerbaijan has repeatedly found itself isolated at OSCE conferences and meetings, against a backdrop of threats to the fundamental precepts and core values upon which European security and the OSCE itself were founded. Since the 2013 presidential election, condemned by the OSCE/ODIHR as failing to meet international standards, steps have been taken that widen the gulf between Azerbaijan and OSCE. As put by OSCE PA Human Rights Committee Chair, Isabel Santos, "with every journalist, human rights defender and civil society leader it harasses or jails, Azerbaijan distances itself further and further from democratic values and OSCE human dimension commitments".⁴⁶

It is true that the OSCE lacks a specific enforcement mechanism to ensure that participating States fulfil their human rights obligations, such as a court or a treaty-monitoring body, and OSCE commitments are politically rather than legally binding. The Moscow Mechanism,⁴⁷ adopted at the third stage of the Conference on the Human Dimension in 1991, if applied in practice, could potentially help to fill that void. It would provide the option of sending missions of experts to assist participating States in the resolution of a particular question or problem relating to the human dimension. In the case of Azerbaijan, for example, the Moscow Mechanism could allow the OSCE to employ a team of human rights experts to the country to seek resolution of the extensive human rights violations taking place.

That being said, the OSCE should not treat the closure of its office in Baku as the end of its activities to defend and promote fundamental freedoms in Azerbaijan. Rather, the OSCE should immediately look into the ways to support the remaining independent media and NGOs in Azerbaijan, as well as the growing network of exiled journalists and human rights defenders who continue to operate from outside of the country.

The OSCE PA should continue its human rights and election-watchdog role. Having taken the significant decision not to monitor the parliamentary elections under these circumstances, the OSCE PA has clearly demonstrated to the Azerbaijani authorities – and to all participating states – that OSCE commitments and standards have meaning.

Within the Helsinki Declaration, endorsed by parliamentarians at the OSCE PA's 2015 Annual Session,⁴⁸ the Assembly "condemn[ed] the continued persecution and imprisonment on politically motivated charges of journalists and human rights defenders in several OSCE participating States and express[ed] its concern at the continued misuse of tax and administrative legislation to justify these acts".⁴⁹

The OSCE, Europe's largest security body, should remember that the crackdown on civil society, political opposition and independent media – even in a single member state – is in fact an early warning sign of a serious risk for stability in the OSCE region. Azerbaijan's persistent failure to comply with its OSCE commitments represents a potential threat to security in the region.

⁴⁶ <http://www.osce.org/pa/179431>

⁴⁷ <http://www.osce.org/odihr/20066?download=true>

⁴⁸ <http://www.oscepa.org/meetings/annual-sessions/2015-annual-session-helsinki>

⁴⁹ <http://www.oscepa.org/documents/all-documents/annual-sessions/2015-helsinki/declaration-3/2977-2015-helsinki-declaration-eng/file>, page 113

Azerbaijan and the European Union

“Actions taken by certain EU bodies prove that this institution is surely having a political menopause”.

— Azerbaijani Presidential Advisor Novruz Mammadov on Twitter, 12 September 2015⁵⁰

“They are just jealous Europe doesn’t have a leader like ours. They are jealous for not having a smart president like ours [sic]”.

— Ziyafet Asgarov, First Deputy Chairman of the Milli Mejlis, 15 September 2015⁵¹

i

The Azerbaijani government’s relationship with the European Union (EU) is complicated and nuanced. Formal relations between the two started in 1999, when the EU-Azerbaijan Partnership and Cooperation agreement entered into force. This agreement serves as the legal framework for EU-Azerbaijan relations.⁵²

In 2004, Azerbaijan joined the EU’s European Neighbourhood Policy (ENP), through which the EU works with its southern and eastern neighbours to achieve close political association and economic integration. A joint EU-Azerbaijan Action Plan was adopted in 2006, providing a comprehensive and ambitious framework for joint work with Azerbaijan in key areas of reform.⁵³ In 2009, the EU and Azerbaijan signed the Joint Declaration on Eastern Partnership.⁵⁴

In 2009, the EU launched its Eastern Partnership, aimed at strengthening EU relations with six partner countries: Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Ukraine. In 2011, the EU formed the Euronest Parliamentary Assembly, a parliamentary forum established to promote political association and further economic integration between the EU and its Eastern European partners, including Azerbaijan.

In 2010, the EU and Azerbaijan began negotiating an Association Agreement, aimed at deepening Azerbaijan’s political association and economic integration with the EU. However, by the time President Aliyev settled into his third term in office, it became clear that Azerbaijan was no longer interested in an Association Agreement; negotiations with the EU now focused on a Strategic Modernisation Partnership.

A serious turning point in EU-Azerbaijan relations took place during the first year of Aliyev’s third term, in 2014. Within a few months of Aliyev’s re-election in October 2013, the EU signed three key agreements with Azerbaijan: a Visa Facilitation Agreement, a Readmission Agreement,⁵⁵ and a Mobility Partnership.⁵⁶ In its report on implementation of the European Neighbourhood Policy in Azerbaijan for that year, the EU noted that “the EU-Azerbaijan political dialogue in 2013 was intense”, and that “2013 was a decisive year in EU-Azerbaijani bilateral relations”. Azerbaijan’s “very little progress” on democratic governance and human rights reform was noted, but negotiations on other areas continued unimpeded.⁵⁷

50 <https://twitter.com/novruzmammadov/status/642613341660119040>

51 <http://www.azadliq.org/content/article/27248179.html>

52 http://eeas.europa.eu/delegations/azerbaijan/documents/eu_azerbaijan/eu-az_pca_full_text.pdf

53 http://eeas.europa.eu/enp/pdf/pdf/action_plans/azerbaijan_enp_ap_final_en.pdf

54 http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/er/107589.pdf

55 http://eeas.europa.eu/delegations/azerbaijan/documents/press_releases/2014/20140228_eu_signs_readmission_agreement_with_azerbaijan.pdf

56 http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/international-affairs/eastern-partnership/mobility-partnerships-visa-facilitation-and-readmission-agreements/docs/azerbaijan_05.12.2013_en.pdf

57 http://eeas.europa.eu/enp/pdf/2014/country-reports/azerbaijan_en.pdf

However, over the year to follow, the country's human rights situation deteriorated to such an extent that the EU could not continue to overlook it in favour of other interests in Azerbaijan. In the same report for 2014, the EU noted that Azerbaijan's "achievements were overshadowed by regression in most areas of deep and sustainable democracy, human rights and fundamental freedoms". The report acknowledged that "the frequency of political dialogue between the EU and Azerbaijan also decreased", later adding that "political dialogue was overshadowed by Azerbaijan's deteriorating democracy and human rights record and the shrinking space for civil society".

The report also referred to 17 statements issued by the EU in 2014 "calling for strict observation by Azerbaijan of its international commitments and obligations".⁵⁸ As a result, the government effectively froze political dialogue on all levels with the EU. Notably, the annual human rights dialogue between Azerbaijan and the EU has not taken place since 2013. Meanwhile, the crackdown continued to intensify on the ground.

Nevertheless, in the midst of this regression, in June 2014, European Commission President Manuel Barroso visited Azerbaijan, where he had "an open and friendly discussion" with President Aliyev and gave a press conference afterwards. He stated: "Azerbaijan is a very important partner for the European Union. We have achieved a reliable strategic partnership in the energy field. And we want to build on this, moving to a long-term association grounded on democracy and shared values, in particular fundamental freedoms". He later added "We have given new inputs to the Strategic Modernization Partnership and aim to conclude it in next months. I would like to invite President Aliyev to come to Brussels now for the 6th time to sign these agreements".⁵⁹

But another visit by Aliyev to Brussels has yet to happen, and a Strategic Modernization Partnership agreement has yet to be reached. As the Azerbaijani authorities increasingly aggressively worked to silence dissent at home, its negotiations with the EU seemed to stall. This was perhaps because of the growing role of one part of the EU – the European Parliament – in working to hold Azerbaijan accountable for its human rights obligations.

ii

In recent years – and especially in recent months – the Azerbaijani government has clearly differentiated its relations with the European Parliament from those with the rest of the EU. This is perhaps due to the European Parliament's increasingly strong position on the human rights situation in Azerbaijan, particularly since the aftermath of the October 2013 presidential election that saw President Aliyev elected to a third term in office.

Prior to that election, pro-regime lobbying forces seemed to have a stronger influence within the European Parliament. The body sent a monitoring mission to Azerbaijan for the 2013 presidential election, which claimed, in a joint statement with the PACE delegation, to have observed a "fair, free and transparent electoral contest".⁶⁰ This statement was a sharp contrast from the findings of the OSCE/ODIHR and the EMDSC – the country's largest and most experienced election-monitoring organisation.

Following the election, however, pro-democracy voices within the European Parliament gained a stronger foothold. The body adopted a resolution two weeks later acknowledging that the election had "once again failed to meet OSCE standards, with restrictions being placed on freedom of assembly and freedom of expression" and calling on the Azerbaijani authorities to "address and swiftly implement all the recommendations included in present and past ODIHR/OSCE reports".⁶¹

58 http://eeas.europa.eu/enp/pdf/2015/azerbaijan-enp-report-2015_en.pdf

59 http://europa.eu/rapid/press-release_MEMO-14-425_en.htm?locale=en

60 <http://www.assembly.coe.int/nw/xml/News/News-View-EN.asp?newsid=4699&lang=2&cat=31>

61 <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT-TA+P7-TA-2013-0446+0+DOC+XML+V0//EN>

In addition, a European Parliament advisory committee later found that six Members of the European Parliament (MEPs) had committed “a manifest violation of the code of conduct” in taking part in dubious private monitoring missions that reinforced the claim the election had been fair and free – including two missions that were eventually revealed as being sponsored by the Azerbaijani parliament.⁶² However, European Parliament President Martin Schulz ultimately failed to take disciplinary action in response to these violations.⁶³

Since the 2013 election, as repression continued to unfold on the ground, in Brussels, a growing number of MEPs have been speaking out and calling for concrete actions to hold the Azerbaijani government accountable for its human rights obligations. This group has now become the majority, encompassing MEPs from all political groups – although it should be noted that a significant obstructive group of pro-regime MEPs remain within the European People’s Party (EPP) group.

In September 2014, the European Parliament adopted what was then its strongest resolution yet on Azerbaijan, “on the persecution of human rights defenders in Azerbaijan”. The resolution condemned “in the strongest possible terms” the arrests of a number of prominent human rights defenders and called for their immediate and unconditional release, as well as the withdrawal of all charges against them, and outlined a series of other calls for measures needed to address on-going repression.⁶⁴

In 2015, the European Parliament has taken an even stronger position on Azerbaijan, particularly in the period surrounding the European Games, and in the run-up to the 1 November 2015 parliamentary elections, which it has taken the unusual step of deciding not to monitor. On 12 May, the European Parliament hosted an event titled “Baku Games: Run for Human Rights”, during which MEPs from all political groups expressed concern about the deteriorating human rights situation in the country, calling for serious and concrete measures by the EU.⁶⁵

Following the event, on 28 May, a group of MEPs from all political groups signed a statement calling on “all Members of the Council and the Commission not to attend any official events or ceremonies around the European Games to be held in Baku before all human rights defenders, opposition figures, activists, journalists and political prisoners are unconditionally released from detention”.⁶⁶ On 17 June, many of the same MEPs joined a letter from the Sport for Rights campaign calling on European Council President Donald Tusk to postpone his visit to Azerbaijan, which was originally planned to take place during the European Games.⁶⁷

On 10 September, the European Parliament held an urgent debate on Azerbaijan, and passed a resolution condemning the crackdown taking place in the country and calling for a series of strong, clear steps to address the situation, including the immediate and unconditional release of all political prisoners, suspension of the on-going negotiations for a Strategic Partnership Agreement “as long as the government fails to take concrete steps in advancing respect for universal human rights”, and possible “targeted sanctions and visa bans on all politicians, officials and judges involved in the political persecutions”.⁶⁸

62 <http://www.politico.eu/article/azerbaijan-visits-broke-parliament-rules/>

63 <http://www.politico.eu/article/no-action-in-azerbaijan-case-3/>

64 <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fTEXT%2bTA%2bP8-TA-2014-0022%2b0%2bDOC%2bXML%2bV0%2f%2fEN&language=EN>

65 <http://www.marietjeschaake.eu/2015/05/baku-games-run-for-human-rights/>

66 <http://www.marietjeschaake.eu/wp-content/uploads/2015/06/Joint-Statement-Azerbaijan.pdf>

67 <https://www.fidh.org/en/region/europe-central-asia/azerbaijan/azerbaijan-sport-for-rights-campaign-letter-to-mr-donald-tusk>

68 <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fTEXT%2bTA%2bP8-TA-2015-0316%2b0%2bDOC%2bXML%2bV0%2f%2fEN&language=EN>

Regarding the parliamentary elections, the resolution noted that “independent election monitors, including the long-term OSCE observation mission and national ones, have documented major breaches of electoral standards in Azerbaijan for all presidential and parliamentary elections since and including the presidential election of October 2003”, and expressed “serious concern as to whether the conditions are in place for a free and fair vote on 1 November 2015”. The resolution called on the European External Action Service and EU member states to “refrain from election observation activities as any observation mission under the present conditions will be futile and only serve to legitimise a deeply flawed electoral environment”.

Following the adoption of the European Parliament resolution, on 11 September, Azerbaijan's Ministry of Foreign Affairs cancelled a visit to the country by a European Commission delegation, a decision that it said was “linked to a biased resolution on Azerbaijan”.⁶⁹ On 14 September, the Azerbaijani parliament held a debate in which MPs harshly criticised the EU and Europe more broadly. They voted to withdraw from the Euronest Parliamentary Assembly and to bar MEPs entry to Azerbaijan if sanctions were imposed on Azerbaijani officials.

Despite this harsh reaction, on 15 September, President Aliyev attempted to dismiss the resolution, stating that it was “groundless, biased, and it is a political provocation based on lies”. “Personally as a president, this resolution is no more than a piece of paper to me. I don't mind it”, he said.⁷⁰

But mind it, he seemed to indeed. Later that same day, he stated: “cooperation between the European parliament and the Azerbaijani parliament has been suspended as well. Those are results of the dirty campaign being held against us. Azerbaijan has always reacted adequately and will be reacting in such a way to every step directed against us”.⁷¹

Conclusion

Although the EU has certainly stepped up its rhetoric and, to some extent, its actions in response to negative human rights developments on the ground, so far it has not been enough to achieve real steps towards reform by the Azerbaijani authorities. And perhaps that is no accident.

In July, after more than a year of public silence among top EU leadership about the Strategic Modernization Partnership negotiations with Azerbaijan, EU Council President Donald Tusk travelled to Baku. After meeting with President Aliyev, he stated “We have discussed how best to move our relationship forward, through an ambitious new bilateral agreement. We agreed to set a brisk pace for our talks toward an Agreement on Strategic Partnership”.⁷²

It remains to be seen which interests in Brussels will ultimately prevail when it comes to the future of EU-Azerbaijani relations, but it seems that no matter how dire the situation becomes on the ground, nor how many loud and clear calls to the contrary come from the European Parliament, there remain leaders within the EU intent on carrying on with business as usual with Azerbaijan. And that, the ruling Azerbaijani elite will, quite literally, take to the bank.

69 <http://www.rferl.org/content/azerbaijan-cancels-eu-visit/27242761.html>

70 <http://en.apa.az/print/232082>

71 <http://www.rferl.org/content/azerbaijan-aliyev-zeman-eu-values-human-rights/27251531.html>

72 <http://www.consilium.europa.eu/en/press/press-releases/2015/07/22-tusk-meeting-azarbaidijan/>

Azerbaijan and the United Nations

“Personalities like Leyla Aliyeva have unique strength of conviction, and millions may respond to their calls. We believe that Leyla Aliyeva, by participating in big events on raising funds in Azerbaijan and disseminating information about FAO’s activities, would successfully contribute to FAO’s business”.

— UN FAO representative Nadin Valat, Baku, 8 September 2015⁷³

i

On 17 September 2014, an unusual announcement came out of the United Nations (UN) Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Punishment, from Baku, where it was conducting a fact-finding mission in line with its mandate.

“The United Nations Subcommittee on Prevention of Torture (SPT) has decided to suspend its visit to Azerbaijan due to obstructions it encountered in carrying out its mandate under the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), to which Azerbaijan is a party.

The delegation was prevented from visiting several places where people are detained and was barred from completing its work at other sites, despite repeated attempts to do so and assurances of unrestricted access to all places of deprivation of liberty by Azerbaijani authorities.

As a result of these serious breaches of Azerbaijan’s obligations under the Optional Protocol, the delegation concluded that the integrity of its visit, scheduled to run from 8 to 17 September, had been compromised to such an extent that it had to be suspended”.⁷⁴

That same day, an entirely different message came out of another UN body. While the Subcommittee on Prevention of Torture was being barred access to Azerbaijani prisons, Director-General of the UN Educational, Scientific and Cultural Organisation (UNESCO) Irina Bokova greeted Azerbaijani First Lady Mehriban Aliyeva in Paris. According to the Heydar Aliyev Foundation, “At the meeting, [the] significance of the projects being implemented jointly by Azerbaijan and UNESCO was emphasized, [the] importance of the presentation associated with Gobustan at UNESCO underscored, and confidence was expressed with regard to extending bilateral relations further”.⁷⁵

That evening, still without acknowledging the difficulties faced by the Subcommittee on Prevention of Torture – or indeed the human rights situation in Azerbaijan at all – Bokova welcomed a high-level crowd to a performance of the Azerbaijani ballet ‘Shadows of Gobustan’, thanking Aliyeva for her presence and for her “leading role” as UNESCO Goodwill Ambassador for Oral and Musical Traditions, and the Azerbaijani delegation for “these events showcasing the wealth of Azerbaijan’s cultural heritage and creativity”.⁷⁶

ii

The contrast between the approaches of the two UN bodies to Azerbaijan that day in September 2014 is emblematic of the general state of UN-Azerbaijan relations. While

⁷³ <http://www.heydar-aliyev-foundation.org/en/content/view/59/4024/Personalities-like-Leyla-Aliyeva-have-unique-strength-of-conviction,-and-millions-may-respond-to-their-calls>

⁷⁴ <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15047&LangID=E>

⁷⁵ <http://www.heydar-aliyev-foundation.org/en/content/view/52/3468/Mehriban-Aliyeva-meets-UNESCO-Director-General-Irina-Bokova>

⁷⁶ <http://unesdoc.unesco.org/images/0022/002297/229701M.pdf>

one part of the UN condemns human rights violations being perpetuated by Azerbaijani authorities, another part welcomes the ruling Azerbaijani elite with open arms.

Returning to the example of UNESCO, Director-General Irina Bokova engages regularly with the Azerbaijani government, largely on cultural issues. She has travelled several times to the country and has often welcomed top Azerbaijani officials to Paris – primarily First Lady Mehriban Aliyeva, who has been a UNESCO Goodwill Ambassador for more than a decade. Yet despite the fact that UNESCO has a strong freedom of expression mandate, Bokova has remained publicly silent on the extensive freedom of expression violations taking place in the country, ignoring calls by human rights groups to speak out. The lone exception has been her reaction – per a specific UNESCO requirement to do so – to the August murder of journalist Rasim Aliyev, which she condemned and called for those responsible to be brought to justice.⁷⁷

The First Lady is not the only member of the president's family to be given a prestigious honorary position with a UN body. In July, it was announced that the president's daughter, Leyla Aliyeva, had been appointed a Goodwill Ambassador of the UN Food and Agriculture Organization (FAO).⁷⁸ Later that month, President Aliyev himself was given the 2015 South-South Award for "his contributions in the improvement of the welfare of the population, diminishing the illiteracy and poverty as well as the actions taken in the successful implementation of the Millennium Development Goals [sic]".⁷⁹ The award was co-organised by the FAO and other intergovernmental bodies.

Azerbaijan is also actively engaged at the UN General Assembly, and – elected by a significant majority⁸⁰ – served as a non-permanent member of the UN Security Council from 2011 to 2013, including two stints in the Presidency in May 2012 and October 2013 – the same month Aliyev was re-elected to a third term. In general, the Azerbaijani government makes an effort to comply – at least at face value – with its more perfunctory UN obligations. As a result, overall UN-Azerbaijan relations are somewhat better than the country's relations with other bodies tasked with monitoring its human rights practices.

iii

But that does not mean the UN has been silent when it comes to the on-going human rights crackdown on the ground. Indeed, there is a wealth of documentation from UN bodies and experts detailing human rights violations in Azerbaijan and recommending measures to address them, including from treaty-monitoring bodies such as the Human Rights Committee and the Committee on Economic, Social and Cultural Rights; UN special mandate-holders such as the Special Rapporteurs on the situation of human rights defenders, the rights to freedom of peaceful assembly and of association, and freedom of opinion and expression; and the UN Human Rights Council.

For example, just ahead of the start of the European Games, on 2 June, UN Special Rapporteur on the situation of human rights defenders Michel Forst criticised the "relentless prosecution and repression of prominent rights activists in Azerbaijan", urging "athletes, sport fans and supporters of the Games to show solidarity with Azerbaijani human rights defenders and join the calls for them to be freed immediately in the European spirit of freedom and human rights".⁸¹

77 http://www.unesco.org/new/en/media-services/single-view/news/director_general_calls_for_investigation_into_the_killing_of_journalist_rasim_aliyev_in_baku/#.Viblnund6kQ

78 <http://www.fao.org/about/who-we-are/director-gen/faodg-news-archive/detail/en/c/326998/>

79 http://azertag.az/en/xeber/Azerbaijani_President_Ilham_Aliyev_honored_with_South_South_Awards-887670

80 <http://www.un.org/apps/news/story.asp?NewsID=40174#.ViZPwOnd6kR>

81 <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16029&LangID=E>

On 24 June, at the 29th session of the UN Human Rights Council, a group of 25 states supported an oral statement, delivered by Ireland, on the situation of human rights in Azerbaijan, submitted under agenda item 4 (dedicated to the most serious cases of human rights violations). The group expressed serious concern “about the shrinking of space for civil society and freedom of expression in Azerbaijan. This has taken various forms: harassment and intimidation, arrest and imprisonment of lawyers, journalists, peaceful activists and human rights defenders on dubious charges, blocking of bank accounts and other restrictions on funding and functioning of NGOs, restrictions on travel and refusal of access to the country to representatives of respected international human rights organisations and foreign journalists”.

“While the methods have varied, the incidents can be seen together as a systematic silencing of critical voices”, the statement continued. Further, the group called for the immediate and unconditional release of specific human rights defenders, and for Azerbaijan to “cooperate fully in the field of human rights with the international community”, listing specific measures such as facilitating the visits of UN special mandate holders.⁸²

On 20 August, a group of six UN experts united in condemning the prison sentencing of Azerbaijani human rights defenders Leyla and Arif Yunus, stating that it was “manifestly politically motivated and representative of the continuing repression of independent civil society”, as well as human rights defenders Anar Mammadli, Rasul Jafarov, and Intigam Aliyev, who they stated “have been targeted because of their legitimate human rights work”. They added: “silencing these prominent voices is having a devastating impact on the Azerbaijani civil society as a whole”.

The group concluded: “The State has the primary responsibility to protect human rights defenders from any form of harassment, intimidation and retaliation arising as a result of their legitimate and peaceful human rights activities”. The six experts included Michel Forst, the Special Rapporteur on the situation of human rights defenders; Maina Kiai, the Special Rapporteur on the rights to freedom of peaceful assembly and of association; David Kaye, the Special Rapporteur on freedom of opinion and expression; Mónica Pinto, the Special Rapporteur on the independence of judges and lawyers; Dainius Pûras, the Special Rapporteur on the right to health; and Seong-Phil Hong, the Chair-Rapporteur of the UN Working Group on Arbitrary Detention.⁸³

During Aliyev’s third term in office, so far there have been two reviews of Azerbaijan by UN treaty-monitoring bodies. In April 2014, the Committee on the Rights of Persons with Disabilities (CRPD) reviewed Azerbaijan’s implementation of its commitments under that treaty, finding a number of violations such as legal provisions permitting the deprivation of liberty on the basis of disability and restricting the exercise of rights such as the right to vote and access to justice. The CRPD recommended that the state ensure compliance with the treaty by adopting the human rights-based model of disability, among many other steps.⁸⁴

In February this year, the Committee on the Elimination of Discrimination against Women (CEDAW) reviewed Azerbaijan’s implementation of its commitments under that treaty, finding serious violations such as restrictions on the work of women journalists and human rights defenders, including cases of arrest and detention, and the significant underrepresentation of women in legislative bodies and in government, particularly in senior and decision-making positions. The CEDAW recommended, among other measures, that the government “ensure an enabling environment” in which women’s or-

82 <https://www.dfa.ie/media/dfa/alldfawebsitemedia/ourrolesandpolicies/int-priorities/humanrights/HRC29---JC-human-rights-in-Azerbaijan.pdf>

83 <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16337&LangID=E>

84 http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fAZE%2fCO%2f1&Lang=en

ganisations can be established and freely operate, and introduce mandatory quotas for women candidates on electoral lists of political parties.⁸⁵

The next UN body set to review Azerbaijan's human rights practices is the Committee Against Torture (CAT), scheduled for 11 to 12 November. While Azerbaijan has complied with its reporting obligations with the body, it has failed across the board to implement its commitments per the Convention on the Prevention of Torture and Other Cruel Inhuman or Degrading Treatment or Punishment.

After the suspension of the September 2014 country-visit by the Subcommittee on Prevention of Torture, the Azerbaijani government did facilitate a subsequent visit by the subcommittee in April 2015. Following the mission, the delegation stated, "The Azerbaijani Government this time enabled unhindered access to places of deprivation of liberty. However, the State party has yet to guarantee all fundamental legal and procedural safeguards to persons deprived of their liberty, including access to a lawyer, a medical doctor, and to contact his or her family".⁸⁶

Now, just weeks before its review by the Committee Against Torture, reports of torture in Azerbaijan continue, particularly in cases of political prisoners. For example, jailed opposition REAL movement leader Ilgar Mammadov reported being repeatedly and severely beaten by prison officials in the two weeks leading up to the parliamentary elections.⁸⁷

Conclusion

This blatant disregard by the Azerbaijani government of its torture-prevention commitments just weeks before being reviewed by the Committee Against Torture has become typical not only for Azerbaijan's relations with the UN, but in Azerbaijan's international relations more broadly. Azerbaijan is simply not the reliable international partner it presents itself as being. Rather, the Azerbaijani government picks and chooses which of its commitments to uphold, and when to uphold them. In recent years, it has increasingly opted to not even bother going through the motions when it comes to its human rights obligations.

And with mixed signals from bodies like the UN, it is hardly surprising that the Azerbaijani authorities feel no real pressure to uphold their commitments. When UNESCO and the FAO warmly embrace – and even reward – Azerbaijani President Aliyev and his family whilst keeping silent on repression in the country, condemnation by the UN Human Rights Council and Special Rapporteurs will continue to fall on deaf ears. Until the UN demonstrates consistent political will to hold Azerbaijan accountable for its human rights obligations, very little can be done to address the lack of political will to implement the needed reforms within the Azerbaijani government itself.

85 http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%-2fAZE%2fC0%2f5&Lang=en

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

87 <http://www.contact.az/docs/2015/Politics/101900133499en.htm#.ViYkAend6kQ>

Azerbaijan's relations with economic bodies

On 13 October 2015, the Right Honourable Clare Short, Chair of the Board of the Extractive Industries Transparency Initiative (EITI), shared details of her private talks with President Aliyev, providing unprecedented insight into his negotiations with bilateral and multilateral partners. In an interview with BBC Azeri following her 8 October meeting with President Aliyev in Baku, Short said that President Aliyev had described the pressures against Azerbaijani civil society as "some instability in the region".⁸⁸

According to Short, Aliyev said: "Yes, we have imposed restrictions on civil society because of the Maidan events in Ukraine and other events taking place in the region. But I am proud that I put our country's signature on EITI in London in 2003. I'd like that we remain in this organisation. If anyone gives us a concrete explanation of what the problems are, I will give an order for the elimination of those problems, so that civil society can freely operate within the EITI".

In April 2015, Azerbaijan had been downgraded from "compliant" to "candidate" status by the EITI. The EITI stated that the downgrade was a result of "deep concern for the ability of civil society to engage critically in the EITI process in Azerbaijan". If Azerbaijan fails to implement corrective action by April 2016, it faces being suspended from the EITI.

Free and active civil society participation is a cornerstone of the EITI's mission. In Azerbaijan, however, the authorities have restricted the ability of independent NGOs to monitor revenue transparency in Azerbaijan to the extent that the majority of them have been forced to suspend their activities. These NGOs had always faced obstacles. However, in 2014, the situation deteriorated rapidly, when the government froze the bank accounts of independent NGOs and/or refused to register their grants, leaving the groups unable to access funds.

The purpose of the meeting between Short and Aliyev in Baku on 8 October was to discuss Azerbaijan's implementation of the EITI's requirements. "The President undertook to resolve the issues raised by the EITI Board on civil society participation. Azerbaijan's progress on implementing this commitment will be assessed in April 2016 after the publication of Azerbaijan's next EITI report. We look forward to continue to work together with the government on these issues", said Short in the official press release.⁸⁹

But the real significance of Short's conversations with Aliyev emerged later, in her interview with BBC Azeri. For the first time, Aliyev had admitted there were "restrictions", in sharp contrast to his usual rhetoric that "all fundamental freedoms are respected in Azerbaijan". Short had been briefed by foreign ambassadors in Baku, who reported that "the situation continues to deteriorate" and that "it harms the potential future of Azerbaijan and the environment for investments in the country", and told Aliyev that the "changes should be made or there will be a problem".⁹⁰

Short, a former UK Secretary of State for International Development, took an unprecedented step by seriously challenging Aliyev on the country's human rights record and handing him what could be described as an ultimatum. According to Short, Aliyev "is not indifferent to EITI", and "he made a strong promise" that changes would be made.

⁸⁸ http://www.bbc.com/azeri/azerbaijan/2015/10/151013_clare_short_int

⁸⁹ <https://eiti.org/news/eiti-chair-meets-azerbaijan-president-ilham-aliyev>

⁹⁰ http://www.bbc.com/azeri/azerbaijan/2015/10/151013_clare_short_int

The EITI's 14 April downgrade of Azerbaijan could lead to the eventual suspension of the country's membership unless concrete steps are taken to enable a healthy environment for civil society participation, as laid out in the EITI principles. "Time will tell", concluded Short.

i

The human rights situation in Azerbaijan has never been worse, and yet the Aliyev regime continues to benefit from bilateral and multilateral deals aimed at boosting Azerbaijan's economy and strengthening energy cooperation with the West. However, local experts report that the country's energy revenues have instead been invested in strengthening the government's repressive machinery. Funds from energy resources have been used to secure the loyalty of law enforcement agencies, so they can be relied on to support mass oppression of critical voices.

Anar Mammadli, the head of the election-watchdog NGO the EMDSC, was arrested on 16 December 2013 in Baku for tax evasion and illegal entrepreneurship, charges his defence team rejected as politically motivated. The following day (17 December), UK Foreign Secretary William Hague attended the signing by the BP-led group of a deal of USD 45 billion to produce and export gas to Europe from the Shah Deniz field in the Caspian Sea. Although Hague said he had discussed Mammadli's arrest with President Aliyev during the visit, the UK remains the largest foreign investor in Azerbaijan's economy.

"We have raised that specific case; we will continue to raise concerns", Hague told reporters in Baku, after meeting with Aliyev and Foreign Minister Elmar Mammadyarov. "For us, economic development and greater prosperity go along with greater human rights".

Despite the rapid deterioration of the human rights situation since Hague's visit, UK companies – BP, for example – remain fully operational in Azerbaijan, turning a blind eye to human rights violations in the country.

BP, which is leading development of the Shah Deniz II gas field, has already committed USD 10 billion in contracts, reports the Financial Times, quoting Gordon Birrell, BP's regional head.⁹¹

Local experts believe that by arresting Mammadli the day before TANAP's inauguration, Aliyev pushed the West into a corner, forcing them to choose between supporting Azerbaijani civil society, and furthering energy cooperation with the government. When Baku saw no serious consequences following Mammadli's arrest, it appeared that the message had been understood. Local experts believe that in Mammadli's case, energy interests prevailed over human rights. Authorities interpreted this as a "go ahead" for further repression.

Since Aliyev secured a third term in office through a deeply flawed election, he has launched an unprecedented "witch hunt" against those who challenged the legitimacy of the election. Human rights activists, journalists, and other regime critics were subjected to criminal charges and physical and financial harassment. Numerous NGOs had their bank accounts frozen and many were forced to close, completely closing the space for political discourse.

The Azerbaijani government has refused to comply with international demands to immediately release prominent opposition leader Ilgar Mammadov. The Committee of Ministers of the Council of Europe has made numerous calls for Mammadov's release. Prior to his arrest, Mammadov was one of the most outspoken critics of the Southern Gas Corridor (TAP/TANAP) project. He was a member of the advisory board of the Rev-

⁹¹ <http://www.ft.com/intl/cms/s/0/b86cb5b4-be99-11e4-8036-00144feab7de.html#axzz3p0vQalOK>

enue Watch Institute (RWI). He was arrested in February 2013 and later sentenced to seven years in jail on charges widely agreed to be trumped-up and politically motivated.

Over the last few years, the climate for civil society in Azerbaijan has deteriorated to the point where it seriously threatens the ability of civil society organisations to engage effectively in key watchdog activities such as tackling corruption and promoting a safe and sustainable environment.

The USAID Civil Society Organization Sustainability Index, which since 1997 has been used to assess international and regional trends in the civil society sector and to identify common obstacles impeding the sector's sustainability, points to problems in Azerbaijan:

"The legal environment in Azerbaijan has deteriorated markedly, dropping from the bottom of the Sustainability Evolving category to the middle of the Sustainability Impeded category. Since the end of 2013, several amendments were made to the laws governing CSOs that significantly limit the operational environment for civil society. In addition, in 2014 the government launched an unprecedented wave of investigations into the offices of domestic and foreign CSOs, followed by interference in their activities, freezing of their bank accounts, and unjustified refusals to register grant contracts. As a result of these changes, Azerbaijan now has the lowest score it has recorded in this dimension since 2000".⁹²

ii

The fall in oil prices – which is also dragging down natural gas prices in Europe – has dramatically changed official rhetoric in Baku. Before the global decline in oil prices, President Aliyev repeatedly declared that Azerbaijan had become a sustainable, well-developed country and that the country did not need any foreign assistance or loans.⁹³ Now, Aliyev openly admits that "2016 will be a difficult year", and projects of less priority should be put on hold while additional foreign loans are sought to stimulate the national economy.⁹⁴

Aliyev also claims that he intends to reduce economic dependence on the energy sector, and encourages focus on development of the non-oil sector of the economy.⁹⁵ Local experts interpret this type of rhetoric largely as a message to foreign investors. However, genuine economic reform requires judicial independence, rule of law, and at least minimal human rights standards.

The fall in oil prices has revealed the main shortcomings of the Azerbaijan economy, primarily its over-dependency on the energy sector. On 21 February, the Central Bank of Azerbaijan devalued the country's currency, the Manat (AZN), by 33.5 per cent against the U.S. Dollar, and 30 per cent against the Euro.⁹⁶

This has led, in turn, to serious problems in all sectors of the economy, particularly the banking sector. A series of currency interventions by the government from December 2014 to January 2015, aimed at preserving the Manat's stability against the dollar and the Euro – despite the falling oil prices – required the authorities to spend approximately

⁹² <https://www.usaid.gov/sites/default/files/documents/1863/E&E%202013%20CSOSI%20Final%2010-29-14.pdf>

⁹³ <http://russian.eurasianet.org/node/59382>

⁹⁴ See, for example: <https://www.meydan.tv/az/site/politics/7399/ilham-lyyev--Biz-nefti-qazi-k-nara-qoymalıyiq-umumiyy-tl-unutmalyiq.htm%20AND%20http://www.qafqazinfo.az/iqtisadiyyat-4/2016-ci-il-asan-il-olmayacaq-biz-bunu-bilmeliyik-ilham-eliyev-124993>

⁹⁵ <http://news.az/articles/economy/100206>

⁹⁶ <http://www.ft.com/intl/cms/s/0/f7d91efe-ba7f-11e4-945d-00144feab7de.html#axzz3p0vQalOK>

15 per cent of the country's foreign currency reserves.⁹⁷ This is in addition to funds taken from the National Oil Fund.

The stability of the national currency was previously a contributing factor to the public credibility of Aliyev's government. However, as the country's economy and financial system begin to suffer an acute reversal, the Aliyev government will likely find itself under growing popular pressure.⁹⁸ By clamping down on dissent, Aliyev has been successful in maintaining control. However, this repression will not fix Azerbaijan's underlying economic problems. In order to address the financial problems and thus maintain public credibility, the Azerbaijani authorities are increasingly seeking foreign loans from public banks.

These donors include the European Bank for Reconstruction and Development and the European Investment Bank.

iii

To date, the European Bank for Reconstruction and Development (EBRD) has funded 155 projects in Azerbaijan at a total value of EUR 2.3 billion.⁹⁹ To the dismay of many observers, the EBRD approved a loan of EUR 500 million to Russia's Lukoil for the Shah Deniz gas project in Azerbaijan amidst the unprecedented crackdown on all forms of dissent. This loan is in fact about 60 per cent of the total loan portfolio of the EBRD in Azerbaijan.

On numerous occasions, both privately and publicly, civil society organisations called on the EBRD not to issue this particular loan for two major reasons: the wide-scale repression in Azerbaijan; and the existing sanctions imposed on Russian companies by the West. The NGOs repeatedly urged the EBRD to reject the loan on the grounds that Azerbaijan is "failing to meeting the basic requirements of the Agreement Establishing the European Bank for Reconstruction and Development and the Bank's own Environmental and Social Policy".¹⁰⁰ Under the EBRD Agreement, the parties must be committed to human rights, multi-party democracy, rule of law and pluralism. This obligation is being systematically violated in Azerbaijan.

"Azerbaijan is committed to the principles of multiparty democracy, pluralism and market economics outlined in Article 1 of the Agreement Establishing the Bank", concludes the EBRD's 2014 political assessment on Azerbaijan.¹⁰¹ This conclusion sharply contradicts the findings of dozens of assessments, reports and statements issued by credible international organisations. Nevertheless, based on that assessment, the EBRD designed a country strategy that paved the way for the 22 July EBRD Board approval for the 500 million USD loan to Lukoil.¹⁰²

iv

On 10 September, the European Parliament issued a resolution asserting that EU support for and cooperation with Azerbaijan must be conditional on the promotion of civil liberties and democratic reforms. Notably, the resolution contained tough wording on business deals with Azerbaijan. The resolution, *inter alia*, called for "a thorough investigation into the corruption allegations against President Aliyev and members of his family

⁹⁷ http://www.jamestown.org/single/?tx_ttnews%5Btt_news%5D=43608&no_cache=1#.ViTjY9blfFI

⁹⁸ *Ibid*

⁹⁹ <http://www.ebrd.com/azerbaijan.html>

¹⁰⁰ <http://bankwatch.org/publications/sport-rights-ebrd-no-public-money-lukoil-and-mega-gas-project-azerbaijan>

¹⁰¹ <http://www.ebrd.com/downloads/country/strategy/azerbaijan-country-strategy.pdf>

¹⁰² <http://www.ebrd.com/work-with-us/projects/psd/lukoil-shah-deniz-stage-ii.html>

revealed by the work of the investigative journalist Khadija Ismayilova”, and urged European companies that operate in Azerbaijan to be “outspoken in demanding high human rights standards and to adopt high standards of corporate social responsibility, taking into account the impact of their actions on the human rights situation in the country”.¹⁰³

Surprisingly, less than a week after the adoption of this resolution, on 16 September another public investor, the European Investment Bank (EIB) rushed to sign a loan agreement of EUR 50 million with the International Bank of Azerbaijan, the country’s leading bank, to finance projects promoted by small and medium enterprises and midcaps.¹⁰⁴ As stated on its website, the EIB is “the only bank owned by and representing the interests of the European Union Members States. The EIB works “closely with other EU institutions to implement EU policy”.¹⁰⁵

In addition to the obvious conflict with the European Parliament resolution, by the time of the agreement to provide a loan of EUR 50 million to the International Bank of Azerbaijan, the bank had a large portfolio of unpaid loans, in the amount of several billion Euros. Local experts see no logic in providing the loan at a time when the state had started privatising the International Bank of Azerbaijan¹⁰⁶.

Most leading independent economic experts in Azerbaijan believe that the 51 per cent state share in the International Bank of Azerbaijan will eventually be privatised by members of the ruling family through non-transparent schemes. In October 2007, Aliyev ordered the privatisation of Kapital Bank, which is now, as stated in Bank’s 2014 Annual report, “ultimately owned by Ms Leyla Aliyeva and Ms Arzu Aliyeva, who exercise joint control over the Bank”.¹⁰⁷ Leyla Aliyeva and Arzu Aliyeva are the daughters of President Aliyev and First Lady Mehriban Aliyeva.

According to records collected by the Organized Crime and Corruption Reporting Project, members of the Aliyev family and their close advisors are significant shareholders in at least eight major Azerbaijan banks. They control assets in those institutions worth more than USD 3 billion.¹⁰⁸

Local groups in Azerbaijan see these actions by the EU as an attempt to placate the aggressive reactions from the government to the European Parliament resolution calling for possible sanctions against Azerbaijani officials. Some officials in Brussels seem intent on signalling to official Baku that cooperation on energy security will continue despite criticism of Azerbaijan’s human rights record, and that the European Parliament’s resolution will not affect the broader EU- Azerbaijan partnership.

The *Charter of Fundamental Rights of the European Union* also addresses all EU institutions and bodies; the EIB is therefore bound by the Charter.¹⁰⁹ In relation to the external mandate, the EIB plays an increasingly important role in the implementation of EU aid; therefore, the EIB’s principles and operations should be fully consistent with the EU’s commitment to place human rights at the core of sustainable development.

The EIB’s *Statement on Environmental and Social Principles and Standards* outlines the standards that the Bank requires of the projects that it finances, and the responsibilities of the various parties. According to paragraph 48 of the Statement, “Within the EU and

103 <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGM-L+TA+P8-TA-2015-0316+0+DOC+PDF+V0//EN>

104 <http://www.eib.org/infocentre/press/releases/all/2015/2015-197-eib-continues-to-support-development-of-the-sme-sector-in-azerbaijan.htm>

105 <http://www.eib.org/about/index.htm>

106 <http://uk.reuters.com/article/2015/07/15/azerbaijan-banking-privatisation-idUKL5N0Z-V3DG20150715>

107 <http://www.eurasianet.org/node/73846>

108 <https://www.occrp.org/freekhadijajismayilova/stories/azerbaijani-first-family-big-on-banking.php>

109 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:en:PDF>

the Enlargement Countries, subject to any agreed phasing, the EIB assumes that EU social requirements, including international human rights conventions ratified by the EU, are correctly implemented within the framework of national law".¹¹⁰

The EIB is therefore in a prime position to demand concrete improvements and reforms from the Aliyev government, given that at present, Azerbaijan is not fulfilling the criteria and standards set forth not only by the European Parliament and other regional organisations in Europe, but also by the EIB's own project-financing criteria.

¹¹⁰ http://www.eib.org/attachments/strategies/eib_statement_esps_en.pdf

PART II

DOMESTIC CRACKDOWN ON FUNDAMENTAL FREEDOMS

In the run-up to Azerbaijan's October 2013 presidential election, human rights groups reported an unprecedented human rights crackdown in the country.

At the time, it was indeed unprecedented. That year, Azerbaijani authorities used excessive force to disperse a series of pro-democratic protests responding to social issues such as local corruption and the deaths of soldiers in non-combat situations, and imprisoned the most prominent activists involved – some of whom remain in jail today. Parliament adopted a series of regressive legislation that made it difficult for independent NGOs to operate and hindered the ability of journalists to investigate corruption. Just ahead of the 2013 election, local groups reported a total of 142 political prisoners in the country.¹¹¹

But now, on the eve of the 1 November 2015 parliamentary elections, things are worse than ever – beyond the expectations of even the most hardened observers. As President Aliyev settled into his third term in office and worked to consolidate power, the Azerbaijani authorities acted increasingly aggressively to silence the few remaining critical voices in the country. The human rights situation in the country has truly reached crisis levels.

While the number of political prisoners in Azerbaijan in 2013 was shocking, even more shocking is the fact that now it has become impossible to compile a complete list of current cases of political prisoners in the country. That is because the very human rights defenders involved in researching and compiling this information – namely Rasul Jafarov and Leyla Yunus – have themselves become political prisoners. While human rights NGOs faced some restrictions in 2013, they have now mostly been shut down. While protests were violently dispersed in 2013, there are now few protests to speak of. While credible international observers reported that the 2013 election failed to meet democratic standards, it has now become futile to observe the election at all, as the climate in the country eliminated the chances of a fair and free vote long before election day.

After describing in the previous section of this report Azerbaijan's deteriorating relations with international bodies, this section examines the extensive human rights violations that have caused these difficulties, detailing the situation of the fundamental freedoms of expression, assembly, and association in Azerbaijan in the two years since President Aliyev's re-election to a third term.

¹¹¹ <http://www.europapraw.org/files/2013/10/HRC-list-of-political-prisoners-in-Azerbaijan-1-Oct-2013.pdf>

Freedom of expression

On 27 May, reporters from the Organized Crime and Corruption Reporting Project (OCCRP) published a story titled “Offshores Close to President Paid Nothing for State Share of Telecom”.¹¹² The story revealed that Azerbaijanis lost more than USD 600 million in a deal that made no sense except for a murky offshore connection to President Aliyev.

The OCCRP story was based on original reporting by Khadija Ismayilova, the award-winning investigative journalist who has repeatedly exposed corruption amongst the highest echelons of Azerbaijan’s political elite – including the ruling Aliyev family.

In reaction to the OCCRP story, Ismayilova, who was by that time in prison on bogus criminal charges, wrote: “This investigation, along with others, is the reason for my arrest. More investigations of this kind are needed. That’s because black money helps governments to keep their nations enslaved”.¹¹³

Several months later, when delivering a defiant closing statement in a Baku courtroom before her conviction and sentencing to seven and a half years in prison, Ismayilova would remark on the irony of the situation: that the government had accused her of tax evasion, embezzlement and abuse of power -- the very crimes among officials she had sought to expose in her investigative reporting.

During the trial, not a single witness testified against Ismayilova. However, this fact did not prevent the court from convicting her on charges of tax evasion, illegal entrepreneurship, and abuse of power. The “express” trial, which was conducted with few independent observers allowed in, made a mockery of the Azerbaijani judicial system.

Whilst behind bars, Ismayilova saw her friends and colleagues sentenced to lengthy jail terms one after another; it is in detention that she learned that another journalist – someone covering her trial – had been brutally beaten and later died in hospital due to a lack of proper medical care.

Since President Aliyev assumed his third term in office, Ismayilova’s colleagues – journalists, bloggers and activists – have been harassed, jailed, beaten, killed, and forced into hiding or exile. Foreign journalists – perceived as potential threats to the glamorous and modern image of the country promoted by the regime – have been banned from entering the country. Media laws have been further tightened, and the possibility of imposing restrictions on Internet use have been further explored, with plans by the Ministry of Communications to license Facebook, WhatsApp and Skype, on top of the on-going crackdown on online activists and bloggers.¹¹⁴

During his first two terms, Aliyev worked to increase state control over the media, bringing television, radio and print media under the strict control of his administration. During his third term in office, the crackdown against freedom of expression has reached unprecedented lows; another journalist has been killed with impunity, leading media figures have been thrown into jail or forced into exile, and the independent media is now almost entirely destroyed.

¹¹² <https://www.occrp.org/corruptistan/azerbaijan/azerbaijan-telecom/offshores-close-to-president-paid-nothing-for-share-of-state-telecom.php>

¹¹³ <https://www.occrp.org/corruptistan/azerbaijan/azerbaijan-telecom/khadija-calls-latest-telisonera-bribe-story-dangerous.php>

¹¹⁴ <http://contact.az/search/document.php?id=62574&vr=en#.Vi3zF2hfrqA>

i

In February 2015, Swiss broadcaster SRF broke the news that the Swiss Embassy in Baku had been sheltering prominent Azerbaijani free expression campaigner Emin Huseynov since August 2014.¹¹⁵ Huseynov, 35, had appealed to the embassy for help in August 2014 after raids on his home and the office of the Institute for Reporters Freedom and Safety (IRFS), which he founded in 2006 to protect journalists and free expression in Azerbaijan.

Huseynov lived at the Swiss Embassy in Baku until 12 June, when he travelled to Switzerland on a state jet with a top Swiss official, Federal Councillor Didier Burkhalter. Following Huseynov's safe passage, President Aliyev ordered that Huseynov be stripped of his Azerbaijani citizenship. As a result, Huseynov found himself a stateless person in Switzerland.

Huseynov founded IRFS on World Press Freedom Day (3 May) in 2006. Before being shut down by the government, the organisation provided journalists with legal assistance, investigated attacks against them, and produced scores of widely circulated reports on media restrictions and free speech violations in Azerbaijan.

In 2010, Huseynov established Obyektiv TV, an independent online news source dedicated to providing alternative human rights news from Azerbaijan, aimed at countering the increasing government control of traditional news sources.¹¹⁶ In May 2013, Obyektiv TV was awarded a prestigious One World Media Award for its "outstanding media content which has made a real impact on people's lives."¹¹⁷

In August 2014, both IRFS and Obyektiv TV were forcibly shut down by the Aliyev regime. The cases of IRFS and Obyektiv TV are part of a pattern of organisations being silenced for promoting and defending the right to free expression in Azerbaijan. Since Aliyev secured a third term in office, his government has cracked down on dozens of local and foreign media NGOs and outlets. In December 2014, the police raided the Baku bureau of Radio Free Europe/Radio Liberty, shutting down the office and ordering its journalists to stop working.¹¹⁸

At the time of publication of this report, the authorities' main focus in their relentless crackdown was on Meydan TV, an independent online television station based in Berlin, providing alternative news coverage of Azerbaijan.¹¹⁹ Meydan TV Director and former political prisoner Emin Milli reported receiving a high-level threat from the Minister of Youth and Sport in connection with Meydan TV's critical coverage of the European Games.¹²⁰

In the aftermath of the European Games, Meydan TV's in-country correspondents having been placed under a travel ban, repeatedly interrogated at the public prosecutor's office, and – as in case of young reporter Shirin Abbasov – detained for 30 days on bo-

115 <http://www.srf.ch/play/tv/rundschau/video/rundschau---das-polit--und-wirtschaftsmagazin?id=a824554f-c931-4e9e-8913-bc15b2bca9ec>

116 For more information about Obyektiv TV, visit its website: www.obyektiv.tv

117 One World Media Awards is one of the foremost award events in UK. It rewards the most outstanding media coverage of the developing world and recognises the unique role of journalists and filmmakers in bridging the divide between different societies and raising awareness of vital development issues. In May 2013, under the leadership of Emin Huseynov, Obyektiv TV won a special category One World Media Award: <http://bit.ly/10i8HCm>

118 <http://www.voanews.com/content/radio-free-europe-bureau-raided-by-azerbaijan-authorities/2574415.html>

119 www.meydan.tv

120 See, inter alia, http://www.coe.int/en/web/media-freedom/all-alerts?p_p_id=sojdashboard_WAR_coesoportlet&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&p_p_col_id=column-2&p_p_col_pos=1&p_p_col_count=9&_sojdashboard_WAR_coesoportlet_alertPK=12101937&_sojdashboard_WAR_coesoportlet_jspPage=%2Fhtml%2Fdashboard%2Fview_alert.jsp

gus charges.¹²¹ Meydan TV staff based outside Azerbaijan have seen their relatives blackmailed, fired from their jobs, and thrown behind bars, as in the case of Meydan TV editor Gunel Movlud's two brothers, currently detained on politically motivated drugs charges.¹²²

In 2012, opposition Azadliq newspaper editor-in-chief and former political prisoner Ganimat Zahidov launched a weekly TV programme "Azerbaycan Saati" ("Azerbaijan Hour"), which was transmitted via satellite broadcast to Azerbaijan from abroad. The programme was strongly critical of the regime and the Aliyev family. One of the presenters of "Azerbaycan Saati", journalist Seymur Hezi, has been sentenced to five years' imprisonment on spurious charges of "aggravated hooliganism".¹²³ Another "Azerbaycan Saati" presenter, Natig Adilov, was forced to flee the country fearing imminent arrest after his brother, Murad Adilov, was jailed on charges of drug trafficking.¹²⁴

Local media watchdogs who, prior to the current crackdown, would have protested these violations, have themselves been silenced through accusations of tax evasion, illegal business, and abuse of power.

ii

One of the most significant obstacles to freedom of expression in Azerbaijan since Aliyev came to power in 2003 has been the high frequency of violent attacks against journalists and media workers and the impunity for their attackers. This has resulted in widespread self-censorship, as many journalists fear crossing certain lines by writing about taboo topics, such as corruption and the business interests of the president's family.

By the time Aliyev assumed his third term in office, Azerbaijan already had an appalling record of four murders and hundreds of violent attacks against journalists and free speech advocates.¹²⁵ Since Aliyev took office, virtually no case of violence against a journalist has been seriously investigated. This has created a climate of fear for the media community and impunity for those who wish to use violence as a means of silencing criticism.

Aliyev's third term in office has so far been marked by two particularly barbaric crimes against journalists, both of which occurred during summer holidays in August (2014 and 2015), when the offices of Azerbaijan's bilateral and multilateral partners were largely empty.

On 21 August 2014, assailants burst into the offices of the Nakhchivan Resource Centre, the only independent NGO and media organisation operating under the fiercely restrictive environment in the repressive exclave of Azerbaijan. The assailants brutally attacked Ilgar Nasibov, an independent journalist and human rights defender, and destroyed office equipment. Nasibov was badly injured and left bleeding and unconscious. He was lucky to have survived the attack.¹²⁶

Nasibov sustained serious head trauma; broken cheekbones, nose and ribs; open wounds to his head and body; and loss of vision in one eye. Fearing for his life, Nasibov and his wife, award-winning human rights defender Malahat Nasibova, fled to 'mainland' Azerbaijan.

¹²¹ <https://www.hrw.org/so/node/281562>

¹²² <http://www.azadliq.org/content/article/27305890.html>

¹²³ <http://www.reuters.com/article/2015/01/29/us-azerbaijan-journalist-prison-idUSKBN0L-21VD20150129>

¹²⁴ <http://www.contact.az/docs/2015/Social/051400116013en.htm#.Vi5G-oRN3FI>

¹²⁵ See, inter alia, reports from the Institute for Reporters' Freedom and Safety (IRFS) <https://www.irfs.org/category/last-publications/>

¹²⁶ <http://www.independent.co.uk/voices/comment/voices-in-danger-who-ordered-the-brutal-attack-that-almost-killed-a-journalist-in-azerbaijan-9940983.html>

Almost one year after the attack on Nasibov, another journalist paid the heaviest price of all for his work. Rasim Aliyev, a 30-year old reporter from Baku, criticised Azerbaijani football player Javid Huseynov for mistreating a foreign journalist. Aliyev subsequently received phone calls from persons who presented themselves as the player's relatives. He finally agreed to meet in what seemed to be a safe spot in a busy, populated area of Baku. In this spot, however, he was viciously beaten by six men.¹²⁷

The injuries did not immediately seem serious. Aliyev spoke clearly and indignantly from his hospital bed in Baku's City Clinical Hospital a few hours after the attack.¹²⁸ But then his condition suddenly deteriorated, and he died just hours later in the same hospital.

Although the Azerbaijani authorities launched an investigation and even arrested the football player and the people who allegedly assaulted Aliyev, the chances of a full, impartial and independent investigation have been compromised by the fact that no one from the medical team at Baku's City Clinical Hospital – allegedly responsible for his death – has been arrested.

Aliyev's murder only served to further contribute to the already pervasive climate of fear among the media community in Azerbaijan. Prior to criticising the football player, Aliyev had reported threats after posting to his Facebook page a series of photographs exposing police brutality. Aliyev had worked for IRFS for a number of years. He became its chairman after the ruling regime froze the organisation's bank accounts and persecuted its founder and director, Emin Huseynov, who then sought refuge at the Swiss embassy and was later forced into exile abroad. The attack against Aliyev took place one year to the date that authorities had raided and closed IRFS' Baku office.

In addition to murder and other violent attacks, Azerbaijani journalists and activists have been subject to ill treatment and torture in places of detention. In May, the European Court of Human Rights found that Azerbaijani authorities had tortured media freedom campaigner Emin Huseynov.¹²⁹ The judges held the government responsible for multiple infringements of Huseynov's basic human rights – for the assault against him, the lack of a proper investigation, and the restriction of his rights to freedom of expression and assembly. In June 2008, as Ilham Aliyev was preparing to run for a second term in office, Huseynov was detained and seriously assaulted in police custody. He was struck multiple times on the back of the neck during an attack at a district police station, and as a result was admitted to intensive care, suffering a traumatic brain injury. Authorities failed to investigate a subsequent criminal complaint filed by Huseynov.

iii

The ruling Aliyev regime has a proven track record of using detention and other forms of pressure to stifle dissent and protest. At the time of publication, eight journalists remained jailed (Nijat Aliyev, Araz Guliyev, Parviz Hashimli, Seymur Hezi, Khadija Ismayilova, Hilal Mammadov, Rauf Mirkadirov, and Tofiq Yagublu), as well as five bloggers (Abdul Abilov, Faraj Karimli, Omar Mammadov, Rashad Ramazanov, and Ilkin Rustamzade), among dozens of other political prisoners.

Reporters Without Borders ranked Azerbaijan 162nd (out of 180 countries) in its recently published 2015 Press Freedom Index.¹³⁰ Unless Aliyev releases journalists and bloggers from behind bars, and replaces them with the masterminds and perpetrators of the attacks against journalists, he may very soon find his country languishing at the very bottom of the list, along with Eritrea and North Korea. Azerbaijan ranked 160th in the 2014 Press Freedom Index and 156th in 2013.

127 https://www.fidh.org/IMG/pdf/sfr_statement_-_rasim_aliyev_s_murder_final.pdf

128 https://www.meydan.tv/az/site/opinion/7405/Öldürül_n-jurnalist-Rasim- liyevin-son-müşahib_si.htm

129 <http://hudoc.echr.coe.int/eng?i=001-154161>

130 <http://index.rsf.org/#!/index-details/AZE>

Freedom of assembly

Parallel to the crackdown on free expression, during Aliyev's third term in office, the Azerbaijani authorities have worked aggressively to silence the other fundamental freedoms of assembly and association. Following a series of pro-democratic protests in early 2013, the Aliyev regime swiftly and harshly cracked down, with some political prisoners arrested at that time remaining imprisoned to this day.

These include NIDA civic movement activists Rashadat Akundov, Mammad Azizov, and Rashad Hasanov, who were arrested following a series of protests in Baku against the deaths of soldiers in non-combat situations,¹³¹ and opposition REAL movement chairman Ilgar Mammadov and journalist Tofiq Yagublu, who were jailed on charges of inciting protests in the region of Ismayilli, although they had travelled to the region to observe the protests after they had already started.¹³²

In 2012, Azerbaijan's parliament, the Milli Mejlis, adopted a series of regressive amendments to the law on freedom of assembly.¹³³ While the law itself remains problematic, implementation of the law is also inconsistent. Although the law specifies "permissible" locations for public gatherings, local authorities frequently violate this provision by allowing only remote locations as venues for opposition demonstrations. The same few locations are usually offered, including the Bayil settlement and the Mahsul Stadium – both far from central Baku. It is effectively prohibited to hold any kind of protest in the city centre.

Since the 2013, there have been few protests to speak of. Attempts at peaceful gatherings were quickly and harshly disrupted by police, as outlined below.

Three days after the 2013 presidential election that saw Aliyev re-elected to a third term, on 12 October 2013, the National Council (the predominant opposition coalition during that election) held a large public demonstration, in protest to the election results, and demanding resignation of the president.¹³⁴ The gathering had been sanctioned by the Baku City Executive Power and was held in the Mahsul Stadium on the city outskirts. According to observers, more than 10,000 people attended.

After the demonstration was over, police began to forcefully disperse participants, which led to confrontation. Both protesters and journalists covering the event faced mistreatment by police. Obyektiv TV reporter Rasim Aliyev – who was later tragically killed in August 2015 as outlined in the previous section – was also mistreated by police, who hindered his ability to carry out his job. Police dragged the participants along the ground and kicked them, including some women.¹³⁵

Before the demonstration had started, some opposition representatives were pre-emptively detained. Others were arrested after the gathering was over. Popular Front Party (PFP) member Turkel Azerturk and independent participant Ali Safarli were sentenced to 15 days of administrative detention, and PFP member Sarvar Abdullah and independent participant Emin Maniyev to 10 days of administrative detention. Independent participants Anar Akbarov and Orkhan Bakhishli were fined 100 AZN and 50 AZN, respectively.

On 9 December 2013, a group of youth attempted to hold an unsanctioned gathering in Fountain Square in the city centre, in protest to price increases, but police dispersed them.

131 <https://www.hrw.org/news/2013/04/02/azerbaijan-authorities-targeting-youth-activists>

132 <https://www.amnesty.org/en/latest/news/2013/02/azerbaijan-stop-score-settling-arrests/>

133 <http://en.rsrf.org/azerbaijan-new-legislative-amendments-further-16-05-2013,44622.html>

134 https://obyektiv.tv/index.php?view=video&id=4627&option=com_jomtube&lang=en

135 <https://www.youtube.com/watch?v=DYtP2txkWtU>

On 15 December 2013, the National Council held a sanctioned gathering in Mahsul Stadium in protest to price increases.¹³⁶ Protesters chanted "resign", again aimed at President Aliyev.

On 29 December 2013, a group of opposition youth attempted to hold a protest in Fountain Square due to the death of Karabakh war veteran Zaur Hasanov, who had committed self-immolation, but police dispersed the protest after having encircled the area.

The same day, residents of the small town of Gizildash also held a protest,¹³⁷ after a police car chase resulted in eight deaths. Protesters blocked the police station demanding punishment of those responsible. The head of the Absheron District Police Office received the citizens and listened to their complaints. The parents of the youth who died in the incident, said their children had been beaten by police.

Freedom of assembly was even further restricted in 2014, as authorities disrupted even non-political gatherings. On 20 January 2014, police hindered a visit to the Martyrs' Alley by the National Council. After initially stopping the group from taking a wreath to Martyrs' Alley and following a brief confrontation, police eventually allowed them to proceed.¹³⁸

On 16 February 2014, residents of a Baku neighbourhood known as Sovetski staged a protest in response to forced evictions and demolitions of their apartments by the government, for which they were not adequately compensated.¹³⁹ Police quickly dispersed the protest.

On 20 February 2014, hundreds of students held a protest in front of Baku State University, which had been organised through Facebook. The students were protesting the decision of the Cabinet of Ministers levying additional fees on students studying in sub-groups. The protesters chanted "Don't pick our pockets, you greedies!", "Let's not give money for exam failures!", and "Don't break the law, don't make false laws!". During the protest, a number of journalists were subjected to pressure, including a Voice of America correspondent who was seriously injured – later requiring surgery¹⁴⁰ – a Turan information agency photographer, and several others. Some of the students were attacked by university guards. The guards were forceful towards journalists and students. Several students and journalists were detained by the police.¹⁴¹

On 12 March 2014, a group of Baku vendors, whose stalls had been removed from metro passageways, held a protest.¹⁴² Police prevented the protest, using force and detaining active participants. Journalists covering the event were also subjected to pressure.

On 1 May 2014, a group of youth attempted to stage a march in Baku on the occasion of International Workers' Day, but were prevented by police.¹⁴³ Police forcefully dispersed the crowd and detained participants, who were sentenced to administrative detention on 2 May, by a decision of the Sabail District Court. Among them, Agshin Mustafayev and Taleh Rzakhanov were sentenced to 15 days and Senan Gulahmadova to 10 days of detention, and Umid Alishov to 180 hours of forced labour.

On 6 May 2014, a group of youth attempted to hold a protest outside the Baku Court of Grave Crimes following the conviction of eight members of the NIDA civic movement, but police used force to disperse protesters. Journalists covering the event were also

136 <https://www.youtube.com/watch?v=M8h566sSVHI>

137 <https://www.youtube.com/watch?v=7cJijCYqjDU>

138 <https://www.youtube.com/watch?v=g3KmZ3ys1q8>

139 <https://www.youtube.com/watch?v=7nNFOBo9bfY>

140 <http://www.contact.az/docs/2014/Social/041000075066en.htm#.Vi9PvtCJr8k>

141 https://www.youtube.com/watch?v=l_uKUwRQ19s

142 <https://www.youtube.com/watch?v=XNH9TY5aVdE>

143 https://www.youtube.com/watch?v=7ny8_3AkZMQ

subjected to pressure.¹⁴⁴ Those detained were brought before the Nasimi District Court on 7 May.

The court sentenced Tural Abbasli, Shafi Shafiyev, and Haji Zeynalli to 15 days, Kamala Bananyarli to 30 days, and Orkhan Eyyubzade to 20 days of administrative detention. Other activists, Togrul Ibrahim, Turkel Alisoy, Orkhan Rustemzade, and Rahman Mammadli were fined between 400 and 600 AZN each. PFP member Rasul Murselov was issued a warning and released. *Yeni Musavat* newspaper reporter Mahammad Turkman, Mediaforum.az correspondent Amid Suleymanov, and *Azadliq* newspaper reporter Khalid Garayev were released after being held at the Sabail District Police Office for more than three hours.

On 12 October 2014, the National Council held a protest against the arrests of NGO leaders, journalists, and activists. The gathering was held at the Mahsul Stadium and had been approved by the local executive authority. Participants were not allowed to enter the stadium until 15 minutes before the start, which police said was due to security measures being taken. It was later made known that police had been “looking for a bomb” in the stadium, which the organisers viewed as an intentional obstacle to the protest. During the protest, several unknown persons raised the flag of the jihadist militant group the Islamic State of Iraq and Syria (ISIS). The organisers immediately removed the provocateurs from the stadium, but police repeatedly let them back in, and they attempted to raise the flag several more times.

On 9 November 2014, the National Council held a protest under the slogan “Release”. Although the protest was initially planned for 10 November, on 8 November the Baku City Executive Power told the organisers that permission had been given for 9 November. During the protest, police harassed active young participants. Police attempted to put an iron fence around the rostrum, a step described by one of the protest organisers as intended “to put journalists in a cage”. The organisers’ objections to this measure caused a brief confrontation with police.

On 15 March 2015, the National Council held a protest at the Mahsul Stadium on the outskirts of Baku. The protest, attended by thousands of participants, was held under the slogan “Stop the plunder”, against devaluation of the national currency. On 5 April, the National Council held a sanctioned gathering at the Mahsul Stadium, again under the slogan “Stop the plunder”. On 30 May, the National Council held another gathering at the Mahsul Stadium, demanding punishment for those responsible for the 19 May residential building fire and death of soldiers in Baku. At the end of the protest, police detained two protesters and shoved them into a police car.

On 22 August, residents of the city of Mingachevir gathered to protest the death of a local man, Bahruz Hajiyev, on 20 August under suspicious circumstances in police custody. Police used tear gas and sound bombs to disperse the crowd, which was calling for the resignation of the local police chief.¹⁴⁵ Meydan TV staff have since repeatedly been called in for questioning regarding the online television station’s coverage of the protest.¹⁴⁶

On 12 September, the Karabakh Liberation Organisation held a protest in front of the EU’s Baku office in response to the resolution adopted by the European Parliament on 10 September with regard to Azerbaijan.¹⁴⁷ Although police were deployed in the area, they did not intervene, and only requested that protesters leave the area when the pro-

¹⁴⁴ <https://www.youtube.com/watch?v=PX3R2FwU7k4>

¹⁴⁵ <http://www.rferl.org/content/azerbaijan-mingachevir-death-police-clashes/27202934.html>

¹⁴⁶ <https://www.meydan.tv/en/site/society/7880/“The-main-issue-was-Meydan-TV-Mingachevir-was-an-excuse” .htm>

¹⁴⁷ <http://news.az/articles/politics/101100>

test was finished – a sharp contrast from the authorities' treatment of opposition groups attempting to protest.

With the exception of the 12 September protest – in the government's favour – against the European Parliament resolution, in the sanctioned protests held so far during Aliyev's third term in office, police used force against protesters, hindered the work of journalists, and on occasion broke journalists' equipment. In doing so, they violated not only Azerbaijan's international commitments, but also the state's own law on freedom of assembly, which requires police to ensure security during gatherings.

Freedom of association

“In this country, the thinking is different. Defending the rights of critical media, journalists, politicians, youth activists, victims of property rights violations, and people who have been subjected to torture in police stations, prisons, and in local courts; filing complaints on violations with international courts;...conducting monitoring of elections and human rights violations; preparing reports criticising the government’s policies; conducting research; writing articles; preparing lists of political prisoners; demanding the release of political prisoners; and raising these issues inside the country and at international events, is considered a crime”.

— Final testimony of human rights lawyer Intigam Aliyev, 24 June 2015, Baku Court of Grave Crimes¹⁴⁸

Leyla Yunus: *“The most difficult thing is that the decision that you’ll pass on us today will be a death sentence for us, because neither mine nor Arif’s health will allow us to remain in prison for a long time. But it is a historical trial, like Sakharov’s trial. Today, repressions continue against Khadija Ismayil[ova], Intigam Aliyev and Anar Mammadli. In 1937, they wrote in prison, ‘Today we are sand and dead. But you are afraid of us even when we are dead’”.*

The judge: *“Are you done, Leyla Yunusova?”*

Leyla Yunus: *“Yes, Executioner, I am done, you can do your job. These words of Babek are a motto for us”.*

— Excerpt from the final hearing in the case of human rights defenders Leyla and Arif Yunus, 13 August 2015, Baku Court of Grave Crimes¹⁴⁹

Veteran human rights defender and lawyer Intigam Aliyev was arrested in Baku on 8 August 2014, and charged with tax evasion, abuse of office and illegal entrepreneurship. Another prominent human rights defender, Leyla Yunus, had been arrested the previous week, followed by her husband Arif Yunus, and Sport for Rights founder Rasul Jafarov. All three were sentenced to pre-trial detention - Jafarov on the same charges as Aliyev, and the Yunus couple on charges of treason and spying for Armenia, along with other economic charges.

All four activists had been heavily involved in compiling a consolidated list of political prisoners held in Azerbaijan, supported by a broad group of NGOs. Ironically, the list was due to be published in early August 2014 – the same week Aliyev was arrested.

These arrests – which followed the scandalous arrest of election watchdog Anar Mammadli after the October 2013 presidential vote – marked the beginning of an unprecedented crackdown on independent civil society in Azerbaijan.

i

Leyla Yunus, Director of the Institute of Peace and Democracy, was arrested on 30 July 2014, just days after publicly calling for an international boycott of the European Games because of the dire state of human rights in Azerbaijan.¹⁵⁰

Leyla Yunus and her husband, Arif, also a human rights defender, had first been detained in April 2014 at the Baku airport. Their passports were confiscated, their apartment raided, and their bank accounts frozen. Arif Yunus’s health, which was already fragile, worsened significantly during the experience, resulting in his hospitalization.

148 <http://helsinki.org.ua/en/index.php?id=1435155509>

149 Sport for Rights Dispatch, 31 August 2015

150 <http://www.theguardian.com/world/2015/aug/13/azerbaijan-political-prisoners-leyla-arif-yunus>

More than a year later, on 15 July 2015, the couple finally stood trial after nearly a year in pre-trial detention. Diplomats, journalists, and colleagues present at the trial could hardly recognise Leyla. She appeared in court, ill and fatigued, charged with a ludicrous cocktail of crimes, ranging from tax evasion to high treason. It was also the first time she and Arif had seen each other in nearly a year, as they had been detained in separate facilities.

Leyla and Arif Yunus were kept in a soundproof glass cage during the trial, and both were clearly in poor health. Leyla had lost a significant amount of weight, and looked pale with sunken eyes, with thinned and greying hair.

Although held in an isolated cell, Leyla tried repeatedly to speak out during the trial. She said she had been tortured in detention. She had previously reported being beaten on 23 September 2014, by Major Yagubov at the pre-trial detention center. She also reported facing physical pressure in December 2014 and June 2015.

On 13 August 2015, Leyla Yunus was sentenced to eight-and-a-half years in prison for fraud and tax evasion,¹⁵¹ Her husband, Arif Yunus, was given seven years on similar charges.¹⁵² At the time of publication of this report, both still face separate charges of treason, which carries a life sentence. Both Leyla and Arif continue to suffer from serious, life-threatening health conditions, and should be released on humanitarian, if not political, grounds.

ii

Over the past two years, the Aliyev government has passed several legislative amendments, making it more difficult for civil society organisations and human rights defenders to operate. Since Aliyev secured his third term in office, the Azerbaijani authorities have applied a sophisticated strategy to silence local and international NGOs working on democracy and human rights. The new – and still on-going – assault on freedom of association differs in its scope, tactics and aims, from the government's previous campaigns to silence critics.

The dramatic crackdown on civil society in Azerbaijan included smear campaigns against high profile human rights defenders and independent NGOs (referred to as “traitors” and “anti-national elements”); freezing of personal and/or NGO bank accounts; conviction of NGO leaders on criminal charges;¹⁵³ the seizure of their equipment and materials; and the forced closure of independent NGOs.¹⁵⁴

The purported justification for this crackdown is the criminal case launched by the Prosecutor General's Office against a number of domestic and international NGOs pursuant to Articles 308.1 (“abuse of power”) and 313 (“service forgery”) of the Azerbaijani Criminal Code. The alleged basis for the case is “irregularities found in the activities of a number of NGOs of the Azerbaijani Republic, and branches or representative offices of foreign NGOs”).¹⁵⁵ This led to the freezing of the organisational bank accounts of more than 20 local NGOs, as well as the personal accounts of the arrested NGO leaders, resulting in the *de facto* closure of the affected NGOs.

¹⁵¹ <http://www.bbc.com/news/world-europe-33905690>

¹⁵² *Ibid*

¹⁵³ See, inter alia, the Azerbaijani President's remarks during his meeting with youth in the city of Belagan, Azerbaijan, on 28 August 2014 (in Russian): <http://contact.az/docs/2014/Politics/083000088810ru.htm#.VAGlCYC1Z5x>

¹⁵⁴ See, inter alia: http://www.coe.int/en/web/commissioner/-/concerns-over-the-situation-of-human-rights-defenders-in-azerbaijan?redirect=http%3A%2F%2Fwww.coe.int%2Fen%2Fweb%2Fcommissioner%2Fhome%3Bjsessionid%3D08D9E47ECD6963B92AACD40E5683B254%3Fp_p_id%3D101_INSTANCE_8EfTacFqd2H9%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3D-view%26p_p_col_id%3Dcolumn-1%26p_p_col_count%3D5#8EfTacFqd2H9

¹⁵⁵ <https://www.irfs.org/news-feed/irfs-condemns-latest-assault-on-civil-society-in-azerbaijan/>

The charges against prominent NGO leaders purportedly stemmed from the activities of their organisations. These activists have been convicted on the following charges: illegal entrepreneurship (Article 192 of the Criminal Code); abuse of power (Article 308 of the Criminal Code); and tax evasion (Article 213 of the Criminal Code).

Charges such as “illegal entrepreneurship” (followed by tax evasion) have no legal basis in national law as the latter clearly distinguishes between commercial, profit-making legal entities and non-commercial legal entities whose activity is not aimed at generating profit.¹⁵⁶ Individual entrepreneurial activity is also defined by the aim of making profit.¹⁵⁷

NGOs are not prohibited from making profit as long as any profit-making activity seeks to fulfil the organisation’s founding purposes. The Taxation Code defines the conditions under which non-commercial organisations can engage in business activities, and establishes that an activity qualifies as non-commercial if the received income is used for purposes referred to in the founding charter. However, the NGO leaders who have been charged made no income out of the NGOs’ activities, and operated solely on the basis of grants from donors, which therefore excludes them from the definition of business activity.

iii

Azay Guliyev, the chairman of Azerbaijan’s State Council of Support to NGOs, insisted that “the Azerbaijani system is fair and transparent” and said the bank accounts had been frozen as a “preventative measure because of irregularities in the operation of the NGOs managed by Aliyev, Jafarov and [Leyla] Yunus”. Guliyev said the amendments were “aim[ed] at ensuring further transparency in this sector” and would help “improve professional performance¹⁵⁸”.

While Azerbaijani tax authorities and the Ministry of Justice do have the power to supervise non-profit entities’ compliance with legislation, the context in which the legal actions against NGOs have been carried out, coupled with their scope and nature, creates the impression that they are aimed at intimidating and putting pressure on NGOs, in particular those receive foreign grants for public advocacy work on human rights and related issues.

Unlike independent NGOs, state-affiliated and state-supported NGOs and foundations are not held to any control or restrictions. In fact, they seem to enjoy complete impunity for violations of the same legislation that demands systematic reporting on income and operations. For example, Azerbaijan’s largest non-profit foundation, the Heydar Aliyev Foundation – headed by First Lady Mehriban Aliyev – has not ever published a single annual report on the use of its property, as required by domestic law. This on-going violation of domestic laws appears to go unnoticed by both the Ministry of Justice and the tax authorities.

Although the amount and structure of incomes, property, expenditures, number of employees, and information on remunerations, as well as registry data of NGOs are not state or commercial secrets, local journalists and activists have reported that the Ministry of Justice avoids responding to the numerous information requests on the activity of the Heydar Aliyev Foundation.

¹⁵⁶ Article 43.5 of the Civil Code of the Republic of Azerbaijan

¹⁵⁷ Article 12 of the Civil Code of the Republic of Azerbaijan

¹⁵⁸ <http://www.theguardian.com/world/2014/aug/15/azerbaijan-detains-human-rights-activists-fresh-crackdown>

iv

In autumn 2014, the Secretary-General of the Council of Europe requested that the Venice Commission investigate the legislative amendments restricting NGO activities in Azerbaijan.¹⁵⁹

In response, the Azerbaijani parliament approved yet another package of draconian amendments to the laws “On non-governmental organisations (public associations and foundations)” and “On grants”. These reforms effectively prevent local NGOs from receiving foreign funding.

Thus, the new wording of Article 24.2 of the Law “On NGOs” stipulates that the work and services provided by NGOs due to external funding sources should be based on contracts that are registered with the Ministry of Justice. Operating without registration engages administrative responsibility.

Under an amendment to Article 2 of the Law “On grants”, foreign donors may not provide grants to local NGOs in Azerbaijan without “the opinion of the executive power of Azerbaijan on the appropriateness of a particular project”. Simply put, foreign donors require the Azerbaijani government’s approval for every project.

This amendment further exacerbates the already restrictive conditions for local NGOs, and foreign donors are likely to tire of these unprecedented and uniquely restrictive bureaucratic barriers, and become reluctant to allocate funds in the country. That would leave only the local donor, the Council of State Support to NGOs, which will not allocate funds to independent NGOs that are critical of the government and that advocate for human rights. As Vice Speaker of the Azerbaijani Parliament Bahar Muradova put it: “Now whoever wants to work in Azerbaijan should work with us and receive grants from the Council of State Support to NGOs. Whoever does not want that, should go to foreign donors”, then stating that NGOs receiving such grants from foreign donors “dance to their tune.”¹⁶⁰

Repressive amendments to laws relating to the operations of NGOs had already been adopted in March 2013 and February 2014. These changes paved the way for further restrictions of NGO activities, despite the fact that in 2011, the Venice Commission concluded that the existing NGO law of 2000 (the Law on Non-Governmental Organisations (Public Associations and Foundations), amended in 2009 - referred to as the ‘Amended NGO Law 2009’) did not meet international standards.¹⁶¹ The information below outlines the new restrictions entailed in the Amended NGO Law 2009, as well as the recent amendments regarding the registration of NGOs, the right to receive grants, and state interference with their activities.¹⁶²

The current law on the registration and operation of NGOs in Azerbaijan reflects the general trajectory of government-sponsored repression. The continuing assault on the right to freedom of association and civil society is deeply damaging to Azerbaijan’s democratisation. The legal changes have increased the administrative burden of NGOs willing to register; provide for disproportionate sanctions; and entail arbitrary and discriminatory treatment of critical human rights NGOs, including in relation to seeking state registration. Overall, the law and its application constitute excessive interference with the right to freedom of association.

159 [http://www.venice.coe.int/Newsletter/NEWSLETTER_2014_2_copy\(2\)/2_AZE_EN.html](http://www.venice.coe.int/Newsletter/NEWSLETTER_2014_2_copy(2)/2_AZE_EN.html)

160 <http://www.contact.az/docs/2014/Politics/101800093716en.htm#Vi9Z84RN3FI>

161 [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2011\)035-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2011)035-e)

162 The information on the 2009 and 2013 amendments was provided by the Legal Education Society in its submission of 27 November 2013 under rule 9.2 of the Committee’s Rules: <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2420038&SecMode=1&DocId=2094470&Usage=2>

CONCLUSION

Sport for Rights condemns the serious violations detailed in this report, which it views as being aimed at silencing independent voices in Azerbaijan, and has developed a series of detailed recommendations (listed at the beginning of this report) to the Azerbaijani authorities and the international community for concrete measures needed to improve the human rights situation in the country. These steps should be taken as a matter of urgent priority, before the situation further deteriorates.

As it stands, Azerbaijan's 1 November 2015 parliamentary elections have no chance of being fair and free given the current human rights crisis in the country. Without serious and sustained international efforts to hold the Azerbaijani authorities accountable for their human rights obligations, the few remaining Azerbaijanis continuing to work for independent media and NGOs – both inside and outside of the country – will remain at critical risk of further retaliation by an increasingly hostile regime. These courageous individuals deserve international support before they too are targeted.

In terms of Azerbaijan's international relations, international bodies should undertake an immediate review of their relations with the country, ensuring that human rights is a factor in all on-going negotiations with the government, and seeking to establish more consistent policies in that regard. Immediate and concrete action must be taken to hold Azerbaijan accountable for its international obligations and encourage real democratic reform. Business as usual is simply no longer possible with the increasingly hostile Aliyev regime.



Sport for Rights is a coalition of international organisations working to draw attention to the unprecedented human rights crackdown taking place in Azerbaijan. The campaign was founded in 2014, and initially focussed on the human rights situation surrounding the inaugural European Games, held in Azerbaijan in June 2015.

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Cover photo: "Stop political repression," reads a banner during an opposition rally in Baku, Azerbaijan in April 2015. Photo: Aziz Karimov

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