



**HUMAN RIGHTS HOUSE
FOUNDATION**

AZERBAIJAN

**NGO coalition report on the implementation of
the Convention against Torture and Other Cruel,
Inhuman or Degrading Treatment or Punishment**

**Reply to the list of issues (CAT/C/AZE/Q/4) of
11 July 2012**

Submitted by the Human Rights House Foundation with the support of
the Human Rights House Network and of the Resource Centre for
Human Rights Moldova (CReDO).



**HUMAN RIGHTS HOUSE
FOUNDATION**

The Human Rights House Network is a community of human rights defenders working for more than 100 independent organisations operating in 16 Human Rights Houses in 13 countries. Empowering, supporting and protecting human rights defenders, the Network members unite their voices to promote the universal freedoms of assembly, organisation and expression and the right to be a human rights defender.

The Secretariat – based in Oslo, Geneva, and Brussels – stewards the community, raising awareness internationally, raising concerns at the UN, EU, and international institutions, and coordinating best use and sharing of the knowledge, expertise, influence, and resources within the Network.

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In 2009 members and partners of the Human Rights House Azerbaijan submitted a NGO report and contributed to the review of Azerbaijan at the Committee against Torture. Rasul Jafarov was one of them, working at the time with the Institute for Reporters' Freedom and Safety. He was inspired by the work of the Committee to further the defence of human rights in Azerbaijan.

Today Rasul Jafarov is one of the detained human rights defenders in Azerbaijan. In 2011 the Human Rights House Azerbaijan was ordered to cease all activities.

This report reflects the grave deterioration of the human rights situation in Azerbaijan in the past few years. The country's situation, reviewed in 2009, was already challenging but can in no way be compared to today's situation. Today, all leading civil society actors are either in prison or have had to flee the country, while human rights organisations are forbidden from operating.

Our report is dedicated to all human rights defenders, lawyers, journalists, and youth activists who are today imprisoned in Azerbaijan or have fled the country.

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INTRODUCTION

1. The Human Rights House Foundation elaborated this alternative report on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment (CAT) with the support of the Human Rights House Network and of the Resource Centre for Human Rights Moldova (CReDO). The report replies to the List of Issues Prior to Reporting (CAT/C/AZE/Q/4) adopted by the Committee at its forty-eighth session (7 May to 1 June 2012). It updates the previous reports submitted by the Human Rights House Foundation and its local members in 1999 and 2003, focusing on recent events and trends.
2. The primary source of the report includes information collected on the ground by members and partners of the Human Rights House Network; through interview, legal assistance of the victims, and trial monitoring. Therefore the information contained is of first hand and a reliable nature. Amongst the main resources are the recent reports published by the Human Rights House Foundation:
 - “Breaking point in Azerbaijan: promotion and glamour abroad, repression and imprisonment at home”, published on May 2015 in cooperation with Freedom NOW¹.
 - “Human Rights Lawyers at Risk: Making the Case for Protection of Legal Professionals in Azerbaijan, Belarus, Moldova, Russia, and Ukraine²” published by the Human Rights House Network on 10 September 2015.
3. Secondary sources consulted for the report, include ECtHR case-law and NGO and governmental reports, such as those produced by the OSCE, ODIHR, CoE, Parliamentary Assembly of the Council of Europe (PACE), and the UN.
4. This report highlights a number of cases that are representative of most of those wrongly detained and subjected to cruel inhuman or degrading treatments, including: Intigam Aliyev, Leyla and Arif Yunus, Rasul Jafarov, Emin Huseynov, Anar Mammadli, Ilgar Mammadov, Hilal Mammadov, Rauf Mirkadirov, Khadija Ismayilova, and a number of activists associated with the N!DA youth movement. The full description of the cases is also provided in attachment.

Issues No. 43 and 44

General information on the national human rights situation, including new measures and developments relating to the implementation of the Convention

INCREASED CLIMATE OF REPRESSION AND IMPRISONMENT SINCE 2009

5. Recent years have brought an intensified crackdown on the exercise of fundamental human rights in Azerbaijan that has shocked even seasoned observers³. Without any regard for protections under domestic or international law, the authorities in Azerbaijan have targeted journalists, political opposition leaders, grassroots activists, and human

¹ The full report is available at : <http://www.freedom-now.org/wp-content/uploads/2015/05/Breaking-Point-Azerbaijan1.pdf>

² The full report is available at : <http://humanrightshouse.org/Articles/21175.html>

³ See also “*Human Rights Council 28th session: mixed success*” <http://humanrightshouse.org/Articles/20807.html>

rights defenders (HRDs), including lawyers. Central to the government's strategy to suppress criticism is the employment of politically-motivated criminal prosecutions and detentions. As a result, civil society in the country has been devastated.

6. There have been a number of recent occasions where Azerbaijan garnered considerable international attention. These were events where the Azerbaijani government could have showcased itself by embracing fundamental rights, the principles of democracy, and progressive leadership. Instead of promoting rights and democracy, however, the authorities used these occasions to crack down on dissent at home while grandstanding to observers abroad.
7. Examples of missed opportunities that instead became a basis for repression include:
 - ✓ The May 2012 Eurovision Song Contest⁴ and the 2015 European Games in Baku⁵. During the 2012 Eurovision contest, the authorities seized the opportunity to launch a publicity campaign to display the country's wealth, while HRDs and journalists used it to highlight ongoing rights violations. Although they were successful in bringing their message to the world, the government responded harshly with a crackdown that has, since that time, only intensified. Many have been jailed and their organizations shuttered, effectively turning the lights off on independent civil society. The government has ensured that there will be no locally-directed human rights campaign during the 2015 European Olympic Games in June.
 - ✓ The October 2013 presidential election. Widely-respected observers found that the election, in which President Aliyev purportedly gained 85 % of the vote, failed to meet international standards. The Election Observation Mission sent by the Organization for Security and Cooperation in Europe's (OSCE) Office for Democratic Institutions and Human Rights (ODIHR) found that the poll was "undermined by limitations on the freedoms of expression, assembly and association that did not guarantee a level playing field for the candidates" and local monitors documented a series of violations. After the election, the authorities turned their attention to those who criticized the election – including by arresting and jailing critical election monitors like Anar Mammadli and Bashir Suleymanli.
 - ✓ The May-November 2014 chairmanship of Azerbaijan in the CoE Committee of Ministers
The rotating chairmanship of the Council of Europe, which Azerbaijan assumed for six months, was thought of as an occasion given to Azerbaijan to strengthen efforts in the implementation of European human rights law. Instead, during the chairmanship of the Council of Europe, Azerbaijan embarked on an unprecedented repression of civil society, including reprisals and arrests of activists participating events of the European Institution.

LEGAL AND ADMINISTRATIVE REFORMS

8. Since the previous submission to the Committee Against Torture of 2009, the Azerbaijani government has grown increasingly authoritarian and freedoms of expression, assembly, and association are no longer tolerated when they are exercised in opposition to President

⁴ See also "Human rights situation worsened after Eurovision" <http://humanrightshouse.org/Articles/18371.html>

⁵ See also "International reactions at the end of the European Games in Azerbaijan" <http://humanrightshouse.org/Articles/21055.html>

Aliyev or his policies.⁶ The government has also undertaken a campaign that is sure to curtail growth: eliminating independent monitoring bodies and non-governmental organizations (NGOs).

9. In its “State party report under LoIPR (CAT/C/AZE/4CAT)⁷ of 4 November 2014 report to the Committee, the Azerbaijani government argues that cooperation with international NGOs has increased (para. 142). Reality is that since 2011, measures have been taken to close down international organisations, prevent them from working in Azerbaijan, make access to funding for branches of international NGOs impossible. Major international NGOs were investigated and had to pay heavy tax-related fines in recent years. Actors of international NGOs are also prevented from entering the country all together, as most recently the researchers of Human Rights Watch and Amnesty International.
10. International media organisations are even more under pressure. All independent international media organisations have been closed down over the last few years, including Voice of America, the Azerbaijani service of the British Broadcasting Corporation, and most recently the Baku Office of Radio Free Europe / Radio Liberty. The situation of international NGOs reflects well how the government is closing down on civil society space in the country. Since 2014, it has effectively put under investigation, blocked the assets or closed down most independent non-governmental organisations.
11. In addition to procedural judicial rights, fundamental civil and political rights have been greatly curtailed through legislation, government harassment, and arbitrary detention. Excessive restrictions on such rights take a number of forms, including the use of arbitrary detention as a means of punishment for activism. Other restrictions include criminal defamation laws,⁸ both de-facto and de-jure restrictions on the ability of independent groups to protest or otherwise demonstrate,⁹ and limitations on the ability of HRDs, journalists, and activists to travel abroad.¹⁰ Religious freedom in Azerbaijan is similarly constrained by both law and practice, especially for religious minority groups.¹¹ Especially problematic are an ever-increasing constellation of over regulation of NGOs,¹² such the series of administrative laws and amendments passed since 2009 that place draconian restrictions on the registration, operation, and funding of independent groups; laws that are used to seize the assets of watchdog groups and jail their leaders.

USE OF ADMINISTRATIVE REFORMS TO IMPRISON CIVIL SOCIETY LEADERS

12. The targeting and imprisonment of dissidents has long been a problem in Azerbaijan; however, the current crackdown is notable. Both the scope of the individuals being targeted, including internationally-known and respected HRDs, and the seriousness of the charges and length of prison sentences that are being imposed against them, set the current crackdown apart from past repression. Despite Azerbaijan’s commitments under

⁶ *Tightening the Screws: Azerbaijan’s Crackdown on Civil Society and Dissent*, Human Rights Watch (Sep. 2013), available at http://www.hrw.org/sites/default/files/reports/azerbaijan0913_ForUpload_0.pdf.

⁷ See also UN Document CAT/C/AZE/4CAT, paragraph 142 available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fAZE%2f4&Lang=en

⁸ *Azerbaijani President Signs Law Criminalizing Online Defamation*, RFE/RL (6 June 2013), available at <http://www.rferl.org/content/azerbaijan-internet-defamation-law-criminal-aliyev/25008799.html>.

⁹ *Tightening the Screws: Azerbaijan’s Crackdown on Civil Society and Dissent*, Human Rights Watch (Sep. 2013).

¹⁰ *Award-Winning Reporter Barred From Leaving Azerbaijan*, Committee to Protect Journalists (17 June 2013), available at <https://www.cpj.org/2013/06/award-winning-reporter-barred-from-leaving-azerbai.php>.

¹¹ *2014 Annual Report*, U.S. Commission on International Religious Freedom (28 July 2014), available at <http://www.uscirf.gov/sites/default/files/USCIRF%202014%20Annual%20Report%20PDF.pdf>.

¹² *Ibid.*

international law, and its repeated promises to the international community to address wrongful imprisonment, it keeps going. In response, various international mechanisms established under the Council of Europe (CoE) and the United Nations (UN) have found that the imprisonment of peaceful advocates in Azerbaijan violates international law.

13. During 2014, the authorities rounded up many of the county's most well-known civil society leaders and audaciously even targeted those who monitored and documented the cases of political prisoners. The cases have been accompanied by severe violations of the rights to fair trial, while documented cases of torture and abuses committed by the police forces are often dismissed by the Prosecutor general as well as by the Court of Appeal and remain unpunished". (see also paragraph 27).
14. It has been observed that the Azerbaijani authorities use three strategies in imprisoning critics; its aim being to punish and silence them:
 - ✓ First, authorities rely on "patently politically-motivated charges," such as inciting hatred, mass disorder, and treason.
 - ✓ Second, authorities have been known to resort to "fabricated charges," including drug and weapon charges, hooliganism, embezzlement, and service forgery. Although here authorities attempt to hide their true motivation, procedural violations and the political context reveal the concealed motivations.
 - ✓ Third, the government has more recently confounded and alarmed international observers through the use of special "organization-directed charges" that have targeted primarily the heads of prominent NGOs in Azerbaijan. Such charges include illegal business activity, tax evasion, and abuse of office, and rely upon a deeply flawed legal theory. At their core, these cases involve both an attempt to limit the ability of NGOs to operate and impose criminal charges in response to the good faith perseverance of these groups.

ARTICLE 1 and 4 UNCAT.

Issues No. 1

DEFINITION OF TORTURE

15. The Republic of Azerbaijan in accordance with law of 31 may 1996 acceded the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of United Nations of 1984. By acceding to this convention the Republic of Azerbaijan took commitments for creating effective legislation, administrative, court and other measures for prevention of torture and systematic and purposeful steps in this direction were granted by the State.
16. Thus, Article 133 of the Criminal Code of the Republic of Azerbaijan defines psychological agony and hard physical pain caused by permanent beating and other violent acts as a torture crime. During discussion of 3rd periodic report of the Republic of Azerbaijan on "Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" held in the 43rd session of UN Committee against Torture in Geneva on 9-11 November 2009, in response to the recommendation of committee members, the General Prosecutor's Office offered to differ the article 133.3 of the Criminal Code of the Republic of Azerbaijan from articles 133.1 and 133.2 of the Criminal Code which are mostly related to domestic violence and attach it as an independent norm which stipulates

an official as an object of crime or a person incited by official to the crime. In accordance with law of the Republic of Azerbaijan "On Amendments to the Criminal Code of the Republic of Azerbaijan" dated 29 June 2012 this the word "torture" in the name of article 133 was replaced with "agony", Article 133.3 of that Code was abolished, article 293 of the Criminal Code was renamed to "Torture and Cruel, Inhuman or Degrading Treatment or Punishment not considered as Torture" and "official person of state authority or any other person acting in name of him or any other acting on his incitement or other persons him to be informed" is defined as subject of this article."

17. Article 133 of the Criminal Code of the Republic of Azerbaijan defined psychical agony and hard physical pain caused by repeated beating and other violent acts as a torture crime.
18. According to Article 293 of the Azerbaijani Criminal Code the definition of "torture" includes: getting information or confession from the person himself/herself or from the third person; threatening the person or the third person; punishing a person or the third person for the actions they have committed or are suspected in committing; subjecting a person to strong physical pain or mental sufferings for the purpose of forcing the person to do something against his/her will or discriminating the person. As mentioned earlier, this article refers to the public officials.
19. If we compare this definition to the definition of torture under Article 1 UNCAT¹³, it seems that the purpose of torture is not fully reflected in Article 293 of the Azerbaijani Criminal Code, as the latter names only one purpose - forcing the person to do something against his/her will or discriminating the person – is more narrow than the definition required under Article 1 UNCAT. For example, the aim of punishment is not covered under the Azerbaijani law.

Issue No.4

FOLLOW UP ON THE CASE OF TURAC ZEYNALOV: IMPUNITY CONTINUES IN NACHIVAN

20. The torture and murder of Zeynalov shows how the perpetrators, who are law-enforcement agents, enjoy virtual impunity¹⁴.
21. In an interview to RFE/RL Azadliq radio, Zeynalov's widow said:
"His [Turac Zeynalov's] skull was broken and there were cuts in his throat. When we asked about this, we were told he had a tumour in throat and they had taken it out. Actually, they hung him, strangled him, and then they wanted to cover up the signs. His body contained bruises. They tortured him with electricity." In the aftermath, the spreading of footage throughout social media outlets, prompted an official from

1. Article 1 UNCAT: For the purposes of this Convention, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

¹⁴ See also "impunity for torture in Nachivan" at <http://humanrightshouse.org/Articles/17398.html>

Nakhchivan's local government to threaten the family: “You will be punished before the law for speaking to the media and presenting the video. Local rights groups suggest that Zeynalov’s family continue to receive threatening phone calls urging the family to leave Nakhchivan for good.

22. Witness reports suggest that torture and ill-treatment are widespread in places of detention and prisons of Nakhchivan,. To our knowledge, there has never been any independent local NGO representatives accessing and monitoring the prison systems in Nakhchivan. These techniques are used in order for the authorities to extract confessions from suspects. Many trials are closed to public access, while the police continue to harass detainees and threaten witnesses, while detainees’ families are prevented from making torture allegations public.
23. With the absence of free media, there is almost no access to information about torture allegations. While interviewing Zeynalov’s relatives, journalists were intimidated by the employees of the Ministry of National Security (MNS), who tried to seize their cameras and microphones and expelled Yafez Hasanov, RFERL journalist from Nakhchivan.

➔ **Attachment No.1, the case of Turac Yeynalov**

ARTICLE 2: fundamental safeguards Issues No.5 and Issue No.6.

USE OF TORTURE AND OTHER MISTREATMENT

24. Azerbaijan acceded to CAT on 16 August 1996¹⁵. Despite this international directive, credible allegations of mistreatment of detainees abound in Azerbaijan. Such mistreatment appears to be pervasive especially when individuals are detained outside of Baku. Youth activists are also particularly at risk.
25. In its “State party report under LoIPR (CAT/C/AZE/4CAT)16 of 4 November 2014, the government of Azerbaijan writes that “no acts of torture or cruel, inhuman or degrading treatment or punishment of detainees by police officers were recorded during the period 2010–2013” (para. 22).In any country, acts of ill-treatment or torture can take place in detention facilities. The question for governments is how they prevent such acts and how they punish those who commit them, in order to limit them from happening again.
26. Azerbaijan’s indication to the Committee that no such acts occur in the country is, at best, ignorance of the issue. In fact, it reflects well the problem in Azerbaijan: by pretending that no torture is taking place, against all evidence documented in the present NGO report, the government is preventing any action to be taken. As the government admits itself, no police officer were subjected to “disciplinary or criminal proceedings for failure to respect the rights of persons in custody” (para. 22). Azerbaijani authorities should in fact take the issue seriously and look into changing its sources of information on torture in detention facilities.

¹⁵ Azerbaijan acceded to CAT on 16 August 1996. Status of Ratification of the CAT, UNTC Chapter IV(9), available at https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9&chapter=4&lang=en#EndDec .

¹⁶ See also Un Document CAT/C/AZE/4CAT available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fAZE%2f4&Lang=en

- *Case of Hilal Mammadov: plain-clothed officers detained the journalist without a warrant and reportedly beat him until he lost consciousness. It was at this time that authorities claimed to have discovered narcotics on him. Authorities held him without access to food or water for two days, repeatedly threatened him, and insulted his political views and ethnic identity. Although Mr. Mammadov’s lawyer complained of the mistreatment during pre-trial proceedings, the government rejected those complaints without conducting a thorough and impartial review.*¹⁷

➔ **Attachment No.2, the case of Hilal Mammadov**

27. Similar allegations of mistreatment have also been reported by imprisoned youth activists in Azerbaijan. Tortures are particularly used to extract confessions.

- *Omar Mammadov, the imprisoned activist and blogger who maintained the “Selections from AZTV” satirical website, reported that in order to obtain a confession from him, investigators repeatedly punched him in the stomach and made threats against his family.*¹⁸
- *The N!DA activist Mahamad Azizov reported similar mistreatment at the hands of investigators on two occasions – once to extract a confession and once to force him to implicate others. He later recalled that: “The investigator got confused. He left to speak on the phone. A man named Azer took me to the room and started beating on me. He called someone on the phone and said, “bring the bottle.” A man arrived with a baton. I was glad it was not a bottle. He beat me on my head, on different parts of my body. The beating continued for 15 – 20 minutes. Then they called another man and took me to his room. His name was Mamay; they addressed him as “boss.” Mamay continued beating me with his fists and kicking me, while Azer beat me with the baton. They beat me continuously for an hour. They said I had to testify against [N!DA member] Rashad [Akhundov]. I said I would not do it. Then Mamay said I had to choose between being raped by a person, or with a bottle. I said I didn’t want either. He rested a bit, then continued beating me...”*¹⁹

➔ **Attachment No.3, the case of the N!DA Activists**

➔ **Attachment No.4, the case of Mammad Azizov , young activist of the movement N!DA**

28. The description above is a clear example of mistreatment that rises to the level of torture under international law. However, authorities failed to conduct an investigation of the

¹⁷ On 31 July 2012, the trial court rejected Mr. Mammadov’s complaint of mistreatment, citing article 449 of the Criminal Procedure Code, which simply provides authorization for such complaints but does not specify any specific standards, and without taking into consideration the arguments of the defence team. In a closed hearing at the Nizami District Court on 29 August 2012, the Deputy General Prosecutor denied Mr. Mammadov’s motion to file a complaint against the authorities for the mistreatment he suffered during his arrest and detention. Regarding the mistreatment of Mr. Mammadov, the UNWGAD found that “the response from the Government does not adequately address the source’s allegations of ill-treatment to which Mr. Mammadov has been subjected in detention...” *Mammadov v. Azerbaijan*, UNWGAD, Opinion No.. 59/2013 (22 Nov. 2013) at para. 67.

¹⁸ *Behind Bars: Silencing Dissent in Azerbaijan*, Amnesty International (May 2014). His lawyer indicated five days later that there was no signs of physical mistreatment on Mr. Mammadov; however, family members subsequently confirmed that Mr. Mammadov was in fact beaten while in police custody.

¹⁹ Arzu Geybullayeva, *Bringing the Bottle: Youth Activists Behind Bars in Azerbaijan*, Global Voices (17 April 2014).

mistreatment.²⁰ Despite the state's obligations under international law, authorities who mistreat detainees do so with complete impunity. Indeed, when confronted about widespread mistreatment, especially in political cases, one member of the Azerbaijan parliament privately told Freedom Now: "It is a practice that we inherited from the Soviets."

29. Case of torture doesn't receive appropriate attention and the authorities doesn't pursue any investigation even when the accusation are supported by evidence material. In all reported cases, including the ones of Afghan Mukhtari journalist of "Yeny MUsvaat" (January 2007), Murad Adilov, activist of Popular Front Party's Sabirabad branch (August 2014) and Seynur Hazi, columnist of Azadliq newspaper (May 2010), the victims submitted a complain of torture both to the Prosecutor Office and to the Court of Appeal. All victims submitted extensive proof of torture and inhuman treatments suffered while in detention. In all case the Baku Court of Appeal rejected the claims of torture. All aforementioned cases are currently under appeal at the European Court of Human Rights.

- ➔ **Attachment No.5: case of Afghan Mukhtari of January 2009, journalist from the newspaper Yeni Musavat**
- ➔ **Attachment No.6: case of Murad Adilov activist of the Popular Front Party's Sabirabad branch of August 2014**
- ➔ **Attachment No.7: case of Seymur Haziyevev, journalist of the newspaper Azadliq**

PROCEDURAL VIOLATIONS

30. In addition to civil and political rights, the Azerbaijani authorities impinge on a number of critically important procedural protections – including the right to be free from torture, the right to a fair trial, the right to the presumption of innocence, and the right to legal counsel. While the violation of these rights can themselves render a detention arbitrary, they do not on their own indicate that a case is politically motivated. However, when considered in the context of the individual and the case, these deficiencies often lend strong supporting evidence to the contention that a charge is politically motivated. Not all of the outlined procedural rights are implicated in every case; however, the widespread violation of these rights in a number of the observed cases indicates that it is a systematic component of arbitrary detention in Azerbaijan.

ABUSE OF PRE-TRIAL DETENTION

31. Irrespective of what charges the authorities ultimately use to unlawfully imprison HRDs, journalists, and activists in Azerbaijan, the imposition of pre-trial detention is a common feature of almost all politically-motivated prosecutions.²¹
32. Azerbaijan's domestic law requires the state provide reasonable grounds to believe that the suspect is likely to hide from investigators; obstruct the investigation by influencing parties or tampering with or hiding evidence; commit another criminal act or create a

²⁰ The U.S. State Department noted in the 2013 Human Rights Report regarding mistreatment that: "Impunity remained a problem [in 2013]. Authorities reportedly maintained a de facto ban on independent forensic examinations of detainees who claimed mistreatment and delayed their access to an attorney." *Country Reports on Human Rights Practices for 2013*, U.S. Department of State, at para. (1)(c).

²¹ The notable exception to this general rule is the case of Bashir Suleymanli – the head of the registered Public Association for International Cooperation Volunteers Union – who was released on bail pending a guilty verdict. This variation may have been motivated by the fact that, at the time, the use of organizational charges was relatively new; however, recent cases involving similar charges have resulted in pre-trial detention orders.

public threat; fail to comply with a lawful order; or prevent the execution of a court judgment. Further, in determining whether to impose pre-trial detention or a less restrictive measure, such as house arrest or bail, the courts are required to consider the seriousness of the offense; the defendant's personality, age, health, occupation; his or her family, financial, and social situation; and criminal history.²²

33. Despite the safeguards under international law and the very specific requirements provided in domestic law in Azerbaijan, the government consistently subjects HRDs, journalists, activists, and other outspoken government critics to long periods of pre-trial detention without meeting the legal criteria. In issuing the order for pre-trial detention in individual cases, the courts merely provide a generic statement without detailing sufficient evidence or justification in support of the decision.

➤ *In the case of Ilgar Mammadov, for example, the ECtHR held that the authorities failed to establish a “reasonable suspicion” of criminal activity because the decision to detain him was not based on any evidence except for the charging document and the prosecution’s request to hold him in pre-trial detention. The ECtHR looked to the circumstances of the case, including that Mr. Mammadov is an outspoken opposition leader who had been critical of the government in the run-up to an election, in finding that the pre-trial detention imposed failed to meet the “high level of scrutiny” required.²³*

➔ **Attachment No.8: Case Study of Ilgar Mammadov, opposition leader and head of the Republican Alternatives (REAL) political party**

34. Flouting this judgment, the government continues to subject HRDs, journalists, and activists to pre-trial detention without adequate justification and instead of imposing bail or a less restrictive alternative, such as house arrest.

➤ *In the decision to detain Rasul Jafarov, for example, during the pre-trial phase, a Baku court cited the applicable standards under domestic and international law – but then failed to provide any specific detail whatsoever about the facts that supposedly supported its decision. The court merely recited the criteria and stated that those factors were present. The court ignored a number of factors clearly weighing in favour of less restrictive measures as provided by Mr. Jafarov’s counsel, including the fact that Mr. Jafarov returned from abroad despite knowing that he was under investigation, that he complied with all previous orders to produce documents and submit to questioning, and that he is a widely-respected leader with deep ties to the community.²⁴ Moreover, the court’s assertion that the seriousness of the allegations (which in no way involve any allegation that he used or advocated any kind of violence) warranted his confinement in pre-trial detention appears wholly unsupported.*

➔ **Attachment No.9: case of Rasul Jafarov, human rights defender and founder of the NGO Human Rights Club**

35. The use of pre-trial detention in cases where HRDs, journalists, and activists suffer from pre-existing health problems is especially worrying such in the cases of Intigam Aliyev, Leyla Yunus and her husband Arif Yunus.

²² For a detailed description of the Criminal Procedure Code, see *Farhad Aliyev v. Azerbaijan*, Application No. 37138/06 (9 Nov. 2010) at para. para. 89 – 95.

²³ *Mammadov v. Azerbaijan*, ECtHR, Application No. 15172/13 (22 May 2014) at para. para. 87 – 102.

²⁴ Decision on the Detention on Remand of the Accused, Case #4-(006)-513/2014 (2 Aug. 2014) (translation on file with authors).

LACK OF ADEQUATE MEDICAL TREATMENT AND POOR DETENTION CONDITIONS

36. The cases of Intigam Aliyev, Leyla Yunus and her husband Arif Yunus, who are political prisoners, should be assessed in the wider context of the severe crackdown on rule of law, human rights, according to which various violations of rights of “political prisoners”, including the lack of medical treatment in prisons and not allowing, poor detention conditions and violence from police officials and inmates are part of the common practice.
37. Intigam Aliyev, Leyla Yunus and her husband Arif Yunus, since convicted, have serious chronic illnesses that are reportedly being exacerbated by their continued confinement. Mr Yunus suffers from a severe case of hyper tension. Mrs. Yunus also has a number of serious health conditions, including diabetes and medical problems related to her kidneys. Reports have indicated both Mr. Aliyev and Mrs. Yunus have been denied adequate medical treatment.²⁵
38. In all aforementioned cases, the medical treatment and prison conditions are not in compliance with the relevant standards of humane treatment.
- *Intigam Aliyev had problems with his health before his detention and following his arrest his health has severely deteriorated. He suffers from severe chronic headaches in addition to nerve pain and has reportedly been denied of appropriate health care during the first six months of his detention; only in 2015 did he received proper pain medication, but remains without appropriate medication for the treatment of his diseases.²⁶ Furthermore, there is insufficient ventilation and heating in the cell and hot water is allowed only twice a week. Inadequate space in the prison cell makes it nearly impossible for him to walk and access to proper nutritional food is restricted. Moreover, he can meet his family only through a glass barrier once a week over a telephone.*

➔ Attachment No.10: Case Study of Intigam Aliyev, human rights lawyer and funder of the NGO Legal Education Society

39. In the case of Leyla Yunus, not only was she denied appropriate medical care, but she was also exposed to beatings by other prisoners who were ordered by the authorities of Baku Investigative Detention Facility Kurdakhany to beat and repeatedly attack her.
- *On 6 September, Leyla Yunus was attacked by her cellmate. She was verbally harassed, and plates and cups were thrown at her. She banged on the door for help and asked to be taken out of the cell to see the doctor. She was told that she could see the prison administrator the following Monday. She was also beaten by the prison major – Major F. Yaqubov. The UN representatives (United Nations Working Group on Business and Human Rights), during the mission at the Kurdakhany prison, saw the applicant’s bruises. The UN Mission visited her on 27*

²⁵ *Intigam Aliyev Spent His 52nd Birthday in Prison in Azerbaijan*, HRHN (30 Nov. 2014) available at <http://humanrightshouse.org/Articles/20594.html>. See also, *Leyla Yunus Health Deteriorates in Prison*, Medyan TV (4 Oct. 2014), available at <http://www.meydan.tv/en/site/news/3267/Leyla-Yunus-health-deteriorates-in-prison.htm>; *Azerbaijan: Ongoing Arbitrary Detention and Deterioration of the Health Condition of Ms. Leyla Yunus*, FIDH (18 Aug. 2014), available at <https://www.fidh.org/International-Federation-for-Human-Rights/eastern-europe-central-asia/azerbaijan/15918-azerbaijan-ongoing-arbitrary-detention-and-deterioration-of-the-health>.

²⁶ Source on file with the authors.

August 2014. The authorities of Azerbaijan conducted a forensic examination over a month after the assault on Leyla Yunu, therefore coming to the conclusion that “no injury or signs of injury were revealed”. The investigation decided to discontinue the proceedings relying mostly on the testimonies of the cellmates Dunya Jafarova, Arifa Sadigova and Tahira Aliyeva and the prison administration. In addition, despite the open conflict between the first applicant and her cellmates, the authorities failed to secure her with a safe place of detention. Until the present date, the applicant is kept in similar conditions, under a constant risk of violence from fellow prisoners.

➔ **Attachment No.11: Case of Leyla and Arif Yunus, founders of the NGO Institute for Peace and Democracy**

40. The detention conditions of Intigam Aliyev of August 2014²⁷, are also not in line with minimum standards of detention:

➤ *This was a small room in the detention center. There were eight people in a small room. Everyone, except Mr Aliyev, smoked, but there is no separate place for smoking, so, the room is always smoky. The little window on the door of the cell was closed all the time. Temperature was unbearably high and inmates were sweating all the time. The temperature from 8 to 12 August 2014 was very high²⁸. There was no bathroom, toilet with sanitary conditions impossible to use. Water was running only twice a day, one hour each time. For the rest of the time they have a small can to keep water and eight people depend on that can. The room is not aired. Two small windows under the ceiling were open but there was no screen on the window and the small cell was also full of mosquitoes, which made it impossible to sleep. The electricity was not switched off the whole day, including the nights. Mr Aliyev has not been taken out of the cell during detention in that cell. Only following the visit of the ICRC, on August 12 he was transferred to another cell”*

41. Poor detention conditions, incompatible with the medical conditions of the detainee, are also observed in the case of Leyla Yunus²⁹:

➤ *There are 5 persons in her cell, two of them extremely noisy. There is no possibility to have any rest from them. Sometimes one of them smokes. Humiliations and mockery with the help of prison guards are continuous towards Leyla Yunus. There is a problem with hot water in the cell and it is impossible to use a heater. Electricity is off from 2 to 3 o`clock on daylight and from 1 o`clock till 8 o`clock at nights. That is why the cell was very cold in the winter, also the walking place. Currently, in the summer, there is no proper ventilation in the cell, which renders it very warm.. On 8 July, the family friend tried to deliver a new machine to the detention, however he was denied such possibility. The applicant is required to be on a special diet, which provokes, that need to store vegetables and fruits. This is impossible in the cell conditions, are there is no fridge. The fruits become rotten in summer and were freezing in winter. There is one fridge for the entire floor, which is not sufficient for all the inmates. Any possibility to arrange assistance in that respect is denied by the prison authorities.*

²⁷ <http://en.aidhr.org/?p=1514>, 12 August 2014; Intigam Aliyev kept in prison under severe conditions

²⁸ <http://www.accuweather.com/en/az/baku/27103/month/27103?monyr=8/01/2014>

²⁹ See also: <http://humanrightshouse.org/Articles/21111.html>

INDEPENDENT AND UNBIASED PROCEEDINGS AND RIGHT TO A FAIR TRIAL

42. The UN Human Rights Committee has opined that the right to a fair trial “is a key element of human rights protection and serves as a procedural means to safeguard the rule of law.”³⁰ At its core, the fairness standard requires that criminal trials be conducted by a competent, independent, and impartial tribunal that is established by law.³¹ This standard must be measured by an objective “reasonableness standard” – that is, the court must appear to a reasonable observer to be impartial.³² If, for example, a court fails to prevent or remedy serious procedural mistakes – such as failing to consider evidence or address witness testimony favourable to the defendant – this would indicate to a reasonable observer that the proceedings are not “fair.”
43. Far from the independent, unbiased proceedings that are required under international law, the criminal prosecutions of activists in Azerbaijan cases are orchestrated from the beginning to reach a guilty verdict, as evidenced in from the prosecutions of Anar Mammadli, Intigam Aliyev, and Rasul Jafarov³³.
44. The trial observation conducted by International Monitoring mechanism, including the organisation submitting the current report, revealed failure of the courts to respect of the international fair trial guarantees.
45. The equality of arms principle have not been respected fully as the defense has not been given a reasonable opportunity to present their case and evidence relevant to the case without a substantial disadvantage. Essential motions to present additional factual and other evidence are not taken the decision³⁴ (effectively suspended) during the trial by the presiding judges. Neutrality of the court in many instances was broken leading to taking side against the defense, by closing the questions, intervening with the questions of the defense, quashing the question and the answer entirely.
46. The right to counsel being at the core of the notion of the due process has not been provided to the defendant as confidential and privileged communication has not been respected, effective and adequate time for the legal representation was not satisfied. Exclusion of some defense lawyers under the speculated grounds has weakened the exercise of right to council. The defense was not given the full and adequate access and to the protocols of the sessions and of the files of the case. The defense was given little time in the court itself, during the breaks, and in the presence of the some police and security persons and is very likely under the audio-video registration in the court room to communicate with the defendant.
47. The right to a public hearing is a vital safeguard for the interest of the defendant and of the society as a whole has not been sufficiently ensured. Small court room size, inadequate visibility of the actors in the court room, restrictions on entering and re-entering, inconsistent application of rules on excluding the public and the media have violated the public’s right to record hearings under the international law.

➤ *From the trial monitoring of Intigam Aliyev³⁵: “According the outcomes of HRHF’s trial observation missions, the Court failed the examination of the grounds of the charges*

³⁰ General Comment 32, UN Human Rights Committee, UN Doc. CCPR/C/GC/32 (23 Aug. 2007) at para. 2.

³¹ General Comment 32, UN Human Rights Committee, UN Doc. CCPR/C/GC/32 (23 Aug. 2007) at para. 25.

³² *Ibid* at para. 21.

³³ See also: <http://humanrightshouse.org/Articles/20788.html>

³⁴ See also “New evidence weakens prosecution”: <http://humanrightshouse.org/Articles/20815.html>

³⁵ See also “Intigam Aliyev in court: an observer’s testimony” at <http://humanrightshouse.org/Articles/20742.html>

against Mr. Aliyev. it was clear, that the trial was based on trumped-up charges and that there were no evidences of Mr. Aliyev's guilt. The Court did not analyze materials presented as evidences by the lawyers also the evidences made by itself (such as the materials of interrogation of the witnesses and victims) and the equality of arms was not provided. The defendant had problems with confidentiality of the conversation to his lawyers, he had limitation with access to the materials in some period of time. He wasn't promptly informed about the reasons and ground of his arrest. Furthermore, the meaning of charges were not explained to him. The publicity of the hearings was not provided fully and the communication procedure with the outside was limited. It is also unclear why a detention in the prison facility is needed. Formally, the legislative system of Azerbaijan provides the possibility of detention for the person with grave charges. In the current case due to weak justifications of his charges, as well the other grounds, such as the reputation of the accused, and his poor health conditions, it seems that any alternative measures should be used against him".

RIGHT TO PRESUMPTION OF INNOCENCE

48. Under international law, criminal defendants are “to be presumed innocent until proved guilty according to law.”³⁶ This requirement creates obligations for the government, both inside and outside of the courtroom. At trial, the defendant must enjoy the benefit of the doubt and should be considered innocent until he or she is proven guilty.³⁷ Further, outside the courtroom, the authorities are under an obligation to “refrain from pre-judging the outcome of a trial;” specifically this means that officials must “abstain from making public statements affirming the guilt of the accused.”³⁸ This requirement is violated where, for example, “public statements made by high ranking law enforcement officials portraying the [defendant] as guilty [are] given wide media coverage.”³⁹
49. It is especially noteworthy that in Azerbaijan, senior government officials consistently use their positions of power to portray the work of NGOs and HRDs as threats to national security. Indeed, government officials and pro-government media have publicly smeared many of the detainees highlighted in this report – repeatedly and often before any criminal proceedings are even initiated and well before they are concluded.
50. In addition to the broader campaign to discredit the work of HRDs, Azerbaijani authorities undermine the right to the presumption of innocence by publicly pre-judging the outcome of criminal trials in politically-motivated cases. In the case of Ilgar Mammadov, the ECtHR found that the state violated the presumption of innocence when the Prosecutor General’s office and the Ministry of Internal Affairs issued a public statement indicating that “it had been established” that Mr. Mammadov had urged local residents to resist police and block roads during unrest in the Ismayilli region – essentially

³⁶ Article 14(2) of the ICCPR provide that “Everyone charged with a criminal offense shall have the right to be presumed innocent until proved guilty according to law.” Similarly, Article 6(2) of the ECHR provides that

“Everyone charged with a criminal offense shall be presumed innocent until proved guilty according to law.”
³⁷ General Comment 32, UN Human Rights Committee, UN Doc. CCPR/C/GC/32 (23 Aug. 2007) at para. 30.

³⁸ *Ibid* at para. 30. See also, *Daktaras v. Lithuania*, ECtHR, Application No 42095/98 (Judgment) (10 Oct. 2000) at para. 41 (The right to presumption of innocence “will be violated if a statement by a public official concerning a person charged with a criminal offence reflects an opinion that he is guilty before he has been proved so according to law. It suffices, even if in the absence of any formal finding, that there is some reasoning to suggest that the official regards the accused as guilty.”).

³⁹ *Gridin v. Russian Federation*, UN Human Rights Committee, Communication No. 770/1997 (20 July 2000) para. 8.3.

pre-judging the outcome of the criminal proceedings.⁴⁰ In a striking violation of the right to the presumption of innocence, the coerced confessions of three NIDA Activists were broadcast on television across Azerbaijan just days after the activists were arrested and beaten and long before the trial began.

RIGHT TO ASSISTANCE OF LEGAL COUNSEL

51. Both the International Covenant on Civil and Political Rights (ICCPR) and the ECHR protect the right of criminal defendants to have the assistance of legal counsel.⁴¹ While neither international nor European law specify at exactly what point detainees are to be afforded legal assistance, it is clear that the “right to communicate with counsel requires that the accused is given prompt access to counsel.”⁴² To that end, the ECtHR has observed that, “[as] a rule, access to a lawyer should be provided from the first time a suspect is questioned by the police, unless it can be demonstrated in light of the particular circumstances of [the] case that there were compelling reasons to restrict this right.”⁴³ The rights of the defence will in principle be irrevocably prejudiced where incriminating statements made during police questioning without access to a lawyer are used to secure a conviction.⁴⁴
52. Despite the essential importance of the right to the assistance of legal counsel, access to an attorney of one’s own choosing has been denied or delayed in Azerbaijan at critical points in the prosecution of political detainees.⁴⁵ Most worrying is the interrogation of detainees following arrest – when many have complained of mistreatment or the planting of evidence.
- *Authorities prevented Mr. Mammadov from meeting with his lawyer until the day following his arrest and prevented his lawyer from observing a search of Mr. Mammadov’s home – when more contested evidence of drugs selling was seized. In addition to drug charges, the government accused Mr. Mammadov of treason and “incitement of national, racial, or religious hatred.”*
Mr. Mammadov was later charged with treason and inciting racial hatred, crimes that carry a life sentence. He was convicted after a trial plagued with procedural

⁴⁰ *Mammadov v. Azerbaijan*, ECtHR, Application No. 15172/13 (Judgment) (22 May 2014) In that case, the ECtHR rejected the government’s arguments that it was merely “providing information to the public about the status of the investigation and countering the dissemination of inaccurate and distorted information.” It also held that the inclusion a sentence indicating that the case would be “fully and thoroughly investigated and [would] receive legal assessment” was not enough negate the unqualified statement of guilt. *Id.* at para. 125 – 127.

⁴¹ Article 14(3) of the ICCPR provides that “In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing; [and] (d) to be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it.” Article 6(3) of the ECHR provides that “Everyone charged with a criminal offence has the following minimum rights: (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require.”

⁴² General Comment 32, UN Human Rights Committee, UN Doc. CCPR/C/GC/32 (23 Aug. 2007) at para. 34. Similarly, Principle 15 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment provides that “notwithstanding the exceptions [allowed in extenuating circumstances] communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days.”

⁴³ *Omelchenko v. Ukraine*, ECtHR, Application No 34592/06 (Judgment) (7 July 2014) at para. 46.

⁴⁴ *Blokhin v. Russia*, ECtHR, Application No 47152/06 (Judgment) (14 Nov. 2013) at para. 159 – 160.

⁴⁵ *Country Reports on Human Rights Practices for 2013*, U.S. Department of State, at para. 1(d).

irregularities and sentenced to five years in prison on 27 September 2013. The United Nations Working Group on Arbitrary Detention (UNWGAD) has since ruled Mr. Mammadov's detention as arbitrary and called for his immediate release, but he currently remains in prison.

- *Similar circumstances were observed in the case of the NIDA activists, when three of the activists, including a minor, were arrested and interrogated without the assistance of a lawyer.⁴⁶ In these cases, there were no extenuating circumstances that would allow the authorities to interrogate the detainees, including a minor, without a lawyer. Indeed, the mistreatment they suffered while in custody points to the very reason that access to an attorney from the point of interrogation is so critical.*

53. In addition to limiting access to a lawyer during interrogation, Azerbaijani authorities have a history of taking action against the lawyers who have represented defendants in politically motivated prosecutions.

PRESSURE AGAINST LAWYERS: INTIMIDATION AND DISBAREMENTS

54. The harassment and use of disciplinary sanctions against independent lawyers in Azerbaijan is a cause for serious concern. Threats of disbarment or temporary suspension are used to discourage lawyers from taking on politically sensitive cases and from filing appeals, which is a necessary precondition to filing an application for redress with the ECtHR. Pressure on lawyers from the Presidium of the Azerbaijan Bar Association first appears in the form of a verbal warning against taking on a particular client or case. Authorities then threaten disciplinary action against a lawyer, which could result in temporary or permanent suspension from the Bar. Once a lawyer is disbarred they can no longer serve as defence counsel in a criminal case at any level of review. The threat of disbarment hangs over the heads of any lawyer and threatens their livelihood and that of their families. This form of harassment has been very successful in reducing the number of lawyers in the country who are willing to risk their careers and their own security.⁴⁷

- *“In September 2011, the lawyer Elchin Namazov was expelled from the Bar based on a court decision. Namazov was persecuted for protecting the opposition activists and protesters who participated in the rally on 2 April 2011. Over the past few years, a number of lawyers who engaged in the protection of journalists and opposition political activists have been expelled from the Bar on the basis of various complaints. The list includes Arzu Aliyev, Hazi Mammadov, Akif Mammadov, Namizad Safarov, Latifa Aliyeva, and others.”*
- *In the most extreme case of government harassment of lawyers, well-known lawyer Intigam Aliyev was arrested in 2014 and recently sentenced to seven and a half years in prison on politically motivated charges.*
- *Past harassment of Mr. Aliyev and his colleague Annaghi Hajibayli is illustrative of the campaign against independent lawyers. Both lawyers were refused membership in the Bar Association in 2009. The two lawyers proceeded to sue the Bar Association for failing to comply with existing legislation. Following the lawsuit, which the lawyers lost,*

⁴⁶ *Behind Bars: Silencing Dissent in Azerbaijan*, Amnesty International (May 2014) at p 11

⁴⁷ Further details about the situation of lawyers available in report prepared for the European Parliament by the Legal Education Society, South Caucasus Network of HRDs, and HRHF, May 2013, available at http://www.europarl.europa.eu/meetdocs/2009_2014/documents/droi/dv/613_elechrhjne_/613_elechrhjne_en.pdf.

the Bar Association filed a civil suit against Intigam Aliyev demanding 200,000 AZN (approximately €175,000) because of articles about the Bar Association leadership that Intigam Aliyev had published. Outcry from Azerbaijani civil society and international NGOs were successful in pressuring the authorities to drop the charges. Later, however, a Sheki Appeal Court judge filed another civil suit against Mr. Aliyev and his organization, the Legal Education Society, demanding 20,000 AZN (approximately €17,500) for defamation. The court ruled that Intigam Aliyev should pay 2,000 AZN (approximately €1,750) in damages. Both Mr. Aliyev and Mr. Hajibayli have yet to be admitted to the Bar Association.

55. The Azerbaijan Bar Association has also asked a court to disbar Mr. Khalid Bagirov, who serves as the lawyer for a number of prisoners of conscience, including Rasul Jafarov, Leyla and Arif Yunus, and Ilgar Mammedov. Although the formal disbarment will take some time, this action effectively ends his ability to proceed with the cases, and as the PACE President has noted, “against the background of increasing intimidation of HRDs in Azerbaijan, such clear pressure on independent lawyers defending civil society leaders is unacceptable.”⁴⁸

- *On 10 December 2014, the Presidium of the Azerbaijan Bar Association suspended the work of the lawyer Khalid Baghirov, having accused him of violating professional ethics. The charges stemmed from the lawyer’s speech for the defence of Ilgar Mammadov, the leader of the REAL opposition movement, in which he said: “Issuance of this sentence is evidence of the complete absence of fair justice in our country.” In addition to the suspension of Baghirov’s work, the Bar decided to apply to the court for the complete cessation of the lawyer’s powers. The lawyer believes that the decision of the Bar was unreasonable and biased, and aimed to punish him for his professional work and to silence him. As a lawyer, Baghirov had been working on the cases of the majority of the political prisoners in Azerbaijan, including the human rights defenders Arif Yunus and Leyla Yunus, and was about to proceed to the defence of the journalist Khadija Ismailova.*
- *On 6 November 2014, Alaif Hasanov, Mrs. Yunus’ lawyer, was sentenced to 240 hours of community service due to his public statements about the detention conditions of his client. The pressure against him continues, including through government-controlled media.*

➔ **Attachment No.12: Case of Alaif Hasanov, lawyer of Leyla Yunus**

56. In addition to imprisonment, disbarment, and smear campaigns, the government uses other inventive ways to interfere with defendants’ rights to counsel. In the cases of Leyla Yunus and Intigam Aliyev, the prosecution has called members of their legal team as witnesses for the prosecution, thereby precluding them from acting as defense counsel.⁴⁹ The practice is as follows: a person is summoned to appear as a witness⁵⁰; after the testimony, the person is treated as a suspected offender and then charged. In most cases, lawyers do not participate in this process, as it takes quite a lot of time to sign a contract

⁴⁸ *Pressure on Ilgar Mammadov’s lawyer is unacceptable*, PACE (10 Dec. 2014), available at <http://www.assembly.coe.int/nw/xml/News/News-View-EN.asp?newsid=5347&lang=2&cat=15>.

⁴⁹ In the case of Intigam Aliyev; Fariz Namazli, Alayif Hasanov, Khalid Bagirov and Adil Ismayilov, four of the five lawyers who have been representing Intigam Aliyev since his detention on 8 August 2014, were removed from the case on 30 September 2014. In the case of Leyla Yunus, she was deprived of her lawyer, Javad Javadov, following his criticism of the judicial process against Leyla Yunus at a hearing on 24 October 2014.

⁵⁰ *Intigam Aliyev spent his 52nd birthday in prison in Azerbaijan*, HRHN (30 Nov. 2014), available at <http://humanrightshouse.org/Articles/20594.html>.

with a client, obtain a relevant warrant to be able to defend the client, and get the relevant permission from the investigating authority. The suspect or the accused is deprived of the right to defence for this time. Moreover, in sensitive cases, charges will be filed against a client on weekends (Saturday, Sunday, or public holidays). Law offices that issue warrants do not work on these days. Therefore, lawyers cannot sign a contract with their client and receive the warrant, and consequently cannot defend their client.

ART. 2 UNCAT
ISSUE No.6

INDEPENDENCE OF THE JUDICIARY

57. Courts in Azerbaijan lack the capacity and independence to effectively uphold the rule of law in the country, including ensuring adherence to international treaty obligations. This lack of independence has paved the way in recent years for the arbitrary arrest and imprisonment of HRDs in the country. Among others, the International Bar Association's Human Rights Institute has documented how criminal law is misused in cases involving freedom of expression, and how the right to a fair trial is violated.⁵¹ Courts have also been ineffectual in protecting those in detention from mistreatment. As Freedom House noted in its 2014 report:

- *The judiciary is corrupt, inefficient, and subservient to the executive branch. Arbitrary arrests and detention are common, particularly for members of the political opposition. Detainees are often held for long periods before trial and their access to lawyers is restricted. Police abuse of suspects during arrest and interrogation reportedly remains common; torture is sometimes used to extract confessions. Prison conditions are severe, with many inmates suffering from overcrowding and inadequate medical care.*

ISSUE No.11

Registration and other obligations of national and international NGOs

RESTRICTIONS TO FREEDOM OF ASSOCIATION

58. Since 2009, the Azerbaijani government has implemented multiple laws ostensibly aimed at strengthening the government's oversight of NGOs operating in the country. These laws were criticized at the time as being overly burdensome on these organizations and a measure intended not for better governance but to hinder the activities and independence of civil society. It is the NGOs that are critical and independent, especially those that receive foreign funding, that have been the focus of the government's campaign to clamp down on NGO operations.

59. Indeed, the strict application of laws affecting NGOs adopted since 2009, which

⁵¹ *Azerbaijan: Freedom of Expression on Trial*, International Bar Association (April 2014), available at <http://www.ibanet.org/Article/Detail.aspx?ArticleUId=E1192B49->

excessively limit the right to freedom of association, have been used to root out independent NGOs and their leaders. This has devastated civil society. The government relies on provisions contained within a constellation of separate laws and their amendments – referred to collectively in this report as the NGO Regulation Laws – to harass and imprison civil society leaders.⁵²

NGO REGISTRATION AND REGULATION

60. Under the law, Azerbaijan has set up a mechanism by which an organization must register itself with the authorities in order to carry out some formal activities, such as opening a bank account in its name. Numerous independent NGOs and foreign NGOs with offices in the country have been unable to complete the registration process. Azerbaijani authorities have an established track record of interfering with the registration of certain NGOs by prolonging the application process (as opposed to formally rejecting it). This tactic often involves repeated, arbitrary requests for clarification and more documentation, and in some cases complete silence from the authorities.⁵³
61. Registration is still a lengthy and cumbersome process, though this is linked more to the implementation of the legislation than to its content. According to recent Venice Commission reports, the applicants are often required by the registering department to submit additional documentation not required under national legislation; they often receive repeated requests for corrections of the documents, although such requests must be submitted at once; the deadline for issuing the decision on the registration is not always respected; and the automatic registration, in case the Ministry of Justice does not respond to the applications within the statutory timeline, does not seem to be respected.⁵⁴
62. The ECtHR has not only found this tactic highly questionable, it has ruled in at least four cases that Azerbaijan has violated an organization's right to freedom of association.⁵⁵ The strict regulations in terms of registration of non-governmental¹ organisations have served as the basis to suspend the activities of several Human Rights organizations operating in the country.
63. The authorities in Azerbaijan use broad requirements on registration to hinder the work of Human rights organizations in the country. For example, the activities of the Human Rights House Baku were suspended on 10 March 2011, and the leaders of the Election Monitoring and Democracy Studies Center and the Human Rights Club are currently under arrest.

⁵² The complex web of laws and amendments that govern the establishment and operation of NGOs in Azerbaijan include: the Law on Non-Governmental Organizations, the Law on Grants, the Law on Registration and the State Registry of Legal Entities, the Code of Administrative Offences, the Civil Code, and the Tax Code.

⁵³ In 2013 alone, 20 Azerbaijani NGOs submitted complaints to the ECtHR regarding the repeated return of registration application materials, including the Public Association for Democratic Initiatives and Social Development which had its application for registration returned on six different occasions over two years. *Aliyev and Others v. Azerbaijan (Communication from the Legal Education Society)*, ECtHR, Doc. No DH-DD(2014)39 (27 Nov. 2013). See also, *Opinion on the Law of the Republic of Azerbaijan in the Light of Amendments Made in 2009 and 2013 and Their Application (Opinion Prepared by Jeremy McBride)*, Expert Council of NGO Law of the Conference of INGOs of the Council of Europe (September 2014), OING Conf/Exp (2014) 1 at para. 40, available at http://www.coe.int/t/ngo/Source/OING_CONF_EXP_2014_1_Revised_Opinion_Azerbaijan_NGO_Law_en.pdf

⁵⁴ Venice Commission 2014 Report at para. 46.

⁵⁵ *Ramazanov and Others v. Azerbaijan*, ECtHR, Application No. 44363/02 (Judgment) (1 Feb. 2007), *Ismayilov v. Azerbaijan*, ECtHR, Application No. 4439/2004 (Judgment) (17 Jan. 2008), *Nasibova v. Azerbaijan*, ECtHR, Application No. 4307/04 (Judgment) (18 Jan. 2008), *Aliyev and Others v. Azerbaijan*, ECtHR, Application No. 28736/05 (Judgment) (18 Mar. 2009).

- On 16 March 2011, the government adopted a decree on rules governing the registration of foreign NGOs and negotiations with them on required agreements, leaving the Ministry of Justice with a broad and discretionary power to interpret and define those agreements. Today, the Ministry of Justice can indeed close down an organization without notification, after two warnings have been issued to the respective NGO. On 10 March 2011, a few days before the decree was adopted, the Azerbaijan Human Rights House (AHRH) was forced to suspend its activities until a required agreement with the State was approved.⁵⁶ After a process of negotiations since April 2011, a final application was submitted on 3 November 2011. Nevertheless, to date, there has been no progress and no further instructions by the Azerbaijani authorities.

AHRH was fully registered and had developed its activities since 2007. The changes to the legislation in 2009 should not have affected AHRH, as it was already registered. Rules adopted by government cannot have retroactive effect. However, these rules have been applied retroactively in the closure of AHRH. This closure was ordered on 10 March 2011, before the legal framework for allowing the government to close an institution was adopted on 16 March 2011. To date, the Election Monitoring and Democracy Studies Center is still denied registration.

On 19 February 2013, the Baku Administrative-Economic Court Nr. 1 rejected the appeal of the Human Rights Club (HRC) against the Ministry of Justice's decision to deny its registration, on grounds that HRC did not specify the responsibilities of its lawful representative in the decision on the establishment of the organization.

➔ **Attachment No.13, closure of the Human Rights House Baku**

➔ **Attachment No.14, Case Study of Anar Mammadli and Bashir Suleymanli**

EXPANDED REPORTING AND OVERSIGHT REQUIREMENTS FOR NGOS

64. In 2013 and 2014, a number of amendments to the NGO Regulation Laws entered into force, which significantly hinder the operations of all NGOs with a presence in Azerbaijan, whether foreign or domestic.⁵⁷ For example, expanded reporting and oversight requirements now require NGOs to inform the government of any change in the number of group members (potentially even covering unaffiliated individuals who participate in demonstrations or other events), as well as changes to the terms of employment for managers and deputy managers. These NGO Regulation laws also authorize the government to monitor compliance of the organization with the organization's own statutes. While the mechanism for such monitoring is not entirely clear, the Venice Commission has noted that although authorities may monitor compliance with domestic law, it should generally be the NGO itself, and not the government, that monitors compliance with an organization's own statutes.⁵⁸

65. In addition to increased registration, reporting, and oversight obligations, the revised NGO Regulation Laws provide for expanded liability in the event that an NGO fails to meet these increasingly onerous regulations. Authorities are now authorized to suspend

⁵⁶ See: <http://humanrightshouse.org/Articles/17735.html>.

⁵⁷ For example, HRH Azerbaijan, which is a registered branch of the HRHF was forced to close by the Ministry of Justice in 2011 – without any prior notice or complaints about the organization's regular reports to the government.

⁵⁸ Venice Commission 2014 Report at para. para. 69 – 74, 77.

or terminate an NGO's operation if more than two written communications have been sent by the authorities to the NGO regarding its violation of an administrative requirement.⁵⁹ Fines are imposed for administrative violations, such as: the failure to maintain a registry of members⁶⁰; failing to register a grant within 30 days (a penalty of between 5,000 and 7,000 AZN for organizations and 1,000 to 2,500 for individuals; amounts roughly equivalent to €4300 to €6050); and implementing unregistered grants.⁶¹

66. As reported by the Human Rights House Foundation and its partner organizations at the 28th session of the UN Human Rights Council, the implementation of NGO Regulation Laws has been severely detrimental to civil society:

➤ *Many NGOs have been forced to cease their activities and are subjected to legal prosecution. Bank accounts of more than a dozen NGOs are blocked and their offices are being searched and in some cases sealed. Many more HRDs have fled the country. Since May 2014, authorities have frozen the bank accounts of at least 50 independent organizations and, in many cases, of their staff members, while numerous others have been interrogated and harassed, forcing them to suspend their activities. In addition, several international NGOs operating in Azerbaijan, with longstanding partnerships with local civil society in the country, have been forced to leave Azerbaijan or suspend their operations.*

67. In 2014, the Venice Commission published a follow-up opinion on the new amendments, arguing that the further restrictions “seem to be intrusive enough to constitute a prima facie violation of the right to freedom of association.” The Commission added that “in general, the enhanced state supervision of NGOs seems to reflect a very paternalistic approach towards NGOs and calls again for sound justification. The same holds for new and enhanced penalties that can be imposed upon NGOs even for rather minor offences.” The Commission concluded further that “globally, 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 associations that are devoted to key issues such as human rights, democracy, and the rule of law.

RESTRICTIONS ON TRANSFER AND REGISTRATION OF GRANTS

68. Amendments regulating the transfer and registration of domestic and foreign grants have had a devastating impact on groups that have sought in good faith for years to formalize

⁵⁹ According to the Venice Commission, under Article 31(3)(1) of the revised Law on Non-Governmental Organizations, an organization can be suspended for failure to remedy a violation. According to domestic lawyers, there is nothing to prevent the government from sending multiple notifications or communications regarding a violation within a short period of time – thereby subjecting the NGOs to the possibility of suspension or liquidation for a single violation.

⁶⁰ Venice Commission 2014 Report at para. 87. Fines are can be imposed for failure to adjust organizational documents so that they meet domestic legislation, “creation of obstacles” during an investigation of the NGO, failing to answer questions or providing false information, and failing to remedy violations identified by the government.

⁶¹ Art. 223-1.4 of the Code of Administrative Offenses, as added, provides that “Due to the bank and other operations on non-registered grant agreements, concluding contracts on these grants and implementation of other organizational events, non-governmental organizations, branches and representatives of foreign non-governmental organizations in Azerbaijan, as well as physical persons are fined from 2’500 to 5’000 AZN, legal entities are fined from 5’000 to 8’000 AZN.” For other fines now imposed under the amended Code of Administrative Offenses, see *Communication from the Legal Education Society, (Aliyev and Others v. Azerbaijan)*, ECtHR, Application No. 28736/05, available at [https://wcd.coe.int/ViewDoc.jsp?Ref=DH-DD\(2014\)39&Language=lanEnglish&Site=CM](https://wcd.coe.int/ViewDoc.jsp?Ref=DH-DD(2014)39&Language=lanEnglish&Site=CM).

their status without success.⁶² These grants are crucial to funding the work of charitable organizations in Azerbaijan.

69. These new rules and penalties include:

- Copies of a grant agreement must be submitted to the Ministry of Justice 30 days after the signing of the agreement, or the NGO will be subject to a fine of 5,000 to 7,000 AZN (approximately €4300 to €6,300). NGO managers can be fined an additional 1,000 to 2,500 AZN (€860 to €2100).
- All projects must have a grant agreement, or are subject to a fine of 8,000 to 15,000 AZN (€6900 to €13,000). NGO assets can be seized and NGO managers can be fined an additional 2,500 to 5,000 AZN (€2150 to €4,300).
- All financial reports must include information on donations and be submitted to the correct government agencies or a fine of 5,000 to 8,000 AZN (€4300 to €6,900) is levied. NGO managers can be fined an additional 1,000 to 2,500 AZN (€860 to €2,150).
- Accepting cash donations higher than 200 AZN is subject to a fine of 7,000 to 10,000 AZN (€6,300 to €8650) for the NGO manager, while the NGO is liable to a fine ranging from 1,000 to 2,500 AZN (€860 to €2,150).
- NGOs can receive donations from a foreign donor only if the foreign donor has an agreement with the Ministry of Justice.
- Foreign entities must have an agreement with the Ministry of Justice, a registered office in Azerbaijan, and the right to make a grant in Azerbaijan before grants to Azerbaijani NGOs can be made.
- An opinion on the “financial-economic expediency” of a grant by a competent executive body is required before a grant can be transferred.
- The Cabinet of Ministers will define the procedure for registering as a donor (but has not done so yet).
- Local and foreign NGOs are required to submit information on their donors and donations to the Ministries of Justice and Finance.
- All banking and donation operations must be reported to the Ministry of Justice.
- NGOs must conclude a contract for the provision of any service and fulfillment of any work.
- NGOs must register with the Ministry of Justice all service contracts with a foreign entity. The Cabinet of Ministers has not yet determined the penalty for noncompliance.

ABUSE OF NGOS: DIRECTED CHARGES TO IMPRISON CIVIL SOCIETY LEADERS

70. The increasingly draconian restrictions on the operation of NGOs in Azerbaijan are inconsistent with international norms, and in the case of delayed registration are an unlawful restriction of the right to freedom of association. However, the imprisonment of civil society actors is a separate, more outrageous violation. Complex administrative and criminal laws regulating NGO activity, and the arbitrary practices of regulatory authorities, have long frustrated local groups trying to fulfil their mandates while also complying with the law. The authorities exploit the lack of clarity in the law to target

⁶² Sources on file with authors. See also, *Request for Enhanced Supervision (Ramazanova and Others v. Azerbaijan)*, ECtHR, Application No. 44363/02, Communication from 7 NGOs (5 Sept. 2014), DH-DD(2014)1163, available at <https://wcd.coe.int/com.intranet.InstraServlet?command=com.intranet.CmdBlobGet&IntranetImage=2611588&SecMode=1&DocId=2188924&Usage=2>.

activists, some of whom have operated in the public sphere for decades. The government has not clearly explained or justified its application of these laws, either during criminal proceedings or in response to questions posed by the international community. A close examination of the charges and the trials, some of which have concluded, exposes a deeply flawed legal foundation that has been used to rationalize the detention of peaceful activists. In spite of the dizzying lack of clarity in the laws themselves and how the government is applying them, the following material attempts to explain step by step the “legal theory” the government uses to charge NGO leaders with crimes such as tax evasion or abuse of office.

71. These prosecutions against civil society leaders have emerged as follows:
72. First, the government alleges that an NGO – and its leader who stands accused – failed to comply with certain provisions of the NGO Regulation Laws. The alleged infractions by NGOs are a mix of those that appear to be entirely fabricated by the prosecution and those that cite breaches of unclear laws enacted to frustrate the operation of NGOa.
 - *The Azerbaijani authorities fabricated a violation against Intigam Aliyev. His organization, the Legal Education Society, was a registered NGO and registered the international grants it received. During the trial, the prosecution accused Mr. Aliyev of failing to register his grants. The prosecutor falsely claimed that the grants had never been registered, even though the authorities seized the registration documents during a raid of Mr. Aliyev’s offices. Even when Mr. Aliyev’s legal team produced evidence of the registration that had been posted on a government website (which they were able to obtain even though it had been subsequently removed by the Ministry of Justice), the court dismissed the evidence and ultimately found him guilty.*⁶³
73. In other cases, the alleged administrative failure is based upon the government’s efforts to erect every possible barrier to the operation of independent NGOs in the country, targeting the very organizations that tried in earnest to comply with the bewildering requirements of the NGO Regulation Laws.
 - *In the case of Rasul Jafarov and the Human Rights Club, which is described in more detail in attachment, the authorities arbitrarily withheld registration from the organization. Mr. Jafarov continued to operate the Human Rights Club as an unregistered organization – which is legal in Azerbaijan – in his individual capacity and often in partnership with registered groups. Although Azerbaijani legal experts report that before 2014 there was no clear legal requirement for unregistered groups to register their grant information with the authorities, Mr. Jafarov submitted each of his grants to the Ministry of Justice out of caution. The authorities did not respond. He paid taxes on the individual income received from the grants through his personal tax identification number. Ignoring these facts, the prosecution applied the NGO Regulation Laws retroactively and accused him of failing to register the grants, even though during this time the law did not prohibit him from receiving grants as an individual or require registration of those grants.*
74. The authorities’ purposeful and discriminatory malfeasance creates a situation in which civil society leaders are being convicted and sentenced to prison terms because of failure to meet *administrative* requirements under the law. To be clear, the NGO Regulation Laws do not include imprisonment as a punitive measure for violations. For that, the

⁶³ *New evidence weakens prosecution*, HRHN (18 March 2015), available at <http://humanrightshouse.org/Articles/20815.html>.

authorities are turning to the Criminal Code and using charges such as tax evasion and illegal business activity⁶⁴, based on the alleged failures to comply with the NGO Regulation Laws.

75. The prosecution is using administrative rule violations not to apply administrative sanctions, but to render the activity of the organization as “entrepreneurial,” making it subject to the regulatory and tax treatment that the government applies to commercial organizations or activities.⁶⁵ Prosecutors then allege that the organization failed to comply with these obligations, which give rise to criminal liability. This theory, which has been applied discriminatorily to independent NGO leaders that are critical of the government, has no basis in Azerbaijani law, which distinguishes between commercial and non-commercial activity based upon the nature of the activity.⁶⁶ Such an approach empowers authorities – ostensibly through the law – to punish and silence government critics while appearing to use generally applicable provisions of the Criminal Code.
76. The authorities’ use of organizational charges, as with the use of patently politically motivated and fabricated charges, are a blatant attempt to put independent NGOs out of operation and punish their leaders. The sentences handed down are not merely “disproportionate,” but completely without merit because they are based on a deeply flawed legal theory that misuses domestic law to punish the legitimate work of civil society groups.
77. Regardless of the specific tactic used by the Azerbaijani authorities to detain critics, the continued imprisonment of peaceful activists is arbitrary and therefore violates the state’s obligations under international law. This conclusion remains true whether or not the authorities employ patently politically motivated charges, fabricated charges, or use a legal “slight-of-hand” to obtain the same result.

⁶⁴ Tax Evasion (Criminal Code 213): evasion of taxes by an individual or group in a “significant” or “large” amount by distorting or failing to disclose income; punishable by up to three years in prison.

Abuse of Office (Criminal Code 308): deliberate abuse of official power by the representative of a government body or other commercial or non-commercial organization that causes harm to the rights or interests of citizens, organizations, or the state; punishable by up to three years in prison.

⁶⁵ The tax status of grants under Azerbaijani law has been the subject of some debate. At least one translation of the Tax Code available on a government website explicitly exempts “grants, membership fees and donations received by non-commercial organizations.” See Article 106.1.2, available at http://www.taxes.gov.az/modul.php?name=qanun&cat=3&lang=_eng. By contrast, some experts have indicated that the law only exempts “charitable monetary transfers, membership fees, and donations.” However, those experts have also recognized that the actual practice of the government has been to treat grants as exempt under the theory that they qualify as “donations,” which are expressly exempt from tax but are not specifically defined elsewhere in the law. See *Guilty of Defending Rights: Azerbaijan’s Human Rights Defenders and Activists Behind Bars*, Amnesty International (March 2015) at 9, available at http://www.amnestyusa.org/sites/default/files/azerbaijan_report_eur_5510772015.pdf (citing Gubad Bayramov, *Registration and Operation of NGOs, Taxing of NGOs, Public Funding of NGOs and NGO Participation of in Decision-Making, Azerbaijan*, Economics Research Center (2009), available at <http://blacksea.bcnl.org/en/articles/17-registration-and-operation-of-ngos-taxation-of-ngos-public-funding-for-ngos-and-ngo-participation-in-decisionmaking-azerbaijan.html>).

⁶⁶ Article 13 of the Civil Code of the Republic of Azerbaijan defines “entrepreneurial activity” as “a person’s activity conducted independently and for the main purpose of receiving obtaining [sic.] profit from the use of property, sale of goods, and performance of works or provision of services.” See also Article 13.2.26 of the Tax Code. Non-commercial activity, by contrast, is defined under Article 13.2.27 of the Tax Code as “a conduct of legal activity the purpose of which is not generation of profit and that stipulate the use of income received in non-commercial purposes only, including the purposes of its charter. Otherwise such activity shall be considered as commercial.”

Articles 12 and 13 of the UNCAT Issue No.29

RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY, AND EXCESSIVE USE OF FORCE IN THE CONTEST OF PEACEFUL DEMONSTRATIONS AND MANIFESTATIONS

78. The right to freedom of assembly, protected under international law and Article 49 of the Constitution of the Republic of Azerbaijan,⁶⁷ plays “a vibrant role in mobilizing the population and formulating grievances and aspirations, facilitating the celebration of events and, importantly, influencing States’ public policy.”⁶⁸
79. Despite this protection, the Azerbaijani authorities consistently limit the right to peaceful protest. Governments may regulate assembly in narrow circumstances of public interest, but the Azerbaijani authorities have regulated in a broad set of circumstances. The ECtHR has rejected such a wider margin of appreciation for governments, even where demonstrations may lead to tension or heated exchanges between opposing views. Far from the narrow circumstances proscribed under international law, the Azerbaijani government broadly limits, and indeed suppresses, the right of its citizens to peaceful assembly.
80. In November 2012, amendments were made to the assembly law that exorbitantly increased the administrative fines for those participating or organizing unsanctioned protests. For example, the maximum fine for participating in unsanctioned public gatherings was increased from €955 to €7,600. In May 2013, the penalty for “organizing an unauthorized demonstration” (Article 298 of the code on administrative offences) was increased from 15 to 60 days imprisonment. The penalty for “disobeying the police” was increased from 15 to 30 days imprisonment (Article 310 of the code on administrative offences). Public demonstrations, even when peaceful, have been met with widespread police brutality, torture, and arrests of peaceful demonstrators.
- *On 26 January 2013, the same month the amendments to the protest law came into effect, a wave of public protests took place in Baku and elsewhere. The police rounded up more than 60 people and used excessive force during the arrests. More than 20 people were issued with fines while a number of people were sentenced to several days in administrative detention, including well-known bloggers, journalists, and human rights activists.*⁶⁹
 - *On 10 March in Baku, peaceful protestors were again the victims of police violence. On that occasion, police used water cannons and tear gas to disperse the peaceful gathering in central Baku. Police arrested dozens of protestors, and courts convicted more than 20 on misdemeanor charges, sentencing five with to up to seven days’ detention and fining others up to AZN 600 (€518).*

➔ Attachment No.15, Violence against peaceful demonstrators in Baku on 26 January 2013

⁶⁷ Article 49 of the Constitution provides that “(I) Everyone has the right for meetings. (II) Everyone has the right, having notified respective governmental bodies in advance, peacefully and without arms, meet with other people, organize meetings, demonstrations, processions, place pickets.”

⁶⁸ *Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, Maina Kiai*, UN Doc. A/HRC/20/27 (21 May 2012) at para. 24.

⁶⁹ See also: <http://humanrightshouse.org/Articles/19049.html>

81. The authorities have used restrictions to the right to peaceful assembly as a pretext to imprison key civil society and political leaders, just as they have used restrictions on freedom of association. Emblematic is the case of Ilgar Mamamdov, opposition leader and potential Presidential candidate, who was arrested on 4 February 2013 after travelling to Ismaili, the site of another protest, and charged with “organizing mass disorder” and “violently resisting police.”
- *Another case concerns the arrest and sentence of the N!DA Youth Activists, a group of young Azerbaijani activists who organized protests to promote democratic reform in the country*⁷⁰. The group came to prominence for organizing a series of demonstrations in early 2013 to protest the death of Azerbaijani military conscripts from alleged hazing and bullying.⁷¹ On 7 March 2013, just three days before a planned protest, police arrested three leaders of the N!DA group and accused them of possessing drugs and weapons and for attempting to organize massive public unrest.
82. From the de facto ban on assemblies in central Baku, to the violent response to the peaceful protests held by members of N!DA, the government’s policy fails to meet the very strict standards established under international law. Further, by imprisoning individuals who participate in protests – whether through patently politically motivated charges or fabricated allegations – the state violates the right to assembly.

Issue No. 37

RESTRICTIONS ON FREEDOM OF EXPRESSION AND ATTACKS AGAINST JOURNALISTS ⁷²

83. Despite protections under national and international law safeguarding the right to freedom of expression, the government of Azerbaijan has escalated its use of the criminal justice system and restrictive legislation to silence independent journalists and media outlets in the country. As a result, virtually no independent print, radio, or television programs can openly operate in the country. Threats and physical attacks against journalists continue, and impunity for past cases of violence remain the norm. The 2005 murder of Monitor magazine editor in chief Elmar Huseynov and the 2011 murder of prominent journalist and writer Rafiq Tagi are still unsolved.
84. Defamation remains a criminal offense, punishable by up to three years in prison and large fines. Disseminating information that damages the honor and dignity of the president can be punished with up to two years in prison, or up to five years when linked to accusations of other criminal activity. In 2013, laws governing defamation were extended to include internet content. The government and political elite use defamation charges as one of many legal means to punish individual journalists and stifle independent and opposition media through financial pressure.

⁷⁰ The group’s website is available at www.nihavh.org. According to the group, which is not affiliated with any political party, its mission is “to defend the constitutional and human rights of the society, and preserve the democratic and republican values. N!DA also aims to attract citizens, especially, you and students into the socio-political processes of the country in order to democratize Azerbaijan and increase their influence in the processes.”

⁷¹ Arzu Geybullayeva, *Azerbaijan: N!DA Activists Face 6-8 Years in Prison*, Global Voices (9 May 2014), available at <http://advocacy.globalvoicesonline.org/2014/05/09/azerbaijan-nda-activists-face-6-8-years-in-prison>.

⁷² See also: <http://humanrightshouse.org/Articles/21174.html> of September 2015 about attacks against journalists during the EU Games in Baku.

85. According to international watchdog groups, at least 12 journalists remain in prison in Azerbaijan. The government has also escalated its crackdown on news outlets to stamp out any vestiges of independent media in the country.

- *On 19 April 2014, Journalist Rauf Mirkadirov was detained in Turkey and deported to Azerbaijan, shortly afterwards his press credentials were revoked. Mr. Mirkadirov was correspondent of the Baku-based Russian-language newspaper Zerkalo in Ankara, Turkey. He quickly gained the attention of both countries, as his articles were often critical of both the Azerbaijani authorities and the Turkish government. In addition to being a journalist, he participated in Azerbaijani-Armenian citizen diplomacy programs organized by HRD Leyla Yunus. Mr. Mirkadirov was arrested upon his forced arrival in Baku. This arrest came days after Turkish Prime Minister Recep Tayyip Erdogan's visit to Baku.⁷³ Mr. Mirkadirov was charged with treason, specifically with passing classified information about Azerbaijan to Armenian intelligence during meetings in Armenia, Georgia, and Turkey. The Armenian agent that Mr. Mirkadirov supposedly contacted is Laura Bagdasrian, a journalist known for her work with Leyla Yunus. Prior to her own imprisonment, Mrs. Yunus was questioned by Azerbaijan authorities about her connections with Ms. Bagdasrian and Mr. Mirkadirov.⁷⁴ Mr. Mirkadirov faces life in prison, but has waited more than a year for his trial to begin. His pretrial detention has been extended several times.⁷⁵*

➔ **Attachment No.16, Case of Rauf Mirkadirov, journalist of the newspaper Zerkalo, July 2014**

- *On 21 August 2014, several unidentified people attacked the independent journalist Ilgar Nasibov in the office of the Resource Centre for Development of NGOs and Democracy in Nakhichevan, according to the center's director and Nasibov's wife, the Rafto Human Rights Laureate Malahat Nasibova. The attackers beat Nasibov unconscious and ransacked the office, Nasibov was seriously injured, including a concussion, broken cheekbones, nose, and ribs and loss of vision on one eye. The Resource Center is the only independent group in Nakhichevan, and is working on sensitive cases to restore justice to victims of human rights violations. Among the cases the group has been involved with is the death of Turaj Zeynalov as a result of police torture.*

➔ **Attachment No.17 Case of Ilgar Nasibov and Malahat Nasibova, August 2014**

- *Jasur Mammadov is a Journalist who has for several years gathered statistics and provided analysis of statistics related to the non-combat killings in the army in Azerbaijan. As a consequence of his work, on 3 September 2014 he was summoned to the Ministry of National Security and interrogated. He was accused of violating the law on military secrets due to his publications, and of working for the Armenian government. He has stated that his wife and two sons have been threatened both directly on the streets and via phone calls. Due to the severe security situation, Jasur Mammadov applied for foreign passports and was forced to flee the country together with his family to Georgia on 12 September 2014.*

⁷³ *Will Journalist's Arrest End Azerbaijani-Armenian Diplomacy?*, EurasiaNet.org (22 April 2014), available at <http://www.eurasianet.org/node/68297>.

⁷⁴ *Detained (2014): Rauf Mirkadov*, Article 19, available at <http://azerbaijanfreexpression.org/campaigns/imprisonment/detained-2014-rauf-mirkadirov>.

⁷⁵ *Custody extended for Azerbaijani journalist*, Trend (21 Nov. 2014), available at <http://en.trend.az/azerbaijan/society/2335686.html>.

➔ **Attachment No.18, case of Jasur Mammadov, investigative journalist**

- *On 29 January 2015, prominent journalist Seymour Hazi was sentenced to five years in prison on spurious "hooliganism" charges after spending five months in pre-trial detention. Hazi, who is a reporter for the opposition daily, Azadliq, was a vocal critic of the government's oppression of dissenters.*

➔ **Attachment No. 7, Case of Seymur Haziyeu, journalist of the newspaper Azadliq**

- *Khadija Ismayilova⁷⁶ was arrested on 5 December 2014 on dubious charges of inciting an ex-boyfriend to attempt suicide and later charged on 13 February 2015 with tax evasion, illegal entrepreneurship, and abuse of authority.*

➔ **Attachment No. 19, case of Khadija Ismayilova, journalist for Radio Free Europe / Radio Liberty**

- *On 8 August 2014, IRFS Director Emin Huseynov⁷⁷ was forced into hiding, and was soon after granted refuge at the Swiss Embassy in Baku, where he remained for 10 months until he was finally allowed out of the country, but stripped of his Azerbaijani citizenship. Huseynov remains in exile abroad as a stateless person. His brother Mehman Huseynov, a well-known photojournalist and blogger, was detained in September 2015 when he tried to obtain a replacement ID card as authorities had seized his in connection with a politically motivated criminal case against him from 2012. He has been prevented from leaving the country since June 2013.*
- *In January 2015, IRFS deputy head Gunay Ismayilova was attacked outside her apartment in Baku.*
- *Other independent media that have been facing extensive pressure include Radio Free Europe/Radio Liberty (RFE/RL)'s Baku bureau, which was raided and closed by authorities in December 2014, shortly after the arrest of its former bureau chief and prominent investigative journalist Khadija Ismayilova, who was sentenced on 1 September to 7.5 years in prison on spurious charges. Opposition Azadliq newspaper once again teeters on the brink of closure after years of excessive fines from defamation cases filed by public officials and their supporters, and other financial pressures.*

86. The authorities use various methods to censor the media, even though official censorship has been banned since 1998. For example, legal amendments adopted in 2009 restrict the ability of journalists to film or photograph individuals without their consent, even at public events.

87. Media rights group are subjected to the same restrictions as NGOs when it comes to the possibility to receive grants and foreign funding. In addition, on 3 February 2015, President Ilham Aliyev approved far-reaching amendments permitting the Ministry of Justice to request relevant courts to close any media outlet that receives foreign funding.

88. Journalists who investigate cases of corruption are particularly at risk of attacks and reprisals. The case of investigative journalist Khadija Ismayilova, for example, shows just how far the authorities are willing to go to prevent independent groups from reporting on

⁷⁶ See also "We condemn the sentencing of journalist Khadija Ismayilova" <http://humanrightshouse.org/Articles/21130.html>

⁷⁷ See also "Emin Huseynov is free and safe" <http://humanrightshouse.org/Articles/21025.html>

corruption. Ms. Ismayilova, associated with the Organized Crime and Corruption Reporting Project, has faced repeated attempts by authorities to stop her investigations into high-level corruption in Azerbaijan. Despite harassment, a smear campaign, and attempted blackmail, Ms. Ismayilova continued her work until authorities finally resorted to arresting her on 5 December 2014.⁷⁸

WAVE OF ARRESTS OF JOURNALISTS IN THE AFTERMATH OF THE EU GAMES

89. A new wave of arrests of journalists took place in September 2015⁷⁹, in the aftermath of the European Games and the run-up to the 1 November parliamentary elections. The current list of incidents was published in a joint letter of concern by international NGOs, also signed by the Secretariat of the Human Rights House Network and here provided in attachment.

- *On 16 September Shirin Abbasov, a 19-year-old freelance journalist and Meydan TV contributor, went missing on his way to university early the afternoon of, and his whereabouts were unknown for nearly 30 hours. Authorities eventually disclosed that Abbasov was being held at the Ministry of Internal Affairs' notorious Department to Combat Organised Crime. Abbasov was prevented from seeing his lawyer. Prior to his arrest, Abbasov was one of four Meydan TV staff prevented from leaving Azerbaijan after the conclusion of the European Games in June, having been placed on a "blacklist" for unclear reasons.*
- *On 17 September, Abbasov was sentenced to 30 days of administrative detention for "disobeying police."*
- *On 18 September, authorities searched the flat of another Meydan TV reporter, Javid Abdullayev, in connection with the case against Abbasov, seizing computers and cameras – indicating more serious charges might be forthcoming.*
- *On 16 September, another young freelance journalist and Meydan TV contributor, Aytaj Ahmadova, was detained along with a friend, and questioned for five hours by employees of the Department to Combat Organised Crime, before being released. Ahmadova's parents have reportedly been fired from their jobs and threatened with arrest.*
- *In June 2015, Meydan TV Director Emin Milli reported that he had received a threat from the Azerbaijani Minister of Youth and Sport, Azad Rahimov, in connection with Meydan TV's critical reporting on the European Games. Meydan TV editor and popular writer Gunel Movlud also reported that her relatives have faced pressure in connection with her work; so far at least four have been fired from their jobs.*

⁸⁰ *Aliyev, chairman of the Institute for Reporters' Freedom and Safety (IRFS), was murdered in August 2015. He died in hospital on 9 August after being severely beaten the day before. The attack on Aliyev took place one year from the date the authorities had raided and closed the office of IRFS and its online TV project, Obyektiv TV, which*

⁷⁸ *Azerbaijan Jails Reporter Who Angered Top Officials*, New York Times (5 Dec. 2014), available at <http://www.nytimes.com/2014/12/06/world/asia/azerbaijan-jails-reporter-who-angered-top-officials-.html>.

⁷⁹ See also "Azerbaijan: Crackdown on free expression and independent media"

<http://humanrightshouse.org/Articles/21174.html>

⁸⁰ See also « Journalist Rasim Aliyev murdered as human rights crackdown continues in aftermath of European Games » : <http://humanrightshouse.org/Articles/21105.html>

were forced to cease operations.

- *'Azerbaycan saati' (Azerbaijan Hour), an opposition-minded online television station, has also faced extensive pressure, including the arrest of its presenter Seymour Hezi, who is currently serving a five-year prison sentence on spurious charges.*

ATTACHMENTS

Methodology

Human Rights House Foundation has compiled this case list from content provided by sources in Azerbaijan. We have not disclosed the contributors of these cases and sources for their own protection. HRHF has edited only where necessary to ensure understanding (in cases 4, 5, 6, 7, and 16). The content is otherwise unaltered from that which we received.

Attachment N°1

Case of Turac Zeynalov of August 2011⁸¹

On the 24th of August, Turac Zeynalov, a resident of Nakhchivan, was summoned to the Ministry of National Security on the charges related with cooperation with Iranian intelligence services. He never returned. The day after, he was shown to his close relatives with a bag on his head. The Ministry officials admitted that they had slapped Zeynalov "once or twice to teach him a lesson", according to Radio Free Europe/Radio Liberty.

However, Zeynalov had been so badly beaten that he was not able to move. Next day, Zeynalov, born in 1980, was found dead at the premise of Ministry of National Security of Nakhchivan, a region notorious for its human rights abuses. The Ministry claimed that Zeynalov died from the disease of cancer, not as a consequence of torture, as claimed by his family. Zeynalov's family was intimidated by the local authorities and security agents not to speak on the death of their son to media and international organizations. According to the Zeynalov's family members, they were forced to write a statement saying they had no complaints about the death and about the local authorities.

On the 30th of November, Zeynalov's father and wife came to capital Baku, where they presented the video footages illustrating slain Zeynalov's body bearing wounds on the legs and neck. The footages were shot shortly after the dead body of Zeynalov was returned to his family by the local authorities.

The footages are available on Youtube

<https://www.youtube.com/watch?v=a2Qde3VBZJU&skipconrinter=1>

The torture murder of Zeynalov shows how the law-enforcement agent perpetrators enjoy virtual impunity. In an interview to RFE/RL Azadliq radio, Zeynalov's widow said: "His [Turac Zeynalov's] skull was broken and there were cuts in his throat. When we asked about this, we were told he had a tumour in throat and they had taken it out. Actually, they hung him, strangled him, and then they wanted to cover up the signs. His body contained bruises. They tortured him with electricity." Aftermath the spreading of footages in social media outlets, an official from Nakhchivan's local government threatened the family and said: "You will be punished before the law for speaking to the media and presenting the video."

Local rights groups said that the Zeynalov's family continues to receive threatening phone calls urging the family to leave Nakhchivan for good. Witness reports suggest that torture and ill-treatment are extensively used in all prisons and detention centres in Nakhchivan. There has never been any independent local NGO representatives accessing and monitoring the prison systems in Nakhchivan. Many trials are closed to public access, while the police continue to harass detainees and threaten witnesses and detainees' families are prevented from making torture allegations public. Torture and ill-treatment are widespread in places of detention and prisons of Nakhchivan, where widespread techniques are used by the authorities to extract confessions from suspects.

With the absence of free media, there is almost no access to information about torture allegations. While interviewing Zeynalov's relatives, journalists were intimidated by the employees of the Ministry of National Security (MNS), who tried to seize their cameras and microphones and expelled Yafez Hasanov, RFERL journalist from Nakhchivan. "After eliminating almost all the sources of news and information, Nakhchivan's security services are carrying out intolerable human rights abuses with complete impunity," Reporters Without Borders said in a statement on the murder of Zeynalov. Legal remedies remain ineffective locally, as the judiciary effectively depends on the executive and always issue verdicts favouring the stance of the authorities.

No proper investigation has been held, even though Azerbaijan's Human Rights Ombudsman Elmira Suleymanova has asked the Prosecutor-General and National Security Minister to investigate Zeynalov's death, and to assure that the responsible for Zeynalov's death brought to justice. Authorities made no comment on the video footages and about human rights violations in Nakhchivan.

⁸¹ Published on Sunday, 25 December 2011, by HRH on <http://humanrightshouse.org/Articles/17398.html>

Attachment N°2

Case study of Hilal Mammadov, minority rights defender and chief editor of Azerbaijan's only Talysh-language newspaper, Talyshi Sado

Hilal Mammadov is a minority rights defender and chief editor of Azerbaijan's only Talysh-language newspaper, *Talyshi Sado* (Voice of the Talysh). As an editor and HRD, Mr. Mammadov spoke out in support of Talysh rights and was critical of what he considered the government's discrimination against minority groups.

in May 2012, Mr. Mammadov received considerable attention after he posted a video online that featured individuals singing a *meykhana* – a traditional Azerbaijani rap – at a wedding. The song repeated the phrase “Who are you? Come on, goodbye,” a popular meme used by Russian protesters to challenge President Vladimir Putin. Due to the video's popularity with Azerbaijani and Russian media, a Russian film crew interviewed Mr. Mammadov about the song. Furthermore, at his invitation, the film crew attended a Talysh folklore party on 13 June 2012 – which Azerbaijani authorities had warned him to cancel. During the event, Mr. Mammadov criticized the Azerbaijani government's handling of the 2012 Eurovision song contest and highlighted the marginalization of the Talysh people.⁸²

Eight days later, plain-clothed individuals arrested Mr. Mammadov and questioned him about his political views and ethnic identity. The officers beat Mr. Mammadov until he lost consciousness – at which point it is believed narcotics were planted on his person. Authorities prevented Mr. Mammadov from meeting with his lawyer until the following day and prevented his lawyer from observing a search of Mr. Mammadov's home – when more contested evidence was seized. In addition to drug charges, the government accused Mr. Mammadov of treason and “incitement of national, racial, or religious hatred.”⁸³ Mr. Mammadov was later charged with treason and inciting racial hatred, crimes that carry a life sentence. He was convicted after a trial plagued with procedural irregularities and sentenced to five years in prison on 27 September 2013.⁸⁴ The UNWGAD has since ruled Mr. Mammadov's detention as arbitrary and called for his immediate release.⁸⁵

⁸² *Azeri Journalist Charged with High Treason Could Face Life Sentence*, Reporters Without Border (5 July 2012), available at <http://en.rsf.org/azerbaijan-azeri-journalist-charged-with-high-05-07-2012,42963.html>

⁸³ Source on file with the authors.

⁸⁴ *Azerbaijan: Sentencing to five years in prison of Mr. Hilal Mammadov*, Observatory for the Protection of Human Rights Defenders (23 Sept. 2013), available at <https://www.fidh.org/International-Federation-for-Human-Rights/eastern-europe-central-asia/azerbaijan/azerbaijan-sentencing-to-five-years-in-prison-of-mr-hilal-mammadov>.

⁸⁵ *Hilal Mammadov v. Azerbaijan*, UNWGAD, Opinion No. 59/2013 (22 Nov. 2013).

Attachment N°3

Case Study: the N!DA Youth Activists

The N!DA Youth Activists are young Azerbaijani activists who organized to promote democratic reform in the country.⁸⁶ In particular, the group came to prominence for organizing a series of demonstrations in early 2013 to protest the death of Azerbaijani military conscripts from alleged hazing and bullying.⁸⁷ On 7 March 2013, just three days before a planned protest, police arrested three leaders of the N!DA group and accused them of possessing drugs and weapons.

The detainees and family members have insisted – and allege having witnessed – that the police planted drugs and Molotov cocktails during these searches.⁸⁸ Evidence allegedly obtained during these searches was not sealed or labelled and search warrants had missing or incorrect addresses.⁸⁹ One family member reported that she caught an investigator attempting to plant drugs and another reported that family members were prevented from observing the police as they brought items – believed to be the Molotov cocktails – into the home.⁹⁰ During the search of one detainee’s home, an investigator told a family member “it is because of the computer that your son has all these problems” and then “you as his mother do not know what your son is writing on the internet?”⁹¹ Authorities then interrogated the three detainees, without access to an attorney, solely about their political activism and plans for the upcoming protest.⁹² Two days after their arrests, the three activists had their “confessions” broadcast on television across the country – confessions that were obtained after the activists were reportedly beaten and threatened.⁹³ The three activists and five of their colleagues were ultimately sentenced to between five and eight years in prison.

Following the release of three of the N!DA members in October 2014, the authorities paraded them before the cameras – filming their expressions of support for the government before accompanying them to the grave of the former president Heydar Aliyev, where they left flowers – a ceremony forced on many released political prisoners.⁹⁴ Two more members were released in December 2014 as international outrage over the case continued.⁹⁵

⁸⁶ The group’s website is available at www.nihavh.org. According to the group, which is not affiliated with any political party, its mission is “to defend the constitutional and human rights of the society, and preserve the democratic and republican values. N!DA also aims to attract citizens, especially, you and students into the socio-political processes of the country in order to democratize Azerbaijan and increase their influence in the processes.”

⁸⁷ Arzu Geybullayeva, *Azerbaijan: N!DA Activists Face 6-8 Years in Prison*, Global Voices (9 May 2014), available at <http://advocacy.globalvoicesonline.org/2014/05/09/azerbaijan-nda-activists-face-6-8-years-in-prison>.

⁸⁸ *Behind Bars: Silencing Dissent in Azerbaijan*, Amnesty International (2014) at p 11, available at http://www.amnesty.eu/content/assets/Doc2014/euro55042014en_Azerbaijan_-_Behind_bars.pdf

⁸⁹ Source on file with authors.

⁹⁰ Source on file with authors.

⁹¹ Source on file with authors.

⁹² *Tightening the Screws: Azerbaijan’s Crackdown on Civil Society and Dissent*. Human Rights Watch (2 Sep. 2013), p 21.

⁹³ *Tightening the Screws: Azerbaijan’s Crackdown on Civil Society and Dissent*. Human Rights Watch, p 21. See also, Arzu Geybullayeva, *Bringing the Bottle: Youth Activists Behind Bars in Azerbaijan*, Global Voices (17 April 2014), available at <http://globalvoicesonline.org/2014/04/17/bring-the-bottle-youth-activists-behind-bars-in-azerbaijan>.

⁹⁴ *News Clips: Three Azerbaijani Youth Activists Released from Prison*, RFE/RL (20 Oct. 2014), available at <http://www.rferl.org/media/video/azerbaijan-political-prisoners/26646784.html>; *Azerbaijani Government Makes Political Prisoners Bow to Founder of Dictatorship in Azerbaijan*, AzeriReport (20 Oct. 2014), available at http://azerireport.com/index.php?option=com_content&task=view&id=4433&Itemid=42.

⁹⁵ *Ilham Aliyev Pardons 87 People*. Azadliq Radiosu (RFE/RL) (29 Dec. 2014), available at <http://www.azadliq.org/content/article/26768059.html>.

Attachment No.4

Case of Mammad Azizov , young activist of the movement N!DA

Applicant Mammad Azizov (applicant from now on) is a citizen of the Republic of Azerbaijan. He was a 3rd year student of Social Sciences and Psychology faculty in Baku State University specialising in Sociology. He is one of the active members of NIDA Civic Movement (NIDA VH from now on).

The applicant was arrested by officers of the Ministry of National Security (MNS from now on) on March 07, 2013. The officers did not explain the reasons for his arrest, nor did they introduce themselves. When the applicant resisted, the officers forced him into a car by beating him on the head. The applicant was then taken to his apartment located on Mir Calal street, building 18, apartment 88. There were about 15 officers in the apartment who presented themselves as MNS officers. They said that they were looking for narcotic substances. They started to conduct a search of the apartment with applicant's presence. About 5-6 officers began entering rooms with the applicant, but he was unaware of what the remaining officers were doing in the other rooms. The last place searched by the officers was the hallway. The officers found two bags of dried grass in the wardrobe. The grass and some other items (books, CDs, copies of papers,) were confiscated and the applicant was taken to MNS. In the evening of that day it became clear that the dried grass was marijuana.

After the event described above, the applicant was missing for two days. His family members, friends, peers from university were unaware of his whereabouts. In addition to the applicant, two other members of NIDA VH – Shahin Novruzov and Bakhtiyar Guliyev - had disappeared as well.

On March 09, 2013 MNS and the Prosecutor's Office released a statement saying that these three young people had violated presumption of innocence by being drug addicts and have attempted to organize massive public unrest. MNS and the Prosecutor's Office stated that they had confiscated great amounts of narcotic substances, money and 22 bottles containing flammable liquid (suspected to be gasoline) in their apartments (MNS and the Prosecutor's Office referred to these bottles as "Molotov cocktails"). The arrested NIDA VH members were charged with the provisions 228.3 (illegal possession of guns, its parts, battle supplies, obtaining explosive materials, passing it to someone, possession and carrying) and 234.1 (illegal possession of narcotic substances) of the criminal code.

Following the statement from the Prosecutor's Office, video interviews of the NIDA VH members - seemingly taken during the investigation - were broadcasted on Space TV, one of the central TV stations. These video interviews were further broadcast by other TV channels in addition. The NIDA VH members, who were clearly under psychological pressure, were confessing for their "crimes" in these video interviews. The arrested NIDA VH members said that they had been preparing for coup-d'etat under foreign influence. They also mentioned in their "confessions" that they wanted to "use new methods of political struggle". Therefore, they have learned how to use "Molotov cocktails", and shared this information on the Internet and on Facebook pages. The young persons "in whose house narcotic substance was found" said that they had planned to disseminate the drugs among the protesters on the street. Their goal in doing this was to make the protesters "more audacious". They said that the board of NIDA VH made the decision about undertaking the stated illegal activities.

On March 09, 2013 the applicant was charged with provision 234.1 (without the intention of selling and illegally obtaining and possessing narcotic and psychotropic substances more than needed for personal use) of the criminal code. On that same day Nasimi district court sentenced the applicant to 2 months of pre trial detention. Despite the paragraph in the court ruling saying that the applicant had to be transferred to Baku Detention Facility he was kept in MNS Detention Facility until March 18, 2013.

Details indicating that the applicant was tortured:

On March 08, 2013 two MNS officers interrogated the applicant. He was intimidated into writing testimony, dictated to him by the officers. When the applicant began to protest, the officers began threatening him by encouraging him to "be clever". The officers ordered the applicant to write as if the narcotic substances confiscated from his apartment were, in fact, given to him by his father for the purpose of selling them, and that his entire family is involved in the business of dealing drugs. The officers stated that they would change the accusations against him into drug dealing charges and

implicate and arrest his father as well, unless the applicant would cooperate and write down what the officers were saying. Thus, the applicant had to write down whatever the officers told him.

The applicant was also in fear of being beaten, which he had previously experienced after being detained by the police on fountain square by police in January 11, 2013. On that day, the applicant and NIDA VH member Bakhtiyar Guliyev (also arrested on March 07, 2013 by MNS officers) were detained and brought to police station number 9 in Sabayel district. The reason for their detention was their leaflet campaign which was calling on people to attend "No to soldiers' death" protest which was due to take place on January 12, 2013.

The applicant and Bakhtiyar Guliyev were severely beaten by a police officer named Shahmurad in police station number 9. They were beaten on their back and legs. The pain caused by the beatings endured for a long time. The applicant did not file a complaint about being beaten on January 11, 2013 to law enforcement units, but did inform the public via media portals while remaining anonymous.

The idea of his father being arrested, combined with the fear of further beatings, contributed to the applicant writing his testimony down as dictated by MNS officers on 11 January 2013. The testimonial detailed the activities of NIDA VH as dictated by MNS officers, incriminating the board members of NIDA VH, and the general activities of NIDA. During the video interview, and also during the trial in Nasimi district court, the applicant confirmed the testimony taken from him at MNS and did not appeal the torture suffered at MNS. One of the reasons for not appealing his torture, was that the lawyer the applicant had chosen was not given access to the case. As a result, the applicant could not benefit from the help from his lawyer and instead, the lawyer appointed to him by the state did not defend the rights of the applicant properly, did not explain to him his rights, and was not present when he was testifying.

The applicant was arrested on March 07, 2013 and kept in MNS detention facility until March 18, 2013. He was not allowed to meet with either his family, or the lawyer his family had hired for him. As a result, he could not file a complaint about torture.

On March 14, 2013 a board member of NIDA VH, Rashad Hasanov, was arrested by MNS officers and brought to MNS detention facility. On March 14, 2013 Rashad Hasanov was confronted with another arrested NIDA VH member, Bakhtiyar Guliyev. Bakhtiyar Guliyev recited to Rashad Hasanov the testimony he was forced to give under pressure against Rashad. Their confrontation was included into protocol. The applicant, however, refused to confront Rashad Hasanov and stated that he was withdrawing his testimonial given under pressure. The applicant said at this point that he had given the previous testimony under fear and pressure.

MNS officers then took the applicant to another room, an officer named Azer slapped him and started to beat him with rubber club. Then he was taken to another room and beaten there as well. The applicant, handcuffed at the time, was beaten, by MNS officers named, Azer, Mamay and a third, unknown officer, with rubber clubs, slaps and fists. During the beating, the officers interrogated the applicant as to why he had withdrawn the previous testimony.

The applicant sustained injuries that caused him to limp with his right leg for 4 days. Furthermore, the applicant had pain in his ears and also suffered hearing impediment. On March 18, 2013, the applicant was transferred from MNS detention facility to Baku Detention Facility. The applicant asked the leadership of Baku Detention Facility number 1 for treatment for the pain in his ears and his hearing impediment on March 30, 2013. He was examined and treated by doctors.

In April, 2013 representatives of The Ombudsman visited the applicant in Baku Detention Facility and the applicant told them about torture facts. The Ombudsman's Office has never given him any updates on status of his complaint, whether they launched inquiry into the torture he sustained or not. Therefore on April 16, 2013 he filed an official letter to Prosecutor's Office for investigating the torture committed against him.

First deputy prosecutor of Prosecutor's Office R. Usubov took the decision to deny opening a criminal case on this matter on June 04, 2013. In the decision it was stated that the cases of torture, as claimed by Mahammad Azizov Rasim, which took on January 11, March 07 and March 14, 2013 have yet to be confirmed.

On 9 September 2013 the Applicant appealed the decision of the Prosecutor's Office to Sabayel district.

The Applicant also asked the court to grant the following motions:

- To get testimonials of NIDA VH members, Rashad Hasanov and Bakhtiyar Guliyev who are currently held in Baku Detention Facility as witnesses in this case;
- To obtain audio/video recordings of January 11, 2013 from police station number 9 of Sabayel district;
- To obtain audio/video recordings of March 14, 2013 from MNS detention facility.

The applicant's appeal was rejected by September 27, 2013 ruling of Sabayel district court.

On September 30, 2013 the Applicant appealed to the court of appeals about the ruling of Sabayel district court.

Applicant's appeal was rejected by October 07, 2013 ruling of Baku Court of Appeals.

The complaint is filed to the European Court of Human Rights.

<https://prisoners.watch/en/prisoners/mammad-rasim-oglu-azizov>

Attachment No.5

Case of Afghan Mukhtarli of January 2009, journalist from the newspaper Yeni Musavat

Afghan Mukhtarli (the applicant) was working at Yeni Musavat newspaper as a reporter when the incidents indicated in his application occurred. The applicant has become famous for his critical articles against the authorities. He has criticised the illegal interference and excessive use of force from police against protesters during street demonstrations and other political campaigns. The applicant himself has suffered from violence from the law enforcement authorities several times.

On January 07, 2009 the applicant arrived at a protest in front of the Israeli embassy in Azerbaijan. There were about 150-200 protesters demonstrating.

According to the applicant at approximately 10:20, protesters started to march from Tbilisi avenue in Baku towards Hyatt Regency Hotel along Izmir Avenue. The chief of Yasamal police department, Mr. M. Huseynov and an unknown police colonel initially suggested to the protesters that they should march towards Israeli embassy, pass through the back entrance of the Israeli embassy and gather near Taza Pir mosque. The protesters agreed with the police chief, and were willing to march through the back entrance of the embassy. However, some time later, M. Huseynov, against his previous instructions, ordered the protesters to get on buses brought by the police and disperse. The protesters refused to listen to these new instructions and continued to march towards the embassy. At this time the protesters and the police clashed. M. Huseynov ordered the police to detain the protesters and put them into the buses. The police started to beat the protesters with rubber clubs. About 100 protesters were beaten with rubber clubs, fists and kicking and were put in the buses. Some of the protesters managed to escape the violence. One of the protesters, aged 35-40, who refused to obey was more severely beaten.

The applicant had a waistcoat which was clearly labelled with "PRESS". M. Huseynov ordered police to confiscate the applicant's camera by force despite him showing them his press card and telling them that he was a reporter. Two police sergeants made the applicant sit down by forcefully twisting his arms. About 30 nearby police officers began to beat the applicant with rubber clubs, fists and kicking. Another police sergeant bent the fingers (on the right hand) of the applicant in opposite direction in order to take his camera away. With the applicant unable to endure the pain, the camera was finally confiscated.

Later police violently forced the applicant into the police car. He suffered from nausea and dizziness caused by the beating. He was unable to move for the pain he was in. The applicant called the editor in chief of Yeni Musavat newspaper and informed him about the incident. After about 20-25 minutes M. Huseynov ordered the release of the applicant. Later on, the applicant found out that he was released after Rauf Arifoghlu, editor in chief of Yeni Musavat newspaper had spoken to the press officer of the Interior Ministry - Ehsan Zahidov.

The applicant was informed about his release only when he was in police bus. Police officers returned his photo camera to him after he got off from the bus, the memory card of the camera, however, was withheld. Yeni Musavat, the newspaper the applicant worked for, received the memory card in the second half of the day from the deputy chief of Baku Police Department Yashar Aliyev. Most of the photographs had been erased from the card including all the photos depicting police brutality, with only the photos taken in the beginning of the protest remaining.

The applicant returned to his workplace after his release that day, but was unable to stay due to the pain he was suffering from and left work at approximately 17:00.

Yeni Musavat newspaper published the report prepared by the applicant about the street protest. Included in the report was a description of the beating the applicant himself sustained during the protest. Other information has been published in Yeni Musavat newspaper about the violence towards the journalist. Local NGOs released statements denouncing the violence against the journalist.

The applicant filed a letter of complaint about the violent behaviour of police against him to Baku City Police Department, General Prosecutor and Ministry of Interior Affairs on January 09, 2009.

The applicant sustained severe pain, and injury on different parts of his body. – his right little finger; his left knee and his stomach. During the first few days, the applicant believed the pain to be nothing

too serious and that it would soon pass. However the pain increased and the applicant was unable to work for 5 days. He consulted a doctor he knew personally because he suspected that other doctors would refuse to treat him after finding out about the nature of his injuries. He was advised by this doctor to move a lot. On January 17 the applicant was examined by the medical expert of the court and got his injuries, including his hand and leg X-rayed. But despite his efforts he could not get the doctor's opinion and X-ray results. The applicant again went back to work, but was unable to work between January 21-28, 2009 due to the increasing severity of his pain.

Ministry of Interior Affairs' Investigation Department began an inquiry into the case based on the letter of complaint filed by the applicant to the Ministry of Interior Affairs. On 25.02.2009 applicant received a letter from the chief of the inspection department of Ministry of Interior Affairs, Arif Rzayev saying that none of the incidents mentioned in applicant's letter were confirmed as a result of their inquiry.

A letter of complaint was also sent by the applicant to Yasamal District Prosecutor's Office, but he received no response from them. The applicant sent another letter to Yasamal District Prosecutor's Office on October 22, 2009. Based on the letter sent on February 10, 2009, the applicant asked the prosecutor to provide him with the information on what procedural measures and activities the prosecutor's office had been conducting on his case.

Yasamal district Prosecutor's office rejected applicant's claims on launching a criminal case with his January 19, 2010 decision.

The applicant appealed to Yasamal district court in order to annul this decision. He mentioned in his letter that the decision of the Prosecutor's Office on not opening a criminal case was illegal. Applicant stated in his letter that the Prosecutor's Office had not conducted a thorough investigation; had failed to collect evidence (obtain audio recordings, question witnesses, obtain a list of protesters that were detained, obtain the documents and materials collected by inspection department); had not fulfilled its obligation on conducting effective investigation and had created conditions for those that had beaten the applicant to avoid responsibility. The applicant's complaint has been rejected based on June 18, 2010 decision of Yasamal district court.

Applicant appealed to Baku Court of Appeals on June 18, 2010. Baku Court of Appeals rejected applicant's complaint with its July 29, 2010 ruling.

<http://www.state.gov/j/drl/rls/hrrpt/2010/eur/154413.htm>

Attachment No.6

Case of Murad Adilov, activist of the Popular Front Party's Sabirabad branch, August 2014

Murad Adilov is an activist of the Popular Front Party's Sabirabad branch. He is the brother of Natig Adilov, an Azadliq newspaper journalist and host of the "Azerbaijan hour" TV program, which heavily criticises the authorities. He is currently being held at the Baku Detention Facility.

Murad Adilov was arrested on 11 August 2014 at 16:30 in Sabirabad, by officers of the Sabirabad branch of the Main Drug Enforcement Department and of Sabirabad Police Station. He was attacked by 8–10 people in plain clothes, beaten, handcuffed, and forced into a police car. While in the car, a police officer put narcotic substances into his pocket. On the way to police station, the police officers stopped the car, searched him, and identified narcotic substances (3.93 grams of dried marijuana, 113.17 grams of hashish).

He was then taken to Sabirabad police department, where he was beaten severely in the room of Vusal Shabandiyev, head of the criminal search unit, and ordered to sign a paper confessing that the narcotic substances belonged to him. He was beaten by officers of Main Drug Enforcement Department and of the Sabirabad Police Station. They beat him on his back, heels, and legs. Adilov refused to sign the paper.

Later police officers went to Adilov's house in Khalfali village. Without a search warrant, without introducing themselves, and without the presence of Adilov's lawyer, they searched only one room of the house. They took one bag of dried marijuana (660-685 grams) from underneath the mattress. The marijuana was put there by police.

On 13 August 2014, during his court trial, Adilov claimed that he was interrogated on 12 August 2014 and beaten and tortured by police officers on 11 August 2014 at around 16:00. The court sentenced him to pretrial detention.

The Prosecutor's Office launched an inquiry based on his testimony, but decided on 2 October 2014 not to open an investigation into his case. They explained this decision by saying that there was not enough evidence to confirm that Adilov had been physically tortured.

The defendant appealed this decision to the Sabayel district court. This court rejected his appeal on 16 January 2015. The court indicated Adilov's case was related to provision 234.4.3 of the Criminal Code [illegal possession of drugs], and would be sent to the Lankaran Court on Grave Crimes. It would therefore be this court that would conduct an inquiry into the issues stated in the appeal.

Adilov appealed to the Court of Appeals on 16 January 2015. The appeal was rejected on 30 January 2015. The courts have not responded to Adilov's claim that he carried signs of torture on his body when he was brought to the Main Organized Crime Department and Baku Detention Facility.

The Lankaran Court on Grave Crimes sent an inquiry to both of these institutions about the signs of torture. The Baku Detention Facility responded that Adilov entered the detention facility on 15 August 2014 and went through a medical checkup. His medical history shows that during the checkup they identified a large purple bruise on the inner part of his left thigh.

The Lankaran Court on Grave Crimes ignored this letter and did not conduct an inquiry into Adilov's complaint about torture.

Adilov's case has been lodged with the European Court of Human Rights.

<http://eng.kavkaz-uzel.ru/articles/29148/>

Attachment No.7

Case of Seymour Haziyeu, journalist of the newspaper Azadliq

Applicant Seymour Haziyeu (from now on, the applicant) is a columnist for Azadliq newspaper. He is well known for his critical writings against the authorities. Due to his journalistic work, he has been beaten and threatened several times.

On 15 May 2010, the Azadliq opposition political block attempted to organize a demonstration in front of the Narimanov Theatre. The Baku city administration denied their request to demonstrate there, instead offering them a remote location. The applicant attended the demonstration and observed the process.

The Government brought many police officers to the area where the demonstration would take place. They violently dispersed the crowd and detained many demonstrators. At around 14:50, the police detained the applicant, and others that were with him, on the intersection of Agha Neymatulla and Tabriz streets. The police gave them no warning and did not explain the reason for their detention. They were later taken to Narimanov police station.

At around 18:50, the applicant, along with other protesters, was brought to Narimanov district court, where he was sentenced to administrative detention.

At around 14:00 on 17 May 2010, the applicant was taken from his cell by an employee of the detention facility, Aqil Quliyev, who gave the applicant no explanation for this. He brought the applicant into another room, containing two people in plain clothes. A. Quliyev left the applicant alone in the room with these two people. The taller and fitter of the two stood up, pushed the applicant towards the wall, and asked him why he was writing critical articles against Ilham Aliyev. The other person shouted at the applicant that he should write more about "Azerbaijan's enemies," about institutions such as "OSCE, UN" – "who are not helping to solve the Karabakh conflict." He was told that writing about president Ilham Aliyev was a big mistake.

The applicant told the two persons that he was a journalist and had a right to write about any government official, and that the actions of those officials did not fit any ethical norms or rules. The two people responded by kicking him in the leg and forcing him to do physically difficult movements – forcing him to stay in the splits position for more than an hour.

The applicant protested, but they continued to beat him, targeting parts of body that cause immediate pain. They repeated this 12–15 times, taking small breaks in between. While beating the applicant, they repeated the phrase: "You are committing a crime by calling people for public unrest." The taller and fitter of the persons told the applicant that "if you again write about the president and call on people to attend demonstrations, then we will take special actions against you."

The persons continued to physically torture the applicant for more than an hour. The kicks, beatings, and pressure took their toll and the applicant started to lose consciousness. The persons called the employee of the detention facility when they saw that the applicant was fainting. He was brought to his cell. He could not walk or move for the next half hour due to the effect of the kicks and beatings.

Applicant's complaints

On 7 June 2010, the applicant filed a letter of complaint to the Prosecutor's Office and Interior Ministry about being tortured in the detention facility. He did not receive any response to his letter.

On 27 July 2010, the applicant filed a letter of complaint to the Binagadi district prosecutor and Binagadi district police station. After receiving no answer, the applicant resent the letter to Binagadi district prosecutor. He asked the prosecutor to provide him with updates on the investigation into his case.

On 12 November 2010, the applicant received a letter from the Binagadi district prosecutor's office. The letter said that police station number 4 of Binagadi district had started an inquiry into his case, and decided on 10 August 2010 not to open an investigation.

On 12 November 2010, the Binagadi district prosecutor's office annulled the decision taken by police station number 4 not to open an investigation, based on the grounds that the inquiry was not conducted comprehensively, fully, and objectively. The office requested the police station number 4 to conduct an inquiry into this case.

On 20 October 2011, the applicant appealed to Binagadi district court, stating in his letter of appeal that an effective inquiry had not been conducted into his case.

The Binagadi district court rejected his appeal on 27 October 2011.

On 31 October 2011, the applicant appealed to the Court of Appeals, claiming that the Binagadi district court has not conducted an inquiry into whether anybody came to the Binagadi district detention facility on the day that he was tortured (17 May 2010), whether there were monitoring cameras at the facility, and whether the applicant was removed from his cell and taken to another room.

The applicant's cellmates were not summoned to the court and have not given their testimonies. The court has not conducted an inquiry into the fact that the investigator responsible for this case did not collect all the necessary evidence, and did not summon and question the applicant.

The Baku Court of Appeals rejected the Applicant's claims in its ruling on 14 November 2011. The applicant has appealed to the European Court of Human Rights, claiming a violation of Article 3 of the ECHR.

<https://www.indexonensorship.org/2015/01/azerbaijan-journalist-sentenced-to-five-years-for-aggravated-hooliganism/>

Attachment No. 8

Case Study of Ilgar Mammadov, opposition leader and head of the Republican Alternatives (REAL) political party

Ilgar Mammadov, the opposition leader and head of the Republican Alternatives (REAL) political party, was arrested on 4 February 2013 after investigating unrest in the countryside and criticizing the government's response to demonstrators. He was charged with breach of public order and resisting arrest. On 30 April 2013, charges of mass disorder and violence to public officials were added.

Authorities subjected Mr. Mammadov to nearly ten months of pre-trial detention without presenting any justification apart from the prosecutor's allegations of wrongdoing. While in detention, he was unable to register as a presidential candidate in the 2014 national elections.

The ECtHR, which issued a decision in the case in 2014, determined that his pre-trial detention failed to meet procedural requirements under the ECHR (discussed in further detail in Section IV(B)(2)(ii)) and notably that the government's motivations behind the detention were political and thus the detention of Mr. Mammadov violated international law. The Court found, from the specific circumstances of the case, that "the actual purpose of the impugned measures was to silence or punish the applicant for criticizing the Government and attempting to disseminate what he believed was the true information that the Government were trying to hide."

The trial was ongoing during the 2013 presidential election, which Mr. Mammadov was unable to participate in.

On 17 March 2014, the Shaki Grave Crimes Court sentenced him to 7 years in jail in connection with the Ismayilli riots of 23-24 January 2013. His sentence was later upheld by Shaki Court of Appeal. The European Court of Human Rights has ruled Mammadov's arrest illegal, and Amnesty International has recognised Ilgar Mammadov as a prisoner of conscience.

Physical assault of Ilgar Mammadov of 19 October 2015

On 19 October 2015, Ilgar Mammadov has been physically assaulted in Prison #2 where he is serving his sentence.

Mammadov made it known that on 16 October, he was called to the administrative building, where the offices of the prison management located. He received blows to the chest and the head, delivered by Deputy Chief Shakir and a prison employee named Chingiz.

"Then, they pushed Ilgar Mammadov towards the prison chief's room, where they threw him on the floor and kicked him. Ilgar said that his assailants told him that he was being punished for passing on information to the media regarding the pressure against his cellmate Rinat Yusifov for defending him and his placement in a solitary confinement. The prison chief threatened to kill Ilgar, warning him, "next time you leave this room you won't be alive." I could see his injuries; there was a bruise on his neck, and swelling on his head [...] He said he had a severe headache," reported an eyewitness. The appeals were sent to the Justice Minister Fikret Mammadov, Prosecutor General Zakir Garalov and Ombudswoman Elmira Suleymanova regarding the matter, and has requested an investigation of this incident as well as the violation of Mammadov's right to make phone calls and to personal safety.

Background: Ilgar Mammadov was arrested on February 2013. The Shaki Grave Crimes Court sentenced him to 7 years in jail in connection with the Ismayilli riots of 23-24 January 2013. His sentence was later upheld by Shaki Court of Appeal. The European Court of Human Rights has ruled Mammadov's arrest illegal, and Amnesty International has recognised Ilgar Mammadov as a prisoner of conscience.

Attachment No. 9

Case Study: Rasul Jafarov, human rights defender and founder of the NGO Human Rights Club

Rasul Jafarov is an internationally respected HRD and advocate on the issue of wrongful imprisonment in Azerbaijan. After forming the Human Rights Club in December 2010, Mr. Jafarov sought to register the group with the Ministry of Justice; however, on three occasions the application was returned. The first two rejections were accompanied by requests for additional documents allegedly missing from the application – even though Azerbaijani law requires that all deficiencies must be identified in a single communication.⁹⁶ On the third occasion, the government demanded additional information not required by Azerbaijani law.⁹⁷ By this time, five months had elapsed since the Human Rights Club first submitted its materials to the Ministry of Justice.

As result, Mr. Jafarov filed a complaint with the Baku Administrative-Economic Court seeking an order that the Ministry grant the application. After repeated delays, the court rejected the complaint on 19 February 2013. The Baku Court of Appeal upheld the lower court's decision on 15 May 2013 and the Supreme Court finally rejected the appeal on 18 September 2013. With domestic remedies exhausted, the Human Rights Club submitted a complaint to the ECtHR, which is still pending.

Mr. Jafarov, however, continued his advocacy despite official efforts to block his registration of the Human Rights Club. His grant-funded work was supported by a variety of prominent funders, including the National Endowment for Democracy, the Open Society Foundations, the German Marshall Fund, and the OSCE. In response to this work authorities arrested him on 2 August 2014 and placed him in pre-trial detention.⁹⁸

Although Mr. Jafarov attempted to comply with Azerbaijan's increasingly restrictive administrative laws – and despite the fact that he has continued to seek registration for the Human Rights Club – the authorities accused him of failing to register the grants that supported his work. The authorities, however, did not charge Mr. Jafarov under the NGO Regulation Laws for failing to register the particular grants at issue. Instead, based on the flawed legal theory described above, the authorities treated the grants as commercial income to a business, assessed an additional tax liability against him on 17 October 2014, and charged him with a raft of unrelated Criminal Code violations, including tax evasion, illegal business activity, and abuse of office, and later added forgery and embezzlement.

In addition to the flawed legal theory that serves as a basis for Mr. Jafarov's prosecution, the imposition of the criminal charges in his case are also contradictory. For example, the authorities charged him with illegal business activity. The theory supporting this charge, also applied in the case of Intigam Aliyev, appears to be that because of an alleged failure to register grants, Mr. Jafarov was illegally operating the Human Rights Club as business (which must be registered under Azerbaijani law). At the same time, however, the authorities claimed that Mr. Jafarov abused his authority as the head of the NGO by

⁹⁶ Venice Commission 2014 Report at para. 46 (citing Article 8(3) of the Law on Registration).

⁹⁷ On the third occasion, the government returned the application citing the need for the Human Rights Club to identify a legal representative; however, the law on grants only requires the applicant disclose the name of the legal representative in the event that one is appointed – in this case no representative had been appointed. Article 5.1.4 of the Law on Registration provides that “the regulations of the legal entity approved by the founders of the structure wishing to obtain the status of a legal entity, *or his (their) legal representative*, decision on establishment of the structure and ratification of its regulations (the decision will include the purpose of the establishment of the structure, wishing to obtain the status of a legal entity, its founders, terms of reorganization of the establishment of new legal entity, its founders, terms of reorganization of the establishment of new legal entity during association, separation and division, approval of the regulations, *legal representative in the event of his appointment and his authority*, as well as other issues considered necessary by the founders) such decision will be signed by all founders.” (emphasis added).

⁹⁸ *Azerbaijan: Rasul Jafarov sentenced to 6.5 years of jail for human rights work*, World Organization Against Torture (16 April 2015), available at <http://www.omct.org/human-rights-defenders/statements/azerbaijan/2015/04/d23093>.

signing and implementing the very grant agreements at issue in the case.⁹⁹ In essence, he is accused of running either a business or an NGO (two very different types of organizations under Azerbaijani law) at the very same time, and failing to comply with the regulations of both.

Mr. Jafarov's trial began on 15 January 2015. His defence lawyers made a number of motions throughout his trial. The only motion the court granted was the request for Mr. Jafarov to sit next to his lawyers. During the course of the trial at least seven individuals identified by the court as "victims" of embezzlement said they had no complaints against Mr. Jafarov, and asked the court to release him. At least two "victims" never appeared at the trial to testify.¹⁰⁰ Mr. Jafarov's lawyers also produced a letter from 20 donor organizations stating that all grants were spent according to the terms of the grant agreements.¹⁰¹

The Baku Grave Crimes Court convicted Mr. Jafarov of tax evasion, abuse of office, illegal business activity, embezzlement, and forgery and sentenced him to six and one-half years in prison on 16 April 2014.¹⁰² In addition to his prison term, Mr. Jafarov is banned from holding public office for three years¹⁰³ and must reimburse the court 350 AZN (€310) for the use of expert witnesses.¹⁰⁴

⁹⁹ In addition to the organizational charges, Mr. Jafarov also faces fabricated charges related to forgery and embezzlement.

¹⁰⁰ *Azerbaijan: Still ongoing judicial harassment against Mr. Rasul Jafarov*, The Observatory for the Protection of Human Rights Defenders (2 April 2015), available at <https://www.fidh.org/International-Federation-for-Human-Rights/eastern-europe-central-asia/azerbaijan/the-observatory-azerbaijan-still-ongoing-judicial-harassment-against>

¹⁰¹ *Ibid*

¹⁰² *Court announces judgment on Rasul Jafarov*, APA (16 April 2014), available at http://en.apa.az/xeber_court_announces_judgment_on_rasul_jafaro_225802.html.

¹⁰³ *Rasul Jafarov Sentenced to 6.5 Years in Jail*, Contact (16 April 2015), available at <http://www.contact.az/docs/2015/Politics/041600112841en.htm#.VT43hdJVikq>.

¹⁰⁴ *Azerbaijan: Rasul Jafarov sentenced to 6.5 years of jail for human rights work*, World Organization Against Torture (16 April 2015), available at <http://www.omct.org/human-rights-defenders/statements/azerbaijan/2015/04/d23093/>

Attachment No. 10

Case Study of Intigam Aliyev, human rights lawyer and funder of the NGO Legal Education Society

Intigam Aliyev is one of the most widely-respected human rights lawyers in Azerbaijan.¹⁰⁵ He has been at the forefront of rights advocacy in the country for two decades as a human rights lawyer and head of the officially registered Legal Education Society, an organization that promotes awareness of the law and provides legal support to individuals and organizations. In that time, he was one of the first Azerbaijani lawyers to utilize the ECtHR and has submitted hundreds of cases – including approximately a dozen cases, which are currently pending. His cases have involved freedom of expression and association, democratic rights, the prohibition of torture, and due process rights. Mr. Aliyev has also advocated regularly before a number of international institutions, including the CoE, the UN, and the OSCE.¹⁰⁶

On 24 June 2014, Mr. Aliyev was the keynote speaker at a side event during a session of the PACE, where he strongly criticized Azerbaijani policies and highlighted ongoing human rights violations committed by the authorities. President Ilham Aliyev spoke during the same session and when asked about political prisoners in his country, he said simply that “unfortunately, Azerbaijan is subject to deliberate provocations. We know the source and we know the reason. It has nothing to do with human rights and democracy. It is political.”¹⁰⁷ Just over two weeks later, tax authorities initiated an audit of the Legal Education Society.¹⁰⁸

Prosecutors claim that the Legal Education Society failed to properly register grants from the HRHF and US-based National Endowment for Democracy. According to Mr. Aliyev’s domestic legal team, of the 13 grants at issue, the registration of which is disputed by the prosecution, seven were obtained before the law required such registration.¹⁰⁹ Further, although copies of the relevant registration applications were on file at the headquarters of the Legal Education Society, files, computers, and flash drives were seized during the government’s search of the premises and Mr. Aliyev’s private home with no distinction made as to the kind of document seized. During the search, investigators refused to allow Mr. Aliyev to make a record of seized documents and the courts subsequently failed to compel the authorities to provide the defence team access to some of those specific documents (although some other materials have allegedly been handed over).¹¹⁰ The prosecution further claimed that Mr. Aliyev failed to register his name as head of the organization, a legal obligation which is in dispute because his re-election as chairman – according to his legal team – did not change the statutes of the organization in a way that would require such notification.

The officials sealed the office of Legal Education Society and refused to reopen it, despite the motions submitted by the defence lawyers at trial hearings.

Mr. Aliyev was arrested on 8 August 2014 and charged with illegal entrepreneurship, tax evasion, and abuse of office. The charges of forgery and embezzlement were added on 15 December 2014.¹¹¹

The detention conditions of Mr. Aliyev raise concerns, also having an impact on his already poor health. He suffers from severe chronic headaches in addition to nerve pain and has reportedly been denied of appropriate health care during the first six months of his detention; only in 2015 did he

¹⁰⁵ In recognition of his legal work and human rights advocacy, Mr. Aliyev received the Homo Homini Award from the Czech NGO People in Need in 2012.

¹⁰⁶ Source on file with the authors.

¹⁰⁷ *Speech by the President of the Republic of Azerbaijan Ilham Aliyev on PACE Session*, Embassy of the Republic of Azerbaijan to the Kingdom of the Netherlands (24 June 2014), available at <http://www.azembassy.nl/?options=content&id=110>.

¹⁰⁸ Source on file with the authors.

¹⁰⁹ According to domestic legal experts, registered organizations were not required to register their grants with the Ministry of Justice until 1 January 2010.

¹¹⁰ Source on file with the authors.

¹¹¹ *Call for an immediate end to crackdown against human rights defenders*, Observatory for the Protection of Human Rights Defenders (18 Dec. 2014), available at <https://www.fidh.org/International-Federation-for-Human-Rights/eastern-europe-central-asia/azerbaijan/16682-azerbaijan-call-for-an-immediate-end-to-crackdown-against-human-rights>.

received proper pain medication, but remains without appropriate medication for the treatment of his diseases.¹¹² Furthermore, there is insufficient ventilation and heating in the cell and hot water is allowed only twice a week. Inadequate space in the prison cell makes it nearly impossible for him to walk and access to proper nutritional food is restricted. Moreover, he can meet his family only through a glass barrier once a week over a telephone.

Mr. Aliyev's trial began on 23 January 2015. His lawyer made a number of motions, including a request that handwriting analysis be conducted on fund transfers allegedly approved by Mr. Aliyev, that the Ministry of Justice's list of registered grant agreements be entered into evidence, and that the files seized during the search of Mr. Aliyev's apartment and office be returned. All of these motions were denied.¹¹³

When asked to make a statement during his trial Mr. Aliyev said that there was no legal ground for the accusations against him and added: "There is no greater injustice than that which is perpetrated in the name of the law!"¹¹⁴

Mr. Aliyev was convicted on 22 April 2015 and sentenced to seven and one-half years for tax evasion, abuse of office, illegal entrepreneurship, embezzlement, and forgery. In addition to the prison term, he is banned from holding public office for three years.¹¹⁵

¹¹² Source on file with the authors.

¹¹³ The court, however, did allow Mr. Aliyev to sit next to his lawyers during the trial. See, *Intigam Aliyev was freed from cage*, HRHN (9 Feb. 2015), available at humanrightshouse.org/Articles/20711.html.

¹¹⁴ *Intigam Aliyev's Emotional Statement*, HRHN (8 April 2015), available at <http://humanrightshouse.org/Articles/20878.html>

¹¹⁵ *Intigam Aliyev sentenced to 7.6 years in prison*, APA (22 April 2015), available at <http://en.apa.az/news/226091>. The authorities also imposed separately from the criminal case against Mr. Aliyev a fine under the tax code against the Legal Education Society, but did not impose any administrative fines for its alleged failure to register grants at issue in the criminal case.

Attachment No. 11

Case of Leyla and Arif Yunus, founders of the NGO Institute for Peace and Democracy

Leyla and Arif Yunus are long-time civil society actors who have worked to protect human rights and promote peace in Azerbaijan since the country was part of the Soviet Union. Mrs. Yunus is a co-founder of the Baku-based Institute for Peace and Democracy and has served as the organization's director since 1995. Mr. Yunus, an academic, headed the Institute's Peace and Migration Studies program for nearly three decades. In 2011, municipal officials demolished the organization's offices, with the group's equipment and documents still inside, after she campaigned against forced eviction in Baku.

Undaunted, the couple continued their work – focusing especially on the worsening problem of arbitrary detention and building people-to-people connections between Azerbaijanis and Armenians. In an attempt to foster understanding between citizens of the two countries and find a peaceful resolution to conflict over the Nagorno-Karabakh region, the Institute partnered with an Armenian NGO (“Region”) to launch a website in 2012 aimed at facilitating citizen diplomacy through online discussions.

In response to this work, . Leyla Yunus and Arif Yunus were arrested on 30 July 2014. Arif Yunus was released and then arrested again on 5 August 2014. During the interrogation, investigators accused the couple of conspiring with Armenian intelligence officials to recruit and pass secrets. Strikingly, the investigators specifically named the head of Region as the supposed “agent” involved in the conspiracy. The couple remained in pre-trial detention until the verdict, which took place on 13 August 2013, more than a year after their arrest.

On 13 August 2015, the Court of Grave Crimes in Baku sentenced Leyla Yunus and Arif Yunus to respectively 8 years and six months imprisonment and 7 years imprisonment, on charges of fraud, illegal entrepreneurship and tax evasion. In addition to the sentences, the court requested confiscation of their property and bank accounts. All property is to be transferred to the State.

The court hearings in the case of Leyla Yunus and Arif Yunus were held in small courtrooms, preventing many independent observers and trial monitors of having access to the hearings. It was a de facto closed doors regime: Repeatedly, the Court said that the hearing room was full. In fact, the rooms were either filled by the authorities to prevent internationals from entering the room and observing the legal proceedings or simply remained half empty. In some cases, representatives from embassies were allowed access to the room only without their interpreters. The Human Rights House Network indeed sent observers to the different hearings in the Yunus' case, who were however repeatedly prevented from having access to the rooms in which the hearings were taking place.

The health conditions of Leyla and Arif Yuus are of serious concern. On 3 August, Arif Yunus fainted during the hearing. His blood pressure rose to 260/140. Since 31 March 2015, Leyla Yunus started seeing dark spots in front of her left eye, followed by poor vision in the same eye. These are just the latest known elements about the couple's health condition, which has continuously deteriorated since their imprisonment.

Arif Yunus suffers from a severe case of hypertension, since before his detention. Leyla Yunus also has a number of serious health conditions, including diabetes and medical problems related to her kidneys. The couple has been denied adequate medical treatment in prison. The proceedings against Leyla Yunus and Arif Yunus were also marked by the harassment and legal persecution against their lawyers. The prosecution indeed called upon members of their legal team to be witnesses for the prosecution, thereby precluding them from acting as defence counsel. On 6 November 2014, Alaif Hasanov, Leyla Yunus' lawyer, was sentenced to 240 hours of community service due to his public statements about the detention conditions of his client.

Alaif Hasanov was then stripped from his membership of the Bar Association. (see next attachment 12, on the harassment of lawyer Alaif Hasanov)

Attachment No. 12

Case of Alaif Gasanov, lawyer of Leyla Yunus

Alaif Gasanov is one of human rights defender Leyla Yunus' lawyers. We believe that Yunus has been exposed to politically motivated persecution. Visiting Yunus in a pre-trial detention centre, Gasanov noticed the signs of physical coercion on her and collected the related facts, which were later publicized in the newspaper titled, Azadlyg (Freedom). Upon that publication, Red Cross representatives arrived at the place of Leyla Yunus' detention at short notice and, actually, saved her life. Soon after that, Yunus's cellmate Nuriya Guseinova filed a complaint with the lawenforcement organs stating that Alaif Gasanov had insulted and defamed her (both these actions are considered criminal offense in Azerbaijan).

As a result, the lawyer was convicted for his Facebook publication. According to the court's decision, in his post Alaif Gasanov mentioned that Nuriya Guseinova and another of Yunus' cellmates (one who had arrived to the centre not long before), smoked a lot creating a deteriorating the situation for Leyla Yunus who suffered from lack of fresh air. Gasanov also wrote that both women spoke highly of the government all the time, in fact, attempting to brainwash the human rights defender. On the grounds of his Facebook post, the Azadlyg newspaper published an article without letting Gasanov know and without his approval. Nuriya Guseinova read the article and appealed to the law enforcement organs. It is worth noting that the detention centre administration takes care to ensure that this opposition newspaper does not get to the detainees. Guseinova not only managed to read it but also was able to immediately file a law suit, something that usually does not happen quickly as the mail of those in custody usually takes long months to get somewhere. On 6 November 2014, the court found Alaif Gasanov guilty of defamation ("dissemination of knowingly false information discrediting honour and dignity of other person or damaging his reputation in public statement or mass media"). Gasanov was sentenced to 240 hours of public service.

Thus, Gasanov was deprived of the opportunity to protect Leyla Yunus, and to continue practicing law for the term of his serving the sentence. In addition, on 3 July 2015, when his sentence was nearly over, Presidium of the Bar Association expelled Gasanov from the Bar in breach of the procedure, therefore, depriving him of the right to practice in the legal profession. The interesting point is that the reason for expulsion was the court's decision of 6 November 2014. Gasanov was neither invited to take part in the discussion of his case nor was he even informed about it. He learned about the Presidium's decision via mass media.

Attachment No. 13

Closure of the Human Rights House Baku

On 10 March 2011, the Ministry of Justice of the Republic of Azerbaijan ordered the Human Rights House Azerbaijan¹¹⁶, partner of the international Human Rights House Network, to cease all activities immediately. According to the Ministry of Justice, in the future the Human Rights House Azerbaijan will be allowed to carry out activities only upon prior agreement with the State. The Human Rights House Network believes this measure is part of the escalated repression of the civil society in the last few weeks, in connection with the calls for pro-democracy demonstrations in March 2011.

The Human Rights House Azerbaijan was registered in 2007 as an international branch of the Human Rights House Foundation. In 2009 a new law on non-governmental organisations was amended, stating that international organisations have to carry out their activities after agreement about those activities with the State. No official warnings have been issued nor any discontent communicated with regards to the timely and regular reporting by the Human Rights House Azerbaijan to the authorities.

The Human Rights House Azerbaijan has been under government scrutiny since its establishment, and in the last years in particular. On 10 February 2011, police inspection was conducted in the House. Police officers threatened the Human Rights House Azerbaijan with eviction and requested the manager to inform police in advance about all gatherings at the House as well as provide the list of participants. Prior to this, the Human Rights House Azerbaijan organised a side-event on the human rights situation in Azerbaijan in Strasbourg parallel to the Council of Europe Parliamentary Assembly in January 2011. The side-event was held in partnership with Human Rights Watch and several Azerbaijani human rights organisations. In February 2011 the Speaker of Azerbaijan's Parliament criticised the NGO activities at the Council of Europe and called for "steps to be taken" against human rights NGOs that criticise the government in international inter-governmental institutions. In 2009 and 2010 the Human Rights House Azerbaijan organised several joint Azerbaijani NGO reports to the UN Human Rights Council and UN treaty bodies. In April 2010 police inspections were carried out at the House.

The Human Rights House Azerbaijan serves as an independent meeting place, a resource centre, and a coordinator for human rights organisations. In 2010, 6000 human rights defenders, including youth activists, independent journalists, and lawyers, used the House -- as such, the Human Rights House Azerbaijan was one of the few open meeting places in Baku as a focal point for promotion and protection of human rights in Azerbaijan.

¹¹⁶ See also: <http://humanrightshouse.org/Articles/16060.html>

Attachment No. 14

Case Study of Anar Mammadli and Bashir Suleymanli , leaders of the NGOs Election Monitoring and Democracy Studies Centre

Anar Mammadli and Bashir Suleymanli are civil society leaders who were the Chairperson and Director, respectively, of the Election Monitoring and Democracy Studies Centre. The Centre, which was unregistered, partnered with a registered organization on a grant-funded project to monitor the 2013 presidential elections in Azerbaijan. Because the government had previously de-registered the Centre, this arrangement was a good faith attempt to facilitate the grant so that the project would comply with the restrictive administrative laws governing NGO activities.

After releasing a critical report alleging electoral irregularities, the two men were charged with a series of crimes including illegal business activities, tax evasion, and abuse of office; they were later also charged with embezzlement and forgery. While Mr. Suleymanli was released pending trial, Mr. Mammadli was arrested on 16 December 2013 and placed in pre-trial detention.

Despite the diversity of charges, the outcome of the trial appears to have been predetermined. Although the defence team was permitted to participate in the proceedings and cross-examine witnesses, striking irregularities existed that seemed to have had no impact on the outcome. For example, the government's own expert witness from the Ministry of Taxes was unable to explain how the NGO activity was "commercial" – the lynchpin of the government's organizational charges – or even explain the specific charges against the defendants. Similarly, 19 of the 20 "victims" presented by the government on the charges of forgery and embezzlement indicated that they were not victims of any wrongdoing – with some testifying that they didn't even know the defendants. Some also indicated that the prosecution pressured them to testify and that officials had falsified their signatures on documents used as evidence. The government even publicly criticized witnesses who failed to testify against the defendants.¹¹⁷ The sole witness against the detainees, a former employee, merely claimed that he had not been paid the agreed salary after his employment was terminated. Further, while the government claimed that the defendants had misappropriated grant funds, the National Democratic Institute, the entity that made the grant, submitted a letter indicating that it had monitored the implementation of the project and found no irregularities.

In convicting Messrs. Mammadli and Suleymanli on 26 May 2014 and sentencing Mr. Mammadli to five and one-half years in prison and Mr. Suleymanli to three and one-half years, the court ignored all of the inconsistencies and irregularities and simply rubberstamped a predetermined verdict. Mr. Suleymanli was released in March 2015 after a sustained international attention to his case.¹¹⁸

¹¹⁷ Source on file with the authors.

¹¹⁸ *Bashir Suleymanli released after almost 10 months of arbitrary detention, whilst others remain in jail*, FIDH (23 March 2015), available at <https://www.fidh.org/International-Federation-for-Human-Rights/eastern-europe-central-asia/azerbaijan/azerbaijan-bashir-suleymanli-released-after-almost-10-months-of>.

Attachment No. 15

Violence against peaceful demonstrators in Baku on 26 January 2013 From the Human Rights House Network's letter of concern of 5 February 2013

Call for the immediate and unconditional release of human rights defenders, journalists and activists detained in relation to the peaceful protest held in Baku on Saturday 26 January 2013

We, the undersigned members and partners of the Human Rights House Network, are deeply concerned about the recent detentions of participants, including prominent human rights defenders, journalists and activists, in the peaceful protest in Baku, Azerbaijan. We call upon the Azerbaijani authorities to immediately and unconditionally release those still detained, cancel the fines of those fined, and take effective measures to stop punishing critical voices.

On Saturday 26 January 2013 hundreds of people peacefully demonstrated in Baku, Azerbaijan, to express solidarity with recent protesters across the country, including the 23 January 2013 protests in Ismayilli. The social unrest in Ismayilli was triggered by widespread corruption in the region.

The police and plain clothed agents dispersed the Baku peaceful protest on 26 January and to our knowledge 47 demonstrators were detained. Among them were the prominent human rights blogger Emin Milli, the human rights defender and Rafto Award laureate Malahat Nasibova, the human rights lawyer Intigam Aliyev, as well as the investigative journalist and Fritt Ord Foundation and ZEIT Foundation Award laureate Khadija Ismayilova. All of them are close partners of the Human Rights House Network.

After a couple of hours 10 detainees were released without fines and several of them placed in remote areas around Baku city, among them Intigam Aliyev and Malahat Nasibova. Other detainees were fined for taking part in a so-called "illegal demonstration", among them journalist Khadija Ismayilova who received a fine of 400 manats (approx. 400 EUR). The United Nations Human Rights Council in its resolution 21/21 on safety of journalists adopted on 27 September 2012 condemned in the strongest terms all attacks and violence against journalists, including intimidation and harassment. We see this fine as one more attempt to intimidate Khadija Ismayilova, following the smear campaigns against her and verbal attacks she regularly receives in Azerbaijan.

Fines were also imposed upon the detained opposition leaders: Gozal Bayramova from the Popular Front Party was fined with 2000 manats (approx. 2000 EUR), Elshan Hasanov from the Musavat Party was fined with 600 manats (approx. 600 EUR) and Turqut Gambar from NIDA Movement was fined with 2500 manats (appr 2500 EUR) and Zaur Gurbanliand and Aysel Panjalyeva also from the NIDA Movement were fined with respectively 550 manats (approx. 550 EUR) and 400 manats (approx. 400 EUR). To our knowledge a total of 21 detainees were fined.

The highest penalty was imposed on Emin Milli who was sentenced to administrative detention for 15 days. Emin Milli has already suffered arbitrary detention in the prisons of Azerbaijan: he was imprisoned in 2009 for two and a half years for his critical views about the government. He was conditionally released in November 2010, after serving 16 months of his sentence.

In addition to Emin Milli, Abulfaz Gurbanli, Chairman of Azerbaijan Popular Front Party (APFP) Youth Committee, Turkel Azerturk and Tunjay Guliyev, members of the same Committee, and Rufat Abdullayev, NIDA Movement member, were sentenced with 13 days administrative detention.

By selectively arresting within a big crowd of protesters these prominent human rights defenders, journalists and activists, Azerbaijani authorities show that they use detention as a tool to punish critical voices and target some of those who are known for their independence towards authorities and for their excellence in their human rights work and reporting, such as Emin Milli, Malahat Nasibova, Intigam Aliyev and Khadija Ismayilova.

This wave of repression happened few days after the Parliamentary Assembly of the Council of Europe (PACE) adopted a resolution on the human rights situation in Azerbaijan and called upon the

Azerbaijani authorities to stop attacks and harassment against human rights defenders, journalists and activists. Several of the Azerbaijani human rights defenders who were detained or fined on Saturday were present at the Assembly in Strasbourg or commented on it on blogs and newspapers, including Emin Milli, Malahat Nasibova, Intigam Aliyev and Khadija Ismayilova.

The Azerbaijani delegation at PACE expressed in the plenary debate on Azerbaijan that “in Azerbaijan, it is not a crime to express one’s opinion” (MP Rovshan Rzayev) and that “the political will for full implementation of [Azerbaijan’s] obligations and commitments has always prevailed. We should all realize that the development of democracy, the rule of law and human rights is a continuous process” (MP Ali Huseynli). However, in the run of a presidential election in Azerbaijan, in our view, the latest wave of repression is rather a statement of Azerbaijan’s ongoing trend away from the fundamental human rights and rule of law Azerbaijan has committed itself to as a member state of Council of Europe.

We call upon the Azerbaijani authorities to fully implement your international obligations and commitments to promote and protect the rights to freedom of expression and peaceful assembly, in line with the newly adopted resolution on human rights in Azerbaijan by the PACE, and urge you:

- **To immediately and unconditionally release all persons, including human rights defenders, activists and journalists, detained in relation to the demonstration on Saturday 26 January 2013 in Baku, cancel all charges held against them and drop all fines;**
- **To stop the practice of punishing independent and critical voices, including attacks and harassment of human rights defenders;**
- **To take effective measures to protect human rights defenders and allow them to conduct their human rights work without hindrance, as provided by Article 12 of the United Nations Declaration on Human Rights Defenders of 9 December 1998.**

Attachment No.16

Case of Rauf Mirgadirov, journalist of the newspaper “Zerkalo”, July 2014.

Rauf Mirgadirov is a distinguished journalist for Zerkalo newspaper. He lived and worked in Turkey as a reporter for the newspaper with his family from 2010. On 9 April 2014, the Ministry of Press and Information of Turkey invited Rauf to the ministry and notified him that his accreditation had been suspended.

The law allows a journalist to stay in Turkey for 15 days after the suspension of their accreditation, but Rauf and his family decided to leave for Georgia six days prior to the end of 15-day period. Police stopped Rauf on his way out from Ankara and told him that he was being deported to Azerbaijan. The Turkish authorities did not meet any of Rauf's claims for a lawyer and explanation of his deportation. They told him that the "order came from top."

A day later, on 19 April 2014, he was taken to the airport by the Turkish police and deported to Azerbaijan. In Azerbaijan, security officers entered the plane and arrested Rauf, and took him to a solitary confinement facility belonging to the Ministry of National Security.

Rauf was held there for two days without any court verdict. On 21 April 2014, Rauf was taken to Nasimi district court, where he was sentenced to three months' pre-trial detention. He was accused of treason, under article 274 of the criminal code. He was accused of having cooperated with former Armenian secret service officers since 2008, transferring them information on the strategic locations of Azerbaijani military facilities and on socio-political life in the country, in exchange for money. The prosecutor claimed that he had engaged in these activities during his trips to Turkey, Armenia, and Georgia.

Rauf's lawyers have appealed about the verdict of the Nasimi district court to the Baku Court of Appeals, referring to article 156.1 of the Criminal Procedure Code and Article 5 of the European Convention on Human Rights, stating that a person cannot be arrested if there is not enough evidence supporting the allegations that he has committed a crime. The Baku Court of Appeals rejected the appeal. Rauf's defense also filed a complaint to Nasimi district court about him being held in the detention facility of the Ministry of National Security for two days without a court decision. The appeal was rejected by Nasimi district court on 6 May 2014.

On 23 May 2014, security officers searched and seized items from the apartment of Rauf's parents – where Rauf has never lived. Rauf's father died that night. Rauf was allowed by the authorities to attend his father's funeral for three days and to stay in his parents' house for these days. Rauf's defense sent a letter to the head of the detention facility of the Ministry of National Security, the deputy prosecutor general R. Usubov, and the chief of the investigating committee asking them to provide Rauf with access to phone calls, newspapers, journals, books, and visits from family members, as is allowed by law. The authorities' response to this letter was negative and Rauf was granted his rights. Moreover, Sabayel district court rejected his application. The Court of Appeals rejected his appeal as well.

On 15 July 2014, Nasimi district court prolonged Rauf's pre-trial detention for another four months. His defense appealed this decision to the Baku Court of Appeals, again referring to the fact that the prosecution has not collected or provided enough evidence to justify Rauf Mirgadirov's arrest. The Baku Court of Appeals again rejected the appeal. On 17 July 2014, the Ministry of National Security and Prosecutor's Office released a statement presenting Rauf Mirgadirov as a spy and a person who has betrayed his country.

Attachment No. 17

Case of Ilgar Nasibov and Malahat Nasibova, August 2014

On 21 August 2014, several unidentified people attacked Nasibov in the office of the Resource Centre for Development of NGOs and Democracy in Nakhichevan, according to the center's director and Nasibov's wife, the Rafto Human Rights Laureate Malahat Nasibova. The attackers beat Nasibov unconscious and ransacked the office, Nasibov was seriously injured, including a concussion, broken cheekbones, nose, and ribs and loss of vision on one eye. After Nasibov received essential first aid at a local hospital, new threats caused Malahat Nasibova to move her husband elsewhere for security reasons.

International medical experts the groups consulted said Nasibov had suffered trauma to his face, chest and head and needs to be monitored closely to detect dangerous deterioration. The medical documentation and photos provided show that there is an urgent need for further intensive care from specialists who are not available in Nakhichevan. Despite of this need, Malahat Nasibova and Ilgar Nasibov were kept in house arrest for more than a month, without permission to leave the enclave. The Independent Azerbaijani journalist and human rights defender, Ilgar Nasibov, who was brutally attacked on 21 August, is himself accused of assault.

Azerbaijani journalist and human rights defender Ilgar Nasibov has been accused of assaulting Farid Askerov – one of the persons accused of attacking him on 21 August in the office of the Democracy and NGO Development Resource Centre in the Nakhichevan exclave of Azerbaijan. The Azerbaijani authorities filed official charge against Ilgar Nasibov on 20 September, when he was summoned to the Nakhichevan City Police Department. The charge falls under Article 127.1 of the Criminal Code of Azerbaijan (deliberate infliction of damage to health)¹¹⁹.

On 5 November 2014 Nakhchivan District Court ruled to drop charges against local human rights defender Mr Ilgar Nasibov who was viciously beaten in his office on 21 August 2014 but subsequently accused of 'deliberately inflicting damage to the health' of his assailant. The court also ruled to revoke the travel ban that Ilgar Nasibov had received. However, the human rights defender is prohibited from leaving Nakhchivan for twenty days¹²⁰.

Background from joint letter: Nasibova and her family have for years been subjected to physical and psychological pressure because of their human rights work. The Resource Center is the only independent group in Nakhichevan, and is working on sensitive cases to restore justice to victims of human rights violations.

Among the cases the group has been involved with is the death of Turaj Zeynalov as a result of police torture. The Resource Center has assisted the relatives in filing a complaint under the European Convention on Human Rights against Azerbaijan regarding Zeynalov's treatment and death. In July, the European Court of Human Rights relayed the case to the Azerbaijani authorities. Malahat Nasibova and Nasibov have received numerous, anonymous threats in the past two years. Turan News Agency, to which Nasibov has reported regularly, has also received threats from unknown people related to its coverage of Zeynalov's death.

¹¹⁹ Source: http://ua.amnesty.ch/urgent-actions/2014/09/221-14/221-14-1?ua_language=en

¹²⁰ Source: <https://www.frontlinedefenders.org/node/27628>

Attachment No. 18

Case Study of Jasur Mammadov, investigative journalist

Jasur Mammadov has for several years gathered statistics and provided analysis of statistics related to the fact of non-combat killings in the army in Azerbaijan. Taken into account that this is a burning issue which in the beginning of 2013 mobilized thousands of young Azerbaijani to take to the street in the biggest demonstration, which has not been seen since President Ilham Aliyev came to power in 2003. This is one of the most sensitive and least criticized issues in Azerbaijan. Jasur Mammadov was in the frontline during the latest Azerbaijani-Armenian clashes in June 2014 over disputed Nagorni-Karabakh area. He wrote several articles covering the clashes, critical to Azerbaijani army and Ministry of Defense, gave interviews to several media, thus making himself visible in the media. On the count of his journalistic activities he was summoned in August 2014 to the local Ministry of National Security and threatened so as to silence him and force him to stop publishing critical articles and analyses on the issue and on the government policy in the Azerbaijani army. Despite these threats and warnings he published the important information and statistics on death tolls in the Army on 1st September 2014. On 3rd September 2014 he was once again summoned to the Ministry of National Security and interrogated. He was accused of violating the law on military secret due to his publications and that he worked for the Armenian government.

The representatives from the department first threatened him with defamation, that they would do anything to blacken his reputation as a journalist, but when he refused to abide their warnings they initiated to directly threaten his life and the life of his family members, and came with accusations that could put him in prison for a long time. It was made clear that this would be his last warning. After that he and his family experienced to be followed by unknown people in Baku. According to statement by Jasur Mammadov, his wife and two sons have been threatened both directly on the streets and via phone calls. Due to this severe security situation, Jasur Mammadov, acutely aware of the threat, applied to get foreign passports and was forced to flee the country together with his family to Georgia on 12 September 2014.

Human Rights House Foundation met with Jasur Mammadov at the beginning of October 2014, few weeks after he managed to flee from Azerbaijan with his family. He gave a credible description about how the authorities several times pressured and interrogated him. The subsequent arrests of several journalists since August and the search and closure of Radio Free Europe in December 2014 show the level of repression towards independent media and critical voices¹²¹. According to Reporters Without Borders, at least 15. Moreover, on 17 January 2015, the Ministry of Defense of Azerbaijan Republic shared a statement about the journalist Jasur Mammadov . It is related with his last article and some commentary about soldier deaths in Azerbaijan Armed Forces, which was published on the independent online TV-station www.meydan.tv. In the statement the Ministry of Defense accused him for spreading statistics about soldiers' death due to a hostile attitude towards the Azerbaijan Armed Forces. That the statistics are referred to in Armenian media, is by the Ministry seen as he indirectly has transmitted data to the Armenian special service structures. Ministry of Defense declared that sharing unspecified data is unacceptable”

¹²¹ Arrest of Khalid Garayev: <http://en.rsf.org/azerbaijan-journalist-abducted-by-police-and-28-11-2014,47310.html>;

Prosecutor requested a six-year jail term for Seymour Khazi, one of the opposition newspaper Azadlig's most famous reporters, who has been held since late August on a trumped-up charge of “aggravated hooliganism.” <http://en.rsf.org/azerbaijan-imprisoned-journalist-pays-tribute-22-01-2015,47527.html>

Khadija Ismayilova, accused of having driven a colleague to attempted suicide detained 5th of December: <http://en.rsf.org/azerbaijan-two-months-preventive-detention-05-12-2014,47349.html> , <http://humanrightshouse.org/Articles/20612.html>

Raiding office of Radio Free Europe in Baku 26 December 2014:

http://www.csce.gov/index.cfm?FuseAction=ContentRecords.ViewDetail&ContentRecord_id=1175&ContentRecordType=P&ContentType=P&CFID=55210301&CFTOKEN=9cc0c7103c45ac-FA860C4E-EE1A-3AF5-16ED7E09EB97A9C1

Case Study of Khadija Ismayilova, journalist for Radio Free Europe/ Radio Liberty

Khadija Ismayilova is an award-winning Azerbaijani journalist for Radio Free Europe/ Radio Liberty and has reported widely on corruption and human rights abuses – including the increasing use of arbitrary detention in the country.¹²² In response to this work, she has been defamed in the pro-government press and even been subjected to blackmail.¹²³ Already the subject of ongoing libel allegations herself, Ms. Ismayilova was detained for four hours in October 2014 after returning to Baku from Strasbourg, where she had spoken publicly about ongoing rights abuses in Azerbaijan.¹²⁴ A travel ban followed shortly afterward and she was prevented from travelling to the United States to speak before the Helsinki Commission in November.¹²⁵

On 5 December 2014, authorities arrested Ms. Ismayilova and bizarrely accused her of inciting the attempted suicide of a friend and former colleague. The day before the arrest of Ms. Ismayilova, the Head of the Presidential Administration, Ramiz Mehdiyev, issued a 60-page document that accused employees of RFE/RL of treason and specifically singled out Ms. Ismayilova as the “best example,” claiming that she “puts on anti-Azerbaijani shows, makes absurd statements, openly demonstrates a destructive attitude towards well-known members of the Azerbaijani community, and spreads insulting lies.” “This is treason,” the high-ranking author concluded.¹²⁶

In April 2015, her accuser dropped the charges of inciting suicide.¹²⁷ However, Azerbaijani authorities had already brought new charges of illegal business activity, tax evasion, abuse of office, and embezzlement on 13 February 2015.¹²⁸

On 1 September, the Baku Court of Grave Crimes convicted Ismayilova on charges of embezzlement, illegal entrepreneurship, tax evasion, and abuse of office. Once again, international observers declared that Khadija Ismayilova’s trial failed to meet minimum fair trial guarantees, as the defence’s motions were routinely rejected, contrary to the principle of equality of arms - a cornerstone of the right to a fair trial - and indicating that the judges in the trials were openly siding with the prosecution¹²⁹.

¹²² *Azerbaijan Jails Reporter Who Angered Top Officials*, New York Times (5 Dec. 2014), available at http://www.nytimes.com/2014/12/06/world/asia/azerbaijan-jails-reporter-who-angered-top-officials-.html?_r=0.

¹²³ *Would-Be Repressors Brandish ‘Ethics’ as Justification*, Committee to Protect Journalists (12 Feb. 2014), available at <https://cpj.org/2014/02/attacks-on-the-press-ethics.php>.

¹²⁴ *Journalist Khadija Ismayilova, 4 Hours Detention at Baku Airport*, Contact.az (4 Oct. 2014), available at <http://www.contact.az/docs/2014/Politics/100300092403en.htm#.VNZbd-ZnBVg>.

¹²⁵ *U.S. Helsinki Commission Chairman Deeply Concerned by Arrest and Detention of Journalist Khadija Ismayilova*, U.S. Commission on Security and Cooperation in Europe (8 Dec. 2014), available at http://www.csce.gov/index.cfm?FuseAction=ContentRecords.ViewDetail&ContentRecord_id=1170&Region_id=0&Issue_id=0&ContentType=P (“Ms. Ismayilova was scheduled to testify in front of the U.S. Helsinki Commission on November 19, 2014, but was prevented from attending due to a government-imposed travel ban related to a different legal case. The current charge levied against Ms. Ismayilova of ‘incitement to suicide’ is just an escalation of the years of harassment by the authorities that she has endured.”)

¹²⁶ *Azerbaijan Jails Reporter Who Angered Top Officials*, New York Times (5 Dec. 2014), available at http://www.nytimes.com/2014/12/06/world/asia/azerbaijan-jails-reporter-who-angered-top-officials-.html?_r=0.

¹²⁷ *Jailed Azerbaijani Journalist Ismayilova’s Accuser Drops Complaint*, RFE/RL (8 April 2015), available at <http://www.rferl.org/content/ismayilovas-plaintiff-wihdraws-complaint/26944698.html>

¹²⁸ *New Charges Brought Against Azerbaijani Journalist Ismayilova*, RFE/RL (13 Feb. 2015), available at <http://www.rferl.org/content/azerbaijan-ismayilova-rferl-new-charges/26848343.html>

¹²⁹ See also <http://humanrightshouse.org/Articles/21130.html>

Attachment No. 20

Case of Emin Huseynov

Emin Huseynov is a prominent and internationally-recognised HRD and leader of the Institute for Reporters' Freedom and Safety (IRFS). IRFS is the leading media rights organization in Azerbaijan. It has advocated for hundreds of journalists, bloggers, and HRDs under threat in Azerbaijan and across the region. Mr. Huseynov has worked as a HRD for over a decade and has been a victim of harassment and threats since 2003.

Mr. Huseynov was stopped at the Heydar Aliyev International Airport on 5 August 2014. The authorities prevented him from travelling to Istanbul, Turkey, where he was due to receive medical treatment for a broken arm. No explanation was provided for the travel ban. Three days later, police searched his home, where his mother also lives. The IRFS offices were also searched; all organizational documents and equipment were seized. Since 8 August 2014, Mr. Huseynov has been forced into hiding in order to avoid arrest. On 18 August 2014, he went into the Embassy of Switzerland in Baku, where he remained for 10 months until he was finally allowed out of the country in June 2015, but stripped of his Azerbaijani citizenship. Mr Huseynov remains in exile abroad as a stateless person. His brother Mehman Huseynov, a well-known photojournalist and blogger, was detained on 6 September 2015 when he tried to obtain a replacement ID card as authorities had seized his in connection with a politically motivated criminal case against him from 2012. He has been prevented from leaving the country since June 2013.

Emin Huseynov is in poor health as a result of a spinal injury caused by police brutality during a demonstration in 2003. He was declared to have a second-degree disability because of cerebral trauma and he also suffers from high blood pressure.

Mr. Huseynov faces charges of abuse of office, tax evasion, and illegal business activity. The same charges have also brought against other HRDs arrested during the same period. Charges were brought separately against IRFS, however, the organization maintains evidence supporting its contention that all grants were registered despite having been deleted from the Ministry of Justice's website.