

HUMAN RIGHTS WATCH

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April 3, 2012

Members of the United Nations Committee on Economic, Social and Cultural Rights
Attn: Secretary, Committee on Economic, Social and Cultural Rights
UNOG-OHCHR
CH 1211 Geneva 10
Switzerland

Re: CESCR Pre-Sessional Review of Azerbaijan

Dear Committee Members,

We write in advance of the United Nations Committee on Economic, Social and Cultural Rights (“the Committee”) pre-sessional review of Azerbaijan, to highlight an area of pressing concern we hope to see the Committee take up as part of its examination of the Azerbaijani government’s implementation of the International Covenant on Economic, Social and Cultural Rights (“the Covenant”): forced evictions, unlawful expropriations, and house demolitions in the context of urban renewal projects undertaken by the government in the country’s capital, Baku, in flagrant violation of Covenant Article 11.

Enclosed for your reference please find the summary and recommendations of our February 2012 report *“They Took Everything from Me: Forced Evictions, Illegal Expropriations, and House Demolitions in Azerbaijan’s Capital,”* detailing the findings of our research carried out between June 2011 and January 2012. Based on interviews with property owners and other residents – including 52 individuals subject to expropriations, forced evictions, and house demolitions, who were living or who had lived in four areas in Baku – as well as lawyers and representatives of nongovernmental organizations in Baku, the report can be accessed in full here: <http://www.hrw.org/reports/2012/02/29/they-took-everything-me-o>.

As detailed in the report, as part of its program of urban redevelopment in Baku, the government of Azerbaijan has illegally expropriated hundreds of properties, primarily apartments and homes in middle-class neighborhoods, and evicted thousands of families. The government has demolished the properties to make way for parks, roads, a shopping center, luxury residential buildings, and a parking garage.

The human rights violations documented in the report relate to the process by which homes and properties in four neighborhoods in Baku were slated for expropriation and compensation was assessed, the manner in which expropriations, evictions, and demolitions were carried out, and the lack of

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any effective legal recourse or remedy available to those whose rights were violated.

Illegal expropriations: The government's campaign of expropriations, evictions, and demolitions of homes and other property in Baku has no basis in national law, which provides that the government may only expropriate property in limited circumstances for state needs, with a court order, by purchasing the properties at market prices, and by providing residents with at least one year notification of impending demolition, among other requirements. There have been no court decisions validating the expropriations and demolitions of the properties. Many of the residents were notified less than a year in advance of demolitions and property owners had no warning at all, or as little as a few hours' or weeks' notification. In some cases homeowners never received any official notification, but learned about impending demolitions from neighbors. In a number of cases, evictions and demolitions took place in violation of court orders prohibiting the authorities from taking action against the properties.

Forced evictions: The authorities have often carried out forced evictions and demolitions with willful disregard for the dignity, health, and safety of homeowners and residents. In many cases, the authorities have dismantled apartment buildings or houses in which families and individuals continued to live, including by removing roofs, doors, and damaging shared walls, exposing residents to the elements and to the risk of partial collapse of buildings. In many cases, the authorities have also cut water, sewer, electricity, gas, or telephone lines while homeowners remained in their homes. These actions also render the properties uninhabitable, ultimately compelling the residents and homeowners to move out and accept unfair compensation offers.

In some cases, the authorities have forcibly evicted residents with little or no notice immediately prior to demolishing their houses or apartment buildings. In some cases officials have arrived without warning with a bulldozer and other machinery at night or in pre-dawn hours and began demolishing homes immediately after telling homeowners to vacate. In these circumstances, homeowners had a few hours or less to remove their personal belongings and valuables.

In some cases police have escalated the evictions process by detaining homeowners in a police station following their eviction while the authorities demolished their homes.

Lack of fair compensation: The government of Azerbaijan has refused to provide homeowners fair compensation based on the market values of properties, many of which are in highly-desirable locations. For many homes, the authorities have offered a single, government-fixed rate of 1,500 manat (US\$1,900) per square meter, without regard to the property's location, age, condition, use, or any other factors.

Homeowners were not aware of any independent appraisals of their homes ordered by the government. In other cases, the government has offered homeowners resettlement to apartments built in high rise buildings, typically outside of the city center. However, it does not give them ownership title to these apartments prior to their relocation, instead promising ownership at a later, unspecified date. In addition, photographic evidence and testimony from those living or expected to live in the new apartments indicate that the quality of at least some the apartments, and the buildings themselves, is low and possibly in violation of

building code standards. Problems include standing water in the basement, cracks in walls, including load bearing walls, unfinished windows, and peeling and damaged floors.

Lack of effective legal remedy: After learning about the possible demolition of their homes, many homeowners have filed complaints with the courts, but the authorities' repeated failure to appear for hearings has caused these proceedings to be delayed for months at a time. In several cases the authorities have demolished homes in violation of court injunctions prohibiting demolition or while court cases challenging the intended demolitions were pending. These actions by state officials raise serious questions as to whether the courts can provide an effective means of redress.

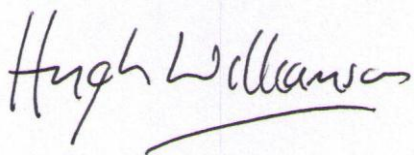
Recommendations for steps the Azerbaijani government should take to address the above concerns:

- Halt all further evictions, expropriations, and demolitions until they can be carried out in a fair and transparent manner and are consistent with Azerbaijani national law and international human rights law.
- Ensure that any future evictions of homeowners who refuse to leave their properties are carried out with full respect for the safety and dignity of those evicted.
- Guarantee fair compensation for expropriated properties, based on the market value of each property, determined by an independent appraisal.
- Provide property owners affected by expropriation clear information about the timing and legal basis of expropriations, compensation and resettlement options, and access to an effective complaint mechanism that addresses grievances in a clear and transparent manner, and an effective remedy.

We hope you will find our analysis useful and would welcome an opportunity to discuss our findings further with you.

Thank you for your attention.

Sincerely,



Hugh Williamson
Executive Director
Europe and Central Asia Division



Juliette de Rivero
Geneva Office Director



Summary and Key Recommendations

Since 2008, the government of Azerbaijan has undertaken a sweeping program of urban renewal in Baku, the capital of this oil-rich country in the South Caucasus. In the course of this program, the authorities have illegally expropriated hundreds of properties, primarily apartments and homes in middle-class neighborhoods, to be demolished to make way for parks, roads, a shopping center, and luxury residential buildings. The government has forcibly evicted homeowners, often without warning or in the middle of the night, and at times in clear disregard for residents' health and safety, in order to demolish their homes. It has refused to provide homeowners fair compensation based on the market values of properties, many of which are in highly-desirable locations and neighborhoods.

This report, based on interviews with affected homeowners and residents, documents human rights violations committed in the course of the government's expropriations, forced evictions, and demolitions in four neighborhoods of Baku. These neighborhoods have typically been home to middle class Azerbaijanis: teachers, librarians, medical doctors, military officers, and others, some of whom have inherited their homes from their parents and others who managed to save and buy apartments in desirable locations. The human rights violations documented by Human Rights Watch relate to the process by which homes and properties were slated for expropriation and compensation was assessed, the manner in which expropriations, evictions, and demolitions were implemented, and the lack of any effective legal recourse or remedy available to those whose rights were violated.

One of the four neighborhoods described in this report is Bayil, the seaside location of the National Flag Square and the Baku Crystal Hall, the venue for the May 2012 Eurovision Song Contest. The government's ambitious plans to develop this area intensified after May 2011, when Azerbaijan won the contest and therefore became host to the 2012 event. The Eurovision Song Contest is an annual televised competition featuring music acts from 56 countries in and around Europe. For the government of Azerbaijan, the visibility of the event provides an opportunity to showcase Baku to thousands of visitors and millions of television viewers.

The main venue for the contest will be the Baku Crystal Hall, a modern, glass-encased arena overlooking the Caspian Sea. The government has also stepped up work on other, previously planned projects in the immediate vicinity, including extending a waterfront promenade that begins in the city center; extending and widening a road parallel to the coast; and creating a park on the opposite side of the National Flag Square from where the Baku Crystal Hall is being built. In order to clear land for construction of the road and the park, the government has forcibly evicted several hundred residents from the Bayil neighborhood.

The United Nations Committee on Economic, Social, and Cultural Rights considers forced evictions to be the “permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.” Evictions and expropriations may be lawful when they are conducted in exceptional circumstances, and in full accordance with relevant provisions of international human rights and humanitarian law. Forced evictions are prohibited under Azerbaijani and international law.

The Baku City Executive Authority and the Azerbaijan State Committee on Property oversee the expropriations and forced evictions documented in this report. Once the authorities have identified a property for expropriation and demolition, the government typically offers monetary compensation or resettlement to the residents. However, not all homeowners receive compensation or resettlement offers or accept the government’s offers. They therefore remain in their homes. When the authorities arrive to demolish the homes, they forcibly evict the remaining homeowners and their families.

The authorities often carry out evictions and demolitions with willful disregard for the dignity, health, and safety of homeowners and residents. In at least 24 cases documented by Human Rights Watch, the authorities have dismantled from the inside apartment buildings or houses in which families and individuals continue to live, including by removing roofs, doors, windows, and stairwell banisters, and damaging shared walls. This often exposes residents to the elements and to the risk of partial collapse of buildings. In many cases, the authorities have also cut water, sewer, electricity, gas, or telephone lines while homeowners remained in their homes. These actions also render the properties uninhabitable, ultimately compelling the residents and homeowners to move out and accept unfair compensation offers.

When Viktor Karmanov, a retired military officer, and his wife Iveta learned in July 2011 that their building next to the National Flag Square, where they had lived for 20 years, would be demolished, they were not satisfied with the compensation offer and contacted the authorities, hoping to negotiate a better sale price. However, a little over a month later, the authorities had destroyed much of the building, including the roof, and in late September they cut the electricity and phone lines.

“We did not want to sell our apartment,” Iveta explained. “But we have to sell now because it’s impossible to live here anymore. They broke down the roof so when it starts raining outside, it rains in our apartment too. ... We begged them to at least leave the roof over our heads until we find someplace else to live, but they refused.”

In some cases, the authorities have forcibly evicted residents with little or no notice immediately prior to demolishing their houses or the apartment buildings. In some cases, large numbers of police and other government officials would surround the buildings and fill the stairwells before forcibly entering apartments and removing residents by force. In at least two cases, officials arrived without warning with a bulldozer and other machinery at night or in pre-dawn hours and began actively demolishing homes after telling homeowners to vacate immediately. In all of these cases, homeowners had a few hours or less to remove their personal belongings and valuables.

For example, without warning the authorities forcibly evicted Arzu Adigezalova, 41, a math teacher and a single mother of two young children, from her apartment next to the National Flag Square in the pre-dawn hours of October 29, 2011. Adigezalova had agreed to the forced sale of her apartment two weeks previously but had not yet found another place to live. She told Human Rights Watch:

I woke up because the building was shaking and I could hear something like thunder. I took the kids and went outside. [I went up to] the official in charge and asked him to give us time to take our belongings out. He looked at me and said, 'Ok,' but then in the next moment said to the bulldozer driver, 'Break it down!!'

Adigezalova frantically tried to collect her belongings and take them out of the building. She lost many of her household goods and much of her furniture.

In three cases documented by Human Rights Watch police escalated the evictions process by detaining homeowners in a police station following their eviction while the authorities demolished the apartment building.

For example, in December 2010 police forcibly evicted and detained 42-year-old Perviz Emirov, a retired soldier who was wounded while serving in the military and receives a disability pension, Emirov's wife, and their three school-age children from their small one-room apartment in the neighborhood near Baku's Old City. Emirov described the eviction to Human Rights Watch:

About four or five police officers broke down the door. ... I only had time to grab our identity documents and the little bit of money that I had at home, nothing else. They put me, my wife, and my daughter in the police car and took us to the police station. About 30 minutes later our twin boys came home from school Then the police brought them to the station as well. They let us go after about five hours. When we got our home, we couldn't believe our eyes. Everything was destroyed. To this day I don't know where our belongings are.

As part of the demolition process, workers typically remove furniture, household goods, and other personal property, placing items on the street or in some cases taking them to a warehouse for owners to recover later. Property owners complained that many of their belongings were damaged, destroyed, or lost during the evictions. Some homeowners were unable to recover personal property that remained in the building as it was demolished.

Dozens of homeowners filed complaints with the courts, but the authorities' repeated failure to appear for hearings has caused these proceedings to be delayed for months at a time. In several cases the authorities have demolished homes in violation of court injunctions prohibiting demolition or while court cases challenging the intended demolitions were pending.

When governments expropriate private property for state needs, they must provide a fair and transparent process for compensation that reflects market value of the property as well as

compensation for relocation and other expenses. However, the Azerbaijani authorities have offered some homeowners, typically those with homes smaller than 60 square meters, monetary compensation at a single, government-fixed rate of 1,500 manat (US\$1,900) per square meter, without regard to the property's location, age, condition, use, or any other factors. Homeowners were not aware of any independent appraisals of their homes ordered by the government, and the government has not responded to several inquiries by Human Rights Watch as to whether it conducted independent appraisals of homes.

For owners of homes larger than 60 square meters, the government offers homeowners resettlement to apartments built in high rises, typically outside of the city center. However, it does not give them ownership title to these apartments prior to their relocation, instead promising ownership at a later, unspecified date. In addition, photographic evidence and testimony from those living or expected to live in the new apartments indicate that the quality of at least some the apartments, and the buildings themselves, is low and possibly in violation of building code standards. Problems include standing water in the basement, cracks in walls, including load bearing walls, unfinished windows, and peeling and damaged floors.

Some homeowners described to Human Rights Watch an atmosphere of intimidation and uncertainty when interacting with government officials regarding the expropriation and demolition of their homes. Some government officials have threatened homeowners who challenge the government's actions or refuse to readily accept the government's compensation offers.

The government's campaign of expropriations, evictions, and demolitions of homes and other property in Baku has no basis in national law, which provides that the government may only expropriate property in limited circumstances for state needs, with a court order, and by purchasing the properties at market prices. The government's actions also violate Azerbaijan's international human rights obligations, including its obligations under the European Convention on Human Rights, to protect private property and private and family life. In some cases of forced eviction, the government's actions, including serious disregard for the welfare and property of evictees, may rise to a level of severity so as to constitute inhuman and degrading treatment.

The Azerbaijani authorities should halt all further evictions, expropriations, and demolitions until they can be carried out in a fair and transparent manner and are consistent with Azerbaijani national law and international human rights law. The government should also ensure that any future evictions of homeowners who refuse to leave their properties are carried out with full respect for the safety and dignity of those evicted. Compensation for expropriated properties should be fair and based on the market value of each property, determined by an independent appraisal.

Azerbaijan's international partners, including key governments and multilateral development banks, should insist that the government stop its campaign of expropriation and evictions and ensure that any future actions respect national and international law. Azerbaijan's international partners also should call on the government to urgently establish a fair and transparent mechanism to resolve the complaints of evicted homeowners and

residents and to reassess the compensation offered to those who lost their homes and possessions. The European Union and United States have an additional important role to play in continuing to support nongovernmental organizations and other groups in Azerbaijan that are documenting human rights abuses in the context of the government's expropriations and evictions.

Other actors also should speak out to press for an end to forced evictions and related abuses until they can be done in a legal and fair manner and for a remedy for those already affected. Irrespective of the fact that the Eurovision Song Contest is a cultural, not a political, event, the European Broadcasting Union (EBU), which oversees the contest, should make clear to the government that the serious violations of human rights that are taking place in relation to families, homes, and properties near the contest venue risks casting a shadow over the contest. Citing their mutual interest in holding a successful event not marred by human rights abuses, the European Broadcasting Union should urge the government to quickly and fairly resolve all complaints related to expropriations, evictions, and demolitions near the Baku Crystal Hall.

Key Recommendations

To the Government of Azerbaijan, including the Baku City Executive Authority and the State Committee on Property

- Halt all further expropriations, evictions, and demolitions until they can be carried out in a fair and transparent manner and are consistent with Azerbaijani national law and international human rights law.
- Any future evictions of homeowners who refuse to leave their properties should only be conducted in accordance with Azerbaijani and international law. Any evictions should be regulated by a court order and conducted with full respect for the bodily integrity and dignity of those evicted. The authorities should in no circumstances begin to demolish or disassemble buildings in which people continue to live.
- Reassess the compensation offered to those who lost their homes and possessions.
- Ensure protection of all private property when carrying out evictions and demolitions.
- Provide homeowners and property owners who may lose their property for development with clear information about the legal basis for the expropriation, the timing of the expropriation, their compensation and resettlement options, and the means of appealing decisions. This information should be provided in a timely manner.
- Provide all property owners affected by expropriation access to an effective complaint mechanism that addresses grievances in a clear and transparent manner and a remedy.
- Ensure that mechanisms to provide property owners with compensation for expropriated property are fair and transparent, with a clear basis in law.

To the Prosecutor General's Office of Azerbaijan

- Initiate an independent inquiry into why the expropriations and demolitions in central Baku have been allowed to take place in the manner described in this report

given that they clearly violate Azerbaijan's constitution and national laws and international human rights law.

To the European Broadcasting Union

- Call on the government of Azerbaijan to quickly and fairly resolve all complaints related to expropriations, evictions, and demolitions near the Baku Crystal Hall.
- Call on the Azerbaijani authorities to ensure that no further human rights abuses take place with respect to Azerbaijan's preparation to host the Eurovision Song Contest, including in the vicinity of the Baku Crystal Hall.

To the European Broadcasting Union Members

- Call on the EBU, including the Eurovision Reference Group, to make clear with the Azerbaijani authorities that expropriations, evictions, and demolitions near the Baku Crystal Hall risk casting a shadow over the Eurovision Song Contest and should be halted.

To Azerbaijan's Bilateral Partners, including the European Union, individual European States, and the United States

- Insist that the Azerbaijani authorities halt all further expropriations, evictions, and demolitions until they can be carried out in a fair and transparent manner and are consistent with Azerbaijani national law and Azerbaijan's international human rights obligations.
- Make Azerbaijan's addressing these concerns an explicit requirement in the context of enhanced relations, including through the Association Agreements with the EU and in the context of deepening engagement with and assistance from the US.