

January 2010

A COMMON STATEMENT ON HUMAN RIGHTS IN AZERBAIJAN

In January 2010 Azerbaijan marks its ninth year of full membership to the Council of Europe. Being a member of the Council commits and obliges Azerbaijan to respect basic freedoms, human rights and democracy. In spite of this commitment, human rights violations continue to be numerous and widespread and occur on a systematic basis. The international community, represented by the Parliamentary Assembly and the Committee of Ministers of the Council of Europe, the European Commission, the UN Council on Human Rights, the OSCE and all its member states must all apply a more consistent approach when working with Azerbaijan on human rights issues, and demand immediate improvements. It is crucial to address the human rights violations in Azerbaijan. Several national and international human rights organizations, have therefore taken the initiative to write this document. We would like to especially draw attention to the following challenges in Azerbaijan:

Lack of democracy and division of power. Azerbaijani elections fail to meet international standards. Despite consistent a demand from the Organization for Security and Co-operation in Europe, the Venice Commission and domestic democratic bodies to ensure balanced election commissions - the ruling party is still in control of the electoral administration at all levels. Opposition parties and their members are harassed and marginalized. There is insufficient division of the legislative and executive power because the Parliament is under control of the ruling party, supported by the President. This lack of balance is to a large extent repeated at the local level.

A judicial system that does not provide justice. Numerous court cases have demonstrated that the courts have allowed themselves to be used as tools for the authorities in their repression of the media, opposition and civic society. This demonstrates the lack of independence and a climate of corruption. In 2009 more than 50 persons are considered to be political prisoners in Azerbaijan. Amnesty International considers the editors Qanimat Zahidov and Eynulla Fatullayev and the bloggers Adnan Hajizada and Emin Milli as prisoners of conscience.

As domestic courts are not able to defend the human rights of citizens, more than 2,000 applications were lodged to the European Court of Human Rights since April 2002; and until now 64 judgments and decisions are adopted.

Lack of media freedom and repression of journalists and editors. The negative development with regard to media freedom and freedom of expression is alarming. Important and longstanding radio channels broadcasting independent information in Azerbaijani, such as Radio Free Europe/Radio Liberty, Voice of America and the BBC, lost their licence to broadcast on their normal FM frequencies in January 2009. Azerbaijan has not fulfilled the obligation to transform the governmental TV (AzTV) into an independent public one. The newly established public TV is under government control.

A number of journalists and editors have been arbitrarily imprisoned on spurious charges, after trials widely believed to have been unfair. According to the Committee to Protect Journalists, Azerbaijan holds the 7th place in the world in 2009 in terms of the number of imprisoned journalists. The editors Eynulla Fatullayev and Qanimat Zahidov are serving long prison sentences. The European Court of Human Rights will consider Eynullah Fatullayev's case shortly. However, Fatullayev now faces new charges after narcotics were allegedly found in his clothes on 29 December 2009. There is reason to fear that these charges have been initiated to ensure that Fatullayev will remain imprisoned, even if the European Court of Human Rights decides in his favour.

Violent attacks against media representatives are frequent, and the murder of the editor and publisher Elmar Huseynov in 2005 is yet to be solved. Libel suits and defamation cases are widespread, and the defamation legislation may be used to protect public officials from criticism and lead to journalists'

intimidation and self-censorship. Last year, defamation cases were issued against the human rights defenders Leila Yunus and Integam Aliyev.

The widely publicised case of the bloggers Adnan Hajizade and Emin Abdullaev (Milli) resulted in a two and two and a half years' imprisonment respectively on charges of hooliganism in November 2009. The bloggers were beaten and then imprisoned, accused of hooliganism. The charges are seen to be fabricated to punish their non-violent dissenting views. The Council of Europe Parliamentary Assembly rapporteurs on Azerbaijan called the sentence '*a major setback to freedom of expression in Azerbaijan and a serious setback on the country's path to democratisation*'¹.

Freedom of Assembly and association. Demonstrations in the aftermath of the presidential elections in 2003, and parliamentary elections in 2005 were violently dispersed by the police. In June 2008, President Ilham Aliyev stated, in an address to the Police Academy, that none of the police officers involved in the violence in October 2003 and November 2005 should be punished. Since November 2005, the authorities have restricted individuals' right to freedom of peaceful assembly. Attempts to stage pickets in May and July 2009 were violently dispersed.

Over the last two years, organizations have been closed down or denied registration, evicted from their offices and faced with inspections. The adoption of the amendments to the NGO law in June 2009 by the Parliament, allows authorities to put NGOs under increased government control. According to a new decree issued in December 2009, all grant contracts should be registered within the Ministry of Justice before any activity will take place. In reality it means that no grant proposal will be implemented without prior adoption of Ministry of Justice.

The excessive use of torture and the right to life. Torture and ill treatment are widespread in police stations and detention facilities. A court has never refused to accept evidence obtained through unlawful methods. Despite Azerbaijan's firm commitment to ensuring basic freedoms as a member state of the Council of Europe, incidents are not investigated appropriately and law-enforcement officers, suspected of being responsible for acts of torture, are not prosecuted for ill treatment, but instead charged with "minor, serious harm to health". Even after the judgments issued by the European Court of Human Rights in the Hummatov, Mammadov and the Muradova cases, the culture of impunity allows the perpetrators to go unpunished. The Ombudsperson lacks the level of independence to be the national institution responsible for investigating complaints of torture and other human rights violations, as well as to serve as the National Prevention Mechanism. The cases of the death in custody of Novruzali Mammadov (August 2009), Faina Kungurova (November 2007) and Mahir Mustafayev (December 2006), state the need for urgent independent medical examinations and treatment in prisons. The UN Committee Against Torture is concerned about numerous reports of forced confinement of persons for reasons other than medical ones in psychiatric hospitals in Nakhchivan.

Repression in the autonomous republic of Nakhchivan. In Nakhchivan, political opponents are more harassed than in other regions, and civil society, independent media and ordinary citizens remain under constant intimidation by the authorities and live in deep poverty. In the beginning of January 2010, public protest against police abuse and violence caused a wave of arrests in the village of Bananiyar, where several people were forcibly placed in psychiatric hospital. Diplomats, journalists and human rights defenders, including the winner of the Rafto Award, journalist Malahat Nasibova, have been denied access to the village by the local authorities.

Lack of transparency and widespread corruption in the Azerbaijani economy. Although some improvement has been made in relation to the disclosure of oil and gas revenues, the overall economy of the government of Azerbaijan lacks transparency. Twenty-five per cent of the population still lives below the UN poverty line despite a record increase in income gained from the national extractive industries. Azerbaijan is also in the lower tier of Transparency Internationals' list of the most corrupt

¹ <http://assembly.coe.int/ASP/Press/StopPressView.asp?ID=2261>

countries in the world. Despite a progressive law on access to information, adopted in 2005, a culture of secrecy has prevented the law from being effectively implemented.

The human rights concerns listed above illustrate the systematic human rights violations in Azerbaijan. These are some of the main concerns the international community shall raise with the Azerbaijani government, demonstrating the absolute necessity of addressing these violations and establishing conditions for a further long-term political and economic relationship with the government of Azerbaijan.

We urge the Government of Azerbaijan to:

- To fulfil its obligation to hold free and fair elections in Azerbaijan, including amending the Electoral Code to create balanced electoral commissions and allow electoral campaigns under equal and fair conditions.
- Carefully study and implement the recent recommendations made by the Council of Europe Committee for the Prevention of Torture and the UN Committee Against Torture.
- Make sure that the decisions of the European Court of Human Rights are implemented nationally, with respect to individual cases and, in general, to solve the root causes that led to the decisions and recommendations.
- Create conditions so that the courts can operate freely and independently, to investigate all claims of violence against defendants and deaths in custody and to bring those officials responsible for this violence to justice.
- Take effective measures to ensure that the Ombudsperson's Office is in practice a functioning, independent body, in compliance with the Paris Principles, relating to the status of national institutions of human rights.
- Honour its commitment to release all political prisoners and journalists, and to stop using the courts for imprisoning critics and opponents. As prisoners of conscience, Emin Milli and Adnan Hajizada should be released immediately and unconditionally.
- Decriminalise defamation and insult and abolish all special protection for public officials, and refrain from imprisoning government critics on the basis of politically motivated charges.
- Effectively protect media workers against attempts on their integrity and life, and to pay special attention and react consistently to such actions.
- Allow and respect freedom of association and assembly, including revision of relevant legislation in which the recommendations from the Venice Commission are taken into consideration.
- To increase and broaden the dialogue with the civil society, represented by different media and human rights organizations.
- Initiate an impartial investigation into the mass arrests in the Bananyar village in Nakhchivan and give journalists and human rights defenders the ability to operate freely in the region.
- In all circumstances, ensure respect for human rights and fundamental freedoms in accordance with the Universal Declaration of Human Rights, the UN Covenant of Political and Civic Rights, and the European Convention of Human Rights. To comply with all the provisions of the Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.
- We urge the International community, represented by the Parliamentary Assembly and the Committee of Ministers of the Council of Europe, the European Commission, the UN Council on Human Rights, the OSCE and all its member states.
- To call upon the Azerbaijani authorities to take the Concluding Observation of the UN Committee on Human Rights (August 2009) and the UN Committee Against Torture (November 2009) into consideration and implement them nationally.

- To support the work of the Commissioner of Human Rights of Council of Europe in the South Caucasus Region and follow up his recommendations to increase the protection of human rights defenders.
- To raise concerns over the restriction of media and the imprisonment of journalists and bloggers to the Council of Ministers.
- To initiate a new review on Azerbaijan's obligations in the PACE Monitoring Committee, resulting in a report to PACE.
- To call upon the Special Rapporteur on Freedom of the Media in the Council of Europe to continue to give priority to monitor the alarming trends in Azerbaijan.
- To encourage and facilitate dialogue between the Azerbaijani authorities and the civil society to discuss main human rights concerns.
- To support the creation of the post of a Special Rapporteur of Council of Europe to monitor the human rights situation in Nakhchivan.

The following organizations and persons support this statement:

Norwegian Helsinki Committee
Human Rights House Foundation
Rafto Foundation
Front Line
International Federation for Human Rights, FIDH
Institute for Peace and Democracy
Human Rights Center, Azerbaijan
Media Rights Institute
Institute for Reporters' Freedom and Safety
Association for the Protection of Women's Rights in Azerbaijan after D. Aliyeva
Society for Humanitarian Research
Legal Education Society
Democracy Monitor - DEMO
Democracy and NGO Development Resource Center, Nakhchivan