

HUMAN RIGHTS IN AZERBAIJAN

ELECTION MONITORING AND
DEMOCRACY STUDIES CENTER



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UPR Info Pre-sessions

Introduction

- Election Monitoring and Democracy Studies Center (EMDS) submitted the UPR report in collaboration with the Institute for Citizens Rights, Legal Education Society and Human Rights House Foundation.
- The UPR report focuses on freedom of assembly and freedom of association, freedom of expression and right to participate to public life, including election rights in Azerbaijan.
- EMDS is a non-partisan, non-governmental organization working on building democratic election system, protection of civil and political rights and formation of democratic institutions in Azerbaijan.

Previous UPR recommendations accepted by Azerbaijan

- During its Universal Periodic Review in September 2018, the Republic of Azerbaijan received:
 - *36 recommendations on improvement environment for freedom of association and freedom of assembly, freedom of expression and right to participate in public life;*
 - *Azerbaijan authority accepted most of these recommendations;*

Freedom of assembly in Azerbaijan

- The “Law on Freedom of Assembly” requires to notify relevant executive authorities about the intention of holding an assembly in advance. In practice, the authorities interpret “prior notification” as “prior authorization” which is in breach of international standards.
- The ECtHR found violations of freedom of assembly in 30 decisions concerning Azerbaijan. Regarding these cases, the Committee of the Ministers of the CoE issued 3 resolutions on execution of recommendation to improve national legislation on freedom of assembly in Azerbaijan.
- Since 2013 Presidential election, independent political groups and CSOs were de-facto banned from conducting public events in all regions of the country due to illegal orders of the local and central executive bodies as part of political restrictions of the political authority.
- More than 150 participants were administratively detained in 11 peaceful rallies held 2019-2023. For example, during peaceful rally on 19 October 2019, the police detained 60 people who participated in the demonstration, and released 42 people with a warning, and sent 18 cases to the administrative courts. Some of them were subjected to torture in the police departments.

Recommendations on Freedom of assembly in Azerbaijan

- Ensure and protect the right to freedom assembly, without discrimination towards the participants of peaceful events on the basis of the cause they defend;
- Improve the law on Freedom of Assembly in regard to the joint guidelines of the Venice Commission of the CoE and OSCE/ODIHR;
- Implement the resolutions of the Committee of Ministers of the Council of Europe in regard to judgements adopted by the ECtHR to securing the exercise of right to freedom of assembly in compliance with the European Convention;
- Investigate and address all allegations of police misconduct during peaceful rallies and events in the context of the use of force against participants of peaceful demonstrations;

Freedom of association in Azerbaijan

- **Registration of NGOs:**
- *The ECtHR found that repeated delays in registering an NGO constituted an interference with the right to freedom of association in Azerbaijan. Since adoption of **Ramazanova and other v. Azerbaijan** group of cases (2007), Azerbaijan did not fulfil recommendations of the CM of CoE on removing restrictive requirements for the registration and operation of NGOs.*
- **Restriction on foreign funding:**
- In its concluding observations of the fourth periodic review of Azerbaijan, the Committee on Economic, Social and Cultural Rights noted its concern that restrictions on grants hinder operations by human rights organizations, in particular.
- **Registration and operation of political parties:**
- Joint opinion of the Venice Commission of the CoE and the OSCE/ODIHR says that new adopted law on "Political Parties" in 2023, should be revised the provisions limiting the activity of political parties in the law, and the norms ensuring freedom of association are not defined.

Recommendations on Freedom of association in Azerbaijan

- Revise the Law on State Registration and State Register of Legal Entities, Law on Non-Governmental Organizations and the Law on Grants for enabling free operation of NGOs in Azerbaijan to abide by international standards of freedom of association.
- Abolishing current cumbersome procedures for registering NGOs as well as their grants, service contracts and donations and replacing them with the simple notification procedure;
- Removing onerous requirements for the registration and operation of international donors, including international NGOs;
- Law on Political parties should be improved in regard to the joint recommendations of the Venice Commission of the Council of Europe and the OSCE's Office for Democratic Institutions and Human Rights;
- Amend relevant laws to ensure that the Ministry of Justice cannot repeatedly request revised applications from NGOs.

Freedom of expression in Azerbaijan

- Violations of freedom of expression mostly appeared in the form of summoning citizens to police stations because of their critical opinions and comments shared on social media, followed by the application of political-psychological pressure and administrative detention, forcing them to delete their comments, among other actions. In past 3 years, local human rights groups reported more than 60 cases on violations of freedom of expression in Azerbaijan.
- The new law "On Media" came into effect on 10 February 2022 by presidential decree. One of the key points of the law is related to journalists' registration and issuance of a single type of journalistic card reserved only for the journalists included in the Media Register. The requirements for the registration include illegitimate obligations, such as higher education, three years of work experience, legal capacity, and no previous convictions for serious or particularly serious crimes.

Recommendations on Freedom of expression in Azerbaijan

- The law ‘On Media’ alongside other restrictive legislative normative acts such as the Law “On information, informatization and protection of information”, as well as the relevant chapters of the Criminal Code and the Code of Administrative Offences should be improved based on the recommendations of the Venice Commission of the Council of Europe;
- Azerbaijan authority should implement the decisions of the ECtHR regarding protection of freedom of expression and ensure freedom of media without discrimination towards the journalists on the basis of their critical opinions.
- Azerbaijan authority should not support smear campaigns against journalists, as well as attacks, threats and harassment of journalists and social media users, and prevent the arbitrary detention of journalists;

Right to participate in public life in Azerbaijan

Elections:

- The International Election Observation missions of the OSCE and the PACE have concluded in their joint documents that the 2018 Presidential election and the 2020 Parliamentary Elections in Azerbaijan took place within a restrictive political environment and under a legal framework that curtails fundamental rights which are mandatory for genuine democratic elections.

Politically motivated cases;

- Despite repeatedly calls by the Committee of Ministers of the Council of Europe, the Azerbaijan refused to restore the rights of human rights activists and government critics, as required by the judgments of the ECtHR in regard to the *Mammadli group of cases*. The court recognized that *in this group case*, the detention and deprivation of liberty of the seven applicants violated Article 18 of the Convention for their active political and social participation.

Political prisoners:

- In 2020, the PACE adopted resolution on Reported cases of political prisoners in Azerbaijan. The document urged the Azerbaijani government to subject the cases of persons of alleged political prisoners, to review by an independent body and to release those found to be political prisoners in accordance with the definition of the PACE.

Recommendation for improvement right to participate in public life in Azerbaijan

- Express political will for implementation of election-related recommendations on the improvement of the Election Code and election practice in regard to opinions of the Venice Commission and the Committee of Ministers of the Council of Europe, and the OSCE/ODIHR;
- Ensure equal participation in political and public life without fear and intimidation in respect to independent and oppositional views by providing fully transparent elections and a genuine pluralistic environment, and by refraining from using political prosecution in an attempt to exclude critical voices from political space;
- Put an end to political repression against human rights defenders, civil society and political activists and restore rights to participate in public life to all applicants whose rights were recognized by the European Court of Human Rights;

Thank you

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