

STATEMENT

on the UPR Pre-session on Azerbaijan of 44th session of
the United Nations Human Rights Council

Thematic: Freedom of association and Freedom of assembly,
Freedom of expression and Right to participate to public life;

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1) Introduction (slide 1):

Election Monitoring and Democracy Studies Center 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 association and freedom of assembly, freedom of expression and right to participate to public life, including election rights in Azerbaijan.

2) Previous UPR recommendations accepted by Azerbaijan government (slide 2)

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 and Azerbaijan authority accepted most of these recommendations.

3) Current situation in Freedom of assembly (slide 3)

- 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 Council of Europe issued three 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.

4) Recommendations on freedom of assembly (slide 4)

- 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 European Commission for Democracy through Law (Venice Commission) and OSCE Office for Democratic Institutions and Human Rights;
- Implement the resolutions of the Committee of Ministers of the Council of Europe in regard to judgements adopted by the European Court of Human Rights to securing the exercise of right to freedom of assembly in compliance with the European Convention on Human Rights;
- 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;

1) Freedom of association (slide 5)

- The ECHR found that repeated delays in registering an NGO constituted an interference with the right to freedom of association in Azerbaijan. Since 2007, *the Ramazanova and other v. Azerbaijan* group of cases is under supervision of the CM of the Council of Europe and still Azerbaijan did not fulfil recommendations on removing restrictive requirements for the registration and operation of NGOs.
- 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. The Human Rights Committee expressed similar concerns about restrictions on foreign funding during its periodic review of Azerbaijan.
- The Venice Commission of the Council of Europe and the OSCE's Office for Democratic Institutions and Human Rights examined new Law on "Political parties" which entered into force in January 2023. These institutions stated that the provisions limiting the activity of political parties in the law should be revised, and the norms ensuring freedom of association are not defined. Both institutions emphasized that some provisions related to the establishment of parties, state registration and cancellation of parties are illegitimate.
- It should be noted that after adoption of "Political parties" law 31 political parties announced on dissolution of their operations and more than 10 parties were not able to re-register at the Ministry of Justice yet.

2) Recommendations on Freedom of association (slide 6)

- 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.

3) Situation in Freedom of expression (slide 7)

- 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 pressures 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 of social media users in Azerbaijan.
- One of the key points of the new law "On Media" is related to journalists' registration by the 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 crimes. The Venice Commission of the Council of Europe stated in its commentary on this law that most provisions should be changed or completely removed, as this law further suppresses freedom of expression in an already restrictive environment in Azerbaijan.

4) Recommendations for Freedom of expression (slide 8)

- 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;

5) Right to participate in public life and election rights (slide 9)

- The International Election Observation missions of the OSCE and the Council of Europe 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. However, Azerbaijan authority ignored all assessments made by these international election observation missions and avoided to follow-up recommendations of these institutions for improvement of election practice and legislation.

- Despite repeatedly calls by the Committee of Ministers of the Council of Europe, the Azerbaijani authorities 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 the Mammadli 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.
- In 2020, the Parliamentary Assembly of the Council of Europe 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 and impartial body and to release those found to be political prisoners in accordance with the definition of the PACE. However, since 2020 the number of politically motivated charges and administrative detention increased dramatically in Azerbaijan. At the moment, there are dozens political prisoners who became victim of political repression due to their social and political participation in political life of the country.

6) Recommendation for improvement of right to participate in public life (slide 10)

- 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;

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