



Universal Periodic Review of Azerbaijan
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Working Group on the Universal Periodic Review

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Submitting NGOs

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Election Monitoring and Democracy Studies Center 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.

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Human Rights House Foundation (HRHF) establishes, supports, and connects Human Rights Houses – coalitions of civil society organisations working together to advance human rights at home and abroad. Together, we advocate for the freedoms of assembly, association, and expression and the right to be a human rights defender. These four rights underpin a strong and independent civil society and protect and empower human rights defenders.

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Freedom of assembly

1. During its Universal Periodic Review in September 2018, the Republic of Azerbaijan accepted a number of general and specific UPR recommendations on enabling environment for freedom of assembly:
2. *Guarantee the rights to freedom of expression, both online and offline, freedom of association and peaceful assembly¹;*
3. *Immediately and unconditionally release all individuals in custody for exercising their fundamental freedoms, including the rights to freedom of expression, association, assembly and religion².*
4. Freedom of assembly is one of the most restricted rights in Azerbaijan. The “Law on Freedom of Assembly” regulates rallies and demonstrations. The law requires organizers of an assembly to notify relevant executive authorities about the intention of holding an assembly in advance, and in written form. However, in practice, the authorities interpret “prior notification” as “prior authorization” which is in breach of the Constitution of Azerbaijan, the Law on Freedom of Assembly, and international documents to which Azerbaijan is a party.
5. The European Court of Human Rights (ECtHR) has found violations of freedom of assembly in 21 cases from 72 applicants in its rulings on Azerbaijan³. The ECtHR in its judgment on the case of Gafgaz Mammadov v. Azerbaijan⁴ notes that Article 49 of the Constitution required only prior notification about a planned public assembly. On the other hand, the Law on Freedom of Assembly provided the relevant local executive authority with broad powers to prohibit or stop a public assembly. Local executive authorities have the rights to restrict or change the place, route or time of a gathering, and to designate specific areas for public assemblies. However, a system of prior notification set forth by the Constitution has been replaced in practice by a system of prior authorization that is in breach of national law.
6. The ECtHR provided an extensive interpretation on freedom of assembly in the case of Huseynli and others v. Azerbaijan⁵ in which it noted that the detention of three political activists who played active roles in organizing a demonstration on 2 April 2011, just two days before the event on charges of minor hooliganism and refusing to comply with lawful order of the police, did not have a legal basis. The ECtHR further noted that the above-mentioned charges were merely a pretext while the purpose behind the detention was preventing applicants from participating in the rally⁶.
7. In 2013, prior to the 9 October Presidential election, the opposition was allowed to hold rallies in one of the squares near the city center. However, despite the rallies being authorized by the relevant administrative bodies, political activists were summoned to the police stations, threatened, warned not to attend the rallies of the opposition, some were arrested and sentenced to administrative detention. According to monitoring by the Election Monitoring and Democracy Studies Center, more than 40 activists were administratively detained after the three demonstrations in 2019. For example, after a 19 January rally protesting new

¹ A/HRC/39/14; Paragraph no: 141/37

² A/HRC/39/14; Paragraph no: 141/38

³ Politically Motivated Administrative Detentions in Azerbaijan, Report, EMDS

https://humanrightshouse.org/wp-content/uploads/2019/05/EMDS-report_Politically-Motivated-Administrative-Detentions.pdf

⁴ Gafgaz Mammadov v. Azerbaijan, (App. No. 60259/11, §55)

⁵ See ECtHR decision at <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-160429%22%5D%7D>

⁶ Ibid, §147

charges brought against imprisoned blogger Mehman Huseynov in 2019, police summoned more than 200 people and called hundreds more on the phone threatening them about their participation in the rally⁷.

8. Prominent cases concerning the violation of freedom of assembly in Azerbaijan in recent years include:
9. The traditional rally of 8 March, being held by feminist activists each year on the occasion of International Women's Day was broken up by police, and some activists were detained and released after being taken to a police station.
10. The National Council of Democratic Forces, one of the main opposition forces in Azerbaijan, held a rally in central Baku on 19 October 2019. Though the rally was continuing peacefully the police dispersed it by using excessive force and arrested a large number of rally participants. According to the police, they detained 60 of the approximately 220 people who participated in the “unsanctioned” demonstration on 19 October, releasing 42 with a warning, and sending 18 cases to the administrative courts⁸. Those arrested were subjected to torture in the police vehicles, then also later in the police departments. Ali Karimli, the leader of the Popular Front Party was among those harshly beaten and tortured. He was brutally pushed into a riot police bus and Karimli was the only detainee there alongside ready officers waiting beforehand⁹. In the bus, the riot police officers started to beat him again and he was ordered to promise not to criticize President Ilham Aliyev and not to hold any public rallies¹⁰.
11. On 13 October 2021, a number of young activists of the NIDA and Democracy-18 movements held a rally in front of the former office of the ruling Yeni Azerbaijan Party. Young activists protested against the arrest of the members of the Popular Front Party of Azerbaijan - Niyameddin Akhmadov and Fuad Akhmadli, as well as a blogger Anar Abdullayev and other political prisoners. The peaceful rally was broken up by police and participants were taken to a police station and ill-treated. Elmir Abbasov, one of the protesters, was sentenced to 30 days administrative arrest¹¹.
12. On 1 December 2021, a peaceful protest demanding freedom for political prisoner Saleh Rustamov in Baku’s Fountain Square was brutally dispersed by police. Police detained more than 30 protesters, including Elchin Teymurov for 25 days, Ilham Huseyn for 30 days, Sayyad Guliyev for 15 days, and Elkhan Aliyev for 20 days. They were found guilty of violating Article 211.1 of the Code of Administrative Offenses (violation of the anti-epidemic, sanitary-hygienic and quarantine regimes)¹². During this rally, Tofiq Yagublu, a member of Musavat Party and National Council of Democratic Forces was also detained by police and he was beaten by police while videoing him and demanding that he say on camera that he would stop criticizing Azerbaijan’s leadership¹³.

⁷ See brief document issued by the EMDS at <https://smdtaz.org/wp-content/uploads/2019/04/AD-doc.pdf>

⁸ Radio Liberty - <https://www.rferl.org/a/police-arrest-opposition-activists-ahead-of-baku-rally/30225138.html>

⁹ Moments of detention of Ali Karimli <https://www.youtube.com/watch?v=5uWcUVgOWxY&t=92s>

¹⁰ HRW, Azerbaijan: Peaceful Rallies Dispersed Violently, <https://www.hrw.org/news/2019/10/22/azerbaijan-peaceful-rallies-dispersed-violently>

¹¹ Turan, ‘Elmir Abbasov, detained at the protest rally, arrested for 30 days’, (October 2021) <https://bit.ly/3rw079g>

¹² Voice of America, (December 2021), <https://bit.ly/3Fdf7h0> [available only in azerbaijani]

¹³ Human Rights Watch, December 3, 2021, Azerbaijan: Opposition Leader Beaten in Custody: Authorities Violently Disperse Peaceful Protest: <https://www.hrw.org/news/2021/12/03/azerbaijan-opposition-leader-beaten-custody>

13. On March 13, 2023 residents of Nabatkend and Orta Mughan villages of Saatli district held a demonstration regarding the irrigation problem of their plant fields and tried to block the Saatli-Baku highway. The villagers said they have repeatedly complained about the irrigation problem to the relevant state structures, but no measures have been taken to solve the problem. Police intervened in the protest and they used tear gas and rubber bullets against the demonstrators. As a result, three villagers were injured by rubber bullets. The police also detained eight people during the action. Although five of the detainees were released, Anar Huseynov was sentenced to 20 days, Habil Khanlarov to 15 and Shikhali Mammadov to 12 days of administrative imprisonment. In their statement to the media, the participants said that there is not enough water to irrigate the fields, the water channels are empty, and the government does not allocate water trucks¹⁴.
14. On May 14, 2022, a group of civil society activists attempted to hold a peaceful rally in Baku's Fountain Square to protest the government's political persecution. However, police authorities detained more than 40 activists both before and during the action and did not allow the action to continue longer¹⁵.
15. The Popular Front Party tried to protest against the adoption of the new law 'On Political Parties' in front of the Parliament on September 30, 2022. However, the Baku City Executive Authority did not permit this action, and the police did not allow the participants to gather in front of the parliament. All protestors were violently removed from the area and more than 80 activists of the Popular Front Party were detained¹⁶.
16. On 23 December 2022, a peaceful protest in Baku's Fountain Square, with demands for the release of political activist Bakhtiyar Hajiyev, was prevented due to the harsh intervention of the police who detained and removed the participants from the area by force. While most of the detainees of the protest were later released, Tofiq Yagublu, a prominent oppositional leader was administratively arrested for 30 days by the decision of the Sabail District Court based on Article 510 of the Code of Administrative Offenses (petty hooliganism)¹⁷.

Since the 9 October 2013 Presidential election, independent political groups and CSOs were de-facto banned from conducting round tables and forums in Baku and regions of Azerbaijan. Owners of private places (hotels, conference halls) and the managers of public buildings are illegally ordered to seek permission from the local and central executive bodies for hosting events of CSOs and political parties. Currently, while it is easy for government-affiliated NGOs to hold large events at various hotels, independent NGOs face difficulties in that regard. For example, on 13 January 2023, the Institute of Public Policy, headed by public activist and political prisoner Bakhtiyar Hajiyev, and two more non-governmental organizations - the "Line of Defense" human rights group and the Center for Legal Initiatives were forced to leave a jointly rented office in the Baku Caspian Plaza Business Center. Zaur

¹⁴ EurasiNet, Police crackdown on water protest in Azerbaijan, <https://eurasianet.org/police-crack-down-on-water-protest-in-azerbaijan>

¹⁵ Jam News, 'No to criminal state; dozens detained at protest for journalists and activists rights in Azerbaijan', (May 2022), <https://jam-news.net/no-to-criminal-state-dozens-detained-at-protest-for-journalists-and-activists-rights-in-azerbaijan/>

¹⁶ JamNews, 'Protest against law on political parties in Baku; dozens arrested' (September 2022), <https://jam-news.net/protest-against-law-on-political-parties-in-baku-dozens-arrested/>

¹⁷ OC Media, <https://oc-media.org/imprisoned-opposition-leader-tofig-yagublu-on-fifth-day-of-hunger-strike/>

Akper, a co-founder of the Defense Line explained this situation was “the result of the repressive policy of the authorities, when not only critics of the authorities, but also the business community are under pressure”¹⁸.

17. On 3 March 2020, the Commissioner for Human Rights of the Council of Europe published a letter to the Minister of Internal Affairs of Azerbaijan, Mr Vilayat Eyvazov, in which she raised concerns in relation to the dispersal of demonstrators in recent protests in Baku and limitations imposed on freedom of assembly in that context. She wrote: “I wish to reiterate that participants in peaceful assemblies should not be sanctioned for the mere fact of being present at and actively participating in the demonstration in question, provided that they do not do anything illegal, violent or obscene. Moreover, I note that the execution of several judgments of the Court against Azerbaijan, in which numerous breaches of the applicants’ freedom of assembly through the dispersal of unauthorised peaceful demonstrations were found, are examined under the enhanced supervision of the CoE Committee of Ministers (Gafgaz Mammadov group of cases). The Committee has repeatedly deplored that no information had been provided by the authorities.”¹⁹
18. The restrictive legislation regulating freedom of assembly has been found to be in violation of Azerbaijan’s obligations under European law by the Venice Commission²⁰ and in at least 29 decisions of the European Court of Human Rights where the Court found violations of freedom of assembly²¹. Moreover, the Committee of the Ministers of the Council of Europe issued several resolutions on execution of Gafgaz Mammadov group case in Azerbaijan with a recommendation to improve national legislation²².

Recommendations to Azerbaijan

19. **Ensure and protect the right to freedom assembly, without discrimination towards the participants of peaceful events on the basis of the cause they defend, in Baku and outside of the capital, in open and closed spaces;**
20. **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;**
21. **Implement the resolutions of the Committee of Ministers of the Council of Europe in regard to the Gafgaz Mammadov and others v Azerbaijan group cases 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;**
22. **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;**

¹⁸ Turan News Agency, Organization of Bakhtiyar Hajiyev deprived of premises, <https://www.turan.az/ext/news/2023/1/free/Social/en/406.htm>

¹⁹ Dunja Mijatović, Commissioner for Human Rights of the Council of Europe, “Commissioner concerned about disproportionate interference with the right to freedom of peaceful assembly in Azerbaijan,” 3 March 2020, available at: <https://www.coe.int/en/web/commissioner/-/commissioner-concerned-about-disproportionate-interference-with-the-right-to-freedom-of-peaceful-assembly-in-azerbaijan>

²⁰ See many opinions of the European Commission for Democracy through Law (Venice Commission) on legislation at <https://www.venice.coe.int/webforms/documents/default.aspx?country=41&year=all&other=true>

²¹ European Court of Human Rights - case of Gafgaz Mammadov and Others v. Azerbaijan (2016)

²² See resolutions adopted by the Committee of Ministers of the Council of Europe at https://search.coe.int/cm/pages/result_details.aspx?objectid=0900001680a4b39d

23. **Ensure that police officers receive specialised training on proportionate use of force during peaceful assemblies and protest actions.**

Freedom of expression and freedom of the media

24. During its Universal Periodic Review in September 2018, the Republic of Azerbaijan accepted a number of recommendations on freedom of expression and free media:
25. *Continue its work to develop freedom of speech, support the independence of the media and boost the professionalism of journalists and strengthen their social protection*²³;
26. *Ensure the right to freedom of expression, including by revoking its decision from 2017 to block the websites of several independent and opposition media*²⁴;
27. *Guarantee the rights to freedom of expression and peaceful assembly*²⁵.
28. Freedom of expression has been under constant pressure in Azerbaijan. Independent media outlets, bloggers and independent journalists have been subjected to violence and threats due to their professional activities, and restrictions on access to their websites and hijacking of social media accounts have been recorded.
29. Violations of freedom of expression mostly appeared in the form of summoning citizens to police stations because of their opinions and comments shared on social media, followed by the application of political-psychological pressure and administrative detention, forcing them to delete their critical comments, among other actions.
30. As respected international and domestic watchdogs have long reported, journalists and media outlets faced continuous online and physical attacks, arbitrary detention and arrests, confiscation of equipment and other types of pressures²⁶. EMDS recorded at least 21 cases of violations of freedom of expression in 2021²⁷.
31. Noteworthy, the Parliament Assembly of the Council of Europe has commissioned its Committee on Legal Affairs and Human Rights to prepare a report on the safety of journalists

²³ A/HRC/39/14; Paragraph no: 140/68

²⁴ A/HRC/39/14; Paragraph no: 141/36

²⁵ A/HRC/39/14; Paragraph no: 141/49

²⁶ Voice of America, 'Attacks, Threats Add to Pressure for Azerbaijan's Media' (June 2022), <https://www.voanews.com/a/attacks-threats-add-to-pressure-for-azerbaijan-s-media/6622144.html>;

Council of Europe, (December 2019), <https://www.coe.int/en/web/commissioner/-/commissioner-mijatovic-urges-the-azerbaijani-authorities-to-respect-freedom-of-expression-improve-access-to-lawyers-and-uphold-the-rights-of-internall>;

Human Rights Watch, 'Azerbaijan: Events of 2021', (January 2022), Freedom of Expression, <https://www.hrw.org/world-report/2022/country-chapters/azerbaijan#eaa21f> ;

Human Rights Watch, 'Beaten, Blacklisted, and Behind Bars The Vanishing Space for Freedom of Expression in Azerbaijan', (October 2010), <https://www.hrw.org/report/2010/10/26/beaten-blacklisted-and-behind-bars/vanishing-space-freedom-expression-azerbaijan>

²⁷ Election Monitoring and Democracy Studies Center, 'Election Monitoring and Democracy Studies Center Report on Violations of Civil, Political and Social rights in Azerbaijan' (January 2022), <https://smdtaz.org/election-monitoring-and-democracy-studies-center-report-on-violations-of-civil-political-and-social-rights-in-azerbaijan/>

and human rights defenders in Azerbaijan by 2024²⁸. The report is sought to cover the main threats to the work of mentioned groups following the recently growing attacks targeting government critics and journalists in Azerbaijan²⁹.

32. On 30 December 2021, the new draft law "On Media " was adopted by the parliament and the law came into effect on 10 February 2022 by presidential decree. One of the key points of the law was 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. The law also addresses issues aimed at the "seduction" of journalists, which among other things grants certain privileges which are incompatible with the professional ethics of journalists³⁰. It is worth noting that the Venice Commission of the Council of Europe stated in its commentary on the law that many of the provisions of the law should be changed or completely removed, as this law further suppresses freedom of expression in an already restrictive environment in Azerbaijan³¹.
33. The law on information, informatisation and protection of information amended in 2017 and 2020, alongside the relevant provisions in the Criminal Code and the Code of Administrative Offences, granted prosecuting authorities with excessive powers to, among other things, block access to the websites of media outlets without any court decision³². This law, like the Law on Media was subject to wide criticism for enshrining measures granting authorities wide discretion to broadly interpret and possibly misuse it against government critics³³. Similar to the Law on Media, this law was also used to punish independent media outlets and government critics. Relying on this law, the relevant authorities blocked access to dozens of independent media outlets, mostly those with profiles critical of the government, including 'Radio Free Liberty', 'Meydan TV' and others³⁴.
34. In July 2021, international media outlets and human rights NGOs revealed appalling details on the scandalous Pegasus spyware program. The analysis of the leaked data showed that phone numbers on the leaked Pegasus lists included more than 1000 Azerbaijani individuals, including prominent journalists. It is highly likely that the Azerbaijani authorities had

²⁸ Parliamentary Assembly of the Council of Europe, 'Motion for a resolution; Threats to life and safety of journalists and human rights defenders in Azerbaijan' (May 2022), <https://pace.coe.int/pdf/042fbfe6011e3d6227a66192d3e259ddca61e2362b941ee9c1b8963d61eef1ac/doc.%2015521.pdf>

²⁹ Turan.az, 'PACE to prepare report on threat to journalists in Azerbaijan' (June 2022), https://www.turan.az/ext/news/2022/6/free/politics_news/en/6550.htm/001

³⁰ Turan, (December 2021) <https://bit.ly/33u5bTF>

³¹ Council of Europe, (20 June 2022), <https://www.coe.int/en/web/portal/-/azerbaijan-media-law-overregulation-in-an-already-restrictive-environment#:~:text=The%20Venice%20Commission%20concludes%20that,to%20do%20fulfil%20their%20public>

³² Council of Europe, 'Analysis of Azerbaijani legislation on freedom of expression', (2017), 40-44, <https://rm.coe.int/azerbaijan-analysis-of-legislation-on-freedom-of-expression-december-2/16808ae03d> (Analysis of Legislation)

³³ Azerbaijan Internet Watch, 'Restrictive new bills sweep freedoms under the carpet, part 1' (January 2021), <https://www.az-netwatch.org/news/restrictive-new-bills-sweep-freedoms-under-the-carpet-part-1/>; Azerbaijan Internet Watch, 'Who regulates content online in Azerbaijan? Legal analysis (May 2022), <https://www.az-netwatch.org/news/who-regulates-content-online-in-azerbaijan-legal-analysis/> (AIW report); Freedom House, 'Key Developments, June 1, 2017 - May 31, 2018', (2018), Freedom on the Net 2018, <https://freedomhouse.org/country/azerbaijan/freedom-net/2018> (Freedom on the Net)

³⁴ Institute for Reporters' Freedom and Safety, 'Police have beaten up journalists and threatened them with death', (February 2022), <https://www.irfs.org/news-feed/reporter-fatima-movlamli-reported-being-beaten-by-the-police/>; Freedom on the Net (10); Analysis of Legislation (n10) 44; AIW Report (n10)

purchased the Pegasus spyware from the Israeli company NSO Group³⁵. No effective investigatory steps have been taken since then. Most recently, in August 2022, the State Security Service of Azerbaijan summoned a number of journalists and civil society members to inquire on their exposure to the Pegasus spyware program, however those people who were summoned later expressed their mistrust in the effectiveness of such investigations by the State Security Service into the media³⁶.

35. In recent years, the following cases were observed relating to the treatment and harassment of independent voices:
36. On 16 July 2021, actor Elmin Badalov was detained by police and taken to the 27th Police Station for performing a street play called "Seventh Room" in the Winter Park. He was detained for about 3 hours and then released.
37. On 6 October 2021, blogger and activist Anar Abdulla was summoned by police and detained for 15 days over his thoughts shared on Facebook. He stated that he had been beaten at the police station³⁷.
38. On 15 February 2022, journalists Fatima Movlamli and Sevinj Sadygova were detained while covering the protest of families of war veterans in front of the presidential administration building. They later said that they were insulted and subjected to physical violence both during detention and in the Sabail District 9th police station. While the Ministry of Internal Affairs reacted to the news and promised to fire the officers, no news was later provided on their punishment³⁸.
39. On 8 May 2022, journalist Aytan Mammadova was threatened with a knife by an unknown person while entering the block of the building where she lives³⁹. Aytan Mammadova connected the attack on her with covering the court case of Ilkin Suleymanov, who is suspected of killing 10-year-old Narmin Guliyeva in Tovuz District. Although a criminal case was opened in connection with the fact, the journalist later expressed her dissatisfaction with the lack of action of the investigative authorities⁴⁰.
40. On 7 June 2022, ToplumTV journalists Nuray Kamal and Vusala Mikayil faced pressure while reporting the raid of the executive authorities on the shops in Yasamal District. They were offered a bribe to stop filming, and journalist Vusala Mikayil's phone was taken away by an employee of the executive power of Yasamal district⁴¹.

³⁵ Azerbaijan Internet Watch, 'targeted harassment via telegram channels and hacked Facebook accounts', (March 2022), <https://www.az-netwatch.org/news/targeted-harassment-via-telegram-channels/>

³⁶ Radio Liberty, 'Azerbaijan Suspected Of Spying On Reporters, Activists By Using Software To Access Phones', (July 2021), <https://www.rferl.org/a/azerbaijan-pegasus-spying-nso/31365076.html>

³⁷ Caucasian Knot, 'Journalist Anar Abdulla arrested in Baku', (October 2021) <https://bit.ly/3fA1e29>

³⁸ Voice of America, 'Azerbaijan says it will remove police officers over media harassment', (February 2022), <https://www.voanews.com/a/azerbaijan-says-it-will-remove-police-officers-over-media-harassment/6446083.html>

³⁹ Meydan TV, 'Azerbaijani journalist threatened at knifepoint', (May 2022), <https://www.meydan.tv/en/article/azerbaijani-journalist-threatened-at-knifepoint/>

⁴⁰ Toplum TV, (May 2022), <https://toplum.tv/sosial/ayten-memmedova-istintaqdan-narazidir> [available in azerbaijani]

⁴¹ Toplum TV, (June 2022), <https://xeber.media/news/18309272/icra-hakimiyetinin-emekdas-i-jurnalistlere-rusvet-teklif-edib-siz-cavan-qizlarsiniz-video> [available in azerbaijani]

Recommendations to Azerbaijan

41. **Stop support for smear campaigns against journalists, as well as attacks, threats and harassment of journalists and social media users, and prevent the arbitrary detention of journalists;**
42. **Implement the decisions of the ECtHR regarding freedom of expression;**
43. **The law ‘On Media’ alongside other restrictive legislative measures 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;**
44. **Ensure and protect media freedoms, without discrimination towards the journalists on the basis of their reporting or their opinions.**

Right to participate to public life

45. During the September 2018 UPR review, Azerbaijan accepted specific recommendations to:
46. *Take specific measures for the exercise of political participation in plural and competitive elections⁴²;*
47. *Comply with decisions of the European Court of Human Rights concerning illegal imprisonments on politically motivated charges⁴³;*
48. *Release all activists, journalists and bloggers held on politically motivated charges, and dismiss the criminal charges against those individuals that have already been released⁴⁴.*
49. The United Nations Human Rights Committee’s concluding observations on the fourth periodic report of Azerbaijan (16 November 2016) noted systematic problems with respect to the right to participation in political and public life in the field of elections. As with many international organizations, the Committee was also concerned that existing systematic problems were reflected in the 2013 presidential elections, including through permission to campaign for 22 days only and very limited opportunities for assemblies, intimidation of opposition candidates and, prior to the November 2015 legislative elections, violations in the process of registration of opposition candidates and detention and conviction of some opposition leaders⁴⁵.
50. Since 2010, the Government of Azerbaijan has been called upon by the European Court of Human Rights (ECtHR), to bring its electoral regulations and practices into compliance with international standards, and to refrain from using criminal law provisions in an attempt to exclude opposition candidates from electoral processes. In the 2005 and 2010 parliamentary elections in Azerbaijan, the ECtHR has made a total of 25 judgements that more than 68

⁴² A/HRC/39/14; Paragraph no: 140/87

⁴³ A/HRC/39/14; Paragraph no: 141/14

⁴⁴ A/HRC/39/14; Paragraph no: 141/32

⁴⁵ UN Human Rights Committee, Concluding observations on the fourth periodic report of Azerbaijan, CCPR/C/AZE/CO/4

applicants' passive suffrage have been violated⁴⁶. Despite the requirements of the ECtHR on the implementation of these decisions, the Azerbaijani government did not comply with the requirements and recommendations of the Committee of Ministers of the Council of Europe on general measures envisaging the improvement of election legislation to ensure free and fair elections, even though the applicants were paid compensation. Consequently, every subsequent election was more distorted than the free and fair electoral principles and was observed with more electoral violations⁴⁷.

51. The joint election observation missions of the OSCE/ODIHR, the OSCE Parliamentary Assembly and the Parliamentary Assembly of the Council of Europe have concluded that the 11 April 2018 early presidential election in the Republic of Azerbaijan took place within a restrictive political environment and under a legal framework that curtails fundamental rights and freedoms, which are pre-requisites for genuine democratic elections. "Against this background and in the absence of pluralism, including in the media, this election lacked genuine competition. Other candidates refrained from directly challenging or criticizing the incumbent, and distinction was not made between his campaign and official activities"⁴⁸.
52. Two years after the 2018 presidential election, the joint election monitoring missions of the OSCE/ODIHR, the OSCE Parliamentary Assembly and the Parliamentary Assembly of the Council of Europe observed the Early Parliamentary election on 9 February 2020. According to a joint statement made by the international missions, the restrictive legislation and political environment prevented genuine competition in the 9 February 2020 early parliamentary elections in Azerbaijan, despite a high number of candidates: "Some prospective candidates were denied the right to stand, but candidate registration process was otherwise inclusive. Voters were not provided with a meaningful choice due to a lack of real political discussion. Many candidates used social media to reach out to the voters, but this did not compensate the absence of campaign coverage in traditional media. Instances of pressure on voters, candidates and their representatives were observed"⁴⁹.
53. 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 cases⁵⁰. In the Mammadli group case, the detention and deprivation of liberty of the seven applicants in violation of Article 18 of the Convention for their active political and social participation, criticism of the government, human rights, and election monitoring activities was recognized as a violation. Although the acquittal of these persons among other measures has been demanded repeatedly by the Committee, this process is delayed in the Supreme Court of Azerbaijan. The Committee of Ministers recalls that, in respect of each applicant in this group of cases, the European Court found a violation of Article 18 in conjunction with Article 5 of the European Convention on Human Rights, revealing a troubling pattern of arbitrary arrest and detention of government critics, civil society activists and human-rights defenders through retaliatory prosecutions and misuse of criminal law in defiance of the rule of law⁵¹.

⁴⁶ See cases at database of the ECtHR: <https://hudoc.exec.coe.int/eng?i=004-1773>

⁴⁷ Ibid.

⁴⁸ See joint statement at <https://www.osce.org/files/f/documents/e/4/377617.pdf>

⁴⁹ See joint statement at https://www.osce.org/files/f/documents/5/0/445759_0.pdf

⁵⁰ See case details at database of the ECtHR: <https://hudoc.exec.coe.int/eng?i=004-50875>

⁵¹ See more information at <https://www.coe.int/en/web/baku/-/azerbaijan-committee-of-ministers-deplores-absence-of-progress-in-execution-of-european-court-s-judgments>

54. The measures taken by the Cabinet of Ministers to combat the pandemic after the confirmation of the first coronavirus case in Azerbaijan on 27 February, and the rules of the subsequent quarantine were accompanied by restrictions on human rights and freedoms in the country. During the Covid-19 pandemic period, EMDS observed disproportionately serious punishment for quarantine violations, police abuses in the application of quarantine rules, and politically motivated persecution against dissenting voices by the authorities in Azerbaijan. For instance, on 19 March 2020, in his Novruz holiday address, President Ilham Aliyev stated that the coronavirus pandemic would create new relations, and “the isolation of the "fifth column" may become a historical necessity”. After the speech of the President, a new wave of repressions against the opposition started⁵²:
55. On 22 March, Tofiq Yagublu, a member of oppositional National Council of Democratic Forces and the Musavat Party, was detained after a traffic incident when a car driven by Elkhan Jabrailov crashed into Yagublu’s parked car. Jabrailov claimed that Yagublu had caused the accident and physically assaulted him and his wife. Despite the lack of evidence against him, the Nizami District Court sentenced Tofiq Yagublu to four years and three months in prison. In protest at the ruling, Yagublu started a hunger strike on 2nd of September and after the 17th day of his hunger strike, Baku Court of Appeal reversed the initial ruling and put Yagublu under house arrest.
56. On 31 March, a local human rights activist in Sumgayit, Elchin Mammad, was accused of stealing money from a person who came to his office to receive legal aid and a criminal case was opened against him.
57. Since 13 April, the internet and mobile connections of the leader of the Popular Front Party (PFP) Ali Karimli have been cut-off, and in some days, it has been completely blocked. The mobile phones of his family members did not have service either. During that period, journalists and party activists who visited Karimli were detained by plain clothed police. In some cases, they were taken to the police station and interrogated.
58. On 16 April, Niyamaddin Ahmadov, member of the PFP, was detained and sentenced to 30 days of administrative arrest for violating the rules of the lock-down regime. During his detention, on 19 May, a criminal case was opened against Ahmadov at the Prosecutor Office on charges of financing terrorism, and he was sentenced to four months of pre-trial detention.
59. Fuad Ismayilov, a social activist, was detained twice on 7 March and 22 May and sentenced to 60 days of administrative arrest. Although Ismayilov reported that he was beaten by police in the police station while detained, the court did not provide an additional investigation into his complaint.
60. On 1 June, members of the “Students’ Demand” movement organized a rally in front of the Ministry of Education and demanded the cancellation of the exams and the educational fees for the second semester since ordinary teaching standards could not be maintained due to the COVID-19 pandemic. The police detained the students on charges of breaching the rules of the quarantine regime and disobeying a legal demand of the police officer. The Narimanov District Court sentenced the movement’s founder Rustam Ismayilbeyli to 15 days of administrative detention and fined the other five students 100-200 AZN.

⁵² See brief document of the EMDS at <https://smdtaz.org/wp-content/uploads/2020/09/EMDS-briefing-22.09.20.pdf>

61. In total, during the Covid-19 outbreak six activists faced politically motivated criminal charges and 33 were administratively detained in the three months following the application of the quarantine regime. In this period, at least 56 government critics and political activists faced one or another form of the political pressure, and in some cases were administratively detained on charges of violating quarantine rules - 29 of them were members of the PFP.
62. The Venice Commission of the Council of Europe and the Office of Democratic Institutions and Human Rights of the OSCE announced a joint opinion on the law "On Political Parties" which entered into force in January 2023⁵³. The opinion states that the provisions limiting the activity of political parties in the law should be revised, and the norms ensuring freedom of assembly, association, and expression are not defined. In the document it is emphasized that some provisions related to the establishment of parties, preparation of constituent documents, state registration and cancellation of parties are illegitimate. For example, the document criticizes the increase of the minimum number of members for the party registration from 1,000 to 5,000 people, the requirement of re-registration of registered political parties, and bans on the activities of unregistered parties.

Recommendations to Azerbaijan

63. **Improve electoral regulations and practices in compliance with international standards, including implementing general measures of legislative development relating to the European Court of Human Rights' decisions in the field of right to elections;**
64. **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;**
65. **Carry out an effective and thorough investigation on all complaints and violations happening during any stages of elections, and hold accountable all responsible persons including commissions members who are involved in violations of electoral rights;**
66. **Express political will for implementation of election-related recommendations of local and international institutions on the improvement of the Election Code, including those of the Venice Commission of the Council of Europe and the OSCE/ODIHR;**
67. **Put an end to political repression against human rights defenders, civil society leader and political activists during and between election periods, and restore rights to participate in public life to all applicants whose rights were recognized by the European Court of Human Rights in the framework of Mammadli group case v Azerbaijan, Gafgaz Mammadov group cases and Namat Aliyev group cases.**

⁵³ Venice Commission of the Council of Europe, Azerbaijan - Law of the Republic of Azerbaijan on political parties, CDL-REF(2023)012-e, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-REF\(2023\)012-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-REF(2023)012-e)