

**AMNESTY
INTERNATIONAL**



**Amnesty International – Submission to the PACE Committee on the Honouring
of Obligations and Commitments by Member States of the Council of Europe in
view of visit to Azerbaijan**

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In view of the forthcoming visit to Azerbaijan by the co-rapporteurs of the Parliamentary Assembly of the Council of Europe's Monitoring Committee, Pedro Agramunt and Joseph Debono Grech, Amnesty International wishes to draw their and the Committee's attention to human rights concerns regarding freedom of expression, assembly and association as well as torture and other ill-treatment.

I. Freedom of expression, assembly and association

Freedom of expression

Amnesty International is alarmed by increased targeting of journalists and imprisonment of individuals on the basis of their political opinion. The organisation continues to be concerned about the harassment, intimidation, detention and imprisonment of activists, human rights defenders, critical journalists and civil society activists by the Azerbaijani authorities in an attempt to silence critical voices and political opponents.

Prisoners of conscience

Following the public protests in March and April 2011, 17 people were imprisoned on trumped-up charges in connection with the protests. Despite the presidential amnesty in June this year that released most of those arrested in connection with the 2011 protests, the clampdown and arrest of those critics of the government have continued unabated in 2012. **Amnesty International is aware of four prisoners of conscience imprisoned over the past two years solely for peacefully exercising their right to freedom of expression.**

Human rights defender, **Vidadi İsgandarov**, and political activist, **Shahin Hasanli**, remain behind bars on trumped-up charges in retaliation for their participation in the March and April protests in 2011. In 2012, two more people were convicted on fabricated charges solely for voicing critical views:

- On 20 April human rights defender, **Taleh Khasmammadov**, was sentenced by Kurdamir Regional Court to four years in jail on charges of 'hooliganism' and 'resisting police officers'. Khasmammadov had been investigating allegations of illegal activity and abuse by law enforcement officials in Ujar region and had published several articles which criticised local authorities. Shortly before his arrest, he published articles in the newspapers Gundam Khabar and Azadliq regarding the suicide of a 17 year-old female victim of human trafficking, in which he alleged that a criminal trafficking ring had been helped by local police. He had also previously published several articles alleging that local police had colluded with criminal gangs. His lawyer, Asabali Mustafayev, told Amnesty International that Khasmammadov has previously been summoned and warned by the Ujar police to stop publishing articles. Amnesty International believes that the allegations against Khasmammadov were either fabricated or hugely exaggerated and were made in retaliation for his critical reporting and complaints against local police. Amnesty International considers Khasmammadov a prisoner of conscience, imprisoned because of his critical investigation and reporting, and calls on the Azerbaijani authorities to drop the charges and release him immediately and unconditionally.
- On 17 February **Anar Bayramli**, a journalist working for the Iranian-sponsored, Azeri-language, television station *Sahar*, was arrested on fabricated drugs possession charges, shortly after relations between Azerbaijan and Iran deteriorated following Iran's claim that an Iranian nuclear scientist had been assassinated by Israeli agents based in Azerbaijan. Amnesty International believes the charges against Bayramli were fabricated in retaliation for his work as a reporter. Sahar TV is known for its critical reporting on sensitive political, social and religious issues in Azerbaijan and had recently been criticised by the Azerbaijani authorities for seeking to destabilise the country. Reports by Bayramli shortly before his arrest touched on especially

sensitive issues such as the government's treatment of conservative Shi'a Muslim groups and mosque closures.

For clarification of the co- Rapporteurs and the Committee's Members, those prisoners of conscience currently identified by Amnesty International are entirely without prejudice to the existence of others, both in relation to the 2011 protests and afterwards and in relation to the prosecutions pre-dating them. Amnesty International only comments on cases it has assessed.

Any silence on the status of any other individuals, including political prisoners, should not be understood as recognition of the absence of any real human rights concern. We have been calling on the Parliamentary Assembly of the Council of Europe (PACE) and the Committee on Legal Affairs and Human Rights to urge the immediate and unconditional release of all those who have been imprisoned solely for peacefully exercising their freedom of expression and to ensure that those imprisoned on politically motivated charges are released or given a fair trial.¹

Arrest and harassment of journalists and human rights defenders

Human rights defenders and journalists have been targeted for their work and subjected to increased intimidation, harassment and arrest. The authorities have also used fabricated charges to clampdown on activists who took part in protests about the Eurovision song contest in Baku in May this year.

- Twenty-three-year-old activist and journalist, **Mehman Huseynov**, faces up to five years in prison on fabricated 'hooliganism' charges. As Azerbaijan prepared to host the Eurovision song contest earlier this year, Huseynov was part of a group that met the eventual winner (Sweden's Loreen), prompting her to speak out about human rights issues in the country. The police claim that the reason for the charges against Huseynov relate to his being violent at a protest he was covering as a journalist. This testimony is contradicted by eyewitness reports. Amnesty International believes charges against him are an attempt to punish him for capitalising on the international media spotlight brought by Eurovision to highlight human rights violations in Azerbaijan. Huseynov was arrested on 12 June, but released on bail the following evening. His trial is underway.
- On 29 September this year, **Zaur Gurbanli**, another pro-democracy campaign activist and chair of the opposition youth movement, *Nida*, was arrested shortly after he posted an article online criticising government corruption and nepotism and was held incommunicado for two days. The piece ridiculed inclusion of a poem by President Ilham Aliyev's daughter as mandatory reading in the country's school curriculum. On 1 October he was charged with "resisting arrest" and sentenced to 15 days in prison. The Anti-Organised Crimes Unit, allegedly responsible for his arrest, is now also investigating his possession of various "illegal materials". During the arrest, his laptop and *Nida* materials were removed from his flat, as well as documents and articles from the office of another NGO he is involved with, *Positive Change*, which suggests that he has been targeted for his political activities. Both Gurbanli and Huseynov were involved in the "Sing for Democracy" campaign that persuaded this year's Eurovision winner Loreen to condemn human rights abuses in Azerbaijan.
- **Ramin Bayramov**, the editor of the pro-Iranian news website, *Islamazeri.com*, who was sentenced on trumped-up drugs and firearms charges in retaliation for his sympathetic reporting on Iran, was granted an early release on 17 August after serving 13 months of his 18-month sentence.

¹ See for instance:

- Joint NGO letter sent to the PACE Committee on Legal Affairs and Human Rights, 22 June 2012: http://www.amnesty.eu/content/assets/letter_Azerbaijan_political_prisoners_final.pdf
- Amnesty International press release "Azerbaijan prisoner of conscience release can't disguise freedom of speech crackdown", 26 June 2012: <http://www.amnesty.eu/en/press-releases/council-of-europe/0578-0578/>

Ramin Bayramov was arrested in August 2011 on suspicion of treason, breach of national security and incitement to mass unrest, but no charges were brought in connection with these allegations. Instead, he was later convicted of drugs and firearms charges, which Amnesty International believes to have been fabricated in order to silence his coverage of religious issues and because his reporting was sympathetic to Iran.

- **Ogtay Gulaliyev**, a human rights defender, was released on 13 June this year after spending almost two months in detention. However he might still face up to three years of prison if convicted of trumped-up charges of hooliganism pending against him. Gulaliyev is the coordinator of the Kur Civil Society Organisation and had been investigating allegations of humanitarian aid expropriation by the local authorities in Sabirabad after local residents were hit by floods in spring 2010. He was detained by police on 8 April while meeting residents of Minbashi village to discuss their complaint that officials had been stealing aid designated for flood victims. Earlier in April, the village residents held blocked a road to protest against mishandling of the aid. Sabirabad regional court charged Gulaliyev with minor hooliganism after police claimed he swore in public. He was given 12 days' administrative detention. On 19 April, as Gulaliyev's administrative detention was about to expire, new criminal charges were brought against him. He was accused of inciting 'violence and mass disorder' under Article 220 (2) of the criminal code. The charges were based on complaints made by the local municipal chairman that Gulaliyev had gathered and brought residents to the local government building, inciting them to rise up against the authorities. Intigam Aliyev, a lawyer working on Gulaliyev's case told Amnesty International that no evidence has been presented that Gulaliyev incited any violent act or protest. Amnesty International considers that Gulaliyev was targeted in response to his work as a human rights defender. The organisation welcomes his release and calls on the Azerbaijani authorities immediately to drop the charges against him.
- **Hilal Mamedov**, the editor of a minority language newspaper, *Talishi Sado*, was arrested on spurious drugs charges. The arrest followed Mamedov's posting on YouTube an Azerbaijani rap battle entitled *Who are you, come on, off you go* which became a viral hit and was subsequently adapted by opposition campaigners in Russia to attack President Putin. Local rights activists suspect he was arrested following the video's publication partly to prevent greater media interest in the rights of the Talysh minority he campaigns to protect. He was detained by police without explanation, taken to a police station and searched, where officers claim to have found a package containing five grammes of heroin on him. They claim to have found a further 20 grammes in his home. According to Mamedov's lawyer, the police officers showed him the package but not the contents. He insisted that all the drugs were planted. When the lawyer tried to visit Mamedov in custody, he was refused access until the following day. He told Amnesty International that Mamedov had been tortured in police custody and supplied photographic evidence of bruising on his feet and ankles. On 22 June a Baku court ordered him to spend three months in pre-trial detention on charges of possessing large quantities of drugs. If convicted, he faces up to 12 years in prison.

Amnesty International has received consistent reports of journalists being brutally beaten and assaulted, while the investigation of their cases has so far produced no results:

- On 7 March this year, **Khadija Ismayilova**, a well-known Azerbaijani investigative journalist with Radio Free Europe, received a threatening letter containing intimate photos of her, after her flat had been broken into and a hidden camera installed. The photos were accompanied by a note warning her that she would be 'shamed' if she did not abandon her work. She refused and publicly exposed the blackmail attempt, which resulting in the publication of a video showing her in an intimate relationship. To date, investigation of her case has produced no results.
- On 18 April this year, several journalists who tried to film illegal house demolitions on the outskirts of the capital Baku were violently assaulted. Award-winning journalist, **Idrak Abbasov**,

was beaten unconscious and hospitalised with his brother Adalet Abbasov after they were attacked by police and security staff from the state energy company, SOCAR. Three other journalists, Esmira Javadova, Galib Hasanov and Elnur Mammadov, were also attacked by SOCAR employees as they arrived on the scene in a taxi. Police officers looked on as workers brandishing batons smashed the car windows, forcing the journalists to flee.

Freedom of assembly

Amnesty International is concerned by the tighter restrictions on freedom of assembly. Peaceful anti-government protest has been effectively criminalised by banning demonstrations and imprisoning those who organise or take part in them. Threats and intimidation against human rights defenders have been used together with legislative and administrative measures to shut down and deny registration to civil society groups working on democracy and human rights.

Article 49 of Azerbaijan's constitution, on freedom of assembly, states that "every person has a right to freely assemble with others" and that "everyone has the right to protest, hold meetings, and picket peacefully and without the use of weapons, as long as the necessary authorities" are forewarned. However, in practice, this right is often denied, as the Baku City Executive Authority often refuses requests to hold protests in central Baku, citing the potential violation of the public's right to "leisure" or "rest" and concerns over safety and disorder. No public gatherings have been permitted by the authorities in the city centre since early 2006, despite there being no legal ban in the constitution or law on freedom of assembly on gathering there.

In November, amendments to the criminal code increased punishments for those organising and participating in "unauthorised" or "banned" protests. The recent amendments to the Azerbaijani criminal code now provide for up to two years in prison for anyone involved in a "legally banned" assembly (Article 169) and up to three years for organisation or participation in activities that lead to "disobedience to the legal demands of government representatives or cause a disturbance to the normal operation of traffic, businesses, companies and organisations" (Article 233).

Fines have also been increased from between 100 to 500 Azerbaijani Manats (AZN) (US\$127-637) previously, to between AZN 5,000 and 8,000 (\$6,370-10,192). Similar increases have also been made in Article 298 of the Azerbaijan administrative code, which provides punishment for involvement in an assembly without "appropriate authorisation". According to opposition parties, the government also prevented a protest against passage of the amendments. On 2 November, 30 opposition activists were reported to be detained as they made their way to parliament. Police seized activists as they left their house and stopped buses to search for activists en route.

The increased punishment, coupled with the authorities' continuing blanket ban on protests in Baku city centre, is likely to have a chilling effect on any peaceful protest ahead of the presidential elections next year.

The requirement of authorisation for assemblies and the blanket ban on protests in Baku city centre violate Azerbaijan's international human rights law obligations. The rights to freedom of expression and peaceful assembly are recognised in Articles 19 and 21 of the International Covenant on Civil and Political Rights, and Articles 10 and 11 of the European Convention on Human Rights. Amnesty International calls on Azerbaijan to repeal provisions in its criminal and administrative codes that penalise peaceful protests and further end its practice of punishing people for exercising their rights to freedom of expression and peaceful assembly.

Amnesty International has long criticised the government's blanket ban on peaceful protests in the centre of Baku, and the arrest and imprisonment of those who break the ban. The organisation is concerned that the unjustified denial of permission to gather anywhere in central Baku denies protesters the opportunity of peacefully expressing their views in a visible, public location and criminalises the right to

peaceful assembly. Such blanket denial coupled with the beating of peaceful protestors violates Azerbaijan's international obligations to respect the right to freedom of assembly.

Public protests continue to be banned in the centre of Baku and excessive force is regularly used by police. Those who attempt to take part in peaceful rallies face harassment, beatings and arrest.

In March and April this year, police violently broke up several peaceful protests by youth groups and opposition activists, beating and arresting protest participants. The youth groups had applied for but been denied permission to hold a peaceful rally in areas officially designated for demonstrations.

On 20 October, police dispersed a peaceful rally of approximately 200 people calling for the dissolution of parliament in response to video recordings revealing the extent of political corruption and bribery in parliament. Over 100 people were arrested as police broke up the protest and 13 leading activists were jailed for periods ranging from seven to ten days on charges of "disobeying police orders" and for attending an "illegal protest".

Freedom of association

NGOs working on human rights and democracy issues faced pressure and harassment and found it difficult to hold meetings or operate freely, especially outside Baku.

- On 7 February this year, Democracy Development Resource Centre, an NGO operating in [Nakhchivan](#), and the Institute for Reporters' Freedom and Safety (IRFS) received a letter from the foreign affairs office, which warned them against "spreading inaccurate and inflammatory information" through their website Nakhchivan Human Rights and Media Monitor
- Aftandil Mammadov, co-ordinator of the Guba regional branch of the Election Monitoring and Democracy Studies Centre, reported being summoned to the local police station on 27 July and again on 27 August, where police warned him against organising any activities without the knowledge and permission of local police. He previously reported being persistently followed by police and prevented from holding group meetings
- The Baku branch of Human Rights House, an international NGO, remained closed after authorities forcibly shut down the organisation on 7 March 2011 on the grounds that they had failed to comply with registration requirements

II. Torture and other ill-treatment

Amnesty International remains deeply concerned about the use of torture and other ill-treatment in detention facilities in Azerbaijan. Several activists detained at and after the protests in March and April 2011, as well as following the dispersal of protests in March, April and October this year, have complained of ill-treatment during their arrest and while in police custody. To date, none of these allegations has been investigated effectively.

Torture and other ill-treatment remain widespread, while allegations of such treatment are rarely investigated effectively, which contributes to a climate of impunity.

- On 17 March this year, Azerbaijani police officers beat and detained two activists, Jamal Ali and Natig Kamilov, after Ali insulted President Aliyev's late mother during their performance at a sanctioned rally. During the court hearing on the day of his detention, Kamilov alleged he was beaten unconscious in the police station. Ali alleged he was beaten twice, on the day of detention and again on 19 March, when police in the detention facility beat him with truncheons on the soles of his feet for about two hours. The judge refused a motion to investigate Kamilov's

allegations of torture and other ill-treatment, citing the absence of visible signs of ill-treatment. An investigation was initiated into the possible of torture and other ill-treatment of Ali, who had multiple bruises and scratches clearly visible on his face. However, no questioning or medical examination was carried out to collect evidence. The investigation has to date produced no results

- Hilal Mamedov, the editor of the newspaper Talishi Sado (see above) alleged that he had been tortured in police custody following his arrest on 21 June. The photographic evidence of bruising on his feet and ankles was sent to the Nizami district prosecutor, who initiated an investigation but no results have been made public

III. Recommendations

Amnesty International calls on the government of Azerbaijan to:

Freedom of Expression, Association and Assembly

- End the harassment, intimidation, arbitrary detention and criminal prosecution of individuals and organisations who legitimately exercise the right to freedom of expression to express critical or dissenting views
- Ensure that human rights defenders, lawyers and other civil society actors are able to carry out their legitimate activities without fear or threat of reprisal, obstruction or legal and administrative harassment. Particularly allow organisations which were arbitrarily targeted and shut down during last year's spring protests to resume their lawful activities
- Respect the rights to freedom of assembly of all its citizens and allow peaceful demonstrations to be organised in appropriate locations, generally within sight and hearing of their target audience, with the necessary practical and security arrangements in place
- Conduct a prompt independent and impartial investigation into allegations of use of force by law enforcement officers during the dispersal and arrest of protesters

Torture and Other ill-treatment

- Conduct a prompt, effective, independent and impartial investigation into allegations of torture and other ill-treatment of detained activists and ensure that those found responsible are brought to justice in accordance with international obligations and fair trial standards