



## Azerbaijan: Adoption of Council of Europe resolutions is essential for human rights protection and democratic progress

Monday 21 January

The International Partnership Group, coordinated by ARTICLE 19, along with Amnesty International, several Azerbaijani NGOs and other international organisations urge the Parliamentary Assembly of the Council of Europe (PACE) to make a strong call for Azerbaijan to improve its deteriorating human rights record. On Wednesday 23 January, the vote on two crucial resolutions on Azerbaijan will be an opportunity for the Assembly to show its genuine commitment to its human rights principles.

The first resolution proposes recommendations regarding the honouring of obligations and commitments by Azerbaijan, as a member state of the Council of Europe and state party to the European Convention on Human Rights (ECHR). The recommendations are drawn from a report by PACE Rapporteurs for Azerbaijan, Joseph Debono Grech and Pedro Agramunt, prepared following country visits in April and November 2012. The report assesses the extent to which Azerbaijan has adhered to commitments made in 2001 and expresses a 'growing concern with regard to rule of law and respect for human rights' and calls for the 'full implementation' of basic freedoms including the right to freedom of expression (Article 10 ECHR), and the right to freedom of peaceful assembly and freedom of association (Article 11 ECHR).

The second resolution focuses on the issue of political prisoners in Azerbaijan, based on a 2012 report prepared by Rapporteur Christoph Strässer, which identified more than 80 cases. The recommendations in that report were adopted by the Committee on Legal Affairs and Human rights in June 2012 and calls upon Azerbaijan to speedily resolve the cases on Mr Strässer's list, and take measures to ensure no future cases of political imprisonment. After his appointment in 2009, Strässer was continuously denied a visa by the Azerbaijani government for three years. This prevented him from entering the country to

carry out the necessary research to effectively carry out his mandate. The refusal to cooperate with the special mandate seriously undermined the work of the Rapporteur and also the credibility of the Assembly as the deliberative and driving force of the Council of Europe. It also reflects contempt for Council of Europe mechanisms and a worrying development that non-compliance by member states does not carry any real consequences.

We the undersigned organisations believe **the adoption of these resolutions is an essential step in ensuring Azerbaijan complies with its commitments and obligations as a member of the Council of Europe, as well as under other international human rights instruments to which Azerbaijan is party.** It is also **critical for the credibility of PACE.** The issues highlighted below demonstrate the violations of basic human rights that persist in Azerbaijan and which the authorities need to address urgently:

#### **Arrests and detention of Journalists, Bloggers and Human Rights Defenders:**

Although Azerbaijan is bound by the European Convention on Human Rights and other international human rights instruments to respect and protect the right to freedom of expression, the Azerbaijani authorities have failed to respect this commitment. Journalists, bloggers and activists often find themselves facing a wide range of spurious charges after voicing opinions critical of or unfavourable to the authorities. While the 26 December 2012 pardoning of a number of prisoners identified in Mr Strässer's report is to be welcomed, many remain in detention on questionable charges, including journalists **Avaz Zeynalli, Hilal Mammadov, Vugar Gonagov, Zaur Guliyev, Faramaz Allahverdiyev (Novruzoglu), Fuad Huseynov, Nijat Aliyev, Araz Guliyev** and human rights defender **Ilham Amiraslanov**. In addition, hooliganism charges remain against multimedia journalist **Mehman Huseynov**, human rights defender **Ogtay Gulaliyev** and youth activist **Dayanat Babayev** who face the threat of jail time if prosecuted.

The use of presidential pardons does not restore justice to those convicted on arbitrary or politically motivated charges, nor does it address more fundamental flaws in the judicial system that delivered their verdicts. Indeed, the lack of independence in the judiciary was also highlighted by the Co-Rapporteurs for Azerbaijan in their report as being of 'serious concern'.

- **We support Rapporteur Strässer's resolution to speedily solve the cases listed in his report and call upon PACE to adopt the resolution on political prisoners in an effort to ensure those convicted in breach of fair trial principles are immediately released or retried.**
- **We further urge the members of PACE to support the resolution's call on the Azerbaijani government to immediately release all journalists, bloggers and human rights defenders unjustly imprisoned, to drop all outstanding charges, and to refrain from using similar measures to unjustly persecute others in the future.**

#### **Attacks and harassment against journalists:**

Journalists also continue to be regularly threatened, assaulted or harassed in Azerbaijan, while carrying out, or in retaliation for, their work and there has been impunity of the perpetrators of these actions. There have been no serious investigations and no prosecutions brought in relation to more than 200 physical attacks against journalists since 2005, including into the murders of the editor **Elmar Huseynov** in March 2005 and writer and journalist **Rafiq Tagi** in November 2011. The Institute for Reporters' Freedom and Safety (IRFS) reported 11 attacks against journalists and 16 further incidents of "on the job" violence against journalists in 2011, a trend which did not appear to improve in 2012. In April 2012, reporter **Idrak Abbasov** was brutally beaten and other colleagues were attacked as they documented the demolition of houses by the State Oil Company of Azerbaijan Republic (SOCAR). Abbasov, who was left

unconscious by the attack, was hospitalised with severe injuries to his chest and face. To date no-one has been charged in connection with this attack.

As recently as 12 January 2013, at a protest in Baku city centre, up to ten journalists were reportedly subject to mistreatment by police. They included IRFS chairman **Emin Huseynov**, who was pushed to the ground by a police officer resulting in him hitting his head on a stone, while he was taking photographs and clearly wearing a press jacket.

In March 2012, one of Azerbaijan's most known independent journalists **Khadija Ismayilova**, who has published investigations into high-level corruption in Azerbaijan, was the subject of a vicious smear campaign. Cameras were illegally planted in Ismayilova's bedroom and footage taken of her having sex with her boyfriend. After Ismayilova was sent stills of the footage with a note instructing her to 'behave or be defamed', she went public stating she refused to be blackmailed. One week later, a one-minute clip of the film was placed online and at the same time several defamatory articles appeared in newspapers loyal to the authorities. Despite Ismayilova's own investigations that uncovered possible leads, the official investigation has still not produced any results as to the perpetrators.

- **We urge PACE to adopt the resolution on the honouring of obligations and commitments by Azerbaijan, which calls on the authorities to effectively investigate the murders of Elmar Huseynov and Rafiq Tagi as well as all cases of beatings reported by journalists, and to bring the perpetrators to justice.**
- **We encourage PACE to continue to closely monitor and report on developments in Azerbaijan with a view to ensuring that Azerbaijani authorities investigate all cases of pressure, threats, smear campaigns, violence or other types of harassment against journalists in an independent, transparent and timely manner.**

#### **Crackdown on Freedom of Expression Online:**

With the lack of a free and independent broadcast media, increasing restrictions on independent print media, and restrictions on citizens' ability to freely express their views through protest actions, the internet remains a key realm for freedom of expression. However, it has become increasingly encroached upon with the Azerbaijani government periodically blocking websites featuring opposition views and monitoring the internet use of protest leaders. Many of the journalists, bloggers and activists charged or arrested appear to have been targeted by the authorities because they have expressed critical political views online. **Faramaz Allahverdiyev (Novruzoglu)**, for example, was sentenced to 4.5 years in prison on 2 August 2012 after being accused of using Facebook to call upon people to riot ahead of 11 March 2011 and charged with appealing for mass disorder and violence against citizens.

Two other journalists, **Vugar Gonagov** and **Zaur Guliyev**, remain in pre-trial detention after being arrested on 13 March 2012 and charged with inciting mass disorder. They were accused of provoking the riots that broke out in the northern city of Guba after they allegedly posted online a video of the regional governor making derogatory remarks about local citizens. Thousands of protesters subsequently demonstrated in Guba on 1 March 2012 demanding the governor's resignation.

- **We call on PACE to adopt the resolution on the honouring of obligations and commitments by Azerbaijan, which urges the government to create the proper conditions for journalists to carry out their work and refrain from any kind of pressure; and end practices of prosecution of journalists or others who express critical opinions.**

- **Furthermore we urge Azerbaijan to ensure respect for the right to freedom expression, both online and offline, and refrain from targeting social media users who express opinions critical of the authorities or use the Internet to call for or organise peaceful protests.**

### **Restrictions on Freedom of Assembly:**

Over the last few years a number of protests have resulted in the arrest or administrative detention of protesters, particularly during the run-up to the Eurovision Song Contest, which was held in Baku in May 2012. In the weeks before and after the competition more than 70 people were detained during peaceful protests with both participants and journalists covering the demonstrations beaten as police used excessive force to disperse the crowds.

There is a de-facto blanket ban on political protests in Baku city centre, with no public gatherings permitted there by the authorities since early 2006, leaving people who wish to exercise their right to freedom of expression and freedom of peaceful assembly little choice but to participate in unsanctioned protests. New legislation, introduced in November 2012, severely restricts the right to freedom and association by increasing the punishments for people involved in unauthorised protests. Changes to the Administrative Code law came into effect on 01 January 2013 and have increased fines from between 7 and 12 EUR to between 480 and 1,050 EUR for participants and between 1,400 and 2,900 EUR for organisers. The amendments to the Criminal Code also increase the maximum fine for participating in unsanctioned public gatherings from 955 EUR to 7600 EUR.

On 12 January 2012, a protest was held in the centre of Baku, in reaction to the suspicious circumstances surrounding the death of an army cadet. More than twenty men were subsequently charged and fined various amounts ranging from 290 to 580 EUR.

- **We call on PACE to adopt the resolution on the honouring obligations and commitments by Azerbaijan, which calls on the government to respect freedom of peaceful assembly and refrain from using disproportionate force against peaceful protesters.**
- **We also call on PACE to urge the Azerbaijani authorities to revise the repressive amendments to the Freedom of Assembly law and allow their citizens to hold peaceful protests in Baku city centre.**

### **Torture and other ill-treatment**

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

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 2012, have complained of ill-treatment during their arrest and while in police custody. To date, none of these allegations has been investigated effectively.

- **We call on PACE to adopt the resolution on honouring obligations and commitments by Azerbaijan, which calls on the country to conduct a prompt, effective, 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.**

## **Defamation:**

Defamation remains a criminal offence in Azerbaijan, carrying a penalty of up to three years' imprisonment. Although criminal defamation provisions no longer lead to prison sentences as frequently as in previous years, they are still in use. The mere existence of these provisions has a serious chilling effect on freedom of expression in Azerbaijan, instilling fear among journalists and contributing to the widespread self-censorship. Civil defamation provisions are more frequently used, and are often abused to negatively affect the ability of independent media outlets to operate. Many civil defamation cases are filed by public officials.

- **We call on Azerbaijan to decriminalise defamation and to ensure that civil defamation provisions can be only used in line with international standards.**

In addition we call upon the PACE to:

- **Review implementation of the recommendations made in Resolution 1750 (2010) on the functioning of democratic institutions in Azerbaijan and urge immediate action to address shortcomings; and**
- **Call on the Council of Europe Committee of Ministers to intensify efforts to ensure Azerbaijan's immediate and full implementation of judgments of the European Court of Human Rights.**

## **Recommendations in summary:**

We call on PACE to:

1. **Adopt the resolution on political prisoners in Azerbaijan.**
2. **Adopt the resolution on the honouring of obligations and commitments by Azerbaijan.**

We also call for PACE to:

3. Continue to closely **monitor and report on developments in Azerbaijan** with a view to **ensuring that Azerbaijani authorities investigate** all cases of **violence or other types of harassment against journalists** in an independent, transparent and timely manner. **Urge the Azerbaijani authorities to revise the repressive amendments to the Freedom of Assembly law** and allow their citizens to hold peaceful protests in Baku city centre.
4. **Intensify efforts to ensure Azerbaijan's immediate and full implementation of judgments of the European Court of Human Rights.**

We call on Azerbaijan to:

5. **Decriminalise defamation** and to ensure that civil defamation provisions can be only used in line with international standards.
6. **Review the implementation of the recommendations made in Resolution 1750 (2010)** on the functioning of democratic institutions and take immediate action to address shortcomings.
7. **Respect the right to freedom of expression and freedom of peaceful assembly**, both online and offline, and refrain from targeting social media users who express opinions critical of the authorities or use the Internet to call for or organise protests.

8. **Conduct prompt, effective, and impartial investigations into allegations of torture and other ill-treatment** and ensure that those found responsible are brought to justice in accordance with international obligations and fair trial standards.

#### **International Partnership Group for Azerbaijan**

- ARTICLE 19
- Committee to Protect Journalists
- Freedom House
- Freedom Now
- Index on Censorship
- International Media Support
- Human Rights House Foundation
- Human Rights Watch
- Norwegian Helsinki Committee
- Media Diversity Institute
- Media Legal Defence Initiative
- Reporters Without Borders
- World Association of Newspapers and News Publishers

#### **Supported by**

- Amnesty International
- Center for National and International Studies (Azerbaijan)
- Human Rights Center for Azerbaijan
- Human Rights Club
- Institute for Reporters' Freedom and Safety (IRFS)
- International Partnership for Human Rights (IPHR)
- Media Rights Institute
- People in Need