

Contribution to the List of Issues Prior to the Submission of the Periodic Report of Azerbaijan

By

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1. Introduction

Since the last review of Azerbaijan by the Committee against Torture (CAT), the political context and human rights situation have not improved in the country. The regime continues to rule based on a system of patronage and oppression, unfair elections, and a high level of corruption. Azerbaijan is moving towards a consolidated autocracy. The crackdown on civil society and free speech continues. Most CAT recommendations from the 2015 review have not been implemented, notably those relating to impunity for torture as well as those on arbitrary detention and harassment of human rights defenders, journalists and activists.

This report is submitted by the Institute for Peace and Democracy (IPD), International Partnership for Human Rights (IPHR) and the World Organisation against Torture (OMCT). It is based on information provided by organizations, lawyers and activists on the ground who wish to remain anonymous for security reasons.

2. Lack of Investigations and Convictions of Torture and Lack of Data

The government does not make publicly available data on torture complaints and investigations. The Commissioner for Human Rights of the Republic of Azerbaijan (Ombudsman) mentions in her latest annual report from 2016 that 691 complaints about human rights violations were received during the year, but none of those were torture cases.¹ With regard to detention monitoring, the Ombudsman's report does mention that such complaints were received, but does not specify whether those complaints concerned torture or other ill-treatment. It further reports that "investigations were held" and "in case of necessity [the] Prosecutor General's Office, the Ministry of Internal Affairs, the Ministry of Justice and other corresponding bodies were sent motions for investigations" and the persons concerned "were informed about the results of the investigations."² However, neither any specific cases, nor any numbers were presented in the report.

In contrast, human rights organisations, lawyers, and activists have documented dozens of torture cases since the last CAT review. Some of those cases are detailed below in chapter 3 (the Nardaran Case) and chapter 5 (Torture, Arbitrary Detention and Harassment of Human Rights Defenders, Activists, and Journalists). In none of these documented cases were there any meaningful investigations, let alone convictions.

Questions:

1. Please provide statistical data on the number of complaints of alleged torture and ill-treatment, the investigations into such complaints and subsequent prosecution and results of the proceedings, including both penal punishment and disciplinary measures.
2. Please provide information on whether any official was charged and convicted under Article 293 of the Criminal Code.
3. Please provide data on cases in which law enforcement or prison officials have faced disciplinary or criminal penalties for violations of detainees' rights.

¹ The Commissioner for Human Rights, Summary of the Annual Report on the Activities in Promotion and Protection of Human Rights for 2016, pp. 12–13, available online at: <http://www.ombudsman.gov.az/en/view/pages/59/>.

² Ibid, p. 14.

3. The “Nardaran Case” and Conditions in the Gobustan Prison

In June 2002, police conducted an operation against followers of Islam and residents of Nardaran, northeast of Baku that left 28 people injured and one person dead. A total of 23 people were sentenced to various terms of imprisonment on what were widely considered fabricated charges of espionage in favour of Iran, as well as attempted violent change of power. As a result of human rights advocacy, all convicts were released by 2005.³

In 2015, the Muslim Unity Movement was formed in the Nardaran village. Its members, who describe themselves as non-violent and conservative Shiites, advocate for increased influence of Islam in Azerbaijan. The leader of the Muslim Unity Movement has criticized the authoritarian government and corruption. In November 2015 the police carried out another security operation in Nardaran. Armed with automatic weapons, the police entered the village and opened heavy fire. As a result, six people were killed, including two police officers. The authorities claimed that the Muslim Union was planning an armed rebellion to install a sharia state in Azerbaijan. In the course of the following months, dozens of religious activists and Nardaran residents were arrested. The defendants in the so-called Nardaran case were charged with a range of serious crimes such as murder, terrorism, organizing riots, illegal possession of weapons, calling for the violent seizure of power and inciting religious hatred. While most arrestees complained of torture and other forms of ill-treatment, two cases are particularly well documented and thus described in more detail below.⁴

Taleh Bagirzade, head of the opposition Muslim Unity Movement and outspoken critic of the government, was arrested together with a group of other Nardaran residents with alleged ties to the Muslim Union during the special security operation carried out in the night of 25-26 November 2015. Bagirzade was convicted by the Baku Court for Serious Crimes on 25 January 2017 and sentenced to 20 years in prison for publicly calling for the overthrow of the government and for inciting ethnic, religious, and social hatred.⁵ At the same trial, 18 other activists were given prison sentences of 10-20 years in prison.⁶ According to information provided by Bagirzade’s lawyer, his client was tortured in connection with his arrest and in custody. During his arrest, Bagirzade was allegedly hit in his face, his head was smashed to the ground, and police verbally abused him. He was subsequently taken to the offices of the Main Organised Crime Department in Baku where he was forced to lay on the ground and was severely beaten, resulting in open wounds and the loss of blood. During his continued detention on the premises of the Organised Crime Department, Bagirzade was allegedly repeatedly tortured and pressured to confess and testify against those arrested together with him. Among others, he allegedly regularly had his head covered with a sack, while a police officer sat on his shoulder and others hit his legs until they swell to an unrecognizable shape. On 29 December 2015, Bagirzade was finally allowed to see his lawyer, who immediately filed a torture complaint. No investigation was, however, opened into these allegations and the dates for hearings in Bagirzade’s case were repeatedly postponed until the wounds on his body had

³ See e.g. The Central Asia-Caucasus Analyst, ‘Azerbaijan, Islamism, and unrest in Nardaran’, 27 December 2015, available online at: <https://www.cacianalyst.org/publications/analytical-articles/item/13316-azerbaijan-islamism-and-unrest-in-nardaran.html>.

⁴ Radio Free Europe, ‘Suspected Shi’ite Insurgent Group on Trial in Azerbaijan’, 14 August 2016, available online at: <https://www.rferl.org/a/caucasus-report-azerbaijan-shiite-trial-link-extremism-to-opposition/27920594.html>.

⁵ Radio Free Europe, ‘Azerbaijan Opposition Leaders, Activists Sentenced in Baku’, 25 January 2017, available online at: <https://www.rferl.org/a/azerbaijan-bagirzade-huseynov-sentenced-20-years/28259206.html>.

⁶ RFE/RL, ‘Azerbaijani Opposition Leaders, Activists Sentenced In Baku’, 25 January 2017, <https://www.rferl.org/a/azerbaijan-bagirzade-huseynov-sentenced-20-years/28259206.html>.

healed. Bagirzade withdrew his complaint on 23 February 2016 because of repeated threats and ill-treatment.⁷ He is currently serving his sentence in the Gobustan prison where he reported of having been beaten by an officer in January 2018.⁸

Abbas Huseynov, another defendant in the Nardaran case, was arrested at the same time as Taleh Bagirzade in November 2015 and was first held in the Baku Investigative Isolator No. 1. In July 2017, he was transferred to the Gobustan prison after the Baku Court of Appeal upheld his conviction to 20 years in prison, seven years of which to be spent in the Gobustan closed prison. He was sentenced for publicly calling for the overthrow of the government and of inciting ethnic, religious, and social hatred. His lawyer was able to meet with Huseynov on 8 August 2017 at which occasion Huseynov reported being tortured and held in inhuman prison conditions in the Gobustan prison. Huseynov said that, upon arrival in the prison, he was handcuffed, dragged along the floor and kept in the scorching sun. When he complained, he was beaten with a truncheon and placed in a punishment cell, which was filthy and unsanitary with vermin coming from the toilet and bed sheets that were black from dirt. Huseynov further reported having allegedly been beaten in the stomach and face by a prison officer, being tied to an iron post for three hours in the sun, and repeatedly placed in the punishment cell. When he complained about the prison conditions to the prison director, this official allegedly replied that “this is Gobustan, a place where rights end.” Huseynov was then allegedly pushed down on the floor and beaten on his head with a club. After this incident, Huseynov was again brought to the punishment cell where he was handcuffed. According to his lawyer, Huseynov had injuries on his back, legs and knees and had difficulties walking and sitting as a result of this incident.⁹ A complaint to the Garadagh District Court under Article 3 (prohibition of torture and inhuman treatment) of the European Convention on Human Rights filed by Huseynov’s lawyer was dismissed on 14 August 2017.¹⁰

As mentioned above, Bagirzade and Huseynov were held in the **Gobustan prison** and so are several other defendants in the Nardaran case. This prison, in which detainees who serve life imprisonment or long-term imprisonment are held, is known for its strict regime: detainees are kept in their cells all day, do not have the possibility of yard exercise, work or study and meetings with relatives are rare.¹¹ In January 2018, the lawyer representing Safa Poladov and Arif Kazimov (both considered political prisoners who have been arrested in connection with the 2003 presidential elections), both detained in Gobustan reported that they are forced to sleep on iron beds, and that they are repeatedly kept in a punishment cell.¹² The Council of Europe that visited the Gobustan prison in a fact-finding mission to Azerbaijan in October 2017 reported that the conditions are unacceptable. The Council of Europe expressed serious concerns about reports of ill-treatment and torture and particularly referred to Abbas

⁷ World Organisation against Torture, ‘Azerbaijan: Severe Torture and Unfair Trials of Members of the Nardaran Community’, 22 December 2016, available online at: <http://www.omct.org/urgent-interventions/azerbaijan/2016/12/d24685/>.

⁸ Radio Free Europe, ‘Taleh Bağirov Qobustan həbsxanasında döyüldüyünü bildirir’, 1 January 2018, available online at: <https://www.azadliq.org/a/28949806.html> (available only in Azeri).

⁹ For more information on the case see Institute for Peace and Democracy, ‘The court rejected the complaint of Abbas Huseynov about torture’, available at: http://ipdthinktank.org/Abbas_Guseynov_rng.html.

¹⁰ Institute for Peace and Democracy, ‘The court rejected the complaint of Abbas Huseynov about torture’, available online at: http://ipdtest.org/Abbas_Guseynov_rng.html.

¹¹ There are reports about 40 prisoners who died in Gobustan between 1999 and 2007.

¹² Contact, ‘Two political prisoners subjected to inhuman treatment – lawyer’, 15 January 2018, available online at: <http://www.contact.az/ext/news/2018/1/free/Social/en/68256.htm>.

Huseynov. According to the Council of Europe report, prison authorities confirmed the use of force against Huseynov in the framework of disciplinary measures.¹³

Questions:

1. Please provide information on investigations into torture allegations by individuals who have been charged and/or convicted in the Nardaran case.
2. Please provide information about the treatment, health and well-being of Abbas Huseynov and Taleh Bagirzade in prison.
3. Please report on allegations of use of force and torture in the Gobustan prison.

4. Arrests and Killings on Front Lines

Shortly before Azerbaijan's independence in 1991, the country was drawn into a bloody conflict with Armenia over the Nagorno-Karabakh territory, which is mostly occupied by Armenians who wanted to create a separate state. The tensions started in 1988 and had grown into a full scale-war in 1990. This conflict was an important factor for the consolidation of power of the Aliyev family in Azerbaijan. President Heydar Aliyev came to power in 1993 and was able to secure a ceasefire in the Nagorno-Karabakh territory and relative stability a year later. Heydar Aliyev served two consecutive presidential terms until his death in 2003 when his son and current president Ilham Aliyev assumed power. The Azerbaijani government often exploits this conflict to justify repressive policies. For instance, charges of espionage for Armenia are used against civil society activists and human rights defenders to discredit them, such as in the case of Leyla and Arif Yunus.

Since 2008 there have been several clashes between the armed forces of Armenia and Azerbaijan in Nagorno-Karabakh, resulting in the death of civilians. In addition, there have also been waves of arrests of civilians residing in the region. Starting on 7 May 2017, there was such a wave of arrests directed towards soldiers and civilians. Media reported that 47 people were arrested for espionage for Armenia.¹⁴ On 16 May 2017, information emerged about the alleged death due to torture of six arrested individuals.¹⁵

Mehman Telman oglu Huseynov, born in 1987, was arrested on 7 May in his house in Jamilli. On 16 May his dead body was brought to his wife. The family was not allowed to bury him in the cemetery as he was "an enemy and a traitor". Huseynov was buried outside a cemetery in Agkand village without any service.

Sahavat Binnatov was arrested on 7 May in his house in the village Jamilli. On 17 May his tortured body was returned to the family, who was not allowed to bury him in the cemetery of his village.

Colonel Saleh Charif oglu Gafarov was arrested in his apartment in the village Kutkashen in the Gabala district. On 14 May his body was brought to his village. The members of his family

¹³ Council of Europe, Parliamentary Assembly, 'The functioning of democratic institutions in Azerbaijan', 10 October 2017, Doc. 14403 Add, para. 16, available online at: https://www.ecoi.net/en/file/local/1421094/1830_1507807664_2017-10-10-the-functioning-of-democratic-institutions-in-azerbaijan-doc-14403-add.pdf.

¹⁴ Contact, 'The Prosecutor's Office issued a warnign to the editor of the opposition website', 23 May 2017, available online at: <http://www.contact.az/ext/news/2017/5/free/Social/en/62537.htm>.

¹⁵ Institute for Peace and Development, 'Law Enforcement Agencies Of Azerbaijan sanction murders', 24 May 2017, available online at: http://ipdthinktank.org/Killing_orders_eng.html#Layer2.

were not allowed to see the face of the deceased. He was buried in a cemetery where his grave was guarded to prevent his relatives from seeing Gafarov's body.

Elchin Guliyev was arrested on 10 or 11 May. His dead body too was returned to the family on 18 May and his family was told that he was spying for Armenia.

Leutnant Tamkin Nizamioglu was arrested on 12 May. His body was returned to his native village of Darkand in Ordubad region (Nakhchivan) in a sealed coffin. His family was neither allowed to see his body nor to bury him.

Dayndur Nuru oglu Azizli, a soldier drafted to the army in 2016, was arrested on 12 May 2017 in the Terter region. On 20 July police brought the coffin containing Azizli's body to his parents. Relatives managed to open the coffin; Azizli's face was severely mutilated.

Questions:

1. Please report on any investigations undertaken into the deaths of Mehman Telman oglu Huseynov, Sahavat Binnatov, Colonel Saleh Charif oglu Gafarov, Elhcin Guliyev, Leutnant Tamkin Nizamioglu, and Dayndur Nuru oglu Azizli.
2. Please update the Committee on whether the investigations have identified those who allegedly killed or acquiesced in the killings of Mehman Telman oglu Huseynov, Sahavat Binnatov, Colonel Saleh Charif oglu Gafarov, Elhcin Guliyev, Leutnant Tamkin Nizamioglu and and Dayndur Nuru oglu Azizli and whether these individuals have been brought to justice.

5. Torture, Arbitrary Detention and Harassment of Human Rights Defenders, Activists and Journalists

While several arbitrarily detained human rights defenders and activists were released in 2015 and 2016, most of their convictions still stand and some face travel restrictions. Those released on suspended sentences risk being sent back to prison in case they are found to have violated the terms of their release. In addition, there have been new arrests and convictions in 2017. The authorities have continued to use fabricated, tax-related, and other politically motivated criminal charges to detain critical voices. According to recent reports, there are currently at least 150 such detainees in Azerbaijan.¹⁶ The exact number fluctuates given occasional releases and new arrests. The list contains the names of journalists, bloggers, editors, religious activists, political activists and human rights defenders who have been deprived of their liberty on politically motivated grounds. Below, a few selected cases of individuals who have been prosecuted, imprisoned, and tortured for exercising fundamental rights.

Afgan Mukhtarli is an Azerbaijani journalist and political dissident who wrote about social and political issues including corruption and the crackdown on human rights organisations for local and international media outlets. Following years of harassment against him and his family, Mukhtarli and his wife Leyla Mustafayeva, also a journalist, left Azerbaijan and fled to Georgia in January 2015, where he continued to write about events in Azerbaijan. On 29 May 2017, Afgan Mukhtarli was abducted in Tbilisi, on his way home from a café, and was handed over to the Azerbaijani authorities near the Georgia-Azerbaijan border with EUR 10,000 worth of cash allegedly planted in his pocket. Shortly before his abduction, he wrote an article for Meydan TV addressing the issue of abductions and kidnappings of government critics. He was further in the

¹⁶ Institute for Peace and Development, 'СПИСОК ПОЛИТИЧЕСКИХ ЗАКЛЮЧЕННЫХ Центра защиты политзаключенных на 10 декабря 2017 года 161 человек', available online at: <http://ipdthinktank.org/List%20of%20prisoners%2010%20DECEMBER%202017.pdf> (available in Russian only).

process of writing an article about the financial investments of the family of President Aliyev. After his abduction, he was held in pre-trial detention until 12 January 2018 when a regional court sentenced him to six years in prison on charges of illegal border crossing, smuggling and violently resisting a law enforcement official.¹⁷

Afghan Sagidov, founder and editor of the regional news site Azel.tv was arrested in November 2016 and charged with attacking a woman, allegations he claims are false and politically motivated. Sagidov frequently reported about corruption of local authorities. In January 2017 he was sentenced to two and a half years in prison which was later reduced to one and a half year. Trial observers criticized Sagidov's court proceedings since all witnesses were employees of the local administration and requests to review CCTV footage was denied.¹⁸ Sagidov has continued to write critical articles while in detention. An article entitled "Down with the 1937 of the 21st Century, Down with..." was published in September 2017. Shortly after, he was allegedly tortured and put in solitary confinement.¹⁹

On 9 January 2017, a group of plainclothes officers attacked well-known blogger and journalist **Mehman Huseynov**, blindfolded and gagged him with towels, forced a bag over his head and took him to the Nasimi district police station, where police used an electroshock weapon on his groin, and punched him, bloodying his nose. The next day, police officers brought him to court, where he was found guilty of disobeying police orders and fined him 200 manat (about 100 EUR). Huseynov went public about the abuses he suffered at the police station and filed a complaint with the prosecutor's office. The authorities formally opened an inquiry into his allegations but swiftly closed it, claiming the allegations were groundless. On 27 April, an appeals court upheld the prosecutor's decision to shut down the investigation. While the authorities failed to conduct a credible investigation into Huseynov's torture allegations, he was instead charged with defamation, a criminal offense on the basis of a complaint from the Nasimi police chief. After only two hearings, a Baku court found Huseynov guilty and sentenced him to two years in prison on 3 March 2017. At the beginning of November, a new appeal trial began in his case after the Supreme Court sent the case back for reconsideration. Huseynov is also editor of the popular socio-political online magazine *Sancaq* and an active commentator on Facebook, YouTube and Instagram. His most recent project prior to his arrest was documenting corruption among high-level officials in Azerbaijan and exposing their wealth through a series of video materials he shared on his YouTube channel.

Rashad Ramazanov, a religious follower and a blogger, was sentenced to nine years in prison by the Baku Court of Serious Crimes for alleged drug possession on 13 November 2013. He used to write on religion and justice, and published on micro-blogs and social media, particularly Facebook where he criticised high-ranking Azerbaijani officials, including the president. His lawyer stated that Ramazanov was subjected to torture in custody. Appeals by the lawyer to relevant agencies demanding an investigation into these allegations yielded no results. Instead, his lawyer was himself detained and warned to stop making statements about torture and ill-treatment of his defendant and was subsequently dismissed from the Bar of Lawyers. Ramazanov has been recognised as a political prisoner.

¹⁷ IPHR, 'A high price for speaking out: Azerbaijani journalist sentenced to six years in prison on trumped-up charges', 12 January 2017, available online at: <http://iphronline.org/high-price-speaking-azerbaijani-journalist-sentenced-six-years-prison-trumped-charges.html>. See more about this case in IPHR, 'Mission report. Repression beyond Borders: Exiled Azerbaijanis in Georgia', available online at: <http://iphronline.org/wp-content/uploads/2017/09/Repression-beyond-borders.pdf>.

¹⁸ OC Media, 'New charges against jailed Azerbaijani journalist Afghan Sadigov', 15 January 2018, available online at: <http://oc-media.org/new-charges-against-jailed-azerbaijani-journalist-afgan-sadigov/>.

¹⁹ IRFS, 'Journalist Placed in Solitary Confinement', 26 September 2017, available online at: <https://www.irfs.org/news-feed/journalist-placed-in-solitary-confinement/>.

On 25 November 2016, **Ikram Rahimov**, editor in chief of the online news site realliq.info, was sentenced to one year in prison after reporting on bribery and tax evasion by local authorities. Rahimov alleged having been tortured when arbitrarily held in detention at the Sumgayit City Police Department for three days. Police allegedly put a cellophane bag over his head until he could no longer breathe and transmitted his ill-treatment via live video chat to the person whom Rahimov had reported as being involved in bribery. Police also demanded that Rahimov apologize to the person concerned.²⁰ Rahimov was released in March 2017. No investigation has been carried out into his torture allegations.

In May 2016, **Giyas Ibrahimov** and **Bayram Mammadov** from the N!DA Youth Movement were arrested after Mammadov posted a photo on Facebook of a graffiti message they had sprayed on a statue of Heydar Aliyev, the late former president of Azerbaijan and the father of the current president. They were arrested on spurious drug charges and sentenced to ten years imprisonment, in October and December 2016, respectively.²¹ They were allegedly tortured repeatedly in police custody. Ibrahimov's lawyer sent a torture complaint to the General's Prosecutor's Office in July 2017 but no investigation has been carried out to date. Also the Ombudsman's Office asserted that it will investigate the case but has not undertaken any action.²²

Ilgar Mammadov, opposition figure and one of the leaders of the Republican Alternative Movement (REAL), was sentenced to seven years in prison in February 2013 on trumped-up charges of "inciting violence" after monitoring and reporting on anti-government protests in the town of Ismayilli. The European Court of Human Rights (ECtHR) ruled in 2014 that Mammadov was detained without any evidence and for the purpose of silencing and punishing him for criticising the government. Despite this judgment of the ECtHR and nearly a dozen resolutions from the Committee of the Ministers of the Council of Europe calling for Mammadov's release in follow-up to it, the Azerbaijani government has to date failed to implement the ruling to free Mammadov.²³ Therefore, the Committee of Ministers of the Council of Europe decided in October 2017 to take unprecedented action and return the case to the Court, the so-called infringement procedure.²⁴ In November 2017, the ECtHR issued a second ruling on Mammadov' case, concluding that he was denied a fair trial, in response to a separate complaint filed by the

²⁰ IRFS, 'Journalist and Citizen Whose Problems He Publicized Convicted on Defamation Charges', 30 November 2016, available online at: <https://www.irfs.org/newsfeed/journalist-and-citizen-whose-problems-he-publicised-convicted-on-defamation-charges/>.

²¹ OMCT, 'Azerbaijan: Joint Statement: Stop Crackdown on Freedom of Expression', 6 December 2016, available online at: <http://www.omct.org/monitoring-protection-mechanisms/urgentinterventions/azerbaijan/2016/12/d24087/>; Human Rights Watch, '10-Year Sentence for Political Graffiti in Azerbaijan', 8 December 2016, available online at: <https://www.hrw.org/news/2016/12/08/10-year-sentence-political-graffiti-azerbaijan>.

²² Basta Info, 'Qiyas İbrahimovun vəkili baş prokurora müraciət etdi', 10 July 2017, available online at: <http://bastainfo.com/az/2017/07/10/qiyas-ibrahimovun-v%C9%99kili-bas-prokurora-muraci%C9%99t-etdi/> (only available in Azeri).

²³ For more information see the joint applea by 44 NGOs: IPHR, 'Azerbaijan: Time for Justice for Ilgar Mammadov', 22 May 2017, available online at: <http://iphronline.org/azerbaijan-time-justice-ilgar-mammadov.html>.

²⁴ Article 46 (4) of the European Convention on Human Rights: « If the Committee of Ministers considers that a High Contracting Party refuses to abide by a final judgment in a case to which it is a party, it may, after serving formal notice on that Party and by decision adopted by a majority vote of two-thirds of the representatives entitled to sit on the committee, refer to the Court the question whether that Party has failed to fulfil its obligation under paragraph 1.»

activist.²⁵

Ilkin Rustamzada, a youth activist, was subjected to pressure by authorities after using Facebook to mobilize participants for several well-attended, peaceful rallies that were held in downtown Baku in early 2013 under the slogan “No more soldier deaths”. The purpose of these rallies was to protest against hazing and non-combatant deaths in the army. Ilkin Rustamzada was first sentenced to administrative detention for being involved in protests that had not been sanctioned by authorities. However, there was more to come: in May 2013, he was arrested on criminal charges of organizing mass riots and hooliganism and a year later, he was convicted along with seven other youth activists and sentenced to eight years in prison. While the other activists with whom Ilkin Rustamzada was on trial have all been released by now, he remains behind bars. Human rights defenders believe that he was imprisoned in retaliation for peacefully exercising his rights to freedom of expression, association and assembly.²⁶

Seymur Hazi is a reporter for the opposition newspaper *Azadliq*, a leading anchor for the critical satellite “Azerbaijan Saati” (Azerbaijani Hour) TV program and a senior politician with the opposition Popular Front Party of Azerbaijan. He was sentenced to five years in prison on 29 January 2015 on trumped-up charges of hooliganism for allegedly attacking a man at a bus stop.²⁷ He is recognised as a prisoner of conscience by Amnesty International and several other human rights organisations. He is also on the list of political prisoners compiled by the Azerbaijani civil society working group that is documenting cases of political prisoner in Azerbaijan.

Elchin Ismayilli, an independent journalist, was sentenced to nine years in prison on charges of extortion and abuse of power on 18 September 2017. He was arrested on these charges in mid-February 2017 and had been held in pre-trial detention since then. The charges against him are considered politically motivated.²⁸

Aziz Orujov (Qarasoglu), the Baku manager of the Germany-based online TV station Channel 13 and founder of the NGO “Media investigations of the Caucasus”, was sentenced to 6 years imprisonment on 15 December 2017 for illegal entrepreneurship and abuse of office.²⁹ His convictions are considered to be politically motivated and linked to his work.³⁰ In May 2017, Orujov was sentenced to 30 days of administrative detention for allegedly resisting the lawful orders of police. When his detention came to an end, he was presented with the criminal charges and remanded to pre-trial detention.³¹

On 28 April 2017, blogger **Mehman Galandarov** was found dead in Baku Detention Centre No.

²⁵ ECtHR, ‘Serious shortcomings in the criminal proceedings against Azerbaijani opposition politician, Ilgar Mammadov’, Press Release, 16 November 2017, available online at: <http://hudoc.echr.coe.int/eng-press?i=003-5916921-7553809>.

²⁶ See more in IPHR, ‘Azerbaijan: #FreeIlkin!’, December 2016, at: <http://iphronline.org/azerbaijan-freeilkin-campaign.html>.

²⁷ Council of Europe, ‘Journalist Seymour Hazi Sentenced on Hooliganism Charges’, 15 April 2016, available online at: <https://www.coe.int/en/web/media-freedom/all-alerts/-/soj/alert/12102831>.

²⁸ For more information see, Institute for Peace and Development, ‘Sheki Grave Crimes Court pronounced verdict for Elchin Ismayilli’, 18 September 2017, available online at: http://ipdthinktank.org/elchin_ismayilly_eng.html.

²⁹ Contact, ‘Director of “Channel 13” sentenced to 6 years’, 15 December 2017, available online at: <http://www.contact.az/ext/news/2017/12/free/Social/en/67608.htm>.

³⁰ Radio Free Europe/Radio Liberty (RFE/RL), ‘Azerbaijani Journalist Goes On Trial’, 27 September 2017, <https://www.rferl.org/a/azerbaijan-tv-journalist-orucov-qarasoglu-trial/28760232.html?ltflags=mailer>

³¹ Meydan TV, ‘Appeal of Imprisoned Azerbaijani Journalist Dismissed’, 29 June 2017, <https://www.meydan.tv/en/site/politics/23844/>.

1, where he had been held since being arrested on 7 February 2017 on suspicious drug trafficking charges. Prison authorities claimed that he had committed suicide by hanging himself, but reportedly refused to hand over his body to his family and secretly buried him without witnesses next to his parent's grave. A teacher of philosophy, sociology and political science, Galandarov was known for his Facebook posts critical of the government. On the day of his arrest, he had published a post in support of Giyas Ibrahimov, a political prisoner. Shortly before his arrest, he had also been involved in organizing a peaceful protest in Tbilisi against the controversial constitutional amendments adopted in Azerbaijan in 2016.³² Complaints have been submitted to the General Prosecutor's Office and the Ombudsman Office, but to our knowledge, no investigation into the circumstances of Galandarov's death in custody has been carried out.³³

Asif Yusifli and **Fuad Gahramanli**, both members of the EITI NGO Coalition that works to promote transparency in extractive industries, were arrested on 25 November 2014 and 8 December 2015, respectively. Yusifli, also a high-ranking member of Azerbaijan's opposition Popular Front Party, was later convicted on spurious charges of fraud and forgery and is presently serving a six-year prison sentence. Gahramanli, deputy chair of the Popular Front Party, was charged with inciting religious hatred because of comments he posted on Facebook. On 25 January 2017, he received a 10-year prison sentence. The cases against both men are widely believed to be politically motivated and aimed at obstructing their political opposition activities.³⁴

A number of individuals facing politically motivated persecution remain subject to travel bans in connection with ongoing investigations or suspended sentences handed down in their cases.

Khadija Ismayilova, an investigative journalist was arrested on 5 December 2014 and sentenced to seven and a half years in prison on trumped-up charges of tax evasion, embezzlement, illegal business activity and abuse of power in September 2015. She was released from prison in May 2016 by the country's Supreme Court as her initial sentence was replaced by a three and a half-year suspended prison sentence. She is subject to a five-year travel ban.³⁵

Intigam Alev, a human rights lawyer, was arrested in August 2014 and sentenced to seven and a half years in prison on charges of tax avoidance, illegal entrepreneurship and abuse of power

³² Institute for Reporters' Freedom and Safety (IRFS), 'Authorities Claim that Arrested Blogger Mehman Galandarov Commits Suicide' 29 April 2017, available online at: <https://www.irfs.org/news-feed/authorities-claim-that-arrested-blogger-mehman-galandarov-commits-suicide/>.

³³ Meydan TV, 'Death in Prison of Azerbaijani Blogger Highly Suspicious, Activists Say', 30 April 2017, available online at: <https://www.meydan.tv/en/site/news/22657/>; Parliamentary Assembly of the Council of Europe, 'Rapporteur calls for an inquiry into the circumstances of the death of Mehman Galandarov', 5 May 2017, available online at: <http://assembly.coe.int/nw/xml/News/News-View-EN.asp?newsid=6633&lang=2&cat=5>; Azadliq, 'Gürcüstan işi: təqiblər, həbslər və mövcud reallıqlar – hesabatın tam mətni, 17 October 2017, available online at: <https://storage.googleapis.com/qurium/azadliq.info/204542.html> (available in Azeri only).

Parliamentary Assembly of the Council of Europe, 'Rhəbslər və mövcud reallıqlar – hesabatın tam mətni', Azadliq, 'Gürcüstan işi: təqiblər, həbslər və mövcud reallıqlar – hesabatın tam mətni', 17 October 2017, available online at: <https://storage.googleapis.com/qurium/azadliq.info/204542.html> (available in Azeri only)

³⁴ OMCT, 'Azerbaijan: Joint Letter to the Members of the Extractive Industries Transparency Initiative Board on the Working Conditions of Civil Society in Azerbaijan', 20 October 2016, available online at: <http://www.omct.org/human-rights-defenders/urgent-interventions/azerbaijan/2016/10/d24009/>.

³⁵ Office of the United Nations High Commissioner for Human Rights, 'UN experts urge Azerbaijan to end travel ban on award-winning investigative journalist Khadija Ismayilova', 5 December 2017, available online at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22486&LangID=E>.

in April 2015. He was pardoned along with several other high-profile political prisoners in April 2016; however, the charges against him were not overturned and he is facing a travel ban.³⁶

Faig Amirli, the financial director of the opposition *Azadliq* newspaper was released from prison after a court replaced his prison term with a suspended sentence of home arrest in September 2017. However, he is subject to a travel ban. Amirli was sentenced to three years and three months in prison in July 2017 on charges of inciting religious hatred and violating the rights of citizens under the pretext of conducting religious rites. He was arrested in August 2016, based on claims that he possessed books by US-based Turkish cleric Fethullah Gulen, who has been accused of masterminding the 2016 coup attempt in Turkey.³⁷

Four other journalists working with the Berlin-based dissident *Meydan TV* are facing travel bans as a result of their work with this media outlet. These include: **Aynur Elgunes**, **Aytac Ahmadova**, **Sevinc Vagifgizi**, and **Natig Javadli**. Elgunes's appeal to lift his travel ban was recently rejected by a court in Baku. A criminal investigation was launched against *Meydan TV* in April 2016 on charges of alleged illegal business, large-scale tax evasion and abuse of power and is still under way.

Questions:

1. Please provide information on measures taken to ensure that human rights defenders, civil society and political activists, and journalists are able to conduct their work without fear of intimidation or reprisal.
2. Please describe steps taken to investigate and address allegations of torture, arbitrary detention, harassment, intimidation, threats, attacks and killings of human rights defenders, activists, government critics, and journalist in particular with regards to the abovementioned cases.

6. Torture and Arbitrary Detention of LGBTI People

In September 2017, lawyers and NGOs reported that authorities began a crackdown on the LGBT community of Baku. According to most recent official reports, 46 people were sentenced to administrative detention and 11 to administrative fines for resisting police orders. Other sources report of more than 250 people who have been fined. Many more were arrested and later released on bail or without charges. According to one of the lawyers IPHR spoke to, there were at least 150 people rounded up.

Eskhan Zakhidov, a spokesman for the Ministry of Interior told the APA news agency: "These raids are not targeted against all sexual minorities. Those arrested are people who have demonstratively showed lack of respect for those around them [or] annoyed citizens with their behaviour, and also those whom police or health authorities believe carry infectious diseases."³⁸ No clarification was provided as to what is considered to constitute behaviour that amount to lack of respect for others or annoys fellow citizens in this context.

³⁶ *Meydan TV*, 'What does it Mean to Be on the Azerbaijani Government's Bad Side?', 7 March 2017, available online at: <https://www.meydan.tv/en/site/society/21654>.

³⁷ IRFS, 'Faig Amirli's trial continued', 19 June 2017, available online at: <https://www.irfs.org/news-feed/faig-amirli-s-trial-continued/>. For an analysis of Faig Amirli's trial see Institute for Peace and Democracy, 'The Sabayil District Court issued a verdict against Faig Amirov', available online at: http://ipdthinktank.org/Faig_Amirov_eng.html.

³⁸ *The Guardian*, 'Outcry as Azerbaijan police launch crackdown on LGBT community', 28 September 2017, available online at: <https://www.theguardian.com/world/2017/sep/28/azerbaijan-police-crackdown-lgbt-community>.

Some of the arrested individuals reported about torture and other cruel, inhuman, and degrading treatment while in police detention. This included beating and use of electro shocks. In addition, several individuals had their heads shaved.

Azerbaijan, where homosexuality is a taboo, is well-known for its discriminatory treatment of LGBTI people. ILGA-Europe's Rainbow Index has ranked Azerbaijan the worst place in Europe to be gay.³⁹

Questions:

1. Please provide comments on the above-mentioned information and provide data on the number of LGBTI people arrested, tried and fined.
2. Please provide information on measures taken to ensure the safety, integrity, and liberty of LGBTI people.
3. Please describe steps taken to investigate and address allegations that numerous LGBTI people have been subject to torture and other ill-treatment, arrest and arbitrary detention.

7. Legal Restrictions of Civil Society Organisations

Non-governmental organisations in Azerbaijan face serious obstacles to operating due to excessively restrictive legislation currently in place, in particular with respect to access to funding. NGO grantees and their donors are required to separately obtain government approval for every grant, while the government has used broad discretion to deny approval. Independent NGOs have been subjected to lengthy investigations for alleged violations and their leaders have been charged, arrested and imprisoned on trumped-up charges. This has seriously undermined the work of independent NGOs and currently there are hardly any human rights NGOs left in the country.⁴⁰

Although the government simplified the registration procedure by amending the Rules of Registration of Grant Agreements in January 2017, the broad discretion of the authorities to arbitrarily deny funding approval remains.

In October 2017, the Parliamentary Assembly of the Council of Europe adopted a resolution on Azerbaijan voicing concern about the "legislative environment for the operation of non-governmental, non-commercial organisations, including the regulation of matters relating to their State registration, funding and reporting requirements." The Resolution further states that "based on existing legislation and practice, a number of local and international human rights NGOs have been prevented from operating, put under pressure and sometimes placed under investigation. Some of the arrests, detentions and convictions of Azerbaijani human rights defenders appear to be the result of shortcomings in the NGO legislation and how it is implemented."⁴¹

The Civil Society Platform has evaluated the amendments of the Rules of Grant Agreements in January 2017 and noted that the following restrictions are still in place: (1) Rules requiring the

³⁹ ILGA-Europe, 'The Rainbow Index', available online at <https://rainbow-europe.org/#0/0/0>.

⁴⁰ For more information see e.g. IPHR, 'Submission for the UN Universal Periodic Review (UPR) of Azerbaijan', October 2017, available online at: <http://iphronline.org/wp-content/uploads/2017/10/Azerbaijan-UPR-submission-full-Oct-2017.pdf>.

⁴¹ Council of Europe, Parliamentary Assembly, 'The functioning of democratic institutions in Azerbaijan', 11 October 2017, Resolution 2184 (2017), para. 13, available online at: <http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?FileID=24188&lang=EN%20and%20http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=24196&lang=en>.

registration of grants and donations; (2) Requirement of the original, and not a copy, of grant agreements and additional ones; (3) Mandatory submission, in addition to the grant agreement, of the signed original of a grant project (sometimes it can be more than 100 pages) for registration; (4) Notification of the registration of grants and donations; (5) Notification for conducting banking operations with grants and donations; (6) Compulsory transfer of grants or donations of more than 200 manat through banks; (7) Separate registration of a sub-grant, if it is provided by the grant agreement; (8) Registration of donors in the country as residents (registration of offices); (9) Donors sign an agreement with the government on the registration in the country; (10) Donors, whose charters proclaim charity as the main purpose, or implementing programs, which may be the subject of grants, may only be registered as donors; (11) Donors are registered separately for the award of grants; (12) Donors are separately registered for each grant declaration; (13) To issue grants, donors each time receive approval from the Ministry of Finance on the feasibility of the project; (14) Registration of a grant by the grantee; (15) Re-registration of grant agreements, contracts and other sub-grants each time in case of change in the sum, the terms, or the objectives of the grants; (16) Legal responsibility for banking and other operations on unregistered grants; (17) Registration of contracts for services provided by the NGO due to funds obtained from foreign sources; (18) The Cabinet of Ministers Decision No. 216 of June 5, 2015 on the Rules of Registration of Grant Agreements (Decisions).⁴²

Questions:

1. Please comment on the current legislative provisions regarding the registration of grants, as well as other obligations, of international and national NGOs.
2. Please also provide information on measures taken to ensure that these obligations do not impair the activities of NGOs in the country, in line with the international obligations of the State party.

8. Independence of Lawyers

On 31 October 2017, the Parliament approved amendments to the Code of Civil and Administrative procedures and the Bar Act only allowing members of the Bar Association to appear in court and represent clients in lawsuits. This significantly restricts the work of independent lawyers who represent human rights defenders, activists and journalists.

The Azerbaijan Bar Association, which has close ties to the executive power of the government, has less than 1000 registered members and 100 out of all registered lawyers do not currently practice law. Most members of the bar refuse to take on cases that are politically sensitive in any way.⁴³

Moreover, a number of lawyers were disbarred in recent years after defending prominent human rights defenders, activists or journalists. These lawyers include: Khalid Bagirov (represented Ilgar Mammadov), Elchin Namazov, Farhad Mehdiyev, Aslan Ismayilov, Muzaffar Bakhishov and Alaif Hasanov (represented Leyla Yunus and publicly complained about her treatment in prison), Yalchin Imanov (represented Abbas Huseynov and lodged a complaint about torture and cruel prison conditions in the Gobustan prison).⁴⁴ Also Elchin Sadigov could

⁴² Contact, 'Civil Society Platform: Cabinet's Decision Did Not Eliminate Legal Restrictions for NGOs'. 21 January 2017, available online at: <http://www.contact.az/ext/news/2017/1/free/Social/en/59607.htm>.

⁴³ See e.g. Contact, 'Lawyer: "Parliament violated our rights"', 3 November 2017, available online at: <http://www.contact.az/ext/news/2017/11/free/Social/en/66503.htm>; Contact, 'The appeal of lawyers is ignored', 8 November 2017, available online at: <http://www.contact.az/ext/news/2017/11/free/Social/en/66625.htm>.

⁴⁴ See e.g. Contact, 'Another lawyer denied his duties', 20 November 2017, available online at: <http://www.contact.az/ext/news/2017/11/free/Social/en/66935.htm>.

face disbarment; his membership is currently under review by the Bar Association. He further reported that police officers unlawfully entered his office and that he is subject to threats and blackmail for representing human rights defenders.⁴⁵

Questions:

1. Please comment on the current legislative provisions regarding the ability to practice law and appear in court.
2. Please also provide information on measures taken to ensure that recent amendments in the Code of Civil and Administrative Procedures and the Bar Act do not impair access to a lawyer.
3. Please provide information on how the independence of the legal profession and Bar Association is guaranteed.
4. Please indicate whether any actions in response to allegations that the disbarment of lawyers representing human rights defenders and political dissenters was arbitrary. Please particularly comment on the cases of Khalid Bagirov (represented Ilgar Mammadov), Elchin Namazov, Farhad Mehdiyev, Aslan Ismayilov, Muzaffar Bakhishov and Alaif Hasanov, Yalchin Imanov in this regard.

9. Independence of the National Preventive Mechanism

The National Preventive Mechanism (NPM) operates under the Ombudsman's Office. It is the Ombudsman who appoints members of the NPM. The Ombudsman in turn is proposed by the President and appointed by the Parliament. Since the Parliament is not independent from the executive power but follows presidential proposals in most matters, the Ombudsman and NPM are not independent either. Although mandated to receive complaints, the NPM has not intervened in any of the above-mentioned cases.

The 104-page 2016 report of the NPM also reflects its lack of objectivity. It mostly informs about national and international laws on the prevention of torture and details all places of detentions it visited. It provides information on recommendations it provided to each of the visited facilities. Recommendations mostly concerned improving the infrastructure (cells, visiting areas etc.), prison registry, medical files, and training of prison personnel. It is frequently mentioned that detainees did not make any complaints about their prison conditions. The report mentions overcrowding, obstacles in accessing a lawyer, problems with family visits, correspondence and phone conversations, as well as lack of training as areas of concern without providing any further details. The report's recommendations also concern these issues. The report does not mention any cases or data on complaints about torture or other ill-treatment the NPM received, let alone any actions taken in such cases.⁴⁶

No independent NGOs are currently allowed to visit places of detention and monitor conditions and the treatment of detainees there.

⁴⁵ IRFS, 'Lawyer Elchin Sadigov Reports Being Threatened and Harassed', 7 February 2017, available online at: <https://www.irfs.org/news-feed/lawyer-elchin-sadigov-reports-being-threatened-and-harassed/>.

⁴⁶ Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan, 'Report on the Activity of the National preventive Mechanism against Torture 2016', available online at: <http://www.ombudsman.gov.az/upload/editor/files/NPM-REPORT-2016-EN.pdf>.

Questions:

1. Please provide information on the functional and financial independence of the Ombudsman Office complying with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).
2. Please provide information on the compliance of the National Preventive Mechanism with the Optional Protocol to the Convention against Torture.
3. Please provide information on measures taken to ensure access to places of detention by independent NGOs.