

ELECTION MONITORING AND DEMOCRACY STUDIES CENTER

ON THE SITUATION OF CIVIL AND POLITICAL RIGHT IN
AZERBAIJAN



FACT-SHEET - 2022

I. EXECUTIVE SUMMARY

Election Monitoring and Democracy Studies Center (EMDS) has prepared an annual fact-sheet on violations of civil and political rights on the basis of information collected from alternative and open sources on the state of human rights in Azerbaijan. EMDS is a non-governmental organization working in Azerbaijan to protect human rights, improve the electoral system, increase opportunities for citizens to participate in governance, and promote democratic institutions.

EMDS regretfully reports that the problems recorded in the field of human rights protection in the Republic of Azerbaijan in previous years were also observed in 2022. In 2022, as in previous years, citizens were subjected to threats and pressure for their critical speeches, peaceful demonstrations were regularly prevented, and persecution of critics of the government continued.

The law ‘On Media’ adopted in 2022 brought new restrictions on freedom of expression and activities of independent media organizations in the country. In general, independent media representatives were continuously under pressure during the year. Independent media outlets and professional journalists have been subjected to violence and threats due to their professional activities, and violations such as restrictions on access to their websites and hijacking of social media accounts have been recorded.

At the same time, the law ‘On Political Parties’ proposed this year was adopted by bringing into the national legislation norms that limit the freedom of political participation and association in the country, without taking into account the critical opinions of local and international institutions. The opinion of the European Commission for Democracy through Law (Venice Commission hereinafter) of the Council of Europe regarding this law was not studied, the law was adopted hastily without conceptual and extensive public discussions.

Normative acts regulating the activities of civil society organizations have not been improved in accordance with the standards of the Council of Europe. In 2013-2014, the decisions of the European Court of Human Rights regarding the violation of the rights of human rights defenders arrested for political reasons were not fully implemented. At the end of the year, activist Bakhtiyar Hajiyev was deprived of freedom based on false charges. In general, the number of political prisoners did not decrease significantly during the year, the authorities did not show political will to release them. During this year, EMDS carried out the assessment of civil and political rights based on a total of 229 cases. Violations of rights such as the right to a fair trial and trial, freedom of peaceful assembly, and freedom of expression prevailed among these cases.

EMDS believes that in order to improve the situation on the protection of civil and political rights, as well as to eliminate the current political crisis in the field of human rights protection, the state bodies should demonstrate political will regarding the implementation of the decisions of the European Court of Human Rights and implement the recommendations of the Council of Europe Committee of Ministers on ensuring the independence of the judicial system in Azerbaijan.

EMDS calls upon the political authorities to implement the provisions arising from the relevant decisions of the ECtHR regarding the protection of citizens' freedom of expression, freedom of peaceful assembly and association, and amend the laws ‘On Media’, ‘On NGOs’ and ‘On Political Parties’ based on the recommendations and standards of the Council of Europe and Organization for Security and Cooperation in Europe.

II. INTRODUCITON

EMDS is a non-governmental organization operating in the field of development of electoral system, civil society and democratic institutions in Azerbaijan.

EMDS was re-established on December 1, 2008, on the basis of the deregistered Election Monitoring Center (EMC). It should be noted that on May 14, 2008, the Khatai District Court canceled the registration of EMC based on the groundless claim of the Ministry of Justice of the Republic of Azerbaijan. After this event, the founders and members of EMC founded EMDS. However, in 2009, despite the application of EMDS, the Ministry of Justice refused to register the organization. In 2021, the European Court of Human Rights recognized the violation of the right to association by considering the complaint regarding the cancellation of the registration of EMC.¹ On January 12, 2023, the ECtHR recognized the violation of the right of association of the Ministry of Justice due to the non-registration of EMDS in 2009.²

EMDS (former EMC) has monitored 15 elections held in Azerbaijan since 2001. So far, EMDS has provided more than 600 trainings to more than 14,000 citizens regarding election monitoring and provided legal and technical assistance for their accreditation in election commissions.

EMDS is a member of the European Network of Election Monitoring Organizations (ENEMO), which unites civil society organizations (CSOs) from OSCE member countries, Civil Society Forum of Eastern Partnership countries, European Platform for Democratic Elections (EPDE) and Azerbaijan Human Rights House.

Methodology

This document was prepared on the basis of observations made by the Election Monitoring and Democracy Education Center (EMDS) during 2022 and information on violations collected from citizens' online complaints. EMDS tried to assess the current situation of human rights in Azerbaijan by analyzing allegations and opinions on violations of civil and political rights. The report includes statistical data on various types of civil and political rights violations and highlights on these cases.

The statistical data included in the document were collected and analyzed based on two types of sources:

a) Based on citizens' complaints

'Gozetci.az' human rights portal collected complaints received from citizens during the year online. In order to clarify this information, the complainants were contacted directly, and copies of various documents, video and photo materials were received from them. In some cases, the collected data were not taken into account without being confirmed.

¹ *Election Monitoring Center and others v Azerbaijan* App.no 64733/09, (2 December 2021), <https://hudoc.echr.coe.int/eng?i=001-213527>

² *Election Monitoring and Democracy Studies Center and others v Azerbaijan* App.no 70981/11, (12 January 2022), <https://hudoc.echr.coe.int/eng?i=001-222135>

b) Based on media monitoring

During 2022, EMDS investigated and summarized information on violations of civil and political rights in social media and mass media. At this time, the opinions of the persons who disclosed the information, especially the representatives of the injured party and the lawyers, were studied, and the corresponding official documents about the legal disputes were obtained.

The current document uses information from media outlets such as Turan Information Agency, Voice of America, Radio Liberty, BBC Azerbaijan Azerbaijani Service, Meydan TV, Toplum TV, Gozetcu.az Human Rights portal, Jam News information portal and the European Court of Human Rights. EMDS is grateful to the lawyers, human rights defenders and advocates with whom it collaborated in the preparation of this document. In addition, EMDS would like to thank reporter Fargana Novruzova for the photo used on the front page of the document.

III. POLITICAL CONDITION FOR THE PROTECTION OF HUMAN RIGHTS

The political crisis in the field of human rights protection has not addressed in Azerbaijan during 2022. This year was accompanied by restrictive changes to normative acts related to civil and political freedoms. Political persecution and politically motivated arrests of government critics continued during the year.

The law ‘On Media’, which was included in the agenda of the Milli Majlis (Parliament) in December 2021, was met with criticism by local and international institutions, and calls were made to remove the provisions in this law that create conditions for limiting freedom of expression. Despite numerous criticisms, in February 2022 the law was passed by parliament and entered into force by the decree of the President. The Venice Commission drew attention to the restrictive provisions of the law and said that this law has put further pressure on freedom of expression in an already restrictive environment.³

In September 2022, the draft law ‘On Political Parties’ was included in the agenda of the Parliament. EMDS released an opinion document on the reactionary provisions of the draft law and said that the recommendations of the Venice Commission and the Office of Democratic Institutions and Human Rights of the OSCE were not taken into account when drafting the bill. EMDS objected to the inclusion of numerous clauses in the bill restricting the right to association and participation in political life.⁴

Political organizations, social activists and civil society groups objecting to the adoption of this law stated that the draft law contradicts the universal principles of freedom of association and proposed to withdraw it from discussion and to improve the law ‘On Political Parties’ based on the previous recommendations of the Venice Commission of the Council of Europe. Despite the objections, the draft law was adopted in a short period of time - on December 16 in the Parliament.⁵ It should be noted that during the discussion of the draft law, the Monitoring Committee of the Parliamentary Assembly of the Council of Europe submitted a request to the Venice Commission for an expert opinion on this document.⁶

³ 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%20'public>

⁴ Election Monitoring and Democracy Studies Center, (September 2022), <https://smdtaz.org/emds-issues-opinion-document-on-restrictive-provision-of-the-draft-law-on-political-parties-of-azerbaijan/>

⁵ Turan, (November 2022), https://www.turan.az/ext/news/2022/11/free/politics_news/en/12221.htm

⁶ Parliamentary Assembly of Council of Europe, (December 2022),

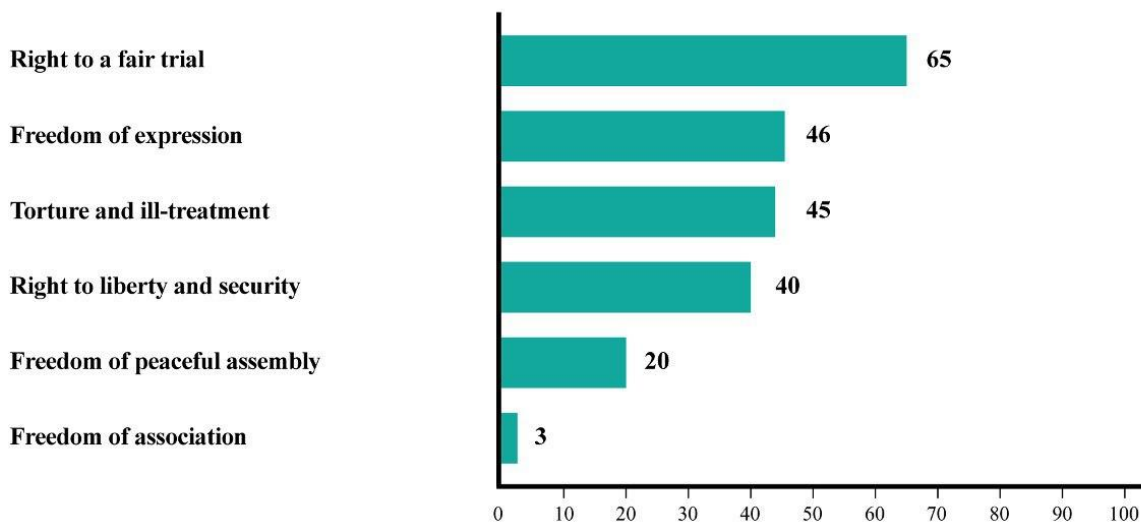
During 2022, continuation of cases of gross and massive violations of the right to a fair trial, freedom of peaceful assembly and association, and freedom of expression, as in previous years, have seriously led to the limitation of political activity opportunities. Thus, in most cases during the year, the appeals of the opposition parties regarding peaceful assemblies were not granted as a rule, the protests were prevented by police intervention, dozens of people were detained and after being detained, they subjected to ill-treatment in detention centers.

According to the amnesty act signed on May 27, more than 10 political prisoners were released. In general, a single act failed to make a significant change in the elimination of problem of political prisoners in the country. During the past year, politically motivated persecutions continued, some social activists were subjected to both administrative arrests and criminal proceedings resulting in deprivation of liberty.

IV. Results of monitoring on human rights violations

Since the scale and nature of some violations recorded by EMDS in 2022 did not differ from previous years, these cases can be considered systemic violations in the country. In total, EMDS has grouped civil and political rights violations based on 229 complaints collected in 2022 as follows:

Human rights violations in numbers



a) Right to fair trial

The report was based on 65 complaints about the violation of the right to a fair trial

Violations of the right to a fair trial were mainly observed in the form of violations of procedural law norms such as the participation of the applicant or his representative in the process, open trial, admissibility and evaluation of evidence, equality of the parties, the principle of dispute, justification of court decisions.

Violations of the right to a fair trial were mainly recorded regarding the politically-motivated trials to silence critical voices. Activists, human rights defenders and representatives of political organizations were persecuted after their critical or satirical posts on social media platforms. Articles 510 (petty hooliganism), 535 (disobeying the police officer) of Code of Administrative Offences and Article 234 (illegal drug trafficking) of the Criminal Code were used as a form of political persecution against such persons.

On September 20, the chairman of the Democracy 1918 Movement, Ahmad Mammadli, and on November 11 and 12, other members of this movement, Orkhan Zeynalli and Afiaddin Mammadov, were detained on the street by people in civilian clothes and taken to different police stations. Later, all three persons were charged with Article 535 of the Code of Administrative Offenses (deliberately disobeying the lawful request of a police officer) and were sentenced to 30 days of administrative arrest. The representatives of the movement said that these arrests were related to the work of the Democracy 1918 organization on labor rights and political activism in the regions.

Violations of the right to a fair trial were also recorded in the criminal case against Shahin Hajiyev, a member of the PFP, who was detained in 2021. Although Hajiyev was charged under Article 234.4.3 of the Criminal Code (illegal trafficking of large quantities of narcotic substances), PFP officials said that he was administratively arrested twice in 2021 for his critical speeches, and the last arrest was aimed at preventing him from political activity. Although Hajiyev claimed that he was tortured by the police during his detention, there was no investigation in this regard. On March 31, 2022, the Ganja Court on Grave Crimes sentenced him to 6 years of imprisonment.⁷

On December 2, 2021, opposition figure Tofiq Yagublu was subjected to police violence and torture after being detained at a protest. Yagublu was severely tortured both in the police station and after being taken away from the station to an unknown direction. He had severe bruises on his face. However, the Sabail District Prosecutor's Office refused to open a criminal case on January 11, considering Yagublu's claim unfounded.⁸

On December 28, 2021, journalist Nargiz Absalamova faced with the violent attitude of the police during the protest and fell down. During the examination at Scientific Research Institute of Traumatology and Orthopaedics, a fracture of the scapula was diagnosed. However, the Sabail District Prosecutor's Office refused to open a criminal case on February 25, considering Absalamova's claims on violence unfounded.⁹

⁷ Turan, (February 2022), <https://www.turan.az/ext/news/2022/2/free/Social/en/1373.htm>

⁸ Institute for Reporter's Freedom and Safety of Journalists, (January 2022), <https://www.irfs.org/news-feed/prosecutors-office-found-no-crime-in-the-beating-of-tofig-yagublu/>

⁹ MeydanTV, (March 2022), <https://www.meydan.tv/en/article/friday-wrap-up-march-8-a-refuse-to-open-a-criminal-case-and-a-public-activist-detained/>

a) *Freedom of Expression*

2022 began with the adoption of a new bill that severely limiting freedom of expression. The bill severely criticised by civil society and media representatives claiming it will create serious obstacles to the activities of online media platforms, as well as independent journalists and bloggers in the country came into effect on February 10 with presidential decree. The Venice Commission stated in its commentary on the law that many of the provisions of the law should be changed or completely removed from, as this law further suppresses the freedom of expression in an already restrictive current environment in Azerbaijan.¹⁰

On September 26, the head of the country, Ilham Aliyev, approved the rules ‘On the maintenance of the Media Register’, and the registration of media organizations in the country began. Although the government stated that the registration was carried out voluntarily, the Media Agency said that the matters related to the media subjects, which do not apply to the register within 6 months, will be considered in court.¹¹

During the year, 46 complaints about violation of freedom of expression were monitored. On some instances, journalists were unreasonably obstructed during reporting, faced insult and harassment in police stations. In some cases, their belongings and devices were taken

On February 15, 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 were later provided.¹²

On May 8, journalist Aytan Mammadova was threatened with a knife by an unknown person while entering the block of the building where she lives.¹³ 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 Dondar Gushchu village of 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 authorities.¹⁴

On June 7, 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 district.¹⁵

¹⁰ 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%20'public>

¹¹ Jam News, (October 2022), <https://jam-news.net/media-registration-has-begun-in-azerbaijan-what-does-it-mean-for-freelance-journalists/>

¹² Voice of America, (February 2022), <https://www.voanews.com/a/azerbaijan-says-it-will-remove-police-officers-over-media-harassment/6446083.html>

¹³ Meydan TV, (May 2022), <https://www.meydan.tv/en/article/azerbaijani-journalist-threatened-at-knifepoint/>

¹⁴ Toplum TV, (May 2022), <https://toplum.tv/sosial/ayten-memmedova-istintaqdan-narazidir> [available in azerbaijani]

¹⁵ Toplum TV, (June 2022), <https://xeber.media/news/18309272/icra-hakimiyetinin-emekdas-i-jurnalistlere-rusvet-teklif-edib-siz-cavan-qizlarsiniz-video> [available in azerbaijani]

On June 23, Nargiz Absalamova, a journalist cooperating with Abzas Media, faced similar pressures while covering the dispute between police and citizens near the Koroglu subway. The police officer demanded that she stop filming, and then confiscated journalist's card.¹⁶

b) *Right to Liberty and Security: Political Prisoners*

The cases of politically motivated arrests were analysed in conjunction with violations of right to liberty and security, freedom from torture and ill-treatment and violations of rights such as equality.

During the year, we investigated the allegation of 40 violations of the right to liberty and security with political motives. Of these violations, 15 cases included administrative arrests, and 5 cases included the opening of a criminal case. Other cases included activists, representatives of political organizations, and social media users who criticize the government being briefly detained, summoned to the law-enforcement bodies for questioning, or abducted and taken to an unknown destination.

According to the amnesty order signed on May 27, some of the political prisoners were released. Thus, the members of the PFFA, Saleh Rustamov and Pasha Umudov, the head of the Azel.TV website, Afgan Sadigov, were among those released. Since this amnesty order did not apply to all political prisoners in the country, it was incomplete. Although there are various claims among human rights organizations about the number of political prisoners, it can be estimated that at least 70 people have been arrested for political reasons in the country. Because political persecutions continued during the year and new politically motivated criminal cases started.

On May 24, former political prisoner Rashid Ramazanov was brought to criminal responsibility again for his critical statements on social media. A criminal case was opened against him under Article 234.4.3 of the Criminal Code (illegal circulation of large quantities of narcotics). It should be noted that Rashad Ramazanov was charged with the same article in 2013 and sentenced to 9 years in prison. At the time, human rights groups considered his arrest politically motivated.

In addition, on September 12, law enforcement agencies searched the offices of journalist Avaz Zeynalli and human rights defender, lawyer Elchin Sadigov. As a result, both persons were sentenced to 4 months of pre-trial detention under Article 311 (passive bribery) of the Criminal Code. Although it is alleged that they took bribes from the businessman Rasim Mammadov, whose trial is ongoing, the accused persons, their lawyers and the general public associated it with their journalistic and legal activities and critical speeches.¹⁷ Although Elchin Sadigov was later released under house arrest, the ban on leaving the capital Baku prevented him from acting as a lawyer throughout Azerbaijan.

EMDS has released a report on increasing cases of politically motivated persecution against government critics during 2022.¹⁸ The report states that in the first 8 months of the year, political activists, civil society representatives, social activists, bloggers and journalists were subjected to politically motivated persecution by law enforcement agencies, detained or taken to the police and threatened in at least 20 cases.

¹⁶ MeydanTV, (June 2022), <https://www.meydan.tv/en/article/journalist-subjected-to-police-violence-in-baku-has-her-press-card-destroyed/>

¹⁷ Radio Free Europe, (September 2022), <https://www.rferl.org/a/azerbaijani-editor-lawyer-ordered-held-in-pretrial-detention/32028389.html>

¹⁸ Election Monitoring and Democracy Studies Center, (September 2022), <https://smdtaz.org/emds-issued-a-statement-condemning-recently-growing-cases-of-politically-motivated-pressure-and-persecutions-in-azerbaijan-against-the-government-critics-2/>

During 2022, a large number of Azerbaijani migrants who applied for asylum in Germany were deported back to the country. Some people who were distinguished by their political activity in Germany, especially those who participated in the protests against the Azerbaijani authorities, said that they were subjected to political persecution shortly after returning to the country. For example, 6 people who were deported from Germany in 2022 were brought to criminal responsibility on various charges. 4 of them - Mutallim Orujov, Malik Rzayev, Jafar Mirzayev and Punhan Karimli were detained and arrested on drug charges, Samir Ashurov on the charge of intentionally harming health, and Ziya Ibrahimli on the charge of not executing the court sentence. Through their relatives and lawyers, these persons said that they considered the accusations unfounded and that they were persecuted for their political speeches against the Azerbaijani government in Germany. Only one of the persons – Ziya Ibrahimli - was later released as the requirements related to executive documents were fulfilled.¹⁹

During 2022, political prisoners released information about their dissatisfaction with the conditions of detention and ill-treatment. On April 4, Polad Aslanov's wife held a demonstration in front of the administrative building of the Penitentiary Service and said that Aslanov was subjected to provocations and beaten in the penitentiary institution No. 1. However, the relevant institutions refused to open a criminal case related to the facts.²⁰ Among the religious prisoners, Taleh Bagirzade, Abbas Huseynov and Jabbar Jabbarov held a short-term hunger strike starting from June 3 as a sign of protest on the grounds that Allah was insulted in the police stations across Azerbaijan.

c) *Freedom of peaceful assemblies*

During the year, 20 cases of violation of the freedom of peaceful assembly were monitored across the country. The freedom of peaceful assembly was violated mainly due to the bans imposed by the local executive authorities on peaceful protests, the dispersing of peaceful marches and pickets as a result of police intervention.

On February 27, representatives of the civil society protesting the war of aggression started by Russia in Ukraine held a support rally in front of the embassy building in Baku, Ukraine. Although the police did not intervene in the action, one of the organizers of this action, Sahin Jafarli, was called to the police station and warned.

During a peaceful protest by feminist activists on March 8 International Women's Day, police officers took away some posters and did not allow the protest to continue for a long time.

On May 14, a group of civil society activists tried to hold an action in Baku's Fountain Square to protest the government's political persecution. However, police authorities detained a large number of activists both before and during the action and did not allow the action to continue longer.²¹

The PFPA tried to protest against the draft law 'On Political Parties' 3 times in September-November in front of the Parliament and the Baku City Executive Authority. However, the executive power of

¹⁹ Radio Free Europe (November 2022), <https://d3vv0252ivd0w5.cloudfront.net/a/ziya-ibrahimli/32146983.html> [available in azerbaijani]

²⁰ Turan, (August 2022), <https://www.turan.az/ext/news/2022/8/free/Social/en/8297.htm>

²¹ Jam News, (May 2022), <https://jam-news.net/no-to-criminal-state-dozens-detained-at-protest-for-journalists-and-activists-rights-in-azerbaijan/>

Baku City did not agree to these actions, and the police officers did not allow the participants of the peaceful action to gather and violently removed them from the area.²²

The action of the Musavat party in front of the embassy of the Islamic Republic of Iran in Baku on November 15, including the action held in front of the Cabinet of Ministers on July 20 regarding the opening of land borders, was dispersed by the intervention of the police.

On December 23 protest in central Baku with demands for freedom for activist Bakhtiyar Hajiyev was prevented due to the harsh intervention of the police who removed of the participants from the area by force. During this action, journalists Ismayil Taghiyev faced violence by the police where another journalist Turkan Bashir was shortly detained while reporting.

While most of the detainees from the protest were later released, Tofiq Yagublu, a member of the Musavat party and the National Council of Democratic Forces, 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). Yagublu and human rights defenders considered this charge baseless and said that he was arrested with political motives behind.

d) *Freedom from torture, ill-treatment and degrading behaviour*

During the year, 45 complaints about violations of freedom from torture and ill-treatment were monitored. In 4 cases, these complaints were related to incidents that happened in prisons, in 23 cases in police stations and temporary detention facilities, and in 13 cases while being detained. Such cases include beatings, insults and psychological threats.

In many cases, detained persons were not allowed to meet their families and legal representatives for a long time. In some cases, it was later revealed that the detained person was subjected to torture and inhuman treatment. For example, Alizamin Salayev, a member of the PFFPA, was sentenced to 30 days of administrative arrest by the Sabail District Court on January 13 on charges of resisting the police under the Code of Administrative Offenses. Salayev did not accept this accusation and said that he was detained while having meal with his party-members in a cafe. He was able to meet his family members only on January 24. At that time, he said that he was tortured in the 8th police station of the Sabail District Police Department, where he was brought after the trial. At the direction of the police chief, he was stripped of his clothes, asked to clean the toilet and the basement floor, and was videotaped. When Alizamin Salayev refused the instructions, they tied his hands and beat him for hours.²³

Activist Fuad Ismayilov, who was administratively arrested by the Nizami District Court on January 31 for disobeying the legal request of the police, said that he was tortured in the 25th police station of the Nizami District Police Department and that his eardrum was damaged during the beating.²⁴ Before his arrest, a video of him cutting the rope holding the flag of the Republic of Turkey while passing by one of the cafes in Baku was circulated on social networks.

²² Jam News, (September 2022), <https://jam-news.net/protest-against-law-on-political-parties-in-baku-dozens-arrested/>; Turan, (November 2022), https://www.turan.az/ext/news/2022/11/free/politics_news/en/11611.htm;

²³ IRFS, (January 2022), <https://www.irfs.org/news-feed/national-council-condemns-torture-against-pfpa-activist-alizamin-salayev/>

²⁴ Gözətçi.az, (February 2022), <https://gozetci.az/az/pozuntular/h%c9%99bsd%c9%99-olan-ictimai-f%c9%99al-el%c9%99-doydul%c9%99r-qulagimin-p%c9%99rd%c9%99si-cirildi/> [available in azerbaijani]

On February 17, truck drivers in Baku blocked traffic on Heydar Aliyev Avenue and expressed their protest against the State Road Transport Service. The drivers who participated in this action were detained and a criminal case was opened against them under Article 233 of the Criminal Code (on the charge of violation of public order). While the drivers were detained in the 18th police station of Narimanov District, human rights defenders Rufat Safarov and Zaur Akbar, who investigated their arrest, said that they were forcibly taken to the police station, where they were subjected to insults, threats and physical violence.²⁵

Former political prisoner Rashad Ramazanov, who was arrested on May 20, told the court that after being detained, he was forced to testify under torture in the 14th police station of the Sabunchu District Police Department.²⁶

Activist Bakhtiyar Hajiyev was detained 4 times during the year. On March 9, when he was protesting in front of the Ministry of Internal Affairs, the police forcibly detained him by breaking the glasses of car and took him to the Baku City Police Department. Bakhtiyar Hajiyev later reported that he was subjected to insults and humiliating behavior there.²⁷ Hajiyev was abducted again on April 21 and August 22 on the street by people in civilian clothes. Hajiyev later told the press that in both cases he was blindfolded and taken in an unknown direction, and he was asked to stop criticizing the Minister of Internal Affairs Vilayat Eyvazov. He said that he was subjected to various physical and psychological tortures while being detained, and on the last instance he was urinated upon while the incident was videotaped.²⁸ Hajiyev was detained again on December 9, and the Khatai District Court ordered 1 month and 20 days of detention against him in the criminal case under Articles 221 (Hooliganism) and 289 (Contempt of Court) of the Criminal Code. Hajiyev considers the charges against him fictitious and said that his arrest was due to his political criticism of the government.

PFFA member Rovshan Mammadov said that on November 11, after being detained at a protest organized by the PFFA, he was brought to the 8th police station of the Sabail District Police Department. He told his lawyer that he was subjected to physical and psychological torture and was beaten for hours at the police station.²⁹

There were number of reports on media on torture allegation in ongoing court hearings in 2022. In various cases, citizens stated that they were subjected to moral and physical torture while being detained³⁰ and testifying in police stations, including being beaten with a baseball bat,³¹ baton,³² and having severe bodily injuries such as broken arms. However, criminal cases related to such cases of

²⁵ Turan, (February 2022), <https://www.turan.az/ext/news/2022/2/free/Social/en/1571.htm>

²⁶ Turan, (May 2022), <https://www.turan.az/ext/news/2020/5/free/Social/en/124299.htm>

²⁷ Meydan TV, (March 2022), <https://www.meydan.tv/en/article/friday-wrap-up-march-8-a-refuse-to-open-a-criminal-case-and-a-public-activist-detained/>

²⁸ IRFS (May 2022), <https://www.irfs.org/news-feed/institute-for-reporters-freedom-and-safety-statement-dedicated-to-world-press-freedom-day/>;

Jam News, (August 2022), <https://jam-news.net/activist-was-detained-in-baku-and-forced-to-delete-posts-on-social-networks/>;

²⁹ Meydan TV, (November 2022), <https://www.meydan.tv/en/article/opposition-party-member-who-was-arrested-in-during-a-protest-says-he-was-tortured/>

³⁰ Gözətçi.az, (April 2022), <https://gozetci.az/az/pozuntular/v%20c9%99t%20c9%99ndas-polisin-c%20c9%99zalandirilmasini-t%20c9%99l%20c9%99b-edir/> [available in azerbaijani]

³¹ Gözətçi.az, (January 2022), <https://gozetci.az/az/pozuntular/orada-6-gun-m%20c9%99n%20c9%99-sozl%20c9%99-deyilm%20c9%99y%20c9%99si-zulm-verdil%20c9%99r/> [available in azerbaijani]

³² Gözətçi.az, (February 2022), <https://gozetci.az/az/pozuntular/s%20c9%99mkir-sakini-oglumun-%20c9%99l-ayagini-baglayib-doyubl%20c9%99r-basini-d%20c9%99y%20c9%99n%20c9%99kl%20c9%99-yariblar/> [available in azerbaijani]

torture have not been initiated.

In 2021, 24 deputies of the PACE called on Azerbaijan to investigate the ‘Tartar Case’ again and comprehensively.³³ It should be noted that the investigative process, known as the ‘Tartar case’ concerns incidents recorded in 2017 when some military personnel were found guilty of treason and subjected to severe torture. As a result of the renewed cases in 2022, about 300 people were recognized as victims, and acquittal was ensured for several of the victims (for some after their death).

On December 9, on the eve of the International Human Rights Day, the US State Department published a list of more than 40 people from different countries subject to sanctions for human rights violations and corruption. Karim Alimardanov, an employee of the Main Organized Crime Department of the Ministry of Internal Affairs, was also included in this list. In this regard, the statement of the US State Department states that Alimardanov is being prosecuted for his participation in gross human rights violations, that is, in the torture of prisoners in 2015 and 2016. While it was not disclosed what the sanctions would be, it is believed to include measures such as a ban on entry into the United States and the arrest of any accounts and assets they have in United States.

Status of the implementation of decision of the European Court of Human Rights

During 2022, the Committee of Ministers of the Council of Europe has monitored the status of the implementation of the decisions of the European Court of Human Rights adopted in different years on the complaints of the applicants from Azerbaijan. In general, the performance of the government of Azerbaijan could be marked as insufficient or irrelevant.

a) *Namazov group*

In the *Namazov v. Azerbaijan*, violations of Articles 6 (right to a fair trial), 8 (right to respect for private life and family life) and 10 (freedom of expression) of the European Convention are mentioned. Within the framework of the *Namazov* case, the execution of 3 decisions of the ECtHR against Azerbaijan (the decisions of Elchin Namazov, Khalid Bagirov, Aslan Ismayilov against Azerbaijan) is being monitored. Each of the decisions is related to the expulsion of the aforementioned lawyers from the Azerbaijan Bar Association. The ECtHR decided in favor of those lawyers in these cases.

At its meeting held on December 6-9, the Committee of Ministers of the Council of Europe adopted a resolution on the *Namazov group*.³⁴ The committee noted that although the acquittal by the Supreme Court in Aslan Ismayilov's case and his reinstatement as a lawyer is a positive step, similar steps should be applied to the other two applicants without delay. In addition, the Committee invited Azerbaijan to refrain from illegal disciplinary measures against lawyers, to adapt disciplinary proceedings and enforcement mechanisms according to the Convention.

³³ Turan, (June 2021), https://www.turan.az/ext/news/2021/6/free/politics_news/en/5376.htm

³⁴ Committee of Ministers of the Council of Europe, (December 2022), [https://hudoc.exec.coe.int/ENG?i=CM/Del/Dec\(2022\)1451/H46-5E](https://hudoc.exec.coe.int/ENG?i=CM/Del/Dec(2022)1451/H46-5E)

b) *Mahmudov and Agazade group*

The Mahmudov and Aghazade group concerns supervision of the implementation of 4 ECtHR judgments related to Azerbaijan (Tagiyev and Huseynov v. Azerbaijan, Fatullayev v. Azerbaijan, Mahmudov and Aghazade v. Azerbaijan, Ali Hasanov v. Azerbaijan). These decisions are related to the application of criminal penalties for violation of the right to freedom of expression, defamation and insult. The resolution on this group work was adopted at the meeting of the Committee in September 2022.³⁵

According to the resolution, the Committee calls on Azerbaijan to share the steps it is considering to change its defamation legislation to eliminate long-term imprisonment and reiterates its call to take concrete steps against the practice of using the criminal code to illegally stifle freedom of expression.

The document states that the Azerbaijani government has prepared a draft law ‘On Media’. The committee invited the government to closely cooperate with the Council of Europe to ensure that the new draft law complies with the requirements of the European Convention.

c) *Gafgaz Mammadov group*

This case is related to the dispersing of peaceful protest planned and organized by the opposition, which did not pose any threat to public order, and numerous excessive interferences with the applicant's freedom of assembly. At its 1419th meeting (2021), the Committee noted that there are problems with the payment of compensation amounts for the cases included in this group - 21 cases have been compensated, but 5 applicants are still waiting for compensation. The committee also noted that there are structural problems in both legislation and practice regarding the provision of freedom of assembly.

In the only information sent in 2022 regarding this case, the government of Azerbaijan only provided information about the payment of compensation to one more applicant, but it did not mention the compensation of other applicants and general measures regarding the implementation of the decisions.

d) *Mammadli group*

In the Mammadli group, the implementation of 6 decisions of the ECtHR regarding Azerbaijan is monitored. Those decisions are related to the cases of Anar Mammadli, Intigam Aliyev, Ibrahimov and Mammadov, Khadija Ismayilova, Arif and Leyla Yunus, and Azizov and Novruzlu. These decisions are related to the pre-trial detention and deprivation of liberty of the applicants for their active political and public participation, criticism of the government, human rights and election monitoring activities, in violation of Article 18 of the Convention, and abuse of the judicial system for political purposes.

On September 30, 2022, the Plenum of the Supreme Court acquitted two people in the case of Mammad Azizov and Sahin Novruzlu. Although the Committee welcomed this decision at its 1451st meeting, it emphasized that there is no reason why the remaining 7 people were not acquitted and, repeated its call on Azerbaijan to immediately restore the rights of the persons mentioned in this group case.³⁶

³⁵ Committee of Ministers of the Council of Europe, (September 2022), [https://hudoc.exec.coe.int/eng?i=CM/Del/Dec\(2022\)1443/H46-4E](https://hudoc.exec.coe.int/eng?i=CM/Del/Dec(2022)1443/H46-4E)

³⁶ Committee of Ministers of the Council of Europe, (December 2022), [https://hudoc.exec.coe.int/ENG?i=CM/Del/Dec\(2022\)1451/H46-4E](https://hudoc.exec.coe.int/ENG?i=CM/Del/Dec(2022)1451/H46-4E)

It should be noted that the group has covered the cases of 16 applicants since its inception, but later the supervision of execution was stopped due to acquittals and termination of criminal cases in the cases of 9 people. However, the Supreme Court ignored the calls of the Committee regarding Anar Mammadli, Intigam Aliyev, Khadija Ismayilova, Arif and Leyla Yunus, Giyas Ibrahimov and Bayram Mammadov.

V. Conclusion and Recommendations

The scale of violations and complaints recorded by EMDS on social, civil and political rights during 2022 shows that the political crisis in the field of human rights protection in Azerbaijan continued to deepen.

EMDS determined that violations of law in the following areas were of a systemic nature and reached relevant conclusions regarding the end of the year:

- During 2022, politically motivated persecutions and pressures continued, and there was no particular change in the number of political prisoners. There has been an increase in cases of political and social activists being detained, subjected to pressure and threats, as well as gross violations of freedom of expression and the right of association due to their dissenting views. The law ‘On Media’ was adopted without taking into account the negative opinion of local experts and the Venice Commission. Similarly, the restrictive law ‘On Political Parties’ was adopted in a short period of time without taking into account the opinions of local and international experts, as well as international experience.
- Most of the protests held with social and political demands were dispersed by police intervention, the right of the participants to freedom of peaceful assembly was grossly violated both during and after the actions
- The requirements of the right to a fair trial were violated during the investigation and court proceedings on politically motivated administrative and criminal cases, thereby trying to maintain an atmosphere of political fear through law enforcement agencies and courts.
- Although there were numerous reports of torture and ill-treatment in police stations, temporary detention centres and prisons during the year, there was no investigation into the facts of these cases.
- Despite recommendations and repeating calls by the Committee of Ministers of the Council of Europe based on the decisions of the European Court of Human Rights regarding the applicants from Azerbaijan, there have been no significant reforms in the directions of improving the judicial system and national legislation, the elimination of the violations determined by the Court, as well as regarding the past observed discrimination in the acquittal of political prisoners

EMDS suggests the following measures to the state authorities to improve the situation for the protection of civil and political rights and to eliminate the current political crisis:

- The decisions of the European Court of Human Rights should be implemented according to the recommendations of the Committee of Ministers of the Council of Europe regarding ensuring the independence of the judicial system in Azerbaijan and the persons responsible for relevant violations should be removed from the law enforcement and judicial system and held accountable;
- By demonstrating political will, the authorities should stop political persecution and ensure the

- release of prisoners arrested on the basis of political motives;
- Complaints of citizens regarding torture and ill-treatment should be investigated in a timely and transparent manner, public control should be provided in temporary detention facilities, detention centers and prisons;
 - The provisions arising from the relevant decisions of the ECtHR regarding the protection of citizens' freedom of expression should be implemented, the persecution of social media users should be stopped, the law 'On Media' should be improved based on the standards of the Council of Europe and the OSCE;
 - The laws 'On NGOs', 'On the Register of Legal Entities' and 'On Grants' which create restrictions on the activities of civil society institutions should be improved based on the relevant recommendations of the Venice Commission;
 - Restrictions on the activity of opposition political parties and movements should be removed, the law 'On Political Parties' should be improved based on the opinion of the Venice Commission;

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