Flygtningenævnets baggrundsmateriale

Bilagsnr.:	**123**
Land:	Aserbadsjan
Kilde:	Human Rights Watch
Titel:	They Took Everything From Me. Forced Evictions, Unlawful Expropriotions, and House Demolitions in Azerbaijan's Capital
Udgivet:	29. februar 2012
Optaget på baggrundsmaterialet:	10. april 2012

HUMAN RIGHTS WATCH

"THEY TOOK EVERYTHING FROM ME"

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Printed in the United States of America
ISBN: 1-56432-868-6
Cover design by Rafael Jimenez

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FEBRUARY 2012 ISBN: 1-56432-868-6

"They Took Everything from Me"

Forced Evictions, Unlawful Expropriations, and House Demolitions in Azerbaijan's Capital

Summary and Key Recommendations

A demolished house in the area behind Heidar Aliyev Hall, in central Baku. The Azerbaijani authorities have forcibly evicted dozens of families in this area without fair compensation under the Baku municipality's program of redevelopment, including construction of a parking lot, a park, pedestrian street, office space, and luxury housing.

“THEY TOOK EVERYTHING FROM ME”

Forced Evictions, Unlawful Expropriations, and House Demolitions in Azerbaijan’s Capital

Since 2008, the government of Azerbaijan has undertaken a sweeping program of urban renewal in Baku, the capital of this oil-rich country in the South Caucasus. In the course of this program, the authorities have illegally expropriated hundreds of properties, primarily apartments and homes in middle-class neighborhoods, to be demolished to make way for parks, roads, a shopping center, and luxury residential buildings. The government has forcibly evicted homeowners, often without warning or in the middle of the night, and at times in clear disregard for residents' health and safety, in order to demolish their homes. It has refused to provide homeowners fair compensation based on the market values of properties, many of which are in highly-desirable locations and neighborhoods.

This report, based on interviews with affected homeowners and residents, documents human rights violations committed in the course of the government's expropriations, forced evictions, and demolitions in four neighborhoods of Baku. These neighborhoods have typically been home to middle class Azerbaijanis: teachers, librarians, medical doctors, military officers, and others, some of whom have inherited their homes from their parents and others who managed to save and buy apartments in desirable locations. The human rights violations documented by Human Rights Watch relate to the process by which homes and properties were slated for expropriation and compensation was assessed, the manner in which expropriations, evictions, and demolitions were implemented, and the lack of any effective legal recourse or remedy available to those whose rights were violated.

One of the four neighborhoods described in this report is Bayil, the seaside location of the National Flag Square and the Baku Crystal Hall, the venue for the May 2012 Eurovision Song Contest. The government's ambitious plans to develop this area intensified after May 2011, when Azerbaijan won the contest and therefore became host to the 2012 event. The Eurovision Song Contest is an annual televised competition featuring music acts from 56 countries in and around Europe. For the government of Azerbaijan, the visibility of the event provides an opportunity to showcase Baku to thousands of visitors and millions of television viewers.

The main venue for the contest will be the Baku Crystal Hall, a modern, glass-encased arena overlooking the Caspian Sea. The government has also stepped up work on other, previously planned projects in the immediate vicinity,

(above) A billboard in Baku advertising the Eurovision Song Contest, which will take place in Baku from May 22-26, 2012.

(left) In January, workers began dismantling this building at 5 Agil Guliev Street in the National Flag Square area of Baku, in the vicinity of the Baku Crystal Hall, the venue hosting the May 2012 Eurovision Song Contest. Workers removed the widows in already vacated apartments, and then the roof. Snow accumulated in the vacated 9th floor, shown here, and remaining residents on lower floors were also exposed to snow and other elements.

Natalia Alibekova is one of the last residents remaining in the building at 5 Agil Guliyev Street, in the National Flag Square area of Baku. The authorities have cut off water and gas to the building and have been steadily dismantling it since January 2012.

including extending a waterfront promenade that begins in the city center; extending and widening a road parallel to the coast; and creating a park on the opposite side of the National Flag Square from where the Baku Crystal Hall is being built. In order to clear land for construction of the road and the park, the government has forcibly evicted several hundred residents from the Bayil neighborhood.

The United Nations Committee on Economic, Social, and Cultural Rights considers forced evictions to be the "permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection." Evictions and expropriations may be lawful when they are conducted in exceptional circumstances, and in full accordance with relevant provisions of international human rights and humanitarian law. Forced evictions are prohibited under Azerbaijani and international law.

The Baku City Executive Authority and the Azerbaijan State Committee on Property oversee the expropriations and forced evictions documented in this report. Once the authorities have identified a property for expropriation and demolition, the government typically offers monetary compensation or resettlement to the residents. However, not all homeowners receive compensation or resettlement offers or accept the government's offers. They therefore remain in their homes. When the authorities arrive to demolish the homes, they forcibly evict the remaining homeowners and their families.

The authorities often carry out evictions and demolitions with willful disregard for the dignity, health, and safety of homeowners and residents. In at least 24 cases documented by Human Rights Watch, the authorities have dismantled from the inside apartment buildings or houses in which families and individuals continue to live, including by removing roofs, doors, windows, and stairwell banisters, and damaging shared walls. This often exposes residents to the elements

Construction of a highway adjacent to the National Flag Square. In the background stands the building at 5 Agil Guliyev Street, which was being demolished with residents still remaining in it as this report went to press.

and to the risk of partial collapse of buildings. In many cases, the authorities have also cut water, sewer, electricity, gas, or telephone lines while homeowners remained in their homes. These actions also render the properties uninhabitable, ultimately compelling the residents and homeowners to move out and accept unfair compensation offers.

When Viktor Karmanov, a retired military officer, and his wife Iveta learned in July 2011 that their building next to the National Flag Square, where they had lived for 20 years, would be demolished, they were not satisfied with the compensation offer and contacted the authorities, hoping to negotiate a better sale price. However, a little over a month later, the authorities had destroyed much of the building, including the roof, and in late September they cut the electricity and phone lines.

"We did not want to sell our apartment," Iveta explained. "But we have to sell now because it's impossible to live here anymore. They broke down the roof so when it starts raining outside, it rains in our apartment too. … We begged them to at least leave the roof over our heads until we find someplace else to live, but they refused."

In some cases, the authorities have forcibly evicted residents with little or no notice immediately prior to demolishing their houses or the apartment buildings. In some cases, large numbers of police and other government officials would surround the buildings and fill the stairwells before forcibly entering apartments and removing residents by force. In at least two cases, officials arrived without warning with a bulldozer and other machinery at night or in pre-dawn hours and began actively demolishing homes after telling homeowners to vacate immediately. In all of these cases, homeowners had a few hours or less to remove their personal belongings and valuables.

For example, without warning the authorities forcibly evicted Arzu Adigezalova, 41, a math teacher and a single mother of two young children, from her apartment next to the


DÖVLƏT BAYRAĞI
MEYDANI

View from the Baku city center of National Flag Square. The building at 5 Agil Guliyev Street, which was being demolished with residents still remaining in it as this report went to press, stands to the right of the flagpole.

Construction of an underground passageway that would run under the highway and allow pedestrians to access the park, resort area, and seaside promenade being developed adjacent to the National Flag Square, where the Baku Crystal Hall, the venue for the 2012 Eurovision Song Contest, is being built. The Azerbaijani authorities have forcibly evicted dozens of families and demolished their homes in the area shown here.

National Flag Square in the pre-dawn hours of October 29, 2011. Adigezalova had agreed to the forced sale of her apartment two weeks previously but had not yet found another place to live. She told Human Rights Watch:

> *I woke up because the building was shaking and I could hear something like thunder. I took the kids and went outside. [I went up to] the official in charge and asked him to give us time to take our belongings out. He looked at me and said, 'Ok,' but then in the next moment said to the bulldozer driver, 'Break it down!!'*

Adigezalova frantically tried to collect her belongings and take them out of the building. She lost many of her household goods and much of her furniture.

In three cases documented by Human Rights Watch police escalated the evictions process by detaining homeowners in a police station following their eviction while the authorities demolished the apartment building.

Partially demolished homes in the area adjacent to the National Flag Square. The Azerbaijani authorities have forcibly evicted dozens of homeowners to develop a road and park, which provide an access point to the Baku Crystal Hall area. The government has said both projects were planned before Baku became the host city for the 2012 Eurovision Song Contest.

For example, in December 2010 police forcibly evicted and detained 42-year-old Perviz Emirov, a retired soldier who was wounded while serving in the military and receives a disability pension, Emirov's wife, and their three school-age children from their small one-room apartment in the neighborhood near Baku's Old City. Emirov described the eviction to Human Rights Watch:

> *About four or five police officers broke down the door. … I only had time to grab our identity documents and the little bit of money that I had at home, nothing else. They put me, my wife, and my daughter in the police car and took us to the police station. About 30 minutes later our twin boys came home from school . . . . Then the police brought them to the station as well. They let us go after about five hours. When we got our home, we couldn't believe our eyes. Everything was destroyed. To this day I don't know where our belongings are.*

As part of the demolition process, workers typically remove furniture, household goods, and other personal property, placing items on the street or in some cases taking them to a warehouse for owners to recover later. Property owners complained that many of their belongings were damaged, destroyed, or lost during the evictions. Some homeowners were unable to recover personal property that remained in the building as it was demolished.

Dozens of homeowners filed complaints with the courts, but the authorities' repeated failure to appear for hearings has caused these proceedings to be delayed for months at a time. In several cases the authorities have demolished homes

The apartment building housing Bashkhanum Abbasova's apartment, on the night of December 18, 2011, just before the authorities forcibly evicted Abbasova and remaining residents and detained them in the police station while they demolish the building.

When demolition began on the evening of December 18, 2011, on the building housing Bashkhanum Abbasova's apartment in the neighborhood behind Heydar Aliyev Hall, police confronted residents upset about the demolition. Police chased and pushed residents and concerned neighbors from the area, causing one woman, above, to fall to the ground.

in violation of court injunctions prohibiting demolition or while court cases challenging the intended demolitions were pending.

When governments expropriate private property for state needs, they must provide a fair and transparent process for compensation that reflects market value of the property as well as compensation for relocation and other expenses. However, the Azerbaijani authorities have offered some homeowners, typically those with homes smaller than 60 square meters, monetary compensation at a single, government-fixed rate of 1,500 manat (US$1,900) per square meter, without regard to the property's location, age, condition, use, or any other factors. Homeowners were not aware of any independent appraisals of their homes ordered by the government, and the government has not responded to several inquiries by Human Rights Watch as to whether it conducted independent appraisals of homes.

For owners of homes larger than 60 square meters, the government offers homeowners resettlement to apartments built in high rises, typically outside of the city center. However, it does not give them ownership title to these apartments prior to their relocation, instead promising ownership at a later, unspecified date. In addition, photographic evidence and testimony from those living or expected to live in the new apartments indicate that the quality of at least some the apartments, and the buildings themselves, is low and possibly in violation of building code standards. Problems include standing water in the basement, cracks in walls, including load bearing walls, unfinished windows, and peeling and damaged floors.

Some homeowners described to Human Rights Watch an atmosphere of intimidation and uncertainty when interacting with government officials regarding the expropriation and demolition of their homes. Some government officials have threatened homeowners who challenge the government's actions or refuse to readily accept the government's compensation offers.

The government's campaign of expropriations, evictions, and demolitions of homes and other property in Baku has no basis in national law, which provides that the government may only expropriate property in limited circumstances for state needs, with a court order, and by purchasing the properties at

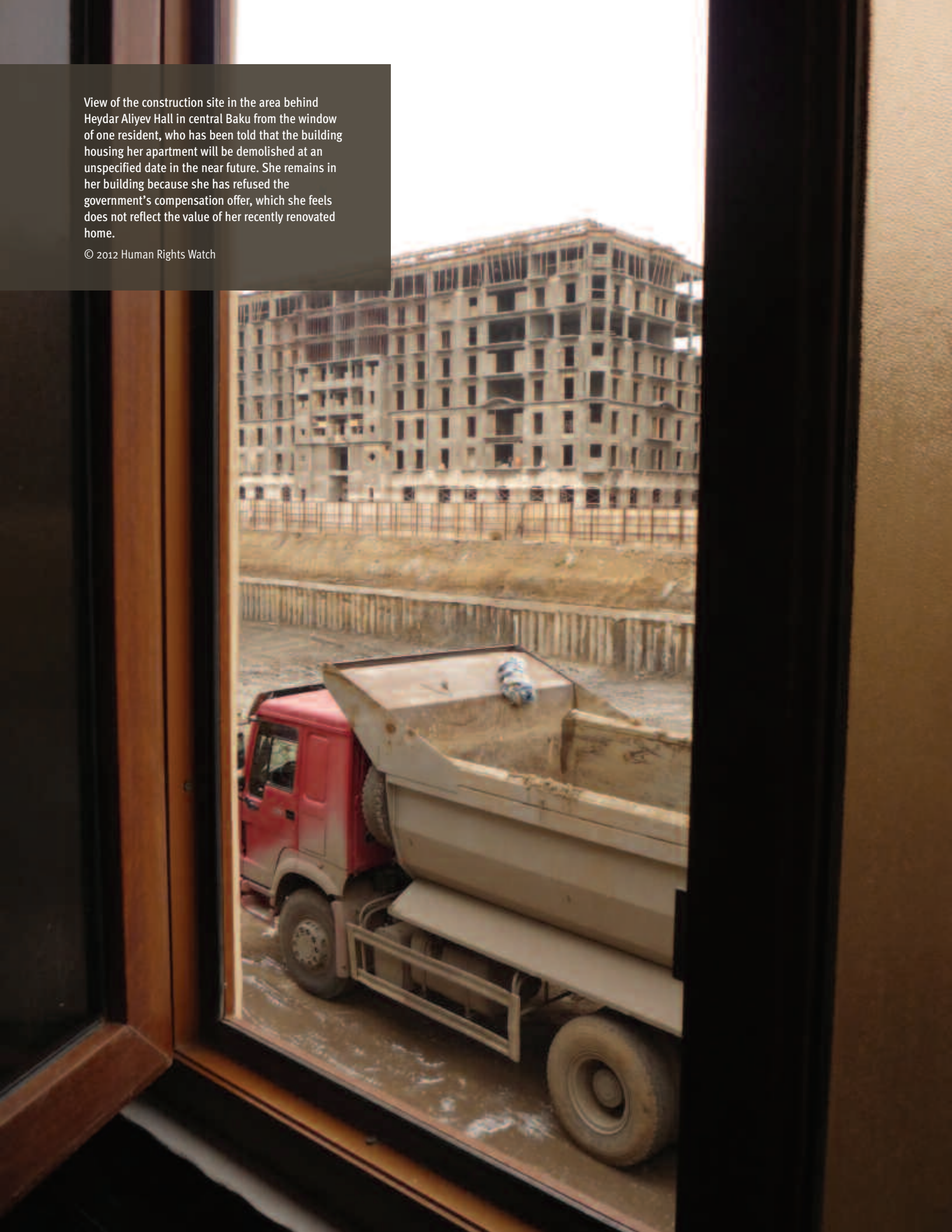
Floodlighting now adorns Baku's downtown neighborhoods, shown above.

market prices. The government's actions also violate Azerbaijan's international human rights obligations, including its obligations under the European Convention on Human Rights, to protect private property and private and family life. In some cases of forced eviction, the government's actions, including serious disregard for the welfare and property of evictees, may rise to a level of severity so as to constitute inhuman and degrading treatment.

The Azerbaijani authorities should halt all further evictions, expropriations, and demolitions until they can be carried out in a fair and transparent manner and are consistent with Azerbaijani national law and international human rights law. The government should also ensure that any future evictions of homeowners who refuse to leave their properties are carried out with full respect for the safety and dignity of those evicted. Compensation for expropriated properties should be fair and based on the market value of each property, determined by an independent appraisal.

Azerbaijan's international partners, including key governments and multilateral development banks, should insist that the government stop its campaign of expropriation and evictions and ensure that any future actions respect national and international law. Azerbaijan's international partners also should call on the government to urgently establish a fair and transparent mechanism to resolve the complaints of evicted homeowners and residents and to reassess the compensation offered to those who lost their homes and possessions. The European Union and United States have an additional important role to play in continuing to support nongovernmental organizations and other groups in Azerbaijan that are documenting human rights abuses in the context of the government's expropriations and evictions.

Other actors also should speak out to press for an end to forced evictions and related abuses until they can be done in a legal and fair manner and for a remedy for those already affected. Irrespective of the fact that the Eurovision Song Contest is a cultural, not a political, event, the European Broadcasting Union (EBU), which oversees the contest, should make clear to the government that the serious violations of human rights that are taking place in relation to families, homes, and properties near the contest venue risks casting a shadow over the contest. Citing their mutual interest in holding a successful event not marred by human rights abuses, the European Broadcasting Union should urge the government to quickly and fairly resolve all complaints related to expropriations, evictions, and demolitions near the Baku Crystal Hall.



View of the construction site in the area behind Heydar Aliyev Hall in central Baku from the window of one resident, who has been told that the building housing her apartment will be demolished at an unspecified date in the near future. She remains in her building because she has refused the government's compensation offer, which she feels does not reflect the value of her recently renovated home.

A demolished house in the area behind Heidar Aliyev Hall in central Baku. The Azerbaijani authorities have forcibly evicted dozens of families without fair compensation under the Baku municipality's program of redevelopment in the area.

A demolished house in the area behind Heidar Aliyev Hall in central Baku. In many homes in this neighborhood and in other parts of Baku, the Azerbaijani authorities have begun to dismantle buildings while residents continued to live in them.

The demolished apartment building at 61 Neftchilar Avenue, in central Baku. Workers steadily demolished the building, including using heavy machinery, while residents continued to live there, and in June 2011, the last remaining residents were forcibly evicted to make way for construction of a shopping center.

KEY RECOMMENDATIONS

TO THE GOVERNMENT OF AZERBAIJAN, INCLUDING THE BAKU CITY EXECUTIVE AUTHORITY AND THE STATE COMMITTEE ON PROPERTY

- **Halt all further expropriations, evictions, and demolitions until they can be carried out in a fair and transparent manner and are consistent with Azerbaijani national law and international human rights law.**
- **Any future evictions of homeowners who refuse to leave their properties should only be conducted in accordance with Azerbaijani and international law. Any evictions should be regulated by a court order and conducted with full respect for the bodily integrity and dignity of those evicted. The authorities should in no circumstances begin to demolish or disassemble buildings in which people continue to live.**
- **Reassess the compensation offered to those who lost their homes and possessions.**
- **Ensure protection of all private property when carrying out evictions and demolitions.**
- **Provide homeowners and property owners who may lose their property for development with clear information about the legal basis for the expropriation, the timing of the expropriation, their compensation and resettlement options, and the means of appealing decisions. This information should be provided in a timely manner.**
- **Provide all property owners affected by expropriation access to an effective complaint mechanism that addresses grievances in a clear and transparent manner and a remedy.**
- **Ensure that mechanisms to provide property owners with compensation for expropriated property are fair and transparent, with a clear basis in law.**

TO THE PROSECUTOR GENERAL'S OFFICE OF AZERBAIJAN

- **Initiate an independent inquiry into why the expropriations and demolitions in central Baku have been allowed to take place in the manner described in this report given that they clearly violate Azerbaijan's constitution and national laws and international human rights law.**

TO THE EUROPEAN BROADCASTING UNION

- **Call on the government of Azerbaijan to quickly and fairly resolve all complaints related to expropriations, evictions, and demolitions near the Baku Crystal Hall.**
- **Call on the Azerbaijani authorities to ensure that no further human rights abuses take place with respect to Azerbaijan's preparation to host the Eurovision Song Contest, including in the vicinity of the Baku Crystal Hall.**

TO THE EUROPEAN BROADCASTING UNION MEMBERS

- **Call on the EBU, including the Eurovision Reference Group, to make clear with the Azerbaijani authorities that expropriations, evictions, and demolitions near the Baku Crystal Hall risk casting a shadow over the Eurovision Song Contest and should be halted.**

TO AZERBAIJAN'S BILATERAL PARTNERS, INCLUDING THE EUROPEAN UNION, INDIVIDUAL EUROPEAN STATES, AND THE UNITED STATES

- **Insist that the Azerbaijani authorities halt all further expropriations, evictions, and demolitions until they can be carried out in a fair and transparent manner and are consistent with Azerbaijani national law and Azerbaijan's international human rights obligations.**
- **Make Azerbaijan's addressing these concerns an explicit requirement in the context of enhanced relations, including through the Association Agreements with the EU and in the context of deepening engagement with and assistance from the US.**


146-148 Azadlyg Avenue and Neighboring Buildings
Ziya Bunyadov Avenue
Najaf Narimanov Street
Presidential Residence
Azadlyg Avenue
Jeyhunbey Hajibeyli
Hasan Aliyev
Samad Vurghun
Rashid Behbudov
Neighborhood behind Heydar Aliyev Hall
Heydar Aliyev Hall
Toptchubashov
Fuzuli
Mirzagha Aliyev
Dilara Aliyeva
28th May
Nizami
Khagani Street
Uzeyir Hajibeyov
Bul-Bul Avenue
Nizami
Istiglaliyyat
OLD CITY
Neftchilar Avenue
61 Neftchilar Avenue and Neighboring Buildings
Neftchilar Avenue
Caspian Sea
Bayil Neighborhood
Agil Guliyev Street
Baku Crystal Hall
National Flag Square
N
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Methodology

In June 2011, Human Rights Watch began preliminary research to examine the government's campaign of expropriations, evictions, and house demolitions in Baku through a number of telephone interviews with victims, a lawyer, and human rights defenders in Baku. Subsequently, Human Rights Watch undertook research trips to Baku in June, September, and December 2011 and in January 2012 to interview property owners and other residents, lawyers, and NGO representatives in Baku.

Human Rights Watch interviewed a total of 67 people for this report. We interviewed 52 people subject to expropriations, forced evictions, and house demolitions, who were living or who had lived in four areas in Baku. Some individuals were interviewed twice or three times in order to document the most recent events related to the expropriation, eviction from, and demolition of their homes.

The locations in which Human Rights Watch documented abuses are:

- in a group of streets located behind the Heydar Aliyev Hall, bounded by Samed Vurghun, Fuzuli, Topchubashov, and Mirzagha Aliyev streets north of the historic Old Town;
- on Azadlyq Avenue near Ziya Bunyadov Street to the north of the city center, across from the presidential residence;
- on Neftchilar Avenue, in the city center, to the southwest of the historic Old Town, across the street from a well-known sports arena;
- and in the Bayil neighborhood, at the base of a peninsula next to the National Flag Square, south of the city center.

The findings of this report relate to these four areas only. Although expropriations and house demolitions have taken place in other areas in the city and in other parts of Azerbaijan, Human Rights Watch is not in a position to assess the conditions and terms on which those precise expropriations took place.

Telephone and in-person interviews with victims were conducted in Russian by three Human Rights Watch researchers fluent in Russian and a consultant to Human Rights Watch fluent in Russian. Some interviews were conducted in Azeri, during which a translator for Human Rights Watch (a native speaker of Azeri) translated into English or Russian. An intern for Human Rights Watch conducted several telephone interviews with interviewees previously interviewed to get updated information.

In most cases victims and other interviewees were interviewed individually, in private. In a few cases married couples were interviewed together. Interviewees were offered no incentives for speaking with us. Human Rights Watch made no promises of personal service or benefit to those whom we interviewed for this report and told all interviewees that the interviews were completely voluntary and confidential.

Some individuals interviewed for this report said they feared possible retaliation from government officials for speaking with us. At their request, we have changed their names in the report. Pseudonyms appear throughout as a first name and an initial.

We also interviewed seven lawyers representing victims of illegal house expropriations, forced evictions, and demolitions. We met with representatives from the Public Association for Assistance to Free Economy, the Institute for Peace and Democracy, the Legal Education Society, the Association for the Protection of Women's Rights in Azerbaijan, the Azerbaijan Human Rights Center, the Institute for Reporters' Freedoms and Safety, the Human Rights Club and other local nongovernmental organizations working on property rights in Azerbaijan.

In June 2011 and September 2011, Human Rights Watch sent letters to Azerbaijani President Ilham Aliyev and the Baku City Executive Authority expressing concern and requesting information about illegal expropriation, forced evictions, and house demolitions. On November 25, 2011, Human Rights Watch received a letter in response from the Baku City Executive Authority. Their response is reflected in the relevant sections of this report.

In December 2011, Human Rights Watch sent an additional letter to the Baku City Executive Authority and letters to the Ministry of Finance and the State Committee on Property. As this report went to publication, Human Rights Watch had not received responses from government agencies or the president's office, except for the November 2011 letter. We

requested meetings with the Baku City Executive Authority in December 2011 and in January 2012 but received no reply to our requests.

In September 2011, Human Rights Watch sent a letter to the European Broadcasting Union (EBU) regarding concerns about selected human rights abuses Azerbaijan, including forced evictions and home demolitions linked to the government's preparations for hosting the Eurovision Song Contest, as well as violations of freedom of expression and other human rights violations relevant to the EBU's mandate.

The EBU responded with a letter to Human Rights Watch on November 10, 2011. An EBU representative met with Human Rights Watch in New York in November 2011. Human Rights Watch sent a second letter to the EBU on December 30, 2011. The EBU responded with a letter to Human Rights Watch on January 19, 2012. An EBU representative met with Human Rights Watch on January 25, 2012. The results of these meetings and correspondence are detailed in this report in the relevant sections.

I. Background

Azerbaijan's Political Landscape

Azerbaijan is an oil-rich country located in the South Caucasus, with a population of 8.3 million.[1] Since gaining independence from the Soviet Union in 1991, Azerbaijan has had a poor human rights record and an increasingly entrenched, authoritarian political elite. Many hoped that the October 2003 election of President Ilham Aliyev–who took over after his now-deceased father, Heydar, who had held the office since 1993–would mark a new era of democracy and respect for human rights.[2] However, vote fraud, police violence, and intimidation of opposition supporters and others marred national polls in 2003 and in 2005.[3] Aliyev was re-elected in October 2008, but the opposition boycotted the vote and the elections failed to meet Azerbaijan's international commitments.[4] In February 2009, a popular referendum initiated by Aliyev amended the country's constitution to remove the two-term limit on the presidency.[5] In November 2010, international observers again found that the country's parliamentary elections were marred by media restrictions, the misuse of administrative resources, and an inequitable candidate registration process.[6]

Azerbaijan's judiciary depends heavily on the executive and fails to provide effective recourse against violations of basic rights.[7] Trial monitoring by the Organization for Security and Co-operation in Europe (OSCE) found that trials regularly violate "the right to effective legal representation, the right to an impartial and independent tribunal, the right to a fair hearing, the right to assistance by an interpreter, and the right to a reasoned judgment."[8] The ruling Yeni Azerbaijan Party (YAP) dominates the parliament (Milli Mejlis),

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[1] "Azerbaijan," CIA World Factbook, https://www.cia.gov/library/publications/the-world-factbook/geos/aj.html (accessed October 29, 2011).

[2] "Azerbaijan: Presidential Elections 2003," Human Rights Watch Briefing Paper, October 13, 2003, and "Azerbaijan Elections and After," Human Rights Watch Briefing Paper, November 18, 2005.

[3] Ibid.

[4] Organization for Security and Co-operation in Europe (OSCE), Office for Democratic Institutions and Human Rights, "Statement of Preliminary Findings and Conclusions Presidential Election Azerbaijan," October 2008, http://www.osce.org/documents/odihr/2008/10/34414_en.pdf, pg 1 (accessed 16 October 2010).

[5] Human Rights Watch World Report 2010, covering the events of 2009, Azerbaijan Chapter.

[6] OSCE, "Parliamentary Elections, November 7, 2010," http://www.osce.org/odihr/elections/azerbaijan/74789 (accessed October 29, 2011).

[7] Freedom House, "Nations in Transit 2010," Azerbaijan chapter, http://www.freedomhouse.org/images/File/nit/2010/NIT2010Azerbaijanfinal1.pdf (accessed August 18, 2010).

[8] OSCE, "Trial Monitoring in Azerbaijan: 2006-07," 2008, http://www.osce.org/baku/32355 (accessed December 2, 2011).

which does not provide a check on executive power and largely serves to pass legislation proposed by the government.[9]

Corruption is endemic to government institutions and public interactions with government.[10] For example, a 2009 survey by the International Finance Corporation and the World Bank revealed that 52.2 percent of firms operating in Azerbaijan expected to give "gifts" to public officials to "get things done," more than double the regional average. Seventy-one percent of firms expected to give gifts to get a construction permit, nearly three times the regional average.[11]

The government severely limits the rights to freedom of expression and assembly.[12] Officials regularly deny requests by opposition parties and others to hold demonstrations. Police quickly and often violently disperse unauthorized protests and arbitrarily detain participants. In 2011, when activists inspired by the uprisings in the Middle East launched protests in Azerbaijan, the government responded by arresting hundreds of protesters, activists, and journalists between March and May 2011.[13] Several of those arrested were convicted and imprisoned for up to three years.[14]

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[9] Azerbaijan's opposition is marginalized as a result of many years of restrictions on assembly, harassment of political figures, ruling-party incumbents' abuse of government resources, and other violations during election periods. In advance of the 2005 Parliamentary elections, three opposition parties – the Popular Front Party (PFP), the Musavat Party and the Azerbaijan Democratic Party (ADP) for the first time created a block, Azadlig [Freedom], but failed to achieve notable success, not least because of restrictions on their ability to campaign and election-day violence and fraud. Today the opposition holds only a handful of the parliament's 125 seats. See Human Rights Watch, "Azerbaijan Elections and After."

[10] In 2011 Transparency International's Corruption Perceptions Index which uses expert assessments and public opinion surveys to quantify countries' perceived levels of corruption, Azerbaijan ranked 143 out of 183 countries. Transparency International, "Corruption Perceptions Index 2011 Results," http://cpi.transparency.org/cpi2011/results/ (accessed December 2, 2011).

[11] International Finance Corporation and World Bank, "Enterprise Surveys: Azerbaijan 2009," 2009, http://enterprisesurveys.org/Data/ExploreEconomies/2009/azerbaijan, (accessed November 6, 2011).

[12] Amnesty International, "The Spring that Never Blossomed: Freedoms Suppressed in Azerbaijan," AI Index 55/011/2011, November 16, 2011, http://www.amnesty.org/en/library/asset/EUR55/011/2011/en/831dedec-1c7a-47a3-99ec-f59d1c2f3a19/eur550112011en.pdf (accessed November 27, 2011). Human Rights Watch, "Beaten, Blacklisted, and Behind Bars: The Vanishing Space for Freedom of Expression in Azerbaijan," 2010, pg. 3.

[13] Haley Sweetland Edwards, "Azerbaijan: More than 200 anti-government protesters arrested," *Los Angeles Times*, April 2, 2011, http://latimesblogs.latimes.com/babylonbeyond/2011/04/azerbaijan-more-than-200-anti-government-protesters-are-arrested.html (accessed October 29, 2011), and "Azerbaijani Activists Jailed Over Protest," Radio Free Europe/Radio Liberty, May 23, 2011, http://www.rferl.org/content/activists_detained_in_azerbaijan/24183827.html (accessed October 29, 2011).

[14] "Six Azerbaijani Oppositionists Jailed over April Protest," Radio Free Europe/Radio Liberty, August 25, 2011, http://www.rferl.org/content/six_azerbaijani_oppositionists_jailed_over_april_protest/24308081.html (accessed October 29, 2011).

Hydrocarbon Wealth and Construction Boom

Azerbaijan's hydrocarbon windfalls have helped to trigger a construction boom in Baku. In the last decade, Azerbaijan has experienced tremendous economic growth fueled by oil and gas exports. According to the World Bank, Azerbaijan's Gross Domestic Product increased nearly 10 fold in less than a decade, growing from US$5.7 billion in 2001 to US$51.1 billion in 2010.[15] Azerbaijan is the twenty-second largest oil-producing country in the world and the third-largest oil producer in Eurasia, after Russia and Kazakhstan.[16] Azerbaijan produced just over one million barrels per day in 2010.[17] Azerbaijan is also the twenty-ninth largest producer of natural gas in the world.[18] So critical is the energy sector to Azerbaijan's economy that, according to a 2010 International Monetary Fund (IMF) report, non-oil and gas exports at that time accounted for only five percent of total exports.[19] In its 2011 assessment, the IMF estimates that Azerbaijan's hydrocarbon revenues will begin to decline after 2018.[20] The IMF has repeatedly pressed Azerbaijan to develop its non-oil economy and has said improvements in the business climate are crucial to sustained economic health.[21]

Given Azerbaijan's current high per capita income, the country is no longer eligible for deeply discounted loans from international financial institutions designed for poor countries. Although Azerbaijan's most recent IMF loan expired by 2005,[22] the IMF has remained engaged with Azerbaijan to offer policy advice. The World Bank's loans to

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[15] World Bank, "Data and Statistics for Azerbaijan," September 2011, http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/AZERBAIJANEXTN/0,,menuPK:301939~pagePK:141132~piPK:141109~theSitePK:301914,00.html (accessed October 20, 2011). Annual GDP growth peaked at 34.5 percent in 2006.

[16] The largest oil producer in the world is Saudi Arabia, which produced about 10.8 million barrels of oil per day (bopd) in 2010. In 2010 Eurasia produced about 13.2 million bopd, with Russia producing 10.2 million bopd followed by Kazakhstan with 1.6 million bopd. Azerbaijan accounted for about 7.6 percent of the region's 2010 oil production. United States Energy Information Administration (USEIA), "International Energy Statistics," http://www.eia.gov/cfapps/ipdbproject/iedindex3.cfm?tid=5&pid=53&aid=1&cid=regions&syid=2010&eyid=2010&unit=TBPD (accessed October 22, 2011).

[17] USEIA, "Azerbaijan: Overview/Data," http://www.eia.gov/countries/country-data.cfm?fips=AJ#pet (accessed October 20, 2011).

[18] USEIA, "International Statistics." Natural gas production increased from 202 bcf in 2001 to 583.4 bcf in 2009. USEIA, "Azerbaijan: Overview/Data."

[19] "IMF 2011 Article IV Report."

[20] Ibid., p. 21. Azerbaijan has reserves of seven billion barrels of crude oil and 30 trillion cubic feet of natural gas. As cited in USEIA, "Azerbaijan: Analysis," http://www.eia.gov/countries/cab.cfm?fips=AJ (accessed October 20, 2011). Natural gas prices are typically far lower than for oil so revenues from sales of natural gas will not be sufficient to offset anticipated declines in oil revenues as the reserves are depleted.

[21] For example, see IMF 2011 Article IV Report.

[22] "IMF 2011 Article IV report," p. 2 of the informational annex.

Azerbaijan, under a program for middle-income countries, were anticipated to reach US$300 million in the 2011-2012 fiscal year, while the European Bank for Reconstruction and Development invested US$79 million in projects in the country in 2010.[23]

Azerbaijan is a member of the Extractive Industries Transparency Initiative (EITI), an international effort established in 2002 to improve transparency and governance in oil, gas, and mining. The central requirement of the initiative is that members—governments and the extractive industries in their countries—publish company payments and government revenues.[24] In 2009, Azerbaijan met a variety of criteria regarding revenue disclosure and in so doing was the first country to be declared "EITI compliant."[25] Although Azerbaijan has filed regular and frequent reports to EITI, domestic civil society representatives that joined the process in 2010 have expressed concern that implementation of EITI has stagnated.[26] Their inability to secure improvements without the consent of the government and companies highlights one set of limits on the EITI as a mechanism for ensuring accountability.

More generally, Azerbaijan's EITI membership only relates to the transparency of government income. EITI does not address how governments spend the money earned, nor whether they are transparent to their citizens about budgets and expenditures, so it cannot be used to monitor corruption or assess whether the funds from extractive industries are used to benefit the public.

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[23] Ibid., pp. 5 and 7 of the informational annex.

[24] EITI, "What is the EITI?" http://eiti.org/eiti (accessed October 21, 2011). Today, the initiative is governed a biannual global conference; a 20-member board representing government, industry, and civil society; an independent secretariat based in Oslo; and the EITI Multi-Donor Trust Fund, which is managed by the World Bank. EITI, "Governance Structure," http://eiti.org/about/governance (accessed October 21, 2011).

[25] To become compliant with the EITI, states must publish a national report disclosing company payments and government revenues from the extractives sector, and complete an external review of their compliance with the initiative's other basic standards, a process known as "validation." EITI, "EITI Fact Sheet," http://eiti.org/ document/factsheet (accessed January 20, 2012). Azerbaijan must successfully complete another validation (under somewhat strengthened rules) by early 2014 to remain compliant. See EITI, "Azerbaijan," http://eiti.org/Azerbaijan, and EITI, "The 2011 edition of the EITI Rules," http://eiti.org/news-events/2011-edition-eiti-rules (both accessed January 20, 2012).

[26] "Statement of the Coalition of NGOs for 'Improving Transparency in Extracting Industries,'" Baku, June 6, 2011, http://eiti.org/files/Statement%20of%20EITI%20NGO%20Coalition%20in%20Azerbaijan_June%2008_2011.pdf (accessed January 20, 2012).

This report does not address whether the extensive redevelopment of Baku is an appropriate government priority or examine whether specific construction projects are in the public interest.[27]

Eurovision Song Contest and Related Construction

The Eurovision Song Contest is an annual televised competition featuring one pop music competitor from each of 56 countries in and around Europe.[28] An estimated 125 million people watch the contest on television each year,[29] making it a major European cultural phenomenon.[30]

According to the contest's rules, the winning act's home country becomes the host for the next year's event.[31] Thus, Azerbaijan became the host of the 2012 contest when its competitor, Ell & Nikki, won the competition in May 2011.[32] President Aliyev called the victory "a great success of the Azerbaijani state and people."[33] The state-owned broadcaster in charge of producing the event in the host-country is Azerbaijan's Ictimai TV.[34]

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[27] The IMF's late-2011 recommendations to the government of Azerbaijan call for "enhancing the quality of public investment spending," noting that "in particular the selection and appraisal of investment projects requires improvement." IMF, "Statement at the Conclusion of the IMF's 2011 Article IV Consultation Mission to Azerbaijan," Press Release no. 11/389, November 2, 2011, http://www.imf.org/external/np/sec/pr/2011/pr11389.htm (accessed December 2, 2011). In a summary document, the IMF was more direct: "There is considerable scope for trimming capital expenditures." IMF Public Information Notice, "IMF Executive Board Concludes 2011 Article IV Consultation with Azerbaijan," January 18, 2012, www.imf.org/external/np/sec/pn/2012/pn1202.htm (accessed January 20, 2012).

[28] European Broadcasting Union (EBU), "About the EBU," http://www.ebu.ch/en/about/index.php (accessed October 26, 2011). Each participating country is represented by one of its domestic broadcasters, which in turn sponsors an act. Each participating country has its own method for choosing the song it will submit. These typically take place in March. During the subsequent Eurovision Week, acts perform live and on-air in the host city, and viewers in participating countries vote for their favorites, first in semi-finals and later in a final. Each country awards points to songs/countries based on the votes—and the country with the highest number of points in the final is the winner. Eurovision Song Contest, "National Selections" and "The Shows," http://www.eurovision.tv/page/baku-2012/about (accessed October 26, 2011).

[29] Eurovision Song Contest, "Facts & Figures," http://www.eurovision.tv/page/history/facts-figures (accessed October 26, 2011).

[30] Jack Ewing, "Uniting a Continent through a Wacky Song Contest," The New York Times, May 12, 2011, http://www.nytimes.com/2011/05/13/arts/13iht-eurovision13.html?pagewanted=all (accessed October 26, 2011).

[31] Eurovision Song Contest, "Historical Milestones," http://web.archive.org/web/20060526065558/http://www.eurovision.tv/english/611.htm (accessed October 26, 2011).

[32] Carole Cadwalladr, "Azerbaijan win Eurovision as Blue and Jedward Finish Mid-Table," Guardian online, May 14, 2011, http://www.guardian.co.uk/tv-and-radio/2011/may/15/azerbaijan-win-eurovision-blue-jedward (accessed January 26, 2011).

[33] Damien McGuinness, "Eurovision Turns Spotlight on Azerbaijan," BBC, May 18, 2011, http://www.bbc.co.uk/news/world-europe-13431093 (accessed November 11, 2011).

[34] Eurovision Song Contest, "Host Broadcaster in 2012," http://www.eurovision.tv/page/baku-2012/about/organisers/host-broadcaster (accessed October 26, 2011). Ictimai TV was established after the adoption of the 2004 Law on Public Television and Radio Broadcasting. Ictimai TV, "Our Background," April 16, 2009, http://en.itv.az/aboutus/ourbackground/37.html (accessed November 6, 2011).

After winning the competition in 2011, senior government officials stated their desire to host the high-profile event in a brand-new venue, contingent only on whether construction could be completed in time. For example, in May 2011 shortly after the win, President Ilham Aliyev's daughter, Leyla Aliyev, writing an editorial in a local magazine, described the construction in Baku ahead of the Eurovision as including a new complex for the song contest that would be "unlike anything before seen," with "an amazing seaside panorama."[35] Later in the year Azerbaijani media quoted Youth and Sport Minister Azad Rahimov as declaring: "The [Baku] Crystal Palace is under construction and I hope it will be ready by the contest and surprise the European community."[36]

Consistent with this aim, work on the Baku Crystal Hall has proceeded at a quick pace.[37] In September 2011, a construction firm announced that it was building a "sports and concert complex" to accommodate some 25,000 spectators.[38] By early 2012 the roof had been installed on the arena, located near the end of a small peninsula jutting out into the Caspian Sea just east of the imposing National Flag Square, a vast, raised paved square home to a 162 meter flag pole.[39]

During this same period, the government has moved to clear homes and apartment buildings from the residential area at the base of the peninsula on the opposite side of the National Flag Square. The government demolished homes in that area to make way for the extension of a coastal road and also, just across from the National Flag Square, for a park, as suggested by a 2011 government document ordering beautification and greening in the

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[35] Leyla Aliyeva, "Editorial: Pleased to Meet You," [Radost Vstrechi], in Russian, Baku Journal, no. 24, July-August 2011, http://www.baku-media.ru/magazine/from_the_editor/?from_editor=99 (accessed October 12, 2011).

[36] Regarding the fall-back option of using the Heydar Aliyev Sport and Exhibition Complex, Mr. Rahimov stated, "It wouldn't be right to welcome European guests to the Concert and Sports Complex, which was built a long time ago and doesn't meet modern standards." "Tofiq Bahramov Stadium Baku's Plan B for Eurovision," December 13, 2011, News.Az, http://www.news.az/articles/eurovision/50805 (retrieved December 18, 2011).

[37] Human Rights Watch researchers have viewed and photographed the site on repeated visits.

[38] "ALPINE builds sports and concert complex in Baku/Azerbaijan," Alpine Bau Deutschland AG Press release, September 6, 2011, http://www.alpine-bau.de/en/alpine-top-themen/alpine-baut-sport-und-konzertkomplex-in-bakuaserbaidschan/?_p=1 (accessed January 20, 2012).

[39] "Roof installed for complex to be possible venue for ESC 2012 in Baku," Eurovision Song Contest Azerbaijan Baku 2012, undated, http://eurovisionaz.com/the-news/359-bch (accessed January 23, 2012). "Azerbaijani President's Speech at National Flag Square," News.Az, September 3, 2010, http://www.news.az/articles/politics/22160 (accessed January 22, 2012).

area, as well as the size of the space and that new trees have been planted in the area.[40] Given its location and the timing of its construction, the new road seems likely to provide an important access route the area for large numbers of people attending the Eurovision Song Contest at Baku Crystal Hall; similarly the park will presumably serve as a scenic vista and entry point for visitors approaching National Flag Square and the Baku Crystal Hall for the that event, as well as functioning as a public space in the future.

On January 26, the reference group of the European Broadcasting Union (EBU), which governs the Eurovision Song Contest, announced that it had approved the Baku Crystal Hall for the contest. Human Rights Watch has corresponded with and met with representatives of the EBU regarding concerns about government abuses in the Bayil neighborhood and other issues. (See below, the Role of Azerbaijan's International Partners.)

As the issue gained foreign media attention—and with the EBU itself confirming that it sought explanations from the Azerbaijan government[41]—the authorities responded by attempting to de-link the evictions and demolitions from its preparations for the Eurovision Song Contest.

For example, in January 2012 the Azerbaijani media quoted Ali Hasanov, director of the public and political department at the Azerbaijani Presidential Administration, as saying that the construction in several parts of Baku as well as in the Bayil neighborhood was related to "infrastructure, roads and other transportation projects, as well as the extension of [the] Baku Boulevard [an extensive promenade running along the seafront]" and "not related to Eurovision."[42]

The road construction that runs through the neighborhood where evictions took place was planned before Azerbaijan won the Eurovision Song Contest in 2011, and residents in at least one building in the area learned that their building would eventually be demolished

[40] Baku City Executive Authority order no. 71 of February 15, 2011 and Human Rights Watch visual observation, January 29, 2012. Because the Baku City Executive Authority did not respond to Human Rights Watch's requests to meet, we could not confirm how the authorities plan to use the space between the coastal road and the National Flag Square.

[41] "Eurovision Organizers Deny Warning the BBC over Azerbaijan," BBC Azerbaijan Service, reposted at http://singfordemocracy.org/en/news/76-eurovision-organisers-deny-warning-the-bbc-over-azerbaijan (accessed January 20, 2012).

[42] "Ali Hasanov: 'The measures taken around the State Flag Square are unrelated to Eurovision Song Contest and preparation of corresponding venue for the event,'" APA News, http://en.apa.az/news.php?id=162942, January 4, 2012, (accessed January 5, 2012).

as early as February 2010 to make way for a park. However the pace of government actions to clear the land demonstrably quickened after Azerbaijan won the contest as the authorities accelerated efforts to complete the Baku Crystal Hall and related road infrastructure in time for the May 2012 contest. This is evidenced in the timing of one of the Baku City Executive Authority orders regulating evictions in the area (dated May 31, 2011), the rapid pace of evictions from September 2011- early 2012, as the government rushed to clear the area for construction of the extended coastal road, and statements by government officials linking construction in the area to preparations for the Eurovision Song Contest, as noted above.

II. Development, Expropriations, and Human Rights

The desire and policy of the Azerbaijan government to develop its capital and improve infrastructure and public works is a legitimate government mandate. Human rights law recognizes that rights to property, including house and home, may be subject to interference by the state in the interest of the common good, such as for purposes of development. However, such state interference with private property is lawful only if it takes place in accordance with a number of conditions: that the interference is in the public interest, that it is not arbitrary, that it follows due process and is conducted in accordance with appropriate legal provisions, and that it complies with principles of international law such as the provision of fair compensation.[43]

As a party to the European Convention on Human Rights (ECHR), Azerbaijan has clear and binding treaty obligations to respect the right to property, the home, and family and ensure access to a remedy in any process of expropriation.[44] The obligation is on the authorities to strike a 'fair balance' between the demands of the public interest and the protection of the individual's fundamental rights.

Azerbaijan's national law reflects these obligations. The constitution of Azerbaijan protects property from expropriation except by court decision and provides that property owners must be fairly compensated based on the value of the property.[45] There is also a law on expropriation of land for state needs that allows expropriation only when required by the

[43] See for example the Universal Declaration of Human Rights, Article 17, "(1) Everyone has the right to own property alone as well as in association with others. (2) No one shall be arbitrarily deprived of his property"; European Convention on Human Rights, Article 1, Protocol 1 "(1) Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law"; American Convention on Human Rights, Article 21, "(1) Everyone has the right to the use and enjoyment of his property. … (2) No one shall be deprived of his property except upon payment of just compensation, for reasons of public utility or social interest, and in the cases and according to the forms established by law"; African Charter on Human and Peoples' Rights, Article 14, "The right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws."

[44] European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), European Treaty Series No. 5, art. 11. Azerbaijan became a party to the ECHR on April 15, 2002.

[45] Constitution of the Republic of Azerbaijan, November 12, 1995, with amendments, article 29.

state for a limited number of purposes.[46] The law also requires a decision of the Cabinet of Ministers, that notice of at least one year be given to tenants prior to expropriation, and that the state provide compensation at market value, among other costs.[47]

The Azerbaijan government therefore has options to lawfully expropriate such property that it can justify on development grounds, although for projects that are intended to be complete by May 2012, the legal process for expropriation would have had to commence significantly earlier than May 2011.

Human Rights Watch has documented human rights violations at every stage of the government's "development" campaign, including in the process by which the authorities identified homes and properties for expropriation, notified homeowners and residents of impending expropriations and demolitions, and assessed and awarded compensation, as well as in the manner in which expropriations, evictions, and demolitions were executed. Irrespective of any lawful basis for the expropriations, the government's conduct during the expropriation and evictions processes was abusive, and those whose rights were affected have had no effective legal recourse or access to a remedy.

[46] Law of the Republic of Azerbaijan on Expropriation of Land for State Needs, no. 987-IIQ, April 20, 2010, article 3. See also: Civil Code of the Republic of Azerbaijan, no. 779 -IG, December 28, 1999 (entered into force May 26, 2000), article 157.9. Article 203 of the Civil Code allows for certain circumstances, unrelated to state needs, when a property owner may be compulsorily dispossessed of his or her property, such as: forfeiture of property for liabilities; expropriation of property which may not belong to the given person under the law; the alienation of immovable property in connection with purchase of a land plot; purchase of non-maintained cultural valuables; requisition; and confiscation.

[47] Civil Code of the Republic of Azerbaijan, art. 157.9, as amended by order of the President of Azerbaijan, no. 386, of August 25, 2000, Housing Code of the Republic of Azerbaijan, article 31.

III. Forced Evictions and Demolitions of Homes in Central Baku

Human Rights Watch interviewed 52 homeowners who faced abuses in the course of the government's campaign of expropriations, evictions, and demolitions in central Baku.

While the experience of those homeowners in central Baku whom the authorities have forcibly evicted varied, it followed a basic pattern. Some of the homeowners learned that their homes would be expropriated when officials from the municipal housing authorities visited them and explained orally or through a written notice that their property would be demolished and that they should visit the resettlement commission established by the Baku City Executive Authority to discuss compensation. The written notices that Human Rights Watch saw were printed on blank paper with no letterhead, or, with some exceptions, stamps and signatures, and typically delivered to people by hand. Other property owners told Human Rights Watch that they received no official notification of impending expropriation or demolition but learned through rumors from neighbors or after seeing that neighboring or nearby properties were being demolished.

Once they had learned of the impending actions against their properties, homeowners could visit the resettlement commission, which consists of a representative of the Baku City Executive Authority and a representative of the State Committee on Property. The resettlement commission would present the government's compensation offers. Typically, for apartments smaller than 60 square meters, homeowners were offered monetary compensation, based on a flat rate per square meter determined by the government. The authorities usually offered owners of homes larger than 60 square meters new apartments outside of the city center. But, they did not give homeowners immediate title to the new apartments—instead promising ownership titles at a later date—thereby potentially stripping them of their ownership rights. In some cases, the authorities called or visited residents to discuss compensation offers.

Some property owners accepted the government's compensation offers, vacated their houses or apartments, and resettled in other homes—either those provided by the government or ones that they bought or, most typically, rented, using the compensation money awarded to them. In several cases documented by Human Rights Watch the

government provided one month's rent for temporary housing while evicted homeowners searched for a new permanent home.[48] Others remained in their homes because they refused the compensation offers or never received official compensation offers.

Some homeowners faced forced eviction immediately prior to the total demolition of their homes, with little or no warning. Their possessions were often forcibly removed, damaged, destroyed, or lost in the process. In other cases government representatives cut off water, electricity, and other services and began to partially demolish buildings in which residents continued to live. In two cases documented by Human Rights Watch, police detained homeowners and their families while government workers removed household goods and personal belongings and then demolished their homes.

Forced Evictions Immediately Prior to Demolitions

Irrespective of the legality of any expropriations, Human Rights Watch documented numerous cases in which the manner of forced evictions and demolitions was highly abusive, could never be justified as a proportionate measure, and violated the rights of the homeowners, families, and occupants.

Bayil Neighborhood

In December 2011, Human Rights Watch interviewed four families who had been forcibly evicted from their homes in the Bayil neighborhood next to the National Flag Square in September, October, and November 2011 in order for their homes and the buildings in which their apartments were located to be demolished. These residences, located at the base of a small peninsula, have been demolished to allow for the extension of a coastal road and creation of a park along one side of the National Flag Square. As noted above, the Azerbaijani authorities are working to complete construction of a large arena, the Baku Crystal Hall, on the opposite side of National Flag Square, in order to use it as the venue for the May 2012 Eurovision Song Contest. The planned new park in the Bayil neighborhood will thus presumably serve as an entry point to the new arena.

[48] Human Rights Watch interview with Bashkhanam Abbasov, January 26, 2012 and Human Rights Watch interviews with several homeowners at the apartment building at 5 Agil Guliyev Street, January 2012.

Arzu Adigezalova, 41, a math teacher and a single mother of two children, ages 9 and 6, lived in a two-room apartment at 3 Elchin and Vugar Gajibabaeva Street which the authorities demolished in October 2011. She had learned in June 2011 that the building would eventually be demolished and soon thereafter workers began dismantling the building. Adigezalova told Human Rights Watch:

> I lived on the second floor. My neighbors above me had moved, and workers had already demolished their apartments. In early September 2011, the workers broke through my ceiling, and the chandelier fell. Then my balcony collapsed. The workers would throw heavy building materials down to the ground. It was dangerous. Once, a large stone almost fell on my child's head. On September 9, I called the police and they came, and they took a statement from me, but nothing happened. On September 13, I called the Emergencies Ministry, but they did nothing.[49]

Adigezalova told Human Rights Watch that on October 11 she agreed to the government's compensation offer, but was still looking for a place to live. She described how the authorities forcibly evicted her just over two weeks later:

> On [October] 29, I woke up because the building was shaking, and I heard something I thought was thunder. I took the kids and went outside. [I went up to] the official in charge and asked him to give us time to take our belongings out. He looked at me and said, 'Ok,' but then in the next moment said to the bulldozer driver, 'Knock it down!'
>
> I had to leave behind mattresses, linens, tables, the gas stove. We weren't expecting a bulldozer to come that day at all. That same official had promised us some money so that we could rent an apartment until I could find one to buy, but I got nothing.[50]

Another homeowner, Zarifa Aliyeva, a 47-year-old engineer, lived at 2 Khoshginabi Street with her two adult sons and her daughter-in-law until the authorities forcibly evicted the

[49] Human Rights Watch interview with Arzu Adigezalova, December 11, 2011.
[50] Ibid.

family on November 1, 2011. At 5:00 a.m. a bulldozer arrived to begin demolishing the building. Aliyeva described that morning to Human Rights Watch:

> I was asleep, and a noise like thunder woke me up, so I woke up my kids. We ran outside and asked the officials overseeing the demolition to give us some time to gather up our belongings. The officials said 'Ok, ok,' but then immediately told the workers to get started with the demolition. I left half of my belongings there, including all of my dishes, a dining room table, and a cabinet.[51]

Although Aliyeva learned in June 2011 that the building would be destroyed, the authorities gave Aliyeva no warning whatsoever that the demolition would begin that day.

The authorities provided Aliyeva compensation for only 50 square meters of her apartment, rather than the total 103 square meters of actual living space (for more on unfair compensation payments, see below, Failure to Provide Alternative Accommodation or Adequate Compensation). "I am now forced to rent an apartment because I don't have enough money to buy a new one," she told Human Rights Watch. "And I can only afford to rent a one-room apartment, but there are four of us living there. My son has to sleep on the floor."[52]

Neftchilar Avenue

On June 10, 2011, Sevinj Zainalova, her husband, and three children, ages 8, 18, and 20, were evicted from the home in which her husband grew up and which he had inherited from his parents at 61 Neftchilar Avenue. Zainalova, a homemaker, described the home as "a large apartment with a balcony and a garage, in the very city center, only a few minutes' walk from the presidential administration."[53] A private development company, Klass AZ KO, notified the family nearly a year earlier that their home would be demolished and repeatedly called, offering the family compensation of 1,500 manat (US$1,900) per square

[51] Human Rights Watch interview with Zarifa Aliyeva, December 11, 2011.

[52] Ibid.

[53] Human Rights Watch telephone interview with Sevinj Zainalova, June 14, 2011.

meter or a smaller apartment outside the city center.[54] Zainalova and her family refused the compensation offer and remained in their home.[55]

On the day of the eviction, representatives of the police and the State Committee on Property and construction workers participated in forcing residents from their homes. Zainalova described the forced eviction to Human Rights Watch:

> Ours was a long building, and they had been slowly destroying parts of it for months. But when they came on Friday [June 10] to evict us, we had no warning. My husband was at work. At least 15 police came, and several workers started to break down the door. They shouted at us to 'Get out right away or we'll break down the door.' I demanded to see a court order, but of course they didn't have one. I started passing our belongings out of the window as the police broke down our door.
>
> I called my husband, crying. When he arrived they wouldn't let him come into the apartment. His very own apartment! They grabbed him and tore his suit jacket. I didn't want this to go any further, so I gathered my children and we left. They demolished the building. Now we're living with my mother in a two-room apartment. I don't know where we will live.
>
> They had told me, 'Accept our compensation offer or you'll be in the street.' I really couldn't believe this. I couldn't believe that they could actually forcibly remove me from my own apartment. But that's exactly what they did.[56]

Prior to the forced eviction, Zainalova had learned that the Baku City Executive Authority had authorized Klass AZ KO to develop a shopping center on the land upon which the apartment building at 61 Neftchilar Avenue and other buildings were located.[57] However it

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[54] Ibid. The role of the companies in the forced eviction and demolition, as described here based on Zainalova's interview with Human Rights Watch, was also the basis for a lawsuit her family filed—and won—for violation of property rights. Human Rights Watch telephone interview with Fuad Agayev, February 14, 2012. For details on the lawsuit, see further below.

[55] Human Rights Watch telephone interview with Sevinj Zainalova, June 14, 2011.

[56] Ibid.

[57] Human Rights Watch interview with Sevinj Zainalova, January 25, 2012. Although Baku City Executive Authority order no.85 of March 9, 2010 authorized Klass AZ KO to develop a shopping center on the land occupied by the 66th quarter on

is not clear if Baku City Executive Authority had any legal power to transfer use of this land. On the contrary, the Azerbaijani Housing Code provides that apartment owners also enjoy rights to the land on which their apartment is built.[58]

In April 2011, Zainalova's husband, as the owner of the family's property, together with other homeowners from this area, filed a lawsuit in the Sabail District Court against Azinko Holding because the Zainalovs believed it was Azinko workers they had seen performing construction work in the area, including the demolition of their home. The lawsuit sought pecuniary and non-pecuniary damages for violation of their property rights. Later, the plaintiffs added the Baku City Executive Authority, the State Committee on Property, and Klass AZ KO as co-defendants.

On December 8, 2011, the court found that Klass AZ KO had violated the property rights of the plaintiffs and found no legal basis for their eviction and the destruction of their property. The court awarded Zainalova's family just over one-fourth of the damages requested in pecuniary damages and 1,000 manat (US$ 1,270) in non-pecuniary damages. The plaintiffs have appealed the decision, believing that the court award is substantially less than the value of their destroyed home and property and insufficient compensation for the family's emotional suffering.[59]

The court did not rule that the Baku City Executive Authority had acted illegally under Azerbaijani law when it transferred use of the land to Klass AZ KO, nor that it, the police, or the State Committee on Property had committed an offense when they participated in the illegal eviction of Zainalova's family and other residents.[60]

Mikhail Useinov Avenue, which was renamed Neftchilar Avenue. It does not specifically name 61 Neftchilar Avenue . Baku City Executive Authority, Order no. 85, March 9, 2010, on file with Human Rights Watch. An April 26, 2011 letter from the Sabayil District Housing Department to several residents of 61 Neftchilar Avenue states that the "Baku City Executive Authority has issued order no. 85, dated March 9, 2010 to demolish 61 Neftchilar Street for a shopping center to be built by Klass AZ KO. The demolitions of residential and non-residential properties and evictions … will be done at the expense of Klass AZ KO." Letter on file with Human Rights Watch.

[58] Human Rights Watch telephone interview with Fuad Agaev, February 14, 2012. Article 350f the Housing Code of the Republic of Azerbaijan provides that apartment owners enjoy shared rights to the land on which the building has been built.

[59] Human Rights Watch email correspondence with Fuad Agayev, February 12, 2012.

[60] Ibid.

Neighborhood behind Heydar Aliyev Hall

Topchubasov Street

Khajibaba Azimov, a former member of parliament and leader of the small United Azerbaijan National Unity Party, owned an apartment in a building on A. Topchubashov Street. After several verbal warnings that the building would be demolished, in December 2010 police forcibly evicted him and his family and destroyed their home despite a pending court case. Azimov had filed the suit in April 2010 and repeated subsequent appeals to court attempting to stop the demolition, including in the days immediately prior to the demolition. Azimov described the forced eviction:

> Many times they came and told us to leave our apartment. There was a lot of pressure on us to leave. The last time was one week before the actual demolition. All of the buildings around us had already been demolished. Ours was the last to be demolished. In the evening the bulldozers came right to the house and even started to knock it down.
>
> The police came, dragged us out of the apartment and made us stand on the street. Workers took out our belongings and threw them out on the street. We watched as the building was demolished. We didn't have the chance to immediately move our belongings to another location, and so some things remained outside on the street and many of our belongings went missing.[61]

Azimov appealed to the prosecutor's office in January 2011 requesting an investigation into his missing personal property. He received no response.[62]

Shamsi Badalbeili Street

Ali A. is a retired lawyer who owned a home on Shamsi Badalbeili Street. He described to Human Rights Watch how in December 2010, with less than two days' notice, police and other workers arrived at his home in to forcibly evict him, his wife, and children from their home of 15 years. Ali A. told Human Rights Watch:

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[61] Human Rights Watch telephone interview with Khajibaba Azimov, June 6, 2011.

[62] Human Rights Watch telephone interview with Khajibaba Azimov, November 4, 2011.

> I came out of my house in the morning and the police had surrounded it. The workers entered my apartment by force and started to take out my things. I paid them, hoping that they would be careful in taking out my things. They weren't rude or offensive, but when they removed my belongings, a lot of my things were ruined, including my books, which were my most valuable possession. Tables, chairs, cabinets, a piano, antiques, all of which were very expensive, were all ruined. The workers took away the motors out of two air conditioners. They took things and just dropped them on the street.[63]

Office of the Institute for Peace and Democracy

On August 11, 2011 the municipal authorities, without warning, illegally demolished a building owned by Leyla Yunus, a prominent human rights defender in Azerbaijan, and her husband, Arif. The building, located at 38-1 and 2 Shamsi Badalbeili Street was home to three human rights organizations: the Yunus' Institute for Peace and Democracy (of which Leyla Yunus is chair), the Azerbaijani Campaign to Ban Landmines, and the only women's crisis center in Baku. Although the building fell within a neighborhood identified in February 2011 by the Baku City Executive Authority for expropriation and demolition, in May 2011 the Yunuses had obtained an injunction from Administrative-Economic Court no. 1 prohibiting expropriation or demolition of the property pending a final court decision.[64]

An employee of the Institute for Peace and Democracy, Azad Isazadeh, told Human Rights Watch that he was in the building at around 8 p.m. when Yusuf Gambarov, an official from the State Committee on Property, and an official from the Baku City Executive Authority arrived. They indicated that heavy machinery would be destroying a neighboring building with which the building shared a wall, and encouraged Isazadeh to leave the premises for his safety. He refused. Several minutes later, without warning, heavy machinery broke part of the office building. Workers used iron bars to break the windows and also broke down the door. Government workers entered the building and began removing office furniture and equipment.

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[63] Human Rights Watch interview with Ali A., Baku, June 17, 2011. Ali A's exact address and the exact date of his eviction are not revealed to protect his identity.

[64] Baku City Executive Authority order no. 76, dated February 16, 2011 indicates that structures on Shamsi Badalbeili Street will be demolished to make way for a garden park complex. Application to the European Court of Human Rights under Article 34 of the European Convention on Human Rights and Rules 45 and 47 of the Rules of Court, submitted October 18, 2011.

Isazadeh said that he asked the officials at the site to halt the demolition for a short period to allow time for him and local residents who had come to assist him to remove office equipment, documents, and personal belongings. The officials refused and ordered the demolition to go forward immediately. According to Isazadeh, "The police were there and it was all happening in front of their eyes and no one did anything."[65]

Isazadeh and the others grabbed a few items that they could carry and left the building. By 10 p.m. the building was nearly completely destroyed. The vast majority of the furniture, office equipment, and archives for the three organizations was buried in the debris of the demolished building or removed by government workers. It is not known where the government workers took the property they removed from the building.[66] In a letter to Human Rights Watch, the Baku City Executive Authority claimed that "after repeated warnings" the authorities had moved all of the property in the building "safely and without damage, using specialized transportation," but did not specify where the property was or how it would be returned to the Yunuses.[67]

Leyla Yunus believes that the timing and manner of the demolition—without warning, at night, without allowing for removal of the contents of the building, and in violation of a court injunction—amounted to retaliation for her human rights work, including her work on illegal expropriations, forced evictions, and house demolitions in Baku. Starting in 2010, Leyla Yunus filed numerous petitions to government agencies regarding other house expropriations and demolitions in Baku. In addition, on the morning of August 11, 2011, an article appeared in the *New York Times* describing the demolition campaign and extensively quoting Leyla Yunus.[68]

The Yunuses' Appeals to the Authorities and Courts

Two weeks after the demolition, on August 25, 2011, the Yunuses received a letter from the Baku City Executive Authority indicating that on the basis of the general plan for the development of Baku, construction work had been begun in the city center (including in the

[65] Human Rights Watch telephone interview with Azad Isazadeh, August 11, 2011.

[66] Ibid., and Human Rights Watch interview with Leyla Yunus, December 10, 2011.

[67] Letter from Rasim Guliev, Chief of Staff, Baku City Executive Authority, no. 7-4462/6 to Human Rights Watch, November 23, 2011.

[68] Amanda Erickson, "Middle Class Families Face Eviction in Azerbaijan," *New York Times*, August 11, 2011, http://www.nytimes.com/2011/08/11/world/asia/11baku.html?_r=1&scp=2&sq=Amanda%20Erickson&st=cse (accessed November 2, 2011).

area of the Yunuses' home). The letter stated that the Yunuses had not responded to repeated offers by the authorities to sell their property.[69] The Yunuses maintain that they never received any compensation offers from the government.[70] The letter indicates that the Yunuses are entitled to receive compensation of 1,500 manat (US$1,900) per square meter through the sale of the property, which the Yunuses consider to be less than market value.[71]

On May 18, 2011, the Yunuses filed a claim with Baku Administrative-Economic Court no.1 against the Baku City Executive Authority, the Nasimi District Executive Authority, the Ministry of Finance and the State Committee on Property. Although prior to filing the lawsuit they had not received a formal notice of expropriation, they believed there was a real threat of state action against their property because they saw the expropriation and demolition of houses in their neighborhood and were aware of the Baku City Executive Authority's order no. 76, which indicated that homes on Shamsi Badalbeili Street would be demolished.[72]

On May 24, 2011 the Baku Administrative-Economic Court no. 1 partially granted the Yunuses' request for temporary protection and ordered the Baku City Executive Authority and the State Committee on Property to refrain from any demolition or construction that may damage or harm the Yunuses' property. The Administrative-Economic Court hearing scheduled for June 14 was repeatedly postponed due to the government's failure to appear or failure to submit documents requested by the court. The trial was ongoing at the time of writing.

On September 7, 2011, the Yunuses filed a complaint with the Prosecutor General's Office identifying a number of criminal offenses that they believe occurred in connection with the demolition of their property on August 11, and requesting an investigation including into the

[69] Letter from Eldar Yunusov, Representative of the Resettlement Commission of the Baku Executive Authority, no. Y-5/9 to Arif and Leyla Yunus August 25, 2011, on file with Human Rights Watch. The letter from the Baku City Executive Authority to Human Rights Watch also states that the Baku City Executive Authority allegedly attempted to contact the Yunuses regarding compensation prior to the demolition.

[70] Human Rights Watch interview with Leyla Yunus, December 10, 2011.

[71] Letter no. Y-5/9 from Eldar Yunusov, Representative of the Resettlement Commission of the Baku Executive Authority, to Arif and Leyla Yunus August 25, 2011.

[72] The Yunuses had previously lodged the suit with another court. On February 8, 2011, they filed a suit in the Nasimi District Court against the Baku City Executive Authority and the Nasimi District Authority. The court refused to hear the case, stating that the recently-created Administrative-Economic Court had jurisdiction over the issue. The Yunuses unsuccessfully appealed the Nasimi District Court decision to the Baku Appeals Court and the Supreme Court, which similarly refused to hear the case on its merits. The Baku Court of Appeals decision was delivered on March 31, 2011 and the Supreme Court of Azerbaijan decision on June 24, 2011.

role of the Baku City Executive Authority and the State Committee on Property in the demolition and the disregard for the court injunction.[73] In a letter dated September 8, the Prosecutor General's Office stated that it had referred the complaint to the State Committee on Property for review. On September 30 the State Committee on Property informed the Yunuses that the authorities were resettling residents from the neighborhood behind the Heydar Aliyev Hall in order to construct a park. With respect to their complaint concerning the August 11, 2011 demolition, the letter merely recommended that the Yunuses contact the Resettlement Commission of the Baku City Executive Authority, which also has no investigative function, but is responsible solely for compensation to homeowners.[74]

The Prosecutor General's Office is responsible for conducting a fair and impartial investigation into allegations of violations of the law by state agents. By referring the complaint and allegations of crimes to the State Committee on Property, which has no investigative function, and by taking no further action, the Prosecutor General's Office is refusing to investigate alleged criminal acts by state agents. The transfer of the complaint to the State Committee on Property is utterly inappropriate. It is precisely this committee that the Yunuses' allege, in their complaint, had violated the law, and whose representative, Yusuf Gambarov, supervised the demolition of Yunuses' home on August 11. Leyla Yunus is not aware if the Prosecutor General's Office has taken any other steps with respect to her complaint.[75]

The authorities' disregard for the Yunuses' complaints and refusal to investigate possible crimes is incompatible with the obligation to provide a remedy under international law. Article 13 of the European Convention on Human Rights requires the state to ensure an "effective remedy" for alleged violations of the convention, and in the case of violations that amount to criminal acts this should involve a prompt, impartial, and thorough investigation into the allegations which is capable to leading to the identification and punishment of those responsible.[76] The European Court of Human Rights has also made

[73] The complaint alleged violations of articles article 186 (deliberate destruction or damage of property), article 306 (willful non-implementation of a court decision by a public official), 308 (abuse of authority), 309 (exceeding authority) of the Criminal Code of the Azerbaijan Republic, December 30, 1999 (entered into force on September 1, 2000).

[74] Letters on file with Human Rights Watch.

[75] Human Rights Watch email correspondence with Leyla Yunus, January 5, 2012.

[76] See e.g. Menteş and Others v. Turkey, judgment of 28 November 28, 1997, Reports 1997-VIII, para. 89 in which the Court explained that Article 13, "imposes, without prejudice to any other remedy available under the domestic system, an obligation on the respondent State to carry out a thorough and effective investigation of allegations brought to its attention

clear "effective" refers to the impact of the investigation in practice as well as in law, "in particular in the sense that its exercise must not be unjustifiably hindered by the acts or omissions of the authorities of the … State."[77]

In October 2011, the Yunuses filed a complaint to the European Court of Human Rights.[78]

As a result of the demolition, the three organizations housed in the Yunuses' property have struggled to continue working. Although the Women's Crisis Center relocated at least temporarily to another building, Azad Isadzeh, who works as a psychologist for the Women's Crisis Center, told Human Rights Watch in late September that the number of women seeking services at the center was reduced by 60 to 70 percent. "People just used to walk into the office and seek help, but now victims don't know how to find us," said Isadzeh."[79]

The destruction of the Yunuses' property also appears to have had a chilling effect on other homeowners in Baku who have sought to challenge the expropriations, unfair compensation, and impending demolitions through legal means. Fuad Agaev, a lawyer representing the Yunuses and dozens of homeowners told Human Rights Watch that following the demolition of the Yunuses' property, homeowners are increasingly reluctant to pursue cases in the courts and feel that they have no choice but to accept the inadequate compensation offered to them, or risk losing both their home as well as the government's monetary compensation.[80]

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of deliberate destruction by its agents of the homes and possessions of individuals. Accordingly, where an individual has an arguable claim that his or her home and possessions have been purposely destroyed by agents of the State, the notion of an "effective remedy" entails, in addition to the payment of compensation where appropriate, a thorough and effective investigation capable of leading to the identification and punishment of those responsible and including effective access for the complainant to the investigative procedure. See also Ayder and Others v. Turkey, no. 23656/94, judgment of January 8, 2004, para 98.

[77] See inter alia Aksoy v. Turkey judgment of December 18, 1996, Reports 1996-VI, para. 95.

[78] Application to the European Court of Human Rights under Article 34 of the European Convention on Human Rights and Rules 45 and 47 of the Rules of Court, submitted October 18, 2011. The complaint alleges violations of article 3 (prohibition on inhuman and degrading treatment and torture), article 6 (right to a fair trial), article 8 (right to private and family life), article 11 (right to freedom of association), article 1 of protocol 1 (right to peaceful enjoyment of possessions), article 2 of protocol 4 (the right to liberty of movement and freedom to choose one's residence), article 13 (the right to an effective remedy), article 14 (right to be free from discrimination), and article 18 (limitation on the use of restrictions on rights) of the European Convention.

[79] Human Rights Watch interview with Azad Isazadeh, September 27, 2011.

[80] Human Rights Watch interview with Fuad Agaev, September 26, 2011.

Illegal Detention as a Component of Forced Eviction

Human Rights Watch documented three cases in which police detained homeowners and their families in a police station while government workers demolished the apartment buildings in which they lived. Among those detained were children ranging in ages from 12 to 15. In all cases the detentions took place in the neighborhood behind the Heydar Aliyev Hall.

In all instances police detained homeowners and their families without explanation, did not allow them access to legal counsel, and released them without charge hours later, in one case as long as eight hours. These detentions, in the course of aggressive police action to forcibly remove people from their homes, exacerbated an already harrowing and distressing experience for residents. Furthermore, the government's use of police to carry out the expropriation and facilitate the demolition implicates the police in the illegal actions of the Baku City Executive Authority and the State Committee on Property.[81]

49 Samed Vergun Street

Bashkhanum Abbasova, a retired university lecturer in applied arts, lived with her two adult sons, daughter-in-law, and grandson, in a large apartment building at 49 Samed Vergun Street. As described below, beginning in August 2011, the authorities had steadily dismantled the building while Abbasova and other residents continued to live in their apartments. On December 9, 2011, Abbasova agreed to the forced sale of her apartment, and on December 17, the authorities paid one month's rent in an apartment in the neighborhood for Abbasova to use temporarily. Abbasova managed to move her furniture that same day, but continued packing and planned to complete her move in the next few days.

However, at around 9 p.m. on December 18, an excavator began breaking down the walls of the building at 49 Samed Vergun Street. According to Abbasova, the authorities claimed they needed to demolish the building urgently due to errors during previous demolition work, and it was at risk of immediate collapse. The evening quickly turned chaotic, as

[81] See McLeod v. the United Kingdom, judgment of September 23, 1998, Reports 1998-VII, in which the Court found a violation of the right to respect for the home of Mrs. McLeod, when two police officers entered her home to assist her ex-husband in removing his property to which he was entitled to by a court order. In assessing whether entry of the police into Mrs. McLeod's home struck a fair balance between her right to respect for her home, and the prevention of disorder and crime, the court noted that the police had not taken any steps to verify whether the court had given her ex-husband the right to enter her home and remove his property. The Court held that the police should not have taken it for granted that he was entitled to do so and that the means employed by the police officers—entering her home without permission—was disproportionate to the legitimate aim pursued, and a violation of her rights.

police confronted residents who were upset about the demolition. Abbasova told Human Rights Watch:

> Residents started screaming and demanding that [the authorities] at least put up a sign that there was a demolition going on. … The authorities answered that it was a government matter and that we don't have the right to interfere. The police started to chase people away and then hit people. … They hit my son and stuffed him in the police car. And they also pushed me into the police car.[82]

Abbasova's adult son, Teymur, said that police punched and kicked him on his legs and stomach.[83] Police detained Teymur Abbasov and seven men who had come to help the family move. Abbasova said she insisted on going to the station with her son out of concern for his safety. Although Abbasova's neighbors sent a lawyer to the police station, the police did allow him to enter or communicate with those detained. Police held Abbasova and the others until 4 a.m. the next day, and released them without charge.

Hearing noise from the demolition, one concerned neighbor, Reikhan Guseinova, a 47-year-old businesswoman, had come out on the street from her nearby home, as did her son, 14, and daughter, 26. She described how police also attacked them:

> There were a lot of people on the street. I saw my neighbor who was going to be evicted, shouting [at the authorities]. My children and I all crossed the street, and [the police] started shouting, 'Get out of here!' Then they started pushing us. And they started to hit us.
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> When they started to push us, I was in shock. When they hit me, my children tried to protect me. And I tried to protect my children. I fell after being pushed, and my daughter fell on me. When my daughter fell, someone lifted her up, but then the police hit her. The second time they hit her she fell unconscious. People were yelling, 'Get water! Call an ambulance!'[84]

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[82] Human Rights Watch interview with Bashkhanum Abbasova, January 26, 2012.

[83] Human Rights Watch interview with Teymur Abbasov, January 26, 2012.

[84] Human Rights Watch interview with Reikhan Guseinova, January 27, 2012.

Gusseinova's husband arrived and she and her family went home and sought medical attention.[85]

Later that night, when Abbasova returned to her apartment building after being released by police, she said that she could hardly believe her eyes. She told Human Rights Watch, "My home was no longer there. There was nothing." Among the property she lost in the demolition were chandeliers, a gas stove, two televisions, two air conditioners, two fur coats, six carpets, one of which was a 200-hundred-year-old family heirloom, and family photo albums. "We lost our past," Abbasova told Human Rights Watch.[86]

58 Fuzuli Street

On the morning of November 19, 2010, police and other officials surrounded an apartment building located at 58 Fuzuli Street in order to evict the eight families remaining in the building. Demolition on the building had begun in June 2010, and residents on the top (third) floor had already vacated their apartments, since the roof had been removed. Residents on the first and second floors, including Nuria Khalikova, a 46-year-old librarian, continued living in the building. Khalikova received no official, written notification that the building would be demolished and no information about potential dates of demolition.

Khalikova described to Human Rights Watch the forced eviction and illegal detention on November 19, 2010:

> I went out in the morning to buy bread. When I came back I saw that police had surrounded the building, I ran back inside to my apartment. We had no warning that they would come that day. About 10 to 12 police broke down my door, and workmen entered the apartment and started moving out my furniture and belongings.
>
> My blood pressure went up, and I started to feel very bad, so I called an ambulance. When the ambulance arrived the police wouldn't let it enter our courtyard. Instead, the police took me out of my apartment. They put me in a police car and took me to the local police station, no. 22. They had

[85] Ibid.

[86] Human Rights Watch interview with Bashkhanum Abbasova, January 26, 2012.

> already brought my neighbors there. There were eight of us. Some people were still in their pajamas. They held us there all day, until about 7 p.m. They kept saying that they would let us go in half an hour, but they didn't.[87]

Although police did not explain to Khalikova the reasons for her detention, it is clear they detained her and the other residents to prevent them from interfering with the demolition of the building. Police attempted to force the residents to sign a statement saying that they had been detained for participating in an illegal demonstration, which the property owners and other residents refused to do.

Khalikova told Human Rights Watch what she and her neighbors discovered upon returning to their building:

> When they finally let us go, we went back to our building, but they had already started to demolish it and we couldn't go in. We saw huge machines hauling away our belongings. I went to the warehouse to collect my belongings; half of the things were broken and many things were missing, including my diamond earrings that I wore every day. Many valuable things were just gone.[88]

24 Fuzuli Street

Perviz Emirov, 42, is a retired soldier who was wounded while serving in the military and receives a disability pension. He lived in a small one-room apartment at 24 Fuzuli Street with his wife and their three children: 12-year-old twin boys and a 15-year-old daughter. Emirov described to Human Rights Watch the police detention and the destruction of his family's home and belongings in December 2010.[89]

> About four or five police officers came at about 2 p.m. on December 22. We had locked ourselves in the apartment, but they broke down the door and began to detain us. I only had time to grab our documents and the little bit of money that I had at home, nothing else. They put me, my wife, and my

[87] Human Rights Watch telephone interview with Nuria Khalikova, June 9, 2011.
[88] Ibid.
[89] Human Rights Watch interview with Perviz Emirov, June 20, 2011.

daughter in the police car and took us to the police station. About 30 minutes later our twin boys came home from school and saw that the building was being demolished. Then the police brought them to the station as well. They let us go after about five hours and we walked home. When we got to our home, we couldn't believe our eyes. Everything was destroyed. To this day I don't know where our belongings are.[90]

Forced Eviction through Dismantling of Homes and Cutting of Services to Homes in Which Residents Continue to Live

In numerous cases, the authorities have begun dismantling buildings and have cut water, sewer, electricity, gas, and telephone lines while some homeowners, who have thus far refused to accept the government's compensation or resettlement offers, remain in their homes. These actions show a serious disregard for residents' health and safety and also appear to be an effort to forcibly evict the homeowners, by rendering the apartments uninhabitable.

Bayil Neighborhood

Residents of several buildings in the Bayil neighborhood next to the National Flag Square first learned in June 2011 that their homes would be expropriated and demolished. By September 2011, when Human Rights Watch researchers first visited the neighborhood, most of the buildings identified for expropriation and demolitions were already partly or completely destroyed, and by January 2012, all of the buildings except one, at 5 Agil Guliyev Street, had been demolished.[91] As this report went to press on February 20, 2012, the building at 5 Agil Guliyev Street was being dismantled and only a handful of families remained.[92]

In September 2011, Human Rights Watch interviewed five families who, at the time of the interview, were still living in buildings in the Bayil neighborhood next to the National Flag Square that the authorities were actively dismantling and demolishing. In December 2011,

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[90] Ibid.

[91] Human Rights Watch interviews with Elmira Ismailova, with Violeta Latunova, with Zalika Aliyeva, September 26, 2011; and with Nelly Yusifzadeh, September 27, 2011.

[92] "Azerbaijan: Illegal Evictions Ahead of Eurovision," Human Rights Watch news release, February 17, 2012, http://www.hrw.org/news/2012/02/17/azerbaijan-illegal-evictions-ahead-eurovision.

Human Rights Watch also interviewed a resident who had been forced to vacate her apartment due to the hazardous conditions.

In July 2011 neighbors told Viktor Karamanov, a retired military officer and his wife, Iveta, who are both in their sixties, about rumors that their building, at 3 Elchin and Vusal Khajibabaev Street, where they have lived for over 20 years, would be demolished. The six other families living on the third floor sold their apartments and left, while the Karmanovs stayed, hoping to negotiate the sale price of their apartment with the authorities. They repeatedly asked officials from the resettlement commission that they be allowed to remain in their apartment for some additional time. However, by late August, just a little over a month after the Karmanovs first learned of the government's intention to demolish the building, the authorities had destroyed much of the building, including the roof. In late September the authorities cut the electricity and phone lines.[93]

"We did not want to sell our apartment," Iveta explained. "But we have to sell now because it's impossible to live here anymore. They broke down the roof so when it starts raining outside, it rains in our apartment too. … We begged them to at least leave the roof over our heads until we find someplace else to live, but they refused."[94]

Violeta Latunova also lived at 3 Elchin and Vusal Khajibabaev Street with her husband, their 7-year-old daughter, and her mother-in-law. Latunova similarly told Human Rights Watch that she and her family had remained in the building, where they owned an apartment on the first floor, because her husband has not been able to obtain from the authorities one of the documents necessary to conclude the government's sale agreement and receive compensation. At the time of the interview in September 2011, Latunova, who was pregnant, worried for her family's safety and told Human Rights Watch that the day before the interview, a roofing slate just missed falling on her.[95]

In September 2011 Human Rights Watch also interviewed Elmira Ismailova who had lived her entire life in an apartment at 9 Agil Guliev Street. At that time Ismailova remained in

[93] Human Rights Watch interview with Viktor and Iveta Karmanov, September 30, 2011.
[94] Ibid.
[95] Human Rights Watch interview with Violeta Latunova, September 26, 2011.

her apartment despite serious risk to her safety because the government was actively dismantling her building. She told Human Rights Watch:

> The authorities came in early June 2011 and told us that they would demolish our homes. Very soon after that, fifteen of my neighbors sold their apartments at the price the government offered. As soon as people sold, workers would come and start taking the apartments apart. They would take doors, windows, flooring, and any furniture remaining. There are only five families remaining now and almost everything except the walls is taken apart, including much of the roof.[96]

Ismailova said that she argued with the workers every day to prevent them from destroying the roof on the part of the building in which she and her husband remained. She described the situation as a "war" and refused to leave the building for fear workers would remove the roof or demolish the building in her absence. She told Human Rights Watch that she wanted to sell her apartment for the market value.[97]

Aysel A. lived with her husband and their two children in a recently-renovated apartment at 9 Agil Guliev Street in the Bayil neighborhood, immediately next to the National Flag Square. Aysel A. described how, beginning in September 2011, workers gradually rendered her apartment uninhabitable by removing the building's roof, dismantling the flue that vented the heating system, and temporarily cutting off the water supply. "We were afraid to turn on the gas and the oven because the ventilation system had been ruined," she told Human Rights Watch. "So we stopped using the gas. Then the people on the third floor had to leave because there was no roof. I left on October 18 because we just couldn't stay any longer. I was afraid for my children's health and safety. I'm 47 years old and I should be helping my children get on with their lives. But instead I'm starting everything over from scratch because they wrecked everything we've built for ourselves."[98]

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[96] Human Rights Watch interview with Elmira Ismailova, September 26, 2011.

[97] Ibid.

[98] Human Rights Watch interview with Aysel A., December 11, 2011.

Azadlyg Avenue

Dilshad Shirinova is a 52-year-old music teacher who lived in an apartment owed by her sister, Emma, at 146-148 Azadlyg Avenue, in central Baku, across the street from the newly-built residence of Azerbaijani President Ilham Aliyev.[99] In December 2010 Shirinova received notification that the building would be demolished, allegedly because it had been "condemned," although officials provided no documentation supporting the hazardous condition of the building, which was built in the 1960s.

The Shirinovas were offered an apartment outside of the city center as compensation. However, after visiting the apartment and seeing its dilapidated condition (as described in more detail below), Dilshad refused to accept the compensation offer and remained in the apartment on Azadlyg Avenue.

Beginning in July 2011, while Dilshad Shirinova and a woman in another apartment remained in the building, workers started to take out the windows, doors, and floors of the neighboring vacant apartments and to dismantle the utility infrastructure of the building. Workers cut off electricity and destroyed a water pipe on a floor above the Shirinovas' apartment, causing flooding in their apartment. Workers also began to demolish stairs and banisters, making the building unsafe, especially at night.

The gradual demolition and worsening of conditions forced Dilshad to relocate to another apartment and pay rent. Dilshad went to the police, who refused to help, and also wrote a letter to the prosecutor that went unanswered. The Shirinovas filed a complaint with the Baku Administrative-Economic Court no. 2, and in June 2011 received an injunction prohibiting further demolition of the apartment. The authorities appealed the decision, but it was upheld by the appeals court on August 26, 2011. In blatant violation of the injunction and on the same day as the appeals court ruling upholding the injunction, the authorities forcibly entered Shirinova's apartment, removed her household goods and personal belongings, and then completely destroyed her apartment along with the rest of the building.[100]

[99] Shirinova's sister, Emma, is a medical doctor who currently resides in Germany.

[100] Human Rights Watch telephone interview with and correspondence with Emma Shirinova, September 4, 2011.

Neighborhood behind the Heydar Aliyev Hall

Fuzuli Street

Homeowners of three properties on Fuzuli Street described to Human Rights Watch how in early February 2010, officials from the Baku City Executive Authority and local district officials informed them that the authorities were buying the entire block of freestanding houses and fenced off the area. Within about two weeks, without warning they cut the electricity, gas, water, and telephone lines to the homes. Property owners received no written documents regarding the expropriation and evictions.

Ismail and Shovket Bagvanov owned and lived in a single-family home at 44 Fuzuli Street.[101] Shortly after they cut off utility services to the building, the authorities removed the building's doors. The Bagvanovs called the police, who never arrived. "After they cut the power, water, gas, and telephone we were forced to move out and live with our relatives as our home became uninhabitable," Shovket Bagvanova explained. "But our furniture and belongings remained in the house."[102]

In December 2010 the Bagvanovs received a notice that the authorities would grant them compensation at a rate of 1,500 manat (US$1,900) for a portion of their total square meterage (for more on problems related to compensation see below, Arbitrary and Inaccurate Measurement of Homes as the Basis for Compensation). One week later, the authorities demolished the house. "We watched as they demolished our house," Shovkent Bagvanova told Human Rights Watch. "It was shocking. We had less than two hours to get our things out. Most of our possessions were buried in the house or taken away by the workers. In two days the entire house was leveled to the ground. The police were there and prevented anyone from interfering with the demolition."[103]

The Bagvanovs filed a complaint with the Nasimi District Court in August 2010 asking that the authorities pay 5,000 manat (US$6,333) per square meter for their 255 square meter home, but lost the case and all of their subsequent appeals, through to the Constitutional Court.[104]

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[101] The Bagvanovs rented out parts of the house.

[102] Human Rights Watch interview with Shovket and Ismail Bagvanov, September 28, 2011.

[103] Ibid.

[104] Ibid.

Malik Aliyev, 47, who owned a property at 40 Fuzuli Street that he used for both his home and his small business, a bakery, described a similar experience. In February 2010 officials from the Baku City Executive Authority told him to vacate the property, offering to buy it for 1,500 manat (US$1,900) per square meter. Aliyev refused. Soon thereafter, the authorities cut off all the services to his home and fenced off the entire block. Aliyev was forced to move with his wife and two school-age children to a rented apartment leaving much of their property in their home.

In October 2010, Aliyev received a written notice from the Baku City Executive Authority stating that they would take unspecified "measures" if he did not vacate the property. Again, Aliyev refused. He told Human Rights Watch, "Then, in early November I received a call from my neighbors telling me that the authorities were bulldozing my house. I immediately rushed to my house and when I arrived, workers had already removed the doors, windows, and roof." The home was then completely demolished.[105]

Aliyev had appealed to the Nasimi District Court in August 2010 to prevent the demolition and ensure fair compensation, but lost that case as well as appeals through the Supreme Court.[106] After the demolition, the authorities informed Aliyev that if he did not accept their compensation offer soon, he would receive nothing. He finally relented in late November and received compensation for only a fraction of the size of his actual property, owing to the authorities' selective use of criteria in ownership documents to establish the size of a property when determining compensation, as described in more detail below.[107]

Other Streets behind the Heydar Aliyev Hall

Human Rights Watch interviewed homeowners in the neighborhood behind the Heydar Aliyev Hall who, at the time of the interview, were still living in apartment buildings that the municipal government was actively demolishing.[108] At the time of writing, the homeowners had refused to accept the government's compensation offers and vacate their homes.

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[105] Human Rights Watch interview with Malik Aliyev, September 29, 2011.

[106] Ibid. and Human Rights Watch interview with Shafa Jamalzadeh, Malik Aliyev's lawyer, September 27, 2011.

[107] Human Rights Watch interviews with Malik Aliyev, September 29, 2011.

[108] In addition to the cases described here, Human Rights Watch also interviewed two other residents in this neighborhood in November 2011 who described the ongoing demolitions of their apartment buildings while they remain in their apartments. Human Rights Watch interviews with Larisa Mammedli, and with Tamilla Mamedova, November 8, 2011.

Bashkhanum Abbasova, whose forced eviction, detention, and demolition of her home are described above, and her neighbor, Rakhilia Sultanova, both described to Human Rights Watch how government workers dismantled the interiors of vacant apartments and the common spaces of their large apartment building at 49 Samed Vurgun Street and in so doing began to render their own apartments uninhabitable.[109] Interviewed in September 2011, Sultanova told Human Rights Watch, "They are destroying the apartments from the inside. They take everything apart and break down the walls, turning the place into a dump. When it rains, everything in our apartment gets wet. It's impossible to live here anymore!"[110] Abbasova also explained the risks to her safety she felt while she remained in her apartment. "The workers are dismantling everything, especially at night," she said. "Walking in the stairwell when it is dark out has become terrifying since the workers removed the metal hand rail along the stairs."[111]

Ibrahim I., 55, who owned a home on Shamsi Badalbeili Street that he was ultimately forced to vacate in August 2011, also described to Human Rights Watch how the authorities steadily demolished the building in which his apartment was located, beginning in July 2011. After neighbors informed Ibrahim I. and his wife in February 2011 that their home would be demolished, Ibrahim I. visited the local resettlement commission, where officials from the Baku City Executive Authority and the State Committee on Property threatened him saying, "If you don't get out, then we will topple this whole house on your head."[112]

Ibrahim I. filed a lawsuit on July 10, 2011, to try to stop the impending demolition, and three days later officials arrived to tell him to vacate his apartment, yelling at him to "Go, get your things and get out!" Ibrahim I.'s wife and daughter left to stay with relatives.[113]

On July 15, the authorities began to demolish the building from the upper floors, initially leaving a hole in the wall of Ibrahim I.'s bedroom. Ibrahim I. called the police and the Ministry of Emergency Situations and filed a complaint, after which the demolition stopped for ten days. When the demolition resumed, the workers cut a hole in his apartment's ceiling. Ibrahim I. again filed a police complaint, but, just over a week later, Ibrahim I.

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[109] Human Rights Watch interviews with Bashkhanum Abbasova and with Rakhila Sultanova, September 28, 2011.

[110] Human Rights Watch interview with Rakhila Sultanova, September 28, 2011.

[111] Human Rights Watch interview with Bashkhanum Abbasova, September 28, 2011.

[112] Human Rights Watch interview with Ibrahim I., September 29, 2011.

[113] Ibid.

returned home after attending a court hearing on his case to find that the entire bedroom ceiling had been removed.

This time, when Ibrahim I. called the police, they refused to come, saying, "We don't interfere with the work of the demolition crews." The demolition continued around Ibrahim I.'s apartment until ultimately, on August 6 he was forced to remove what things he could and vacate, leaving some of his possessions behind. Ibrahim I. told Human Rights Watch that he did not receive a written offer of compensation for his apartment.[114]

Threats and Intimidation of Homeowners

Neighborhood behind the Heydar Aliyev Hall

In interviews with Human Rights Watch, some homeowners described an atmosphere of intimidation and uncertainty when interacting with government officials regarding the expropriation and demolition of their homes. These officials threatened homeowners who challenged the government's actions or refused to readily accept the government's compensation offers. This appears to be particularly prevalent in the neighborhood behind the Heydar Aliyev Hall. Other homeowners told Human Rights Watch that government officials behaved professionally.

Some homeowners first learned about the government's plans to expropriate their homes through notices that were threatening in tone. Homeowners in the neighborhood behind the Heydar Aliyev Hall and in the Bayil neighborhood adjacent to the National Flag Square received notices stating that the Baku City Executive Authority plans evictions in the area instructing homeowners to visit the "resettlement commission headquarters." The notices issued in the neighborhood behind the Heydar Aliyev Hall included threats of unspecified action to be taken against homeowners or their property, indicating that in the event that property owners did not visit the resettlement commission within two weeks, "all necessary measures will be taken in accordance with the law."[115] No further information was indicated about what measures might be taken against property owners or their properties, which laws govern any such measures, or owners' options regarding rights of appeal in the event of a dispute. These notices were often on plain paper, without

[114] Ibid.

[115] Notification to residents, undated, on file with Human Rights Watch.

letterhead, official stamps, or signatures. Some residents initially experienced confusion and anxiety about which agency or government authority was issuing these instructions.[116]

Some property owners who visited the resettlement commission described hostile and intimidating encounters with government officials representing the resettlement commission.[117] Officials did not provide any information about the expropriation and demolition process or even introduce themselves. Homeowners later learned that the officials were from the State Committee on Property and the Baku City Executive Authority.

Homeowners told Human Rights Watch that during their visits to the resettlement commission office, officials informed them of the compensation offer for their property, but provided no offers in writing and no information about property owners' rights, including their rights of appeal.[118] When Alirza Rzaev who lives in an apartment on Mirzagha Aliyev Street in the neighborhood behind the Heydar Aliyev Hall, indicated his dissatisfaction with the official compensation offer for his property, a State Committee on Property official threatened him saying, "Take the money and get out of your apartment! If you don't, you will see: I will throw you out by force anyway in 15 days."[119]

Another homeowner from the same neighborhood said that an official threatened her after she refused a compensation offer based on a measurement half of the actual size of her apartment. She remembered, "He said that he would throw me out so far away that I wouldn't even know where I had ended up! [Vykinit menya v takoe mesto, chto ya ne uznayu, gde ya nakhozhus!]."[120] Eight other homeowners described similar threats made by officials at the relocation board.[121]

In addition, some homeowners described how officials from the city housing administration office or other agencies have come to their homes and threatened them,

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[116] For example, Human Rights Watch telephone interviews with Afag Ismailova and with Faruza Gulieva, June 2, 2011.

[117] The resettlement commission headquarters initially was housed not in an official government building but in a temporary trailer located behind the Heidar Aliyev Hall.

[118] Human Rights Watch telephone interviews with Afag Ismailova, June 2, 2011 with Alirza Rzaev, June 6, 2011.

[119] Human Rights Watch telephone interview with Alirza Rzaev, June 6, 2011.

[120] Human Rights Watch interview with Rena R., June 17, 2011.

[121] For example, Human Rights Watch telephone interviews with Rafiga Agaev and with Firuza Gulieva, June 2, 201 and with Emma Shirinova, June 30, 2011; Human Rights Watch interviews with Murad M., June 17, 2011; with Samira S, June 18, 2011; with Reikhan Guseinova, June 19, 2011; with Rakhilia Sultanova, September 28, 2011; with Bashkanum Abbasova, September 28, 2011; and with Ibrahim I., September 29, 2011.

saying that the owners and other residents must vacate their homes within a specified period, usually one to two weeks, or face forcible removal. In some cases the officials came repeatedly over a period of months, at times accompanied by police, and typically did not introduce themselves or indicate which agency they represented. Residents learned only later who these individuals were and where they worked. Homeowners feel that such actions are designed to intimidate them into accepting compensation packages to which they do not agree.[122]

Afag Ismailova, who owns an apartment on Shamsi Badalbeili Street, told Human Rights Watch about the threats officials made in March or April 2011:

> I live with my husband and two daughters. One evening some officials, together with 15 or 16 policemen, came to our door. They were knocking on the door loudly and kicking it. When I opened it they said that I must vacate the apartment and they threatened me, saying that if we don't leave willingly that they would drag us out, throw out our belongings and destroy the house anyway. I asked them to introduce themselves but they didn't. We were really scared by all of this. It has really harmed my health.[123]

An official similarly told Rakhila Sultanova, "If you don't vacate your apartment nicely, we will kick you out using bulldozers."[124] Following the demolition of Leyla and Arif Yunus' property, an official told one resident of the same neighborhood, "We will also destroy your home with a bulldozer, and you'll be buried with it."[125]

Bayil Neighborhood

On December 5, 2011, police clashed with homeowners with apartments in the nine-story building at 5 Agil Guliyev Street. A lawyer representing a number of homeowners in the building told Human Rights Watch that some homeowners gathered outside the building to protest the low compensation offered to them by the authorities. The police and local administration authorities arrived soon after. Following a heated exchange with one

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[122] Human Rights Watch telephone interviews with Afag Ismailova, and with Faruza Gulieva June 2, 2011, and telephone interview with Khajibaba Azimov, June 6, 2011.

[123] Human Rights Watch telephone interview with Afag Ismailova, June 2, 2011.

[124] Human Rights Watch interview with Rakhilia Sultanova, September 28, 2011.

[125] Human Rights Watch interview with Sirinbaji Rzaeva, September 30, 2011.

homeowner, a young man, a representative of the district administration, slapped the homeowner in the face and ordered police to take him away. The homeowner was later released.[126]

Lack of Transparency

When the government began its expropriations and demolitions, it did not publicly share any plans for the redevelopment of the city center. Such a general plan for redevelopment could provide important information to homeowners about expectations for future development, which neighborhoods would be affected, and which buildings will be or are likely to be expropriated and demolished. The government announced only on November 3, 2011 that it had completed the general plan for the development of central Baku, well after the demolitions in the city, including those documented in this report, took place.[127] The government also has not made public the Baku City Executive Authority's orders which allegedly govern the expropriations, compensation schemes, and house demolitions.[128]

As a result of the lack of transparency, many property owners live with a high level of uncertainty and anxiety about the future because they do not know when they will be evicted, when their homes will be demolished, and where they will live once the destruction occurs. One property owner, a pediatrician living on Shamsi Badalbeili Street, described her anxiety to Human Rights Watch, saying, "I am afraid to go to work or to the store out of fear that the bulldozers will come while I am away. And what then?"[129]

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[126] Human Rights Watch interview with Nazim Bagirov, December10, 2012 ; and "Clash Near the Flag Square," Radio Azadliq, December 5, 2011, http://www.azadliq.org/content/news/24412289.html, (accessed January 11, 2012).

[127] "Work is Complete on the 'Detailed Planning of Central Baku,'" [Zavershina rabota nad 'proektom detalnoi planirovki tsentralnoi chasti Baku'], 1NEWS.AZ, http://1news.az/society/20111103124733645.html (accessed November 4, 2011).

[128] Three of the orders were obtained by Human Rights Watch and are on file. One lawyer interviewed by Human Rights Watch submitted requests to the Baku City Executive Authority to make the orders public, but received no response.. Human Rights Watch interview with Nizami Bagirov, September 28, 2011. Others have challenged the orders in court, unsuccessfully. Human Rights Watch interviews with Fuad Agayev, and with Sevinj Aliyeva and Turan Bahadur-beyli, September 27, 2011.

[129] Human Rights Watch telephone interview with Afag Ismailova, June 2, 2011.

IV. Forced Evictions and Expropriations in Azerbaijani and International Law

Forced Evictions under Azerbaijani and International Law

The actions described above demonstrate a serious disregard for the safety and well-being of homeowners and others. They also violate Azerbaijan's constitutional guarantee of the right to private property and protection against unlawful entry.[130] Article 43 of the constitution protects people from unlawful eviction, stating, "No one shall be deprived of his/her residence," and places a positive obligation on the state to "take measures in order to implement the right to a residence."[131] The Criminal Code also makes "deliberate destruction of or damage to property" an offense.[132]

Expropriations and demolitions carried out in this way are a form of forced eviction, which is considered a serious violation of international law. For the purposes of this report, the definition of forced evictions used is that defined by the UN Special Rapporteur on adequate housing in his 2007 Basic Principles and Guidelines on Development-Based Evictions and Displacement. According to these guidelines, forced evictions are considered "acts and/or omissions involving the coerced or involuntary displacement of individuals, groups and communities from homes and/or lands and common property resources that were occupied or depended upon, thus eliminating or limiting the ability of an individual, group or community to reside or work in a particular dwelling, residence or location, without the provision of, and access to, appropriate forms of legal or other protection."[133]

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[130] Constitution of Azerbaijan, articles 29 and 33. Article 33 states: Every Person shall have the right to the inviolability of residence. With the exception of cases specified by Law or Court no one shall be authorized to enter the Apartment against the will of the resident."

[131] "No one shall be deprived of his/her residence. The State shall give loans for the construction of houses and blocks apartments, shall take measures in to implement the right to residence. Constitution of Azerbaijan, article 43.

[132] Criminal Code of Azerbaijan, article 186.

[133] The guidelines note that the "prohibition of forced evictions does not apply to evictions carried out both in accordance with the law and in conformity with the provisions of international human rights treaties," Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari, United Nations Human Rights Council Fourth Session, A/HRC/4/18, February 5, 2007, annex I, "Basic Principles and Guidelines on Development-Based Evictions and Displacement," para. 4, http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/106/28/PDF/G0710628.pdf?OpenElement (accessed January 6, 2012).

Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which Azerbaijan is also a party, establishes the obligation to protect the right to adequate housing, which includes protection against forced eviction.[134] In its General Comment 4 on article 11 of the Covenant, the UN Committee on Economic, Social and Cultural Rights states that "all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats."[135] If evictions are to take place, in order for them not to be considered "forced," they must be carried out lawfully, only in exceptional circumstances, and in full accordance with relevant provisions of international human rights and humanitarian law. They must also be undertaken solely for the purpose of promoting the general welfare, be reasonable and proportional, and be regulated so as to ensure full and fair compensation and rehabilitation for those affected.[136]

Under the European Convention on Human Rights, forced evictions constitute a serious violation of the right to private and family life.[137] The government may interfere with this right only in accordance with the law and as necessary in a democratic society. In numerous cases, the European Court of Human Rights has held that the government's destruction of private homes and household property "constitute particularly grave and unjustified interferences with the applicants' rights to respect for their private and family lives...."[138]

Moreover, the treatment of evictees in Baku in certain cases rises to a level of severity that constitutes inhuman and degrading treatment in violation of article 3 of the European Convention which reads: "No one shall be subjected to torture or to inhuman or degrading treatment or punishment." In its jurisprudence, the European Court has found that forcible evictions and destruction of homes at this level of severity can amount to inhuman and degrading treatment, for example when the government undertakes "deliberate destruction in utter disregard for [residents'] ... welfare, depriving them of most of their personal

[134] International Covenant on Economic, Social, and Cultural Rights, adopted December 16, 2966, G.A. Res. 220A (XXI), 21 U.N. GOAR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force January 3, 1976, acceded to by Azerbaijan on August 13, 1992, article 11.

[135] UN Committee on Economic, Social and Cultural Rights, General Comment No. 4, The Right to Adequate Housing The Right to Adequate Housing (Art. 11 (1) of the Covenant), U.N. Doc. E/1992/23 (1992), para. 8.

[136] Report of the Special Rapporteur on adequate housing, annex 1, paras. 6 and 21.

[137] ECHR, article 8.

[138] See, *inter alia*, Akdivar and others v Turkey, judgment of September 16, 1996 Reports 1996- IV; Mentes and others v Turkey, para. 73; *Selcuk and Asker v. Turkey,* judgment of April 24, 1998, Reports 1998-II, para. 86; *Ayder and others v Turkey, para. 119.*

belongings and leaving them without shelter and assistance."[139] The International Covenant on Civil and Political Rights (ICCPR) also prohibits inhuman and degrading treatment.[140]

Expropriation under Azerbaijani and International Law

Azerbaijani Law

All of the forced evictions described above take place in the context of the government's expropriation of private properties in central Baku in order to clear the land and use it for purposes determined by the government. Expropriations and evictions are envisaged in Azerbaijani and international law. However, the authorities can resort to expropriations only in exceptional circumstances, for purposes that are clearly in the public interest, and with appropriate due process, including provision of fair compensation and/or alternative housing options. The ongoing expropriation and demolition of properties in central Baku by the Baku City Executive Authority are not lawful, as they have no legal basis in national law and directly violate provisions of existing national law on expropriation.[141]

Article 29 of the constitution of Azerbaijan guarantees the right to private property, that property shall not be expropriated except by court decision, and that property owners must be fairly compensated based on the value of the property.[142]

Azerbaijan's law on expropriation of land for state needs allows the state to expropriate private property only when required by state needs for a limited number of purposes.[143] State needs justifying forced expropriation are identified as: construction of roads or other

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[139] See, *inter alia*, *Selcuk and Asker v. Turkey*, para. 74; *Ayder and others v Turkey,* para. 110.

[140] International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A XXI, 21 U.N. GOAR Supp. (NO. 16) at 59, U.N. Doc. A/ 6316 (1966), 999 U.N.T.S 302, entered into force March 23, 1976, article 7.

[141] See inter alia. Iatridis v. Greece, judgment March 25, 1999, ECHR 1999-II, para. 62, in which the court found that an interference with property which is manifestly in breach of national law is accordingly a violation of the European Convention on Human Rights.

[142] Constitution of the Republic of Azerbaijan, November 12, 1995, with amendments, article 29.

[143] Law of the Republic of Azerbaijan on Expropriation of Land for State Needs, no. 987-IIQ, April 20, 2010, article 3. See also: Civil Code of the Republic of Azerbaijan, no. 779 -IG, December 28, 1999 (entered into force May 26, 2000), article 157.9. Article 203 of the Civil Code allows for certain circumstances, unrelated to state needs, when a property owner may be compulsorily dispossessed of his or her property, such as: forfeiture of property for liabilities; expropriation of property which may not belong to the given person under the law; the alienation of immovable property in connection with purchase of a land plot; purchase of non-maintained cultural valuables; requisition; and confiscation.

communication lines; for purposes of defending a state border; construction of defense facilities; or construction of industrial mining facilities.[144]

Expropriation for state needs must be based on a decision of the Cabinet of Ministers.[145] The relevant Cabinet of Ministers decision must then be entered into the State Committee on Property's registry, and property owners must be notified in writing that their properties will be expropriated no less than one year in advance.[146] As described in more detail below, the state must provide property owners with compensation at market value, among other costs (See below, Failure to Provide Alternative Accommodation or Adequate Compensation).

The actions of the Baku City Executive Authority to expropriate and demolish properties in the neighborhoods of central Baku where Human Rights Watch documented abuses clearly violate Azerbaijani national law. There have been no court decisions validating the expropriations and demolitions of the properties, as stipulated in article 29 of the constitution. There has been no decision of the Cabinet of Ministers approving the expropriations, and no such decision has been filed with the State Committee on Property. Many of the residents interviewed by Human Rights Watch said they were notified less than a year in advance of demolitions. Some property owners had no warning at all, or as little as a few hours' or weeks' notification. In some cases homeowners never received any official notification, but learned about impending demolitions from neighbors. In a number of cases, evictions and demolitions took place in violation of court orders prohibiting the authorities from taking action against the properties. These instances are described above, in Forced Evictions and Demolitions of Homes in Central Baku.

The Neighborhood behind Heydar Aliyev Hall

For example, there is no national law allowing expropriations for the types of construction and development projects identified by the Baku City Executive Authority as necessitating the expropriations, evictions, and demolitions in the neighborhood behind the Heydar Aliyev Hall.[147] A 2011 mayoral order indicates that "under the ongoing national socio-

[144] Law on Expropriation of Land for State Needs, article 3.

[145] Civil Code of the Republic of Azerbaijan, art. 157.9, as amended by order of the President of Azerbaijan, no. 386, of August 25, 2000.

[146] Housing Code of the Republic of Azerbaijan, article 31.

[147] Human Rights Watch telephone interview with Fuad Agayev, lawyer representing at least 45 homeowners in cases related to expropriation in Baku, June 2, 2011.

economic development programs, the Baku City Executive Authority has aimed to organize world-class beautification projects" in Baku.[148] The project envisages replacing the numerous small, 19th century homes and modest apartment buildings with a large park, pedestrian streets, and fountains, with underground parking garages. The park is envisioned to be bordered by new, wider roads, luxury housing, and office space. [149]

The Baku City Executive Authority's orders specify that demolition of homes in the neighborhood behind the Heydar Aliyev Hall will clear land for the government to construct a "garden-park complex" as part of a program of beautification, landscaping, and the construction of public spaces, such as plazas, parks, promenades, as well as residential buildings.[150] These orders have never been made public, although a nongovernmental organization in Azerbaijan obtained copies of orders nos. 511 (2008) and 76 (2011) and shared them with Human Rights Watch.

The Baku City Executive Authority maintains that the expropriations in the neighborhood behind the Heydar Aliyev Hall are lawful based on a 1987 order (no. 182) from the Cabinet of Ministers of the Azerbaijan Soviet Socialist Republic (a constituent entity of the Union of Soviet Socialist Republics) and the Baku Executive Administration, which established a general plan for development of Baku. However, according to Fuad Agaev, a lawyer specializing in cases related to violations of property rights, this general plan expired in 2005 and was not replaced. In addition, the general plan of 1987 also did not include a park in the neighborhood behind the Heydar Aliyev Hall, but rather in another location, where a large bank was constructed.[151] At this writing Human Rights Watch has not received a reply to our letter requesting information about the legal basis for the expropriations in this neighborhood.

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[148] Baku City Executive Authority, order no. 76, February 16, 2011, on file with Human Rights Watch.

[149] For example, "Transformation of Baku," ("Perezagruzka Baku"), *Gallery*, January 2011, pp. 66-76; "The Center of Baku Gets a New Face," ("Tsentr Baku poluchit novoe litso)," *Nedelya*, November 18, 2011, http://www.nedelya.az/article.php?mat_id=2198&id=12 (accessed January 10, 2012); "A Spacious Park is Being Developed in the Center of Baku," ("V tsentre Baku zakladyvaetsya prostornii park)," December 26, 2011, http://news.day.az/society/306128.html.

[150] Baku City Executive Authority, orders no. 511 (2008) and 76 (2011). According to order no. 511, the authorities will demolish buildings located behind the Heydar Aliyev Hall (the area bordered by the Fuzuli, Samed Vurgun, Shamsi Badalbeili and Topchubashov Streets). Order no. 76, expands the area to be demolished to include property in the same area, specifically, in "the vicinity of Samed Vurgun, Shamsi Badalbeili, Mirzagha Aliyev, Diliara Aliyeva, Rasul Rza, Shamil Azizbeyov, Suleyman Rahimov, Islam Safarli, Tabriz Khalil Rza oglu, and Mirza Ibrahimov Streets." Baku City Executive Authority orders no. 511 (2008) and 76 (2011), on file with Human Rights Watch.

[151] Human Rights Watch interview with Fuad Agayev, December 10, 2011.

Bayil Neighborhood

The expropriations, evictions, and demolitions in the Bayil neighborhood next to the National Flag Square are regulated by two separate orders from the Baku City Executive Authority: no. 71 of February 15, 2011 and no. 243 of May 31, 2011.[152] Order no. 71 indicates that the State Flag Square complex needs to be "enlarged, beautified, and greened and transformed into a resort zone," and for this reason the nine-story building at 5 Agil Guliyev street will be removed and residents relocated to newly-built residential areas.[153] A notification to residents in other buildings in the neighborhood regarding the impending evictions indicates that the purpose of the expropriations and demolitions in this area is to widen a highway connecting part of the historic Silk Road with the village Bayil, and linking to the southern part of the country.[154]

Although construction of roads is one of the state needs identified under law as validating state expropriation of private property, the other conditions for lawful expropriation, including the Cabinet of Ministers decision, notification to residents in writing no less than one year in advance of the impending expropriations, compensation at market value, and a court order, have not been met. Beautification and greening are not identified under law as validating state expropriation of private property.

Neftchilar Avenue

With regard to the expropriation, eviction, and demolition at 61 Neftchilar Avenue and at neighboring homes, the Baku City Executive Authority, by its order no. 85 of March 9, 2010, authorized the private development company, Klass AZ KO, to begin development of a shopping center in one area along Neftchilar Avenue. The order indicates that the land in this location is currently occupied by residential and non-residential buildings, and that the resettlement of residents must be carried out based on mutual agreement and at the

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[152] Baku City Executive Authority, order no. 71, February 15, 2011, and Baku City Executive Authority, order no. 243, May 31, 2011. Order no. 243 as cited in an undated notification to residents in the Bayil neighborhood next to the National Flag Square regarding expropriation and demolition of their properties. The notification indicates that the authorities will expropriate and demolish properties located at 7-9 Agil Guliyev, 2 Fathi Khoshginabi, 9 Aidin Nasirov, and 3 and 10/12 Elchin and Vusal Gadjibabaevy in the Sabail district. On file with Human Rights Watch.

[153] Baku City Executive Authority, order no. 71, February 15, 2011, on file with Human Rights Watch.

[154] Notification to residents in the Bayil neighborhood next to the National Flag Square, undated, on file with Human Rights Watch.

expense of Klass AZ KO.[155] Although the order did not specify 61 Neftchilar Avenue as being subject to redevelopment, residents of 61 Neftchilar Avenue later received a letter from the Sabayil District Housing Office dated April 26, 2011, citing the order and stating that the property at 61 Neftchilar Street will be demolished in order for a shopping center to be built by Klass AZ KO.[156]

Subsequently, as described above, on June 10, 2011, representatives from the police and the State Committee on Property forcibly evicted residents from 61 Neftchilar Avenue. As of January 2012, construction works in the area were ongoing.

The authorities deny responsibility for the eviction and demolition at 61 Neftchilar Avenue and at neighboring buildings, claiming that because they had transferred use of the land to Klass AZ KO, it was that company's responsibility to negotiate and compensate the residents. As described above, the Sabail District Court decision of December 8, 2011 found Klass AZ KO had violated the property rights of several homeowners at 61 Neftchilar Avenue and ordered the company to pay them pecuniary and non-pecuniary damages. The court found no fault on the part of the authorities.

However, as mentioned above, it is not clear that the Baku City Executive Authority had any basis in Azerbaijani law to transfer of the land under the apartment building at 61 Neftchilar Avenue to Klass AZ KO. In addition, the Sabail District Police and officials from the State Committee on Property and the Baku City Executive Authority participated in the forced evictions of homeowners in June 2011, which made possible the buildings' demolition to allow for new construction to take place.[157]

Moreover, for the purposes of international law and Azerbaijan's obligations under human rights law, the fact that the authorities granted a private company the rights to develop land and to carry out evictions and demolitions of private property does not diminish the state responsibility of Azerbaijan. Rather, the company for relevant purposes is acting as an agent of the state, and the Baku City Authority Executive, and ultimately the government

[155] The order names the 66th quarter on Mikhail Useinov Avenue, which was renamed Neftchilar Avenue. Baku City Executive Authority, Order no. 85, March 9, 2010, on file with Human Rights Watch.

[156] Letter from the Sabayil District Housing Department to several residents of 61 Neftchilar Avenue, April 26, 2011, on file with Human Rights Watch.

[157] Human Rights Watch telephone interview with Fuad Agayev, February 14, 2012.

of Azerbaijan, bear responsibility for Klass AZ KO's actions in carrying out functions such as evictions and demolitions.[158] Also as the European Court of Human Rights has affirmed, whether agency is given to a private actor formally, as in this case, or informally, "the acquiescence or connivance of the authorities of a Contracting State in the acts of private individuals which violate the Convention rights of other individuals within its jurisdiction may engage the State's responsibility under the Convention."[159]

Azadlyg Avenue

Human Rights Watch was not able to obtain information regarding the government's justification for expropriations and demolitions on Azadlyg Avenue, across the street from the presidential residence, although the authorities have informally told local residents that the authorities intend to widen a road in the area. According to some media reports, the homes were demolished in order to limit visibility of the presidential residence.[160] However, as with expropriations, evictions, and demolitions in the neighborhood behind the Heydar Aliyev Hall and in the Bayil neighborhood, even if the government's stated rationale is consistent with the law regulating the circumstances in which the government may expropriate private property, the other conditions for lawful expropriation, including a Cabinet of Ministers' decision, notification to residents in writing no less than one year in advance of the impending expropriations, a court order, and compensation at market value, have not been met.

International Law

The expropriation and demolition of properties in central Baku also violate Azerbaijan's obligations under the European Convention on Human Rights (ECHR), which explicitly

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[158] See articles 5 and 8 of the Articles on the Responsibility of States for Internationally Wrongful Acts, which provide that, "The conduct of a person or entity which is not an organ of the State under article 4 but which is empowered by the law of that State to exercise elements of the governmental authority shall be considered an act of the State under international law, provided the person or entity is acting in that capacity in the particular instance; and that, "The conduct of a person or group of persons shall be considered an act of a State under international law if the person or group of persons is in fact acting on the instructions of, or under the direction or control of, that State in carrying out the conduct", respectively. The text of the Responsibility of States for Internationally Wrongful Acts Text was adopted by the International Law Commission in 2001, see Yearbook of the International Law Commission, 2001, vol. II (Part Two) and UN Doc. A/RES/56/83 of January 28, 2001.

[159] *Cyprus v. Turkey*, no. 25781/94, ECHR 2001-IV, para. 81

[160] "Yet another Building Demolished because of the Presidential Administration," [in Azeri], Musavat, July 6, 2011, http://www.musavat.com/new/G%C3%BCnd%C9%99m/103710-PREZ%C4%BoDENT%C4%BoN_%C4%BoQAM%C6%8FTGAHINA_G%C3%96R%C6%8F_DAHA_B%C4%BoR_B%C4%BoNA_S%C3%96K%C3%9CL%C3%9CR (accessed February 16, 2012).

protects against unlawful or arbitrary expropriation of property, unlawful and arbitrary interference with the family, and forced evictions, and sets limits on states' power to expropriate.

Article 1 of the convention's Protocol No. 1 states: "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law."[161] Article 8 upholds the individual's "right to respect for his private and family life, his home and his correspondence"[162]

According to European Court of Human Rights jurisprudence, any interference with the right to private and family life, or any deprivation of property, including by expropriation or forced sale, must comply with the principle of lawfulness, be in the public interest, and pursue a legitimate aim in a proportionate manner.[163]

In addition, article 17 of the International Covenant on Civil and Political Rights (ICCPR), to which Azerbaijan is a party, guarantees the right not to be subjected to arbitrary or unlawful interference with one's privacy and home.[164] In its General Comment 16, the Human Rights Committee determined that "interference with a person's home can only take place 'in cases envisaged by the law,'" and that the law "should be in accordance with the provisions, aims and objectives of the Covenant and should be, in any event, reasonable in the particular circumstances."[165] The UN General Assembly has recognized the "fundamental obligation (of Governments) to protect and improve houses and neighbourhoods, rather than damage or destroy them."[166]

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[161] European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), 213 U.N.T.S 222 entered into force September 3, 1953, as amended by Protocols Nos 3, 5, 8, and 11 which entered into force on September 21, 1970, December 20, 1971, January 1, 1990, and November 1, 1998, respectively, Protocol 1, article 1, paragraph 1. Azerbaijan became a party on April 15, 2002.

[162] ECHR, article 8.

[163] See inter alia Pressos Compania Naviera S.A. and Others v. Belgium, November 20, 1995, Series A no. 332; Chassagnou and Others v. France, nos. 25088/94, 28331/95 and 28443/95, ECHR 1999-III; Former King of Greece and Others v. Greece, no. 25701/94, ECHR 2000-XII; Jahn and Others v. Germany, nos. 46720/99, 72203/01 and 72552/01, ECHR 2005-VI.

[164] International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A XXI, 21 U.N. GOAR Supp. (NO. 16) at 59, U.N. Doc. A/ 6316 (1966), 999 U.N.T.S 302, entered into force March 23, 1976, article 17.

[165] UN Human Rights Committee, General Comment 16, Arbitrary or unlawful interference with privacy, family, home or correspondence, Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 21 (1994).

[166] Ibid, para. 2.

The authorities' failure to provide residents adequate notification before evicting them, as documented above, is inconsistent with recommendations made by the UN Committee on Economic, Social and Cultural Rights. In its General Comment 7, the committee calls on governments to ensure a number of procedural safeguards in cases of forced evictions, including:

a) an opportunity for genuine consultation with those affected;

b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction;

c) information on the proposed evictions and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected;

d) especially where groups of people are involved, government officials or their representatives to be present during an eviction;

e) all persons carrying out the eviction to be properly identified;

f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise;

g) provision of legal remedies;

h) provision, where possible, of legal aid to persons who require it to seek redress from the courts.167

[167] UN Committee on Economic, Social and Cultural Rights, General Comment No. 7, Forced Evictions and the Right to Adequate Housing, (Sixteenth session, 1997), U.N. Doc. E/1998/22, annex IV at 113 (1997).

V. Failure to Provide Alternative Accommodation or Adequate Compensation

The government of Azerbaijan established two main mechanisms to compensate homeowners for the loss of their homes. Described in more detail below, they include a forced sale at a flat rate for all properties, and provision of alternative housing.

The municipal authorities have claimed that these arrangements are lawful.[168] However several aspects violate Azerbaijan's national law, which requires the government to purchase at market value any properties that it expropriates, including for state needs,[169] and pay an additional 20 percent of the market value of the home as moral compensation.[170] Article 31.7 of the Housing Code further stipulates that the state must pay the owner additional costs, including: lost income associated with changing residence; the cost of temporary use of another residence until obtaining a new home; moving costs; real estate brokers' fees; and real estate and transaction closing costs.[171] The state and the owner must agree upon the price of the sale.[172] The state may provide alternative housing only upon agreement with the owner, and taking into account the cost of the new housing in the purchase price of the expropriated property.[173]

As described in more detail below, the existing compensation mechanisms also violate Azerbaijan's international obligations, which require that any compensation be fair and the process of determining compensation have a reasonable and rational basis, that the government's actions not pose an excessive burden on individuals; and that the state not derive unjust enrichment from the measure.[174]

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[168] For example, in its November 23, 2011 letter to Human Rights Watch, the Baku City Executive Authority claimed that the evictions in the neighborhood behind the Heydar Aliyev Hall are taking place in accordance with the law, insofar as the Baku City Executive Authority provides homeowners with documents confirming their property rights and with compensation. Letter from Rasim Guliev, Chief of Staff, Baku City Executive Authority, no. 7-4462/6 to Human Rights Watch, November 23, 2011.

[169] Civil Code of the Republic of Azerbaijan, article 157.9.

[170] Ibid., article 247.1, citing Presidential Decree of December 26, 2007.

[171] Housing Code of the Republic of Azerbaijan, article 31.7.

[172] Ibid., article 31.6.

[173] Ibid., article 31.8.

[174] See inter alia, Lithgow and Others v United Kingdom, judgment of July 8, 1986, Series A no. 102, paras. 120 - 121 and Katikaridis v. Greece and Tsomtos and Others v. Greece judgments of November 15, 1996, Collection of judgments and decisions, 1996-V, Nos. 20 and 21, paras 49 and 40 respectively.

Forced Sale at an Arbitrary Price

Homeowners from the neighborhood behind the Heydar Aliyev Hall and the Bayil neighborhood near the National Flag Square described the government's compensation process to Human Rights Watch. For apartments and houses smaller than 60 square meters, the government's compensation mechanism requires homeowners to enter into a real estate transaction with a private individual at a fixed price, set by the government, in order to receive monetary compensation for their homes. This mechanism amounts to a forced sale by property owners since, by order of the Baku City Executive Authority, property owners do not have the opportunity to sell their properties by any other means.

According to a February 2011 letter issued by the State Committee on Property, the compensation rate is 1,500 manat (US$1,900) per square meter, irrespective of the property's location, age, condition, quality of renovation, or any other factors.[175] The authorities have not publicized or explained how this rate was determined and by whom, or how the same rate was established for homes expropriated prior to the committee's February 2011 letter. In no cases known to Human Rights Watch has the government conducted appraisals to determine the market value of properties, nor does it consider in its awarding of compensation any independent appraisals ordered by homeowners.

When beginning the expropriations and demolitions in the neighborhood behind the Heydar Aliyev Hall, the Baku City Executive Authority noted "the absence of a mechanism in existing legislation to govern the appraisal of home values located in the demolition area."[176] Rather than establishing such a mechanism or conducting appraisals of individual homes, the Baku City Executive Authority authorized a private individual to purchase homes through private real estate transactions with property owners at the fixed price.

For the purchase of many homes in the neighborhood behind the Heydar Aliyev Hall, beginning in 2008 the Baku City Executive Authority has relied on private persons to conclude real estate transactions with homeowners.[177] The Baku City Executive Authority justified this type of mechanism claiming that knowing of the impending expropriations,

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[175] As cited in Baku City Executive Authority, order no. 76, and letter from Rasim Guliev, chief of staff, Baku City Executive Authority, no. 7-4462/6 to Human Rights Watch, November 23, 2011.

[176] Baku City Executive Authority, order no. 511.

[177] Ibid., and Human Rights Watch interview with Fuad Agayev, September 27, 2011. The Russian term still used for such transactions is "dogovor o kuple-prodazhe," or purchase-sale agreements.

"residents artificially overprice their homes several times above market rate, resulting in additional expenses [for the Baku City Executive Authority]."[178]

A similar compensation system exists for homes expropriated and demolished next to the National Flag Square in the Bayil neighborhood where, in order to receive monetary compensation, owners of apartments smaller than 60 square meters are also required to conclude real estate transactions with a private individual at the fixed rate of 1,500 manat (US$1,900) per square meter.[179]

The compensation price per square meter set by the authorities is arbitrary insofar as it does not consider any individual qualities of the homes involved and is also lower than independent appraisals have valued homes in central Baku. For example, Khajibaba Azimov owned a home on A. Topchubashov Street, in the neighborhood behind the Heydar Aliyev Hall, which was demolished in December 2010 in violation of a court order. Azimov told Human Rights Watch that he had paid for an independent appraisal that valued his home at 4,000 manat (US$ 5,065) per square meter.[180] A resident of Shamsi Badalbeili Street, in the same neighborhood, told Human Rights Watch that an independent appraisal valued his home at 3,000 manat (US$3,810) per square meter.[181]

Arbitrary and Inaccurate Measurement of Homes as the Basis for Compensation

In addition, in cases documented by Human Rights Watch in both the neighborhood behind the Heydar Aliyev Hall and Bayil neighborhood next to the National Flag Square, the government refuses to provide compensation based on the actual square meterage of homes. Compensation offered to these homeowners is often based on an ownership document (in Russian, *kupcha)*, which is a holdover from the Soviet period, when several communal apartments typically shared common kitchen and bathroom facilities. The *kupcha* therefore indicates only the square meters of "living space" of an apartment, and does not include the kitchen or bathroom, or, in some cases, additions that owners have built. Another property document, the "technical passport," typically indicates the full

[178] Baku City Executive Authority, order no. 511.

[179] Baku City Executive Authority, order no. 243, May 31, 2011, as cited in an undated notification to residents in the Bayil neighborhood next to the National Flag Square, on file with Human Rights Watch.

[180] Human Rights Watch telephone interview with Khajibaba Azimov, June 6, 2011.

[181] Human Rights Watch interview with Ali A., Baku, June 17, 2011.

square meters of the apartment. However, in numerous cases documented by Human Rights Watch, the government has refused to rely on the technical passport when determining an apartment's size.

In cases in which property owners are not in possession of a technical passport, they must obtain one—a process which requires that officials from the housing authorities measure homes to determine the size. Some homeowners interviewed by Human Rights Watch believe that officials deliberately did not take accurate measurements, such as by excluding the thickness of the exterior walls, which in some homes is up to 90 centimeters thick, and only measuring the floor space inside of a building.[182]

In 16 cases documented by Human Rights Watch, the authorities consider apartments or homes to be from eight square meters to up to over 100 square meters smaller than they actually are, based either on the government's selective reading of outdated property documents or on the government's inaccurate measuring of houses' size.[183] As a result, homeowners will receive significantly less compensation than if they were compensated for the true size of their homes.

For example, Zarifa Aliyeva, 48, who lived in a free-standing house in the Bayil neighborhood with her two adult sons and daughter-in-law, described the consequences of the government's evaluation of her home as 21 meters smaller than its actual size. According to the technical passport, Aliyeva's home, which included three rooms, a kitchen, bathroom, and a small yard, was 50 square meters, while the authorities were willing to compensate her only for 29 square meters, as indicated in the purchase document from the forced sale. As a result, the compensation available to her is only 43,500 manat (US$55,245). If the calculation had been made based on the true size of her house she would have been eligible to receive 75,000 manat (US$95,250). "There are three families living in this house now: my son and his wife, my younger son who plans to get married, and me. For the money we are being offered, we can't find anything within the vicinity of Baku that would be big enough for all of us. I fear we will be left in the street,"

[182] For example, Human Rights Watch interview with Rena R., June 17, 2011; and with Rashida R., June 17, 2011.

[183] For example, Human Rights Watch interviews with Rashida R., and with Shirin Rzaeva, June 17, 2011; with Elmira Ismailova, and with Zalika Aliyeva, September 26, 2011; with Nelly Yusifzadeh, September 27, 2011; and with Victor and Iveta Karmonov, September 30, 2011.

Aliyeva told Human Rights Watch in September 2011, about a month before her house was demolished.[184]

Malik Aliyev, who lived on Fuzuli Street and whose home the authorities demolished without warning in November 2010, received just 45,000 manat (US$57,200) for 30 square meters of living space of his single-family home, rather than the 216,000 manat (US$274,000) he would have received for the full 144 square meters of his property. The authorities also did not consider the income loss for Aliyev upon destruction of his property. "I used to live and work there, but now I am left without both my home and my business," Aliyev lamented in an interview with Human Rights Watch. "It was very hard to live through this. In a moment I felt like I became homeless. They took everything from me."[185]

Failure to Provide Accommodation of Commensurate Size and Quality and Denial of Property Rights

Some property owners told Human Rights Watch that officials offered them no monetary compensation at all, but told them they would be resettled to an apartment located well outside of the city center. These offers appear to be typically made to owners of homes larger than 60 square meters. In some cases documented by Human Rights Watch, the new apartments are approximately the same size as homeowners' existing homes in central Baku, or somewhat larger; in other cases, the apartments provided for resettlement are significantly smaller. Homeowners do not have a choice about the resettlement location. In at least some cases, the government has stripped homeowners of their property rights by refusing to grant them ownership documents indicating title to the new apartments offered to them for relocation.

Those resettled and those who have viewed the apartments available for resettlement have concerns about the quality of the new apartments.

A number of residents in the neighborhood behind the Heydar Aliyev Hall told Human Rights Watch that they were offered relocation to apartments smaller than their existing apartments. The authorities offered Afa Ismailova, a 52-year-old pediatrician and a mother

[184] Human Rights Watch interview with Zalika Aliyeva, September 27, 2011. Her home is at 2 Fathi Khoshginabi Street, building 16.

[185] Human Rights Watch interviews with Malik Aliyev, September 29, 2011.

of two, a 110 square meter apartment in exchange for her house of approximately 150 square meters, where her husband has lived for nearly 50 years. She told Human Rights Watch, "I don't want to give up my home. I asked the officials [responsible for relocation] to give me compensation, a fair price. I don't want to accept an apartment. The one they're offering me is not even equivalent in size!"[186]

Similarly, the authorities offered Rafiga and Emil Agayev an apartment of 43 square meters on the edge of the city in exchange for their 95 square meter home on Shamsi Badalbeili Street, which Rafiga described as a designated architectural landmark and which the couple completely renovated in 1999.[187]

Some homeowners also explained their preference for monetary compensation so that they could decide themselves where to live. Fariza Gulieva, who lives in the neighborhood behind the Heydar Aliyev Hall, told Human Rights Watch that she did not want to relocate with her family to the apartment offered to her outside of the center of Baku, explaining, "My husband's grandfather built our house; it has been in our family for over 100 years. I don't want to take the apartment that they are offering us. I prefer monetary compensation so that I can make my own choice about where to live."[188]

Yasnan Kirimova, an engineer who rented out her home at 193 Mirzagha Aliyev Street as a primary source of income, lost her property when the authorities largely demolished the building in 2011, in violation of a court injunction. Nevertheless she refuses to accept the authorities' offer of an apartment outside of the city center. She told Human Rights Watch, "They told me that since my home was greater than 60 square meters, I was not eligible for compensation, but I could get an apartment in the outskirts of Baku. I asked for money instead. I went there every day and begged for it. I do not want a place on the outskirts."[189]

Similarly, several apartment owners remaining in a building at 5 Agil Guliev Street in the Bayil neighborhood told Human Rights Watch that the authorities offered all homeowners in the building resettlement to new apartments outside of the city center, but no monetary

[186] Human Rights Watch telephone interview with Afag Ismailova, June 2, 2011.
[187] Human Rights Watch telephone interview with Rafiga Agayev, June 2, 2011.
[188] Human Rights Watch telephone interview with Firuza Gulieva, June 2, 2011.
[189] Human Rights Watch interview with Yasnan Kirimova, September 28, 2011.

compensation.[190] While some residents accepted the offer, those who insist on receiving compensation remain in the building. One homeowner told Human Rights Watch, "I told the authorities, 'I don't want your apartment [as compensation]. I want to choose where I live myself. I chose this apartment because of the views and the beauty.'"[191]

Homeowners also told Human Rights Watch that they did not want to accept relocation offers because the government refuses to provide ownership documents for the new apartments.[192]

Some homeowners facing resettlement also expressed serious concerns about the quality of the workmanship in the new apartments.[193] Emma Shirinova, whose home was demolished in August 2011 despite a court injunction, described the following problems with the high-rise building where she has been offered an apartment at 26 Aliar Aliyev Avenue: "The basement was flooded with water. Even though the building was recently built, many of the walls, including primary load-bearing walls, have cracks in them. There are pieces of concrete falling off of the newly-built walls. In some places the floors are cracked and peeling."[194] Shirinova photographed the new building and many of the problems with construction and posted them to a website she created about her case.[195]

Fuad Zakiev, a pensioner, received a new two-room apartment on Aliar Aliyev Street after the authorities demolished the building housing his one-room apartment at 73 Heydar Aliyev Street in May 2010. Zakiev told Human Rights Watch that there are numerous problems with his new apartment: the plumbing system does not work properly; ventilation is poor; and the quality of the interior finish work was very poor. In addition, he must pay higher monthly utility fees.[196]

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[190] Human Rights Watch interviews with Natalia Alibekova; with Ilhan I.; and with Tamerlan T., September 27, 2011 and December 11, 2011.

[191] Human Rights Watch interview with Natalia Alibekova, September 27, 2011.

[192] For example, Human Rights Watch interviews with Fuad Zakiev, September 29, 2011; with Samira S., June 18, 2011; with Yasnan Kirimova, June 19, 2011; with Rakhila Sultanova, September 28, 2011; and Human Rights Watch correspondence with Emma Shirinova, September 4, 2011.

[193] Human Rights Watch interview with Samira S., June 18, 2011.

[194] Human Rights Watch email correspondence with Emma Shirinova, September 4, 2011.

[195] Human Rights Watch telephone interview with Emma Shirinova, October 5, 2011. Available at www.shrinova.com.

[196] Human Rights Watch interview with Fuad Zakiev, September 29, 2011.

International Law regarding Compensation Mechanisms

The European Court of Human Rights has made clear on repeated occasions that when depriving an individual of his or her property, the authorities must strike a 'fair balance' between the demands of the public interest and the protection of the individual's fundamental rights. The expropriation measure must not impose an excessive burden on the individuals affected and the state cannot derive unjust enrichment from the measure.[197]

The European Court has said that compensation terms are relevant to assessing whether an expropriation measure respects the requisite fair balance or whether it imposes a disproportionate burden on the individual whose property has been expropriated. The court has held that there is a direct link between the importance or compelling nature of the public interest pursued and the compensation that should be provided in order to guarantee compliance with Article 1 of Protocol No. 1.[198] The government must balance the scope and degree of importance of the public interest against the nature and amount of compensation provided to the persons concerned.

The European Court has held that failing to pay compensation of a sum reasonably related to the value of the property is an excessive interference with an individual's rights. In addition, in many cases of expropriation, the only appropriate sum deemed to be "reasonably related to the value of the property" will in fact be full compensation—that is the market price of the property, plus costs or losses incurred as a result of the expropriation.[199]

The Baku authorities' mechanisms and proposals for monetary compensation, in particular the fact that it is based on a single rate for all properties, irrespective of use, condition or any other factors per square meter, therefore violate Azerbaijan's obligations under the European Convention.[200] The Azerbaijani authorities are not meeting the 'fair balance'

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[197] See inter alia, Lithgow and Others v United Kingdom, Katikaridis v. Greece and Tsomtos and Others v. Greece

[198] See inter alia, Papachelas v. Greece, no. 31423/96, ECHR 1999-II, Former King of Greece and Others v. Greece, no. 25701/94, ECHR 2000-XII, Jahn and Others v. Germany, nos. 46720/99, 72203/01 and 72552/01, ECHR 2005-VI, para. 81,

[199] See inter-alia, The former King of Greece and Others v. Greece (just satisfaction), no. 25701/94, judgment of November 28, 2002, para. 78, and Scordino v. Italy (no. 1), no. 36813/97, judgment of March 29, 2006, ECHR 2006-V, para. 96 in which the court notes that "in many cases of lawful expropriation, such as the distinct expropriation of land with a view to building a road or for other purposes "in the public interest," only full compensation can be regarded as reasonably related to the value of the property."

[200] The fact that the Baku City Executive Authority conducts the forced sales through private individuals does not relieve the authorities of their obligations under the European Convention. These individuals are treated as an agent of the state, and the Baku City Executive Authority, and ultimately the government of Azerbaijan, bear full responsibility for these individuals'

between state needs and the protection of the individual's right to property and applicable human rights standards.

actions in carrying out these functions. International Law Commission, Draft Articles on Responsibility of States for Internationally Wrongful Acts, November 2001, Supplement No. 10 (A/56/10), chp.IV.E.1, articles 5 and 8. As the European Court of Human Rights has affirmed, whether agency is given to a private individual formally, as the Baku municipal authorities have done, or informally "the acquiescence or connivance of the authorities of a Contracting State in the acts of private individuals which violate the Convention rights of other individuals within its jurisdiction may engage the State's responsibility under the Convention." European Court of Human Rights, *Cyprus v. Turkey*, no. 25781/94, ECHR 2001-IV, para. 81.

VI. Protection and Redress

One component of a fair and transparent expropriation process is the existence of a mechanism for resolving grievances. Such a mechanism should ensure that those affected by expropriation have the opportunity to register grievances and that those grievances are addressed in a clear and transparent manner. Articles 6 and 13 of the European Convention on Human Rights respectively, the rights of access to court and to an effective remedy, require that any individual whose property rights are impacted be able to vindicate their rights before such a mechanism.[201] Under Azerbaijan's national laws, property owners may appeal to court to challenge the government's expropriation and compensation mechanisms, including by seeking court injunctions to stop the expropriations and demolitions.[202]

However, the government has pursued evictions and demolitions in blatant violation of court orders or when court cases are still pending, raising serious questions as to whether the courts can provide an effective means of redress. In addition, court processes have been plagued by unnecessary delays as a result of the authorities' failure to appear for court hearings and an absence of time limits on cases heard in the newly-established economic administrative courts.

Demolition of Homes in Violation of Injunctions and Despite Pending Lawsuits

Lawyers and property owners in Baku told Human Rights Watch that they have appealed to local courts in attempts to secure property rights, protect properties from demolition, and secure fair compensation. In many cases lawyers have sought, and won, injunctions prohibiting the Baku City Executive Authority from pursuing expropriation or demolition of a property pending further review by the courts.

However, in several cases documented by Human Rights Watch the authorities demolished homes even when property owners have been able to secure such court injunctions. For

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[201] Article 6 (1) provides that, "in the determination of his civil rights and obligations … everyone is entitled to a fair and public hearing within a reasonable time. In Sporrong and Lönnroth v. Sweden, judgment of September 23, 1982, Series A no. 52, it was recognized that "where the Convention right asserted by the individual is a "civil right" recognised under domestic law– such as the right of property – the protection afforded by Article 6 (1) will … be available," para. 88.

202 Civil Code of the Republic of Azerbaijan, article 157.4, and Housing Code of the Republic of Azerbaijan, article 31.9.

example, Leyla Yunus obtained a court injunction on May 18, 2011, but her home was demolished on August 11. Similarly, as described in detail above, the authorities destroyed the home of Emma Shirinova on August 26, 2011, the same day that an appeals court upheld a June 22, 2011 Administrative-Economic Court decision to issue an injunction prohibiting demolition or any action creating obstacles to use of the home.[203] The authorities also partially destroyed the home of Yasnan Kirimova on August 12, 2011, despite a May 2011 court injunction.[204]

In addition, in a number of other cases documented by Human Rights Watch, the authorities demolished homes despite homeowners' appeals to court and pending a final court decision.[205] For example, Khajibaba Azimov, a property owner on A. Topchubashov Street, appealed to a district court in April 2010 to protect his right to property and to receive compensation at market value. In response to this suit, the Baku City Executive Authority filed a number of counter suits over the following months, for example claiming that the plaintiff's suit should have been filed in a different district. The case was postponed numerous times because representatives from the Baku City Executive Authority repeatedly failed to appear in court.[206]

Despite the pending court decision, on December 30, 2010 the Baku authorities evicted Azimov and his family and demolished the building housing his apartment, as described above. A final court decision was issued only in March 2011, 11 months after the original suit was filed. The court rejected Azimov's claims, and he accepted compensation at the 1,500 manat (US$1,900) per square meter rate in May 2011.[207] As described above, other property owners, including Sevinj Zainalova, Ismail Bagvanov, and Malik Aliyev, similarly told Human Rights Watch their properties were destroyed despite pending court cases that they had filed.

Lawyers have also unsuccessfully petitioned Baku's Nasimi District Court and the Baku Administrative-Economic Court no.1 seeking decisions to find the 2008 and 2011 mayoral

[203] Human Rights Watch email correspondence with Emma Shirinova, November 14, 2011.
[204] Human Rights Watch interviews with Leyla Yunus, December 10, 2011; with Yasnan Kirimova, September 28, 2011; and telephone interview with Emma Shirinova, September 4, 2011.
[205] For example, Human Rights Watch interview with, Shovket and Ismail Bagvanov, September 28, 2011, and Ibrahim I., September 29, 2011, and telephone interviews with Khajibaba Azimov, June 6, 2011 and with Sevinj Zainalova, June 14, 2011.
[206] Human Rights Watch telephone interview with Khajibaba Azimov, June 6, 2011.
[207] Ibid.

orders authorizing the expropriations, evictions and demolitions in central Baku illegal under Azerbaijani law. None of these lawsuits has been successful.[208]

Excessive Delays in Trials Related to Property Claims

Lawyers and property owners told Human Rights Watch that court proceedings have been plagued with repeated delays, most often as a result of the failure of the respondents, in most cases the Baku City Executive Authority, the State Committee on Property, or both, to appear at scheduled hearings. For example, beginning in August 2011, Shovket and Ismail Bagvanov, whose home was demolished in December 2010, filed a lawsuit in August 2010 seeking additional compensation above the 1,500 manat (US$1,900) rate. From the initial hearing through the appeals process, the courts held seven hearings in the Bagvanovs' case but the authorities were present at only one.[209]

While judges have the option of deciding a case in the absence of one of the parties, lawyers representing clients in cases challenging the government's expropriations and demolitions told Human Rights Watch that judges simply reschedule the hearings for a later date, and do so repeatedly.[210]

Under Azerbaijani law, courts must review cases within "a reasonable period," but the law does not define what a "reasonable period" should be,[211] and there is no legal remedy for plaintiffs whose cases are repeatedly delayed, which constitutes a denial of an effective remedy.[212] Lawyer Fuad Agaev told Human Rights Watch that courts hear 90 to 95 percent of most cases he has worked on within 30 days, and a lengthy review might last up to three months. However, his cases involving expropriations have dragged on for seven or eight

[208] Human Rights Watch telephone interview with Fuad Agaev, June 2, 2011, and interviews with Sevinj Aliyeva and Turan Bahadur-beyli, lawyers, September 27, 2011.

[209] Human Rights Watch interview with Shovket and Ismail Bagvanov, September 28, 2011.

[210] Human Rights Watch interviews with Fuad Agaev, December 10, 2011, and interviews with Sevinj Aliyeva and Turan Bahadur-beyli, and with Shafa Jamalzadeh, September 27, 2011.

[211] Administrative Code of the Republic of Azerbaijan, article 172.1.

[212] See for example Kudla v. Poland, No. 30210/96, judgment of October 26, 2000, para. 160, in which the Court, faced with a "continuing accumulation of applications before it in which the only, or principal, allegation is that of a failure to ensure a hearing within a reasonable time in breach of Article 6 para. 1" held the absence of a complaint mechanism about proceedings not happening in a reasonable time, was a violation of requirement to provide an "effective remedy" under Article 13.

months, without explanation. In some cases hearings are drawn out so long that courts issue rulings only after demolitions have taken place.[213]

This practice of the courts renders recourse to the courts ineffective and as such a violation of both Articles 6 and 13 of the ECHR.

Complaints to Other State Agencies

Property owners have also submitted complaints regarding the unlawful expropriation of their property to a number of government agencies, including the Prosecutor General's Office, the Internal Affairs Ministry, the Baku City Executive Authority, and the presidential administration. In only a few cases have homeowners received responses.[214] As described above, Leyla Yunus received a response from the Baku City Executive Authority in September 2011 offering her compensation for her property which the authorities had demolished the month before. Some homeowners have also appealed to local television and newspapers [215] and others have protested in front of the presidential administration[216] or the Baku City Executive Authority.[217]

One lawyer, Nizami Bagirov, told Human Rights Watch that in August 2011 he filed a number of requests and complaints to government agencies, including the Cabinet of Ministers, the Baku City Executive Authority, and the presidential administration, and to the district executive authority, but as this report went to print he had still received no response.[218]

Lawyer Fuad Agaev told Human Rights Watch that he has also filed numerous complaints with a court after clients have already lost their homes, petitioning for their possessions to be returned to them or compensated for and for clients to receive moral compensation for their losses, but these cases have also not yet been heard on their merits.[219]

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[213] Human Rights Watch telephone interviews with Fuad Agaev, June 2, 2011 and June 16, 2011.

[214] Inter alia, Human Rights Watch telephone interviews with Alizra Rzaev, June 6, 2011, and with Sevinj Zainalova, June 14, 2011; and Human Rights Watch interviews with Murad M., June 17, 2011; with Hasan Huseinov, June 17, 2011; and with Reikhan Useinova, June 19, 2011.

[215] Human Rights Watch interview with Ali A., June 17, 2011.

[216] Human Rights Watch interview with Reikhan Useinova, June 19, 2011.

[217] For example, property owners organized a protest on November 4 outside of the mayor's office. Khajibala Abutalybov, "1,500 manat and no more!" in Russian [Gadjibala Abutalybov: 1500 manat I vse!"], Contact Azerbaijan, http://www.contact.az/docs/2011/Social/110411325ru.htm (accessed November 14, 2011).

[218] Human Rights Watch interview with Nizami Bagirov, September 28, 2011.

[219] Human Rights Watch telephone interview with Fuad Agaev, June 2, 2011.

VII. The Role of Azerbaijan's International Partners

International actors engaged with Azerbaijan, including the European Union (EU), the Organization for Security and Co-operation in Europe (OSCE), the United States (US), the Council of Europe, the World Bank, the Asian Development Bank (ADB), the European Bank for Reconstruction and Development (EBRD), and the European Broadcasting Union (EBU), should encourage the Azerbaijani government to cease expropriations, forced evictions, and demolitions until they can be carried out in a fair and transparent manner, consistent with Azerbaijani national law and international human rights law, and ensure fair compensation to those evicted.

International and regional institutions and Azerbaijan's bilateral partners have criticized Azerbaijan's human rights record on a number of areas including the right to freedom of expression and assembly.[220] Starting in 2011 they began to express concern about evictions and house demolitions, as indicated below. However, the Azerbaijani government has continued these practices despite statements of concern, without facing any consequences from these international and regional institutions. Some analysts have asserted that this may in part be due to the fact that these partners prioritize the country's geostrategic importance and hydrocarbon wealth in their relations with the government.

Sustained pressure and clear benchmarks for remedying human rights violations are needed if Azerbaijan's partners are to succeed in persuading the Azerbaijani government to respect fundamental rights and liberties.

Multilateral development banks, including the World Bank, the ADB, and the EBRD have maintained ties with the Azerbaijani government despite the worsening human rights

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[220] "OSCE Media Freedom Representative Condemns Attack on Azerbaijani Journalist, Calls Upon Government to Curb Violence Against the Media," OSCE Press Release, March 28, 2011, http://www.osce.org/fom/76228 (accessed December 20, 2011); European Union, "Statement by the spokesperson of EU High Representative Catherine Ashton on the Conviction of 14 Peaceful Demonstrators in Azerbaijan," Brussels, October 12, 2011, A406/11, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/125043.pdf (accessed December 20, 2011); EU, "Statement by the Spokesperson of EU High Representative Catherine Ashton on Further Convictions of Peaceful Demonstrators in Azerbaijan," Brussels, October 8, 2011, http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/124990.pdf (accessed December 20, 2011); EU, "Statement by High Representative Catherine Ashton on Azerbaijan," Brussels, May 20, 2011, A 194/11, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/122137.pdf (accessed December 20, 2011).

situation and ongoing forced evictions and demolitions and have not publicly raised concerns about these rights abuses.

As described in detail below, European Broadcasting Union (EBU), which oversees the Eurovision Song Contest, sought explanations from the government of Azerbaijan regarding evictions and demolitions related to construction near the Baku Crystal Hall, the venue to be used for the contest in May 2012. The EBU has stated that it sees no connection between the expropriations, evictions, and demolitions and the construction in the National Flag Square area and is therefore not seeking any assurances from the government related to human rights abuses in the area. Instead, the EBU has emphasized the "non-political" nature of the event and distanced itself from the controversy. In a January 2012 letter to Human Rights Watch, the EBU stated, "[W]e try to keep the Eurovision Song Contest as apolitical as possible. Its purpose is to inspire, entertain, and unify the millions of people who enjoy it. As we see [it] the Song Contest is a force for good. It turns attention to countries that otherwise go largely undiscussed and puts them at the heart of the debate."[221]

Criticism of Expropriations, Evictions, and Demolitions

Although the government has been carrying out its campaign of expropriations, forced evictions, and demolitions since 2008, Azerbaijan's international partners publicly expressed concerns about the related rights violations only in August 2011, after the demolition of Leyla and Arif Yunus' property.

On August 16, 2011 the UN high commissioner for human rights criticized the destruction and called on the government to ensure safe working conditions for human rights defenders.[222] Also on August 16 the EU objected to the demolition and on September 1, the US Mission to the OSCE similarly objected.[223]

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[221] Letter from Ingrid Deltenre, Director General, European Broadcasting Union, to Human Rights Watch, January 19, 2012. Addressing the issues that are reflected in its mandate, the letter added, "Our aspiration is to be an agent of change and I can assure you we do use our institutional possibilities to improve media freedom and freedom of expression in Azerbaijan."

[222] Spokesperson for UN High Commissioner for Human Rights Rupert Colville, "Briefing Note on Azerbaijan," Geneva, August 16, 2011, http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11308&LangID=E (accessed December 20, 2011).

[223] "Local EU Statement on Demolitions and Forced Evictions", August 16, 2011, http://www.eeas.europa.eu/delegations/azerbaijan/press_corner/all_news/news/2011/2011_08_12_local_statment_en.htm (accessed December 20, 2011); "Statement on Demolition of IPD Offices in Baku and Conviction of Activists," As delivered

In observations published in September 2011, Council of Europe Human Rights Commissioner Thomas Hammarberg stated that he "had called upon the [Azerbaijani] authorities to halt forced evictions" and was particularly concerned about the demolition of Leyla Yunus' property.[224] Hammarberg called on the government to investigate and remedy the situation. "Responsibility for this illegal action—which contravened a court order—should be established, and the persons affected should at the very least obtain adequate compensation for the loss of their property," he said.[225]

The Crucial Role of the European Union and the United States

The EU and the US are key partners for Azerbaijan and are well positioned to leverage their close political and economic ties to secure meaningful human rights reforms. Azerbaijan has been developing an increasingly close relationship with the EU since the 1999 Partnership and Cooperation Agreement established a legal framework for EU-Azerbaijan relations. The EU and Azerbaijan are currently negotiating an Association Agreement, begun in July 2010, which promises even closer political and economic ties. Brussels has a unique and timely opportunity to set clear benchmarks on human rights by formulating concrete, measurable improvements the Azerbaijani authorities should implement as part of the relationship. Among such improvements should be addressing human rights violations in the context of any expropriations and evictions, which the EU should make an explicit requirement for closer relations.

The United States considers Azerbaijan as a strategic partner. Azerbaijan provides its airspace for the transfer of coalition troops to Afghanistan; supports US efforts to combat terrorism and the proliferation of weapons of mass destruction; and is a key source for diversifying and securing global energy supply.[226] The US provided US$28 million in assistance to Azerbaijan in 2010, for, *inter alia*, "the development of democratic

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by Deputy Chief of Mission Gary Robbins to the Permanent Council, United States Mission to the OSCE, Vienna, September 1, 2011, http://photos.state.gov/libraries/osce/5/Sep2011/9-1-11_Azerbaijan_001.pdf (accessed December 20, 2011).

[224] Thomas Hammarberg, "Observations on the Human Rights Situation in Azerbaijan: Freedom of expression, freedom of association, freedom of peaceful assembly," Council of Europe, September 29, 2011, CommDH(2011)33, https://wcd.coe.int/ViewDoc.jsp?id=1839497 (accessed November 8, 2011).

[225] "Azerbaijan: Worrying Clampdown on Journalists and Human Rights Activists," Council of Europe Press release, September 29, 2011, http://www.coe.int/t/commissioner/News/2011/110929HRAzerbaijan_en.asp (accessed November 8, 2011).

[226] For an overview of the US-Azerbaijan relations please see, "US-Azerbaijan Relations," Speech by William J. Burns, US Under Secretary for Political Affairs, delivered at Georgetown University, Washington, DC, September 19, 2009, http://www.state.gov/p/us/rm/2009a/129375.htm (accessed October 14, 2010).

institutions of government and civil society to promote public participation, combat corruption and strengthen the rule of law."[227] The US has frequently spoken out about human rights abuses in Azerbaijan, including on property rights, but can also demonstrate further commitment to advancing human rights in Azerbaijan by conditioning engagement and assistance on meaningful human rights improvements.

Multilateral Development Banks Silent

Despite playing a significant role in Azerbaijan, the World Bank, the Asian Development Bank (ADB) and the European Bank for Reconstruction and Development (EBRD) have failed to publicly raise concerns about the Azerbaijani government's ongoing practices of forced evictions and demolitions.[228]

The World Bank, the ADB, and the EBRD are well aware of the risks posed by relocating large numbers of people. This is illustrated by each of the banks' own specific guidelines on involuntary resettlement that set out criteria that the development partner (in this case Azerbaijan) must follow where projects using World Bank, ADB, or EBRD funds involve resettlement.[229] These multilateral development banks' institutional commitment to these practices is undermined by not raising concerns about these abuses even when they occur outside of their directly funded projects.

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[227] "Foreign Operations Appropriated Assistance: Azerbaijan," Bureau of European and Eurasian Affairs Fact Sheet, April 1, 2011, http://www.state.gov/p/eur/rls/fs/167291.htm (accessed November 11, 2011).

[228] The Azerbaijani government has requested a total investment of about US$ 1 billion from the World Bank over the four year period 2011-2014 in various projects including health, education, justice, and infrastructure. See Country Partnership Strategy available at http://siteresources.worldbank.org/AZERBAIJANEXTN/Resources/301913-1240322367644/6043695-1286995766829/7474932-1287411211104/full_report.pdf. 2011 will be the last year the country will receive concessional financing from the World Bank as Azerbaijan's per capita income of now places it in the group of the middle income countries. The ADB planned to invest $340 million in capital funds in 2011. See Country Operations Business Plan (2011-2013) http://www.adb.org/Documents/CPSs/AZE/2011-2013/cobp-aze-2011-2013.pdf. The EBRD planned to invest US$90 million in 2011 in 14 projects, most involving agribusiness and manufacturing. See http://www.ebrd.com/downloads/research/factsheets/azerbaijan.pdf.

[229] See World Bank, "OP 4.12 – Operational Policy on Involuntary Resettlement," December 2001, (revised February 2011), http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/0,,contentMDK:20064610~menuPK:64701637~pagePK:64709096~piPK:64709108~theSitePK:502184,00.html, (accessed January 10, 2012), ADB, "Safeguard Policy Statement," June 2009, http://www.adb.org/Documents/Policies/Safeguards/Safeguard-Policy-Statement-June2009.pdf, p. 17, and EBRD, "Environmental and Social Policy," May 2008, http://www.ebrd.com/downloads/research/policies/2008policy.pdf, Performance Requirement 5: Land Acquisition, Involuntary Resettlement, and Economic Displacement.

As multilateral lenders with significant programs in Azerbaijan, these institutions should press the Azerbaijani government to cease these forced evictions and demolitions, to abide by national and international standards in carrying out any resettlements, and to commission independent investigations to determine whether donor funds are directly or indirectly supporting these abuses. The World Bank, ADB, and EBRD should work with the Azerbaijani government to institute country-wide practices of resettlement that comply with national and international standards.

The European Broadcasting Union

The Eurovision Song Contest is governed broadly by the European Broadcasting Union (EBU),[230] which has appointed a seven-person reference group to "control and guide" the yearly event.[231] The EBU, as an association of media organizations, has an explicit mandate to advance freedom of expression and information[232] and issued a strongly-worded declaration on the subject at its 64th General Assembly, held in Baku in July 2010.[233] It considers the Eurovision Song Contest to be a strictly "apolitical" event, however,[234] and has sought to distance itself from the controversy associated with evictions and demolitions near Baku Crystal Hall by saying it is not linked with the contest itself and should have no effect on the Eurovision "brand."[235]

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[230] The EBU is tasked with "taking care of brand management, international marketing activities, general communications and the official website." Eurovision Song Contest, "Organisers from the EBU," http://www.eurovision.tv/page/baku-2012/about/organisers/ebu (accessed October 26, 2011).

[231] The reference group is tasked with "approving the development and future format of the Eurovision Song Contest, securing the financing, modernising the brand and raising awareness and overseeing the yearly preparation by the Host Broadcaster." Eurovision Song Contest, "Reference Group," http://www.eurovision.tv/page/baku-2012/about/organisers/reference-group (accessed October 26, 2011).

[232] The Statutes of the EBU establish that its purpose is to contribute, in the field of broadcasting, to, inter alia, "safeguarding and improving freedom of expression and information, which is one of the essential foundations of a democratic society and one of the fundamental conditions for its progress and for the development of every individual; [and] enhancing the freedom and pluralism of the media, the free flow of information and ideas, and the free formation of opinions." As quoted in EBU, "Declaration on freedom of expression, media independence and democracy," July 2, 2010, footnote 1. http://www.ebu.ch/CMSimages/en/Declaration_freedom_expression_2julydoc_tcm6-68197.pdf (accessed October 26, 2011).

[233] EBU, "Declaration on freedom of expression, media independence and democracy."

[234] Letter from Ingrid Deltenre, Director General, European Broadcasting Union, to Human Rights Watch, November 10, 2011.

[235] See, for example, BBC Azerbaijan Service, "Eurovision Organizers Deny Warning the BBC over Azerbaijan," reposted at http://singfordemocracy.org/en/news/76-eurovision-organisers-deny-warning-the-bbc-over-azerbaijan (accessed January 20, 2012).

In correspondence with Human Rights Watch the EBU elaborated its position, stating that it "has seen no evidence linking any building work to the Song Contest," "did not require or request a purpose-built venue," and would have accepted to hold the song contest at either of two existing venues also offered by the government.[236] Stressing commitments it secured from the Azerbaijani government that it will uphold media freedom and freedom of speech in connection with the song contest, the EBU added that it would raise concerns with authorities "should [they] become aware of any human rights abuses."[237]

Speaking in similar terms to the press about the controversy over Baku Crystal Hall two months later, an EBU spokesperson indicated that they had inquired with the authorities, who assured them that the construction of the venue was on "a previously undeveloped site" and was part of a broader redevelopment plan not tied to the Eurovision Song Contest. At the end of January 2012, the EBU event supervisor, Sieste Bakker, said that the evictions in the Bayil neighborhood were "not related to the construction of the Baku Crystal Hall" because they were for the construction of a road several hundred meters away.[238]

Joergen Franck, director of television for the EBU, told Human Rights Watch on January 26 that the EBU had received information from Azerbaijani officials that those residents who were or who will be evicted in the area adjacent to the National Flag Square are seeking to forge a false connection to the Eurovision Song Contest.

He reiterated the EBU's position that there is no connection between the expropriations and the Eurovision Song Contest, and said the people in the area would have been evicted even if the 2012 Eurovision Song Contest were to be held elsewhere. "The EBU does not believe its brand has been tainted by government actions or by articles in the press," he told Human Rights Watch. Franck said that although the EBU is seeking explanations from the Azerbaijani government about development plans in the area, the EBU would not be

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[236] Letter from Ingrid Deltenre, Director General, European Broadcasting Union, to Human Rights Watch, November 10, 2011. In May 2011, the government identified the existing 37,000-seat Tofiq Bahramov Stadium, or the much smaller Heydar Aliyev Sports and Exhibition Complex as possible venues. "Azerbaijan Has Not Yet Selected Site for Eurovision 2012," May 19, 2011, Azerbaijan Business Center, http://abc.az/eng/news/main/54292.html (accessed January 20, 2012). In its November 2011 letter to Human Rights Watch, the EBU stated it would have required a roof to be added to the Tofiq Bahramov football stadium.

[237] Letter from Ingrid Deltenre, Director General, European Broadcasting Union, to Human Rights Watch, November 10, 2011.

[238] "Over 100 Journalists attend Eurovision Press Conference in Baku," Eurovision TV press release, January 26, 2012, http://www.eurovision.tv/page/news?id=45083&_t=over_100_journalists_attend_eurovision_press_conference_in_baku (accessed February 4, 2012).

seeking assurances from the government about addressing eviction-related abuses. Doing so, he said, would interfere with the non-political character of the Eurovision Song Contest. Franck also said that organizations could take advantage of the "bright spotlight" the Eurovision contest was throwing on Azerbaijan in order to highlight human rights violations, and that this was "a good thing."[239]

It is indeed true that the road and park being built in the National Flag Square area—and for which residents were evicted in order to clear the area for construction—were planned before Azerbaijan won Eurovision in 2011. However the timing of many of the evictions and the pace of construction indicate that the government's plans for the area accelerated in light of Eurovision. Further, before the evictions sparked international media coverage and before the EBU approved the Baku Crystal Hall as the event venue, senior government officials were adamant that Baku Crystal Hall would be completed in time for the 2012 Eurovision Song Contest. Human Rights Watch believes that the push to quickly beautify the area and improve transport links is therefore linked to the Eurovision Song Contest by proximity and the accelerated rate of construction.

[239] Human Rights Watch interview with Joergen Franck, European Broadcasting Union television director, Baku, January 25, 2012.

VIII. Recommendations

To the Government of Azerbaijan, including the Baku City Executive Authority and the State Committee on Property

- Halt all further expropriations, evictions, and demolitions until they can be carried out in a fair and transparent manner and are consistent with Azerbaijani national law and international human rights law.
- Any future evictions of homeowners who refuse to leave their properties should only be conducted in accordance with Azerbaijani and international law. Any evictions should be regulated by a court order and conducted with full respect for the bodily integrity and dignity of those evicted.
    - The authorities should in no circumstances begin to demolish or disassemble buildings in which people continue to live.
- Ensure protection of all private property when carrying out evictions and demolitions.
- Provide homeowners and property owners who may lose their property for development with:
    - clear information about the legal basis for the expropriation,
    - the timing of the expropriation,
    - their compensation and resettlement options, and
    - the means of appealing decisions.

    This information should be provided in a timely manner.
- Provide all property owners affected by expropriation access to an effective complaint mechanism that addresses grievances in a clear and transparent manner and a remedy. In accordance with the right to an effective remedy guaranteed by article 13 of the European Convention on Human Rights, an effective grievance mechanism should also include compensation for harm.
- Ensure that mechanisms to provide homeowners with compensation for expropriated property are fair and transparent, with a clear basis in law.
    - The Baku City Executive Authority and the State Committee on Property should establish a mechanism whereby each property affected by expropriation and

demolition will be subject to an independent appraisal and that compensation to individual property owners accurately reflects the market value of each property.

  - The compensation calculation for individual properties should take into account the full and actual sale value of each property and is not dependent on one fixed price.
  - The compensation calculation should include the additional expenses established in article 31.7 of the Housing Code.
  - Expropriation of properties should not serve to deny property owners their property rights. If property owners are resettled, they should be assured full title to the new properties.
  - Housing designated for resettlement must comply with all housing code and other relevant standards for safety, hygiene, and engineering integrity.

- Publish all relevant legal acts and other official documents regarding city development plans, and conduct awareness campaigns about any city development plans.
- Hold regular, well-publicized public meetings where the plans for city development are discussed and open to public comment. Consider fully public concerns and ideas when developing and realizing development plans.
- State officials should not engage in hostile and intimidating behavior.
- Law enforcement officials should receive appropriate professional training on how to respect the rights of homeowners, residents, monitors, and the public in general when carrying out law enforcement actions in support of evictions.

To the Prosecutor General's Office of Azerbaijan

- Initiate an independent inquiry into why the expropriations and demolitions in central Baku have been allowed to take place in the manner described in this report given that they clearly violate Azerbaijan's constitution and national laws and international human rights law.
  - As part of this inquiry, the authorities should investigate all violations of the right to private property, including the broken, ruined, and missing property removed from homes and apartments as a result of forcible evictions.

- Investigate the role of the Ministry of Interior officials in ordering and carrying out evictions of residents from their homes and detentions of residents as a component of the eviction.
- Investigate violations of the right to private and family life and instances of inhuman and degrading treatment.
- Provide compensation for those evicted in ways that violated their rights and failed to respect their safety and dignity.

To the European Broadcasting Union

While the European Broadcasting Union (EBU)'s stated position is that the evictions taking place in the vicinity of the Baku Crystal Hall are not linked to the Eurovision Song Contest, the EBU nevertheless should utilize its engagement with the Azerbaijani authorities to:

- Call on the Azerbaijani authorities to ensure that no further human rights abuses take place with respect to Azerbaijan's preparation to host the Eurovision contest, including in the vicinity of the Baku Crystal Hall.
- Call on the Azerbaijani authorities to resolve, in a fair and transparent manner, all complaints related to expropriations, evictions, and demolitions near the Baku Crystal Hall.
- Make public all measures taken to engage with the government to press for an end to abuses.

To the European Broadcasting Union Members

- Call on the EBU, including the Eurovision Reference Group, to make clear with the Azerbaijani authorities that expropriations, evictions, and demolitions near the Baku Crystal Hall risk casting a shadow over the Eurovision Song Contest and should be halted.
- Call on the EBU, including the Eurovision Reference Group, to make clear with the Azerbaijani authorities that no further human rights abuses should take place with respect to Azerbaijan's preparation to host the Eurovision contest, including in the vicinity of the Baku Crystal Hall, and that the authorities should resolve, in a fair and transparent manner, all complaints related to expropriations, evictions, and demolitions near the Baku Crystal Hall.

To Azerbaijan's Bilateral Partners, including the European Union, individual European States, and the United States

- Insist that the Azerbaijani authorities halt all further expropriations, evictions, and demolitions until they can be carried out in a fair and transparent manner and are consistent with Azerbaijani national law and Azerbaijan's international human rights obligations.
- Insist that the government of Azerbaijan ensure a fair and transparent expropriation and a lawful compensation process for homeowners who lose their homes.
- Make Azerbaijan's addressing these concerns an explicit requirement in the context of enhanced relations, including through the Association Agreements with the EU and in the context of deepening engagement with and assistance from the US.
- Provide technical assistance as necessary to the Baku City Executive Authority, the State Committee on Property, and law enforcement organs to ensure proper training in the conduct of expropriations for legitimate state needs and evictions of homeowners that respect human rights and human dignity.
- Continue to support nongovernmental organizations and activists documenting illegal expropriations, evictions and house demolitions.

To The Council of Europe

- The Committee of Ministers should urge the Azerbaijani authorities to implement the recommendations by the Commissioner for Human Rights Thomas Hammarberg, outlined in his September 2011 observations, which included recommendations regarding the government's campaign of expropriations and evictions.

To the World Bank, Asian Development Bank, and the European Bank for Reconstruction and Development

- Call on the Azerbaijani government to halt all further expropriations, evictions, and demolitions until they can be carried out in a fair and transparent manner and are consistent with Azerbaijani national law and Azerbaijan's international human rights obligations.

- Ensure that no form of support, whether financial, diplomatic, or technical, is used to assist in forced evictions, expropriations, or demolitions that contravene national and international law.
- Do not undertake new programs in Azerbaijan that may present a risk of forced evictions until the government demonstrates that all resettlements are carried out in a fair and transparent manner and are consistent with Azerbaijani national law and Azerbaijan's international human rights obligations.

Acknowledgements

This report was written by Jane Buchanan, senior researcher in the Europe and Central Asia Division of Human Rights Watch. Jane Buchanan, Giorgi Gogia, senior researcher in the Europe and Central Asia Division of Human Rights Watch, Rachel Denber, Europe and Central Asia division deputy director, and Kamil Satkanbayev, consultant to Human Rights Watch, conducted the research. Seyward Darby, intern in the Europe and Central Asia Division of Human Rights Watch wrote the background sections.

The report was edited by Rachel Denber and reviewed by Giorgi Gogia, Veronika Szente Goldston, Europe and Central Asia division advocacy director, Lisa Misol, senior researcher in the Business and Human Rights Program, Jessica Evans, senior researcher/advocate on international financial institutions, Aisling Reidy, senior legal advisor, and Tom Porteous, deputy program director at Human Rights Watch.

Production assistance was provided by Erica Lally, associate in the Europe and Central Asia division, Ivy Shen, photo editor, Grace Choi, publication director, and Fitzroy Hepkins, mail manager.

Human Rights Watch expresses its gratitude to the homeowners who shared their stories with us. We also thank the lawyers, experts, and nongovernmental organizations in Azerbaijan—in particular the Free Economy Association—who contributed to this report with their time, expertise, and information. Human Rights Watch also gratefully acknowledges the expertise and assistance of Vugar Gojayev, country coordinator of Azerbaijan Human Rights House.

“THEY TOOK EVERYTHING FROM ME”

Forced Evictions, Unlawful Expropriations, and House Demolitions in Azerbaijan’s Capital

Since 2008, the government of Azerbaijan has undertaken a sweeping program of urban redevelopment in the capital, Baku. But in doing so it has illegally expropriated and demolished hundreds of homes, and forcibly evicted homeowners, violating their rights in the process.

Based on interviews with affected homeowners, ‘They Took Everything From Me’ documents how the authorities forcibly evicted residents and demolished homes without adequate notice, often without warning or in the middle of the night, and destroyed or damaged personal possessions. In some cases the authorities cut off services, including electricity and water, and dismantled apartment buildings in order to compel remaining residents to leave. The report describes how the government refused to provide homeowners fair compensation for the values of properties, many of which are in highly-desirable locations. It also details the lack of effective legal recourse or remedy to individuals whose rights were violated.

One of the four neighborhoods described in this report is Bayil, the seaside location of the National Flag Square and the Baku Crystal Hall, the venue for the May 2012 Eurovision Song Contest.

Human Rights Watch calls on the Azerbaijani government to halt all further expropriations, evictions, and demolitions until they can be carried out in a manner consistent with Azerbaijani law and international human rights law. The prosecutor’s office should initiate an independent inquiry into why the expropriations and demolitions in central Baku have been allowed to take place in a manner that clearly violates Azerbaijani and international law.

The Flame Towers are emblematic of new construction in Baku.

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