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BEHIND BARS:

**SILENCING DISSENT IN
AZERBAIJAN**

**AMNESTY
INTERNATIONAL**



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INTRODUCTION

On 14 May 2014, Azerbaijan will take on the Chairmanship of the Council of Europe's Committee of Ministers for the first time since it became a member of Europe's leading intergovernmental organisation for the promotion of human rights, democracy and the rule of law in 2001. While the last decade has witnessed an oil-fuelled boom in Azerbaijan and a significant, if uneven, increase in living standards, thirteen years of Council of Europe membership have done little to improve the respect for civil and political rights in the country. Its progress towards becoming a pluralist democracy and consolidating the rule of law has not just stalled – it has gone into reverse in recent years.

The clampdown on the rights to freedom of expression, association and assembly that marred the run up to the October 2013 presidential elections,¹ has continued since – to the extent that it has become increasingly dangerous and difficult for dissenting voices, opposition political parties and civil society activists to operate freely and communicate their concerns and views to a broader public.

Independent human rights and democracy monitoring organisations have long struggled to secure registration and operate freely in Azerbaijan.² In recent years, successive reforms to regulations governing non-governmental organisations (NGOs), the most recent adopted in December 2013, have introduced ever stricter reporting obligations, additional grounds for the arbitrary closure of NGOs or the denial of registration, and increased fines for the violation of administrative requirements.³

The right to freedom of assembly has long been tenuous in Azerbaijan and has come under further sustained assault over the course of the last year, rendering peaceful protest increasingly difficult and, indeed, rare.

Criticism of and opposition to the government has become a dangerous business in Azerbaijan, a ticket to harassment by the authorities and criminal prosecution. Amnesty International currently recognizes 19 individuals in Azerbaijan as prisoners of conscience. They include NGO leaders, youth activists, politicians, bloggers and journalists, who have been convicted or are standing trial on a range of fabricated charges. Individually, these cases are bad enough; collectively, they reveal a complete disregard for many of the core rights and obligations that Azerbaijan committed to upholding when it joined the Council of Europe and signed up to the European Convention on Human Rights.

The fact that a country with such obvious disdain for the founding principles of the Council of Europe is about to take its turn to lead its inter-governmental work should prompt some serious reflection within the organisation. It is one thing to tone down criticism of human rights abuses in exchange for long-term structural reforms and slow steady progress. It is quite another to soft-pedal on the abuses of a regime sliding ever-further away from the community of values that the Council of Europe is supposed to represent.

Mindful of Azerbaijan's looming chairmanship, the Committee of Ministers agreed a two-year Action Plan "intended to support reforms in the field of human rights, rule of law and democracy in Azerbaijan" on 16 April 2014.⁴ This Action Plan is, in itself, welcome and could yet provide some

impetus to reform in the country. Characteristically, however, no announcement of this adoption of this plan was made beyond its cursory record in the official proceedings of the Committee of Ministers that day. The Action Plan has not been made public and no provision has been made for any public reporting on its implementation or its impact on the respect for human rights in Azerbaijan, none of which inspires confidence that Azerbaijan's worsening human rights record is being tackled with the necessary firmness.

The Azerbaijani authorities must begin to respect the rights to freedom of association, assembly and expression, including by immediately and unconditionally releasing the individuals they have incarcerated for the peaceful exercise of these rights. And the Council of Europe – its Parliamentary Assembly, its Secretary General and the Committee of Ministers itself - must begin to be more assertive in demanding this.

PRISONERS OF CONSCIENCE IN AZERBAIJAN

Prior to the October 2013 presidential election, Amnesty International believed there were at least 14 prisoners of conscience in Azerbaijan. One has been released since.⁵ Of the remaining 13, five have since been convicted and received custodial sentences while eight remain in detention on remand. Amnesty International considers a further six individuals detained since the presidential elections to be prisoners of conscience, bringing the total number as of 30 April 2014 to 19.

This briefing examines the cases of 11 individuals detained shortly before or since the presidential elections, who are currently standing trial. These include eight activists from the youth NIDA movement (Bakhtiar Guliyev, Mammad Azizov, Shahin Novruzlu, Rashad Hasanov, Rashadat Akhundov, Zaur Gurbanli, Uzeyir Mammadli and Ilkin Rustamzade); the NGO leader Anar Mammadli; and the bloggers and activists Omar Mammadov (also a former Nida member) and Abdul Abilov.

Amnesty International also recognises the following persons currently serving sentences as prisoners of conscience: the opposition politicians Ilgar Mammadov, Tofiq Yagublu and Yadigar Sadigov; Sardar Alibeyli, a journalist, and Rashad Ramazanov, a blogger, and the political youth activist Dashgin Melikov, all of whom were arrested in the course of 2013.⁶ Amnesty International also recognizes long-term detainees, Hilal Mammadov, a journalist and activist for Talysh minority rights, and Bakhtiyar Mammadov, a human rights defender, as prisoners of conscience. Details of their cases can be found in earlier Amnesty International publications.⁷

All the above individuals have been criminally prosecuted and incarcerated in connection with the attempts to peacefully exercise their right to freedom of expression, and must be immediately and unconditionally released, and all charges against them dropped as trumped up and politically motivated.

THE PROSECUTION OF CIVIL SOCIETY ACTIVISTS

ANAR MAMMADLI

At approximately 5pm on 16 December 2013, Anar Mammadli, the Chairman of Azerbaijan's well respected, but unregistered election watchdog – the Election Monitoring and Democracy Studies Centre (EMDS) – was called in for questioning at the Prosecutor General's Office and arrested soon after by police. At the time of writing he remains in pre-trial detention. His associates and fellow civil society activists Bashir Suleymanli and Elnur Mammadov are also suspects in the same criminal case, and are under travel restrictions. If convicted, all three may face years of imprisonment.

There was a smear campaign against Anar Mammadli in pro-government and state-run media began weeks before and after the 9 October 2013 election. In an article dated 12

September 2013, a pro-government member of the Azerbaijani parliament launched an ominous attack on Anar Mammadli accusing him of working on behalf of the “Armenian lobby”, and suggesting that an investigation was “probably underway” into the transfer of grants into his personal account.⁸

EMDS came under investigation by the authorities on 27 October 2013, soon after it issued critical reports documenting widespread electoral violations during the October 2013 Presidential Election, which saw Ilham Aliyev re-elected for a controversial third term.

According to Anar Mammadli, who spoke with Amnesty International in the weeks before his arrest, investigators from the Grave Crimes Investigation Department of the Prosecutor General’s Office questioned him and three other members of EMDS and at least one member of the Volunteers’ International Cooperation (VIC) between 27-30 October 2013. Each round of questioning lasted for over three hours.

At 11am on 31 October, officials from the Grave Crimes Investigation Department of the Prosecutor General’s Office raided the head office of EMDS in Baku and presented a court order from the Nasimi District Court. Officials spent over five hours trawling through various documents, including leaflets, event programmes and financial documents, and left the office at around 5pm, taking with them 20 folders full of documents and two desktop computers.

Bashir Suleymanli, and Chairman of the VIC, Elnur Mammadov, were called for questioning at the Prosecutor General’s Office again on 1 and 4 November 2013. The questioning of all three senior managers of the two NGOs continued throughout November and the first half of December, during which period all NGO members fully cooperated with the authorities.

After his arrest on 16 December 2013, Anar Mammadli was taken to Nasimi District Court, which authorised his pre-trial detention for three months, pending his trial on charges of “illegal enterprise”, tax evasion and “abuse of authority with grave consequences or the intent to influence elections”, under Articles 192.2.2, 213.1 and 308.2 of the Criminal Code respectively. During this hearing, Anar Mammadli was denied the opportunity to be represented by the lawyer of his choice and had a state-appointed lawyer imposed on him. He was only able to meet with his own lawyers the following day, on 17 December 2013.

After Anar Mammadli’s arrest, his lawyer told Amnesty International that the reasons given by the prosecutor for requesting Anar Mammadli’s pre-trial detention were based on the assertion that he was likely to abscond due to his frequent international travel and contacts abroad, the purported likelihood of him “influencing other witnesses”, and continuing to engage in “illegal enterprise”.

In a statement widely disseminated by national media outlets on 18 December 2013, the Prosecutor General’s Office claimed that the investigation was initiated on the request of the Ministries of Taxation and Finance.⁹ On 20 December, an official from the Ministry of

Taxation denied that the Ministry had initiated the investigation into the activities of EMDS and Anar Mammadli.¹⁰

The statement accuses Bashir Suleymanli of withdrawing cash from the bank account of EMDS' registered partner NGO VIC (see below, "Repeated arbitrary denial of registration to election watchdog"), in order to pay employees hired by EMDS to fulfil a joint project with VIC on the monitoring of the October 2013 presidential election. Bashir Suleymanli was in a position to do so in his capacity as Deputy Director of VIC and the Executive Director of EMDS. This sum is considered by prosecutors to be a private transaction and therefore taxable, despite the exemption of NGOs from tax payments on received grants. No justification was given for the charge relating to the purported abuse of authority.

On 6 March 2014, Nasimi District Court renewed his pre-trial detention period for a further three months. On 19 March, prosecutors announced that the primary investigation had been completed, and as a result, Anar Mammadli, Bashir Suleymanli and Elnur Mammadov would face additional charges of forgery and or falsification of official documentation or information, and misappropriation of property on a large scale under Articles 313 and 179.3.2 of the Criminal Code of Azerbaijan.

Bashir Suleymanli and Elnur Mammadov are currently under travel restrictions. The trial of all three activists begun on 28 April 2014. In the initial hearing, all those who testified as "victims" in respect of the charges relating to abuse of authority and illegal enterprise stated that they had no claims against Anar Mammadli, Bashir Suleymanli and Elnur Mammadov. At least one of the victims, Elshan Suleymanli, who was briefly employed as an election monitor, noted that prosecutors had classified him as a victim despite his own rejection of the term. He told the court that prosecutors claimed that he had not been paid the AZN 2,000 (USD 2,550) as stated in a cheque signed by Anar Mammadli, even though he had told prosecutors that he had received the full sum. All three "victims" reiterated that they had no claims against the three NGO leaders.

At the time of writing the trial is ongoing, and Anar Mammadli remains on remand. Bashir Suleymanli is facing the same set of charges as him but is not in pre-trial detention. Neither is Elnur Mammadov who is facing an additional charge of forgery under Article 313 of the Criminal Code of Azerbaijan.

Amnesty International considers Anar Mammadli to be a prisoner of conscience on account of the legitimate exercise of his rights to freedom of expression and association, and calls for his immediate and unconditional release, and for the charges of tax evasion, "abuse of authority" and "illegal enterprise" against him, Bashir Suleymanli and Elnur Mammadov to be dropped.

REPEATED ARBITRARY DENIAL OF REGISTRATION TO ELECTION WATCHDOG

Azerbaijan has a relatively restrictive regime for NGOs, which is often applied arbitrarily to deny legal registration to NGOs. The case of Anar Mammadli, below, shows the risks that flow from this restrictive legislation and intolerance of civil society organizations.

Election Monitoring and Democracy Studies Centre (EMDS) is an independent NGO known for its work as an election watchdog. During the presidential election in October 2013, it documented and reported widespread electoral violations. Shortly after, on 27 October 2013, a criminal investigation was opened against its three leaders (see the case “Anar Mammadli”, above). Previously, the NGO had been repeatedly harassed and denied registration.

The NGO was initially set up as the Election Monitoring Centre (EMC) and was refused registration by the authorities on five occasions until it was finally registered on 1 February 2008. However, already on 17 April 2008 the Ministry of Justice lodged a complaint at Khatai District Court claiming that the registration of the EMC was invalid. The authorities claimed that the documents regarding the establishment of the organisation had been “unclear” with regard to the information on its founders. They also claimed that the NGO had failed to inform them of the change of its legal address, and that it had failed to provide information regarding its membership in eight cities of Azerbaijan for the state registry. However, the EMC was not given a chance to rectify any mistakes, and in May 2008, the court revoked its registration.

The closed NGO was re-established as the Election Monitoring and Democracy Studies Centre. However, the newly established NGO was repeatedly refused registration by the authorities, each time for petty errors, such as making a grammatical mistake (using a wrong plural form of a word) or spurious omissions in the NGOs’ charter (such as the failure to indicate, in the Ministry’s words, “permanent and temporary justifications for its operation” or the failure of its statutes to set out the right of members to challenge internally and in court the termination of their membership). Each time the EMDS challenged the refusal in court, and each time the court rejected their application. During the litigation, the Ministry repeatedly resorted to delaying tactics by requesting – and being granted by the judge – permission to make submissions during a longer period of time than the law prescribed.

Following the latest refusal of 4 March 2010, the EMDS submitted an application to the European Court of Human Rights against the Azerbaijani authorities for refusing to register it, and is still awaiting the Court’s decision.

Over the past several years, the European Court of Human Rights has issued five decisions on cases similar to that of the EMDS in which it found the Azerbaijani authorities responsible for violating the right to freedom of association by arbitrarily denying or delaying the registration of NGOs.¹¹

Consequently, Anar Mammadli and his associates had no choice but to use partnerships with other, registered NGOs to seek funding for their election monitoring activities. This has been used by the authorities to instigate criminal case against them (see the case “Anar Mammadli”, above).

THE TARGETING OF NIDA ACTIVISTS

Eight activists of the NIDA Civic movement – a youth organisation which campaigns for human rights and democracy – were arrested in March, April and May 2013, and charged with criminal articles ranging from illegal possession of explosives to drug possession. On 12 September, they were additionally charged with “planning to organize acts of public disorder” and accused of intending to use Molotov cocktails during a protest against non-combat deaths in the army in Baku on 10 March 2013 (See below: “Violation of the right to Freedom of Assembly”).

Shahin Novruzlu, Bakhtiyar Guliyev and Mammad Azizov were the first to be arrested, on 7 March 2013, by officials from the Ministry of National Security. Officials claimed that on 8 March, a day after their arrests, they had found 19 bottles filled with gasoline and illegal drugs in the homes of Bakhtiyar Guliyev, three bottles of gasoline and illegal drugs in the home of Shahin Novruzlu, and more illegal drugs in the home Mammad Azizov.

On 9 March 2013, the three activists were paraded on television channels, “confessing” to having plotted to use Molotov cocktail to cause disorder during the planned 10 March protest. All three maintain they were beaten and threatened at the Ministry of National Security in order to extract these “confessions”. Shahin Novruzlu, who was only 17 at the time of his arrest, was interrogated without the presence of a legal guardian, parent or lawyer and was beaten so badly that he lost four of his front teeth.

Mammad Azizov also spoke of being severely beaten on two occasions. The first was immediately following his arrest in order to extract a confession and the second on 14 March 2013, when he refused to testify against Rashad Hasanov, his fellow NIDA activists. Mammad said that he was threatened with rape, and beaten for fifteen minutes without pause. He was then dragged to his cell at the Ministry of National Security. As a result of the beating Mammad said that he was unable to walk for a week and lost hearing in his left ear for two months, for which he only received treatment after being transferred to a pre-trial detention centre run by the Ministry of Internal Affairs.

The activists and their relatives maintain that the drugs and fuel bottles were planted by police during the searches.

Rashad Hasanov was arrested on 14 March 2013, Uzeyir Mammadli and Rashadat Akhundov on 30 March, and Zaur Gurbanli on 1 April. All of them were charged with the illegal possession of firearms and explosives.

Ilkin Rustamzade, was arrested on 17 May 2013 and initially charged with hooliganism for his alleged involvement in the filming and uploading of a peaceful “Harlem Shake” video to Youtube, which he denies. He was later also charged with organising “public disorder” together with the seven members of NIDA civic movement. His only link to the 10 March 2013 protest is his alleged role in creating a Facebook event page publicising the protest, which proceeded peacefully until it was violently broken up by the authorities.

According to the family, when searching the house of Bakhtiyar Guliyev on 8 March 2013, the police showed neither identification papers nor a search warrant. While the family were asked to wait in one room, the officers claimed to have found a large box containing the 19 bottles in another room in the Guliyevs' apartment. The family said that this box had not been in their apartment before the

arrival of the officers, and they later discovered a box with fuel containers in their front yard, from which they believe the officers filled the bottles.

During the initial search of Mahammad Azizov's room, reportedly nothing was found, and the police returned the same day to search a second time, which is when they claimed to have found drugs wrapped in paper. Mahammad Azizov's family believe the police planted the drugs during the first search. After their arrest the activists were interrogated without access to lawyers of their own choice, and Mahammad Azizov, Bakhtiyar Guliyev and Shahin Novruzlu were forced to appear on state television reading out their "confessions". Mahammad Azizov told his lawyer that he had been forced to "confess" by threats to prosecute his family, and Shahin Novruzlu, who was under-aged at the time, was forced to confess without a legal guardian present.

The only evidence presented against Rashadat Akhundov, Zaur Gurbanli and Uzeyir Mammadli is their membership of NIDA's board.

The trial of the activists begun on 6 November 2013, and on 18 April 2014 the prosecutor asked the court to hand down prison terms of 8 years and six months to Rashadat Akhundov, Ilkin Rustamzade and Zaur Gurbanli, 8 years to Rashad Hasanov, Bakhtiyar Guliyev and Mammad Azizov, 7 years and six months to Uzeyir Mammadli, and six years and six months to Shahin Novruzlu. At the time of writing the verdict in the case is expected on 6 May 2014, the same day when the ceremony of hand-over the chairmanship of the CoE Council of Ministers from Austria to Azerbaijan will take place in Vienna.

NEW RESTRICTIONS ON NGOS SINCE OCTOBER 2013

Following the October 2013 presidential election in Azerbaijan, fresh changes were made to the law on NGOs, which are likely to further restrict their to carry out legitimate work.

While NGOs in Azerbaijan have already had to operate in fairly restrictive environment for many years, mostly due to the arbitrary application of the existing law (See above "Repeated arbitrary denial of registration to election watchdog"), new legislative amendments have introduced additional regulations.¹² These were unexpectedly introduced and rapidly passed in the parliament in December 2013, and signed into law by the president in February 2014. The declared purpose of these changes was to increase transparency and accountability of NGOs; their real purpose appears to be to further reduce civil society's ability to hold the Azerbaijani authorities to account.

These amendments have introduced new regulations which made NGOs' operational requirements more complex and laborious. They have added new barriers to NGOs' ability access to funding, increased reporting requirements, raised applicable penalties and expanded the scope of their application. Thus, under the new rules, banks holding NGOs' accounts are obliged to check whether the respective funds have been obtained lawfully before allowing them to draw on them. In practice this means that the bank needs to check whether the grant agreement between an NGO and its funder has been registered with the Ministry of Justice. After the legislative changes took effect in February 2014, several independent NGOs in Azerbaijan have reported problems with withdrawing funds from their bank accounts for projects that had already been registered with the Ministry of Justice and having been asked by the Central Bank to provide copies of the respective grant agreements verified by the Ministry of Justice.¹³

The new Articles 31.3.1, 31.3.2 and 31.3.3 of the Law on NGOs expanded the range of grounds on which the work of an NGO can be temporarily suspended by the authorities. These now include “interference” in the resolution of an “emergency situation”. The latter has no clear legal definition, and can be interpreted very widely to mean anything from a natural disaster to social unrest. Considering the history of arbitrary interpretation of law by the Azerbaijani authorities when it comes to persecution of NGOs, this lack of legal clarity as to what constitutes an emergency situation and “interference” in its resolution by an NGO leaves civil society organizations yet more vulnerable and open to harassment.

The newly amended NGO legislation includes high penalties in relation to relatively minor infringements, which range from the failure to send copies of grant agreements to governmental institutions, to discrepancies in information regarding donations submitted as part of frequent financial reports to the authorities. This, coupled with frequent and onerous reporting requirements, may unduly restrict the ability of NGOs to carry out their legitimate work, or provide pretexts to silence critics.

The penalties for violating of the newly toughened rules have also been increased. The fines for infringements of the NGO laws by individuals have been increased four to five times, and now range from AZN 1,500 (USD 1,900) to AZN 8,000 (USD 10,200), which are severe in a country where the average wage in February 2014 was reported to be AZN 426 (USD 543).¹⁴ Organizations now also face increased fines ranging from AZN 5,000 (USD 6,400) to AZN 15,000 (USD 19,000). These penalties are disproportionately severe compared to those for which legal entities more generally [ie, NGOs and business entities] are liable. Thus, for instance, the failure to provide accurate and complete financial and auditing reports to the relevant social security authorities – by either NGO or a commercial organization – is punishable by a fine of AZN 300 – 400 (USD 380-510) for the responsible individual, and AZN 1,500 – 2,000 (USD 1,900-2,550) for an organization.

Another novelty introduced by the new regulations is the extension of liability beyond NGOs as juridical persons to include NGO leaders in person. Moreover, application of the penalties is not limited by law to either the NGO or its leader, and therefore can be extended to both for one and the same infringement.

THE PROSECUTION OF ACTIVISTS AND BLOGGERS

OMAR MAMMADOV: YOUTH ACTIVIST UNDER SURVEILLANCE DETAINED ON FABRICATED DRUG CHARGES

On 24 January 2014, officials from the Ministry of Internal Affairs (MIA) detained 18 year old youth activist Omar Mammadov - a founding member of the Akhin (Current) Movement – while on his way to the dentist.

Prior to co-founding the Akhin Movement, Omar Mammadov was a prominent and active member of social and political youth organisation, NIDA Civic Movement (NIDA), which campaigns for political, social and economic reform, the development of democracy and respect for the rule of law and human rights in Azerbaijan. Many of NIDAs statements were strongly critical of the government.

Omar Mammadov had also become a member of the Sabunchu District branch of the Civil Solidarity Party on 11 May 2013. He was an active blogger and a former administrator of a satirical Facebook page *AZTVdən Seçmələr* (Selections from AzTv).

Through this page, he often disseminated information and images that were critical of the government to its 57,000 followers.

According to his lawyer, Omar Mammadov was detained by MIA officials from the Anti-Drug Department without a court order, allegedly on an "anonymous tipoff" claiming that Omar Mammadov possessed illegal drugs. He was searched at the MIA, where officials allegedly discovered six grams of heroin in the right-hand pocket of his coat. He denies that he possessed drugs and insists that these had been planted on him by officials on the day of his arrests.

Despite repeated appeals to the authorities, no information was provided on his whereabouts to relatives and friends for over the 24 hour limit placed by national law. On 25 January 2014, Narimanov District Court authorised the pre-trial detention of Omar Mammadov for a period of three months in connection with charges under Article 234.4.3 (manufacturing or possession of a large quantity of illegal drugs) of the Criminal Code of Azerbaijan. On 3 February 2014, Baku Court of Appeals rejected an appeal by Omar's lawyer against this decision.

According to Omar Mammadov's current lawyer, at the time of his arrest, Omar was represented by a state-appointed lawyer, but this lawyer did not take part in the search carried out on him by MIA officials.

Omar told his lawyer that the heroin bundle was planted in his pocket by officials as he was driven to the MIA. He also mentioned that officials from the Anti-Drug department punched him several times and threatened him with reprisals against his family if he did not confess to possessing the drugs during initial questioning at the Anti-Drug department. He also claimed that the officials asked him "what do you want from the government?" during this interrogation. According to his lawyer, there were no visible signs of physical injury on Omar Mammadov on 29 January 2014.

Omar Mammadov's father insists he is not a drug user, as he does not smoke or drink and has always been an academic high-achiever. Further fuelling his suspicion is the fact that the authorities had been monitoring Omar's online activities for months before his detention.

Omar's father stated that he had been first contacted by MIA officials on 24 October 2013, when they summoned him for questioning about his son's online activities and membership of NIDA at the MIA Anti-Organized Crimes Department. At the time Omar Mammadov was in Northern Cyprus, studying International relations at the Cyprus International University. His father was detained overnight and forced to call Omar, which he did, urging him to quit NIDA and to disassociate himself from any political activism.

At his father's request Omar Mammadov left NIDA to protect his family and established the Akhin Movement in November 2013. The new organisation was not political; instead it provided a platform for discussions on cultural topics such as literature, art and music. However, on 31 December 2013, Omar's father was summoned for questioning once again by the MIA regarding his son's connections within NIDA and political activism.

Omar Mammadov returned to Azerbaijan from Cyprus on the evening of 20 January 2014, but the very next day, at approximately 7am, officials from the Anti-Organized Crimes Department of the MIA arrived at his home and escorted him to the Ministry for questioning. Omar fully complied with officials when they confiscated his laptop and handed over all login details for his online accounts when requested. According to his father, at the MIA, Omar Mammadov was forced to sign a “confession” claiming his involvement in an altercation on a bus, in exchange for a promise that he would receive a light administrative sentence. Nothing came of these charges. His drugs-related arrest occurred just four days later.

Amnesty International has documented numerous incidents demonstrating the politically motivated prosecution of NIDA and other youth activists on fabricated charges, including purported possession of illegal drugs. The persistent surveillance and harassment of Omar Mammadov and his family prior to his arrest, the pattern of harassment of NIDA activists and his previous good character lead Amnesty International to consider Omar Mammadov a prisoner of conscience, detained solely for the peaceful exercise of his right to freedom of expression and association.

ABDUL ABILOV: SOCIAL MEDIA ACTIVIST DETAINED AND ALLEGEDLY BEATEN FOLLOWING DRUG POSSESSION CHARGE

Abdul Abilov, 31, was detained together with his cousin outside of his home in Baku by officials from the Anti-Organized Crime Department of the MIA at 4.20pm on 22 November 2013. Both men were taken to the MIA where Abdul Abilov was searched and allegedly found to possess a wrapped plastic bundle containing 2.679 grams of heroin in his back trouser pocket.

After giving initial statements to officials, Abdul Abilov and his cousin were taken to the apartment he shares with his mother and wife, where officials carried out a search without a court warrant. His mother told Abdul Abilov’s lawyer that during the search, she noticed that one of the officials held a wrapped bundle in his hand. According to her, the official was trying to place the bundle in Abdul’s jacket, which was left on the bed in his bedroom. When she tried to grab his hand, he pulled away immediately, took hold of Abdul’s jacket and stuffed the bundle in an inside pocket.

The official record of the search stated that 4.677 grams of heroin were found in the inner left pocket of Abdul Abilov’s jacket, bringing the total amount of illegal substances allegedly belonging to Abdul Abilov to 7.356 grams.

According to his lawyer, Abdul Abilov was not provided with a lawyer when an initial statement was taken from him by officials at the MIA. He said that Abdul agreed to sign a confession in return for the release of his cousin. The very same day, Narimanov District Court authorised his pre-trial detention for a period of three months under Article 234.4.3 (manufacturing or possession of a large quantity of illegal drugs) of the Criminal Code of Azerbaijan. If convicted, Abdul Abilov could face up to 12 years of imprisonment.

After his arrest, Abdul Abilov was kept in the temporary detention facilities of the Anti-Organized Crime Department for over four days, despite the legal limit of 24 hour for

holding suspects in temporary detention facilities. Abdul Abilov was only able to meet his lawyer six days after his arrest, on 28 November 2013. During the meeting, he told the lawyer that he had been punched, insulted and threatened with further ill-treatment until he agreed to sign a confession.

Despite raising these issues and demanding an investigation into his allegations of torture at a hearing in the Baku Court of Appeals on 29 November 2013, no investigation has taken place and no medical examination has been carried out on Abdul Abilov. At the same hearing, the Baku Court of Appeals upheld the decision of the Narimanov District Court authorising Abdul Abilov's pre-trial detention

Though Abdul Abilov was not a member of any opposition party, he was very active online, using Facebook and Youtube to upload and share videos, articles and statuses which were critical of the government. He was the administrator of several pages on Facebook that were critical of the government and often shared information posted on NIDA's official page, especially following the arrests of Shahin Novruzlu, Mammad Azizov and Bakhtiyar Guliyev in March 2013 (see "The targeting of NIDA activists", above).

The day after his arrest, one of the pages for which he was an administrator "Let's say no to sycophants", was deleted from Facebook, allegedly by officials who had forced him to share his online details. Cached versions of the page showed that it had over five thousand followers. Prior to his arrest, Abdul had shared a video in which former president Abulfaz Elchibey gives a speech accusing the incumbent president Heydar Aliyev, the father of the current President, of treachery and deceit.

The charges against Abdul Abilov are of a kind with others manifestly fabricated against those critical of the government capable of reaching out to a broader audience. Like them, Amnesty International has considered Abdul Abilov to be a prisoner of conscience, detained for peacefully and lawfully exercising his freedom of expression.

NO SPACE FOR PROTEST

The right to freedom of assembly too, is severely restricted in Azerbaijan. Although this right is guaranteed in the country's constitution, in practice it requires the authorities' express permission, in accordance with the Law on Assembly. Few dare to stage public protest, and those found to be violated the existing regulations face severe penalties. Organizers of recent protest events in Azerbaijan have also been criminally prosecuted (See above, "The targeting of NIDA activists").

In practice, public assemblies are only permitted in specially designated areas, which are typically quiet locations outside city centres, away from any official buildings and with little human traffic around. Even there, the authorities require prior notification from the organizers, and reserve their right to ban the event. Other areas are effectively out of reach to protesters: any assembly in areas other than those specifically designated for it require express permission, without which any gathering, however small and peaceful, is regarded as unlawful and dispersed by the police, often with the use of abusive force. Penalties for violations of these regulations are severe, and range from administrative fines to imprisonment.

The penalties were significantly increased in 2013 when, on 1 January, amendments to the Administrative and Criminal Codes of Azerbaijan came into force. Participation in an assembly which has not been

“appropriately authorized” entails a fine of between AZN 1,500 and 3,000 (USD 1,900-3,800) for the organizers, and AZN 300 and 600 (USD 382 to 764) for ordinary participants, under Article 298 of the Administrative Code. For a country where the average individual monthly income amounts to AZN 426 (USD 543)¹⁵ even the latter is a very considerable amount. The law also envisages criminal responsibility for participation in “legally banned” assembly, which refers to events expressly prohibited by the authorities. The legislative changes of 2013 (Article 169 of the Criminal Code) increased the respective fines from AZN 100 to 500 (USD 127-637), to between AZN 5,000 and 8,000 (USD 6,370 to 10,192). If such an event results in public disorder (“disobedience to the legitimate demands of government officials or cause a disturbance to the normal operation of traffic, businesses, companies and organisations” – Article 233 of the Criminal Code), both the organizers and the participants face up to three years of imprisonment.

It is unsurprising that very few public protest gatherings have taken place since these changes were introduced. Besides, those who have called for public protest have been dealt with harshly, with criminal proceedings initiated against them under fabricated charges. The few protest actions that did take place during this period, including one since the presidential election of October 2013, have been violently dispersed.

On 26 January 2013, a protest gathering of several hundred people was organized in central Baku by political party activists, in solidarity with demonstrations that had taken place a few days earlier in the Northern town of Ismayilli. They did not seek approval for this event, and although it proceeded peacefully, the event was broken up by police, and 63 protesters were arrested. Of those, 23 were issued with heavy fines ranging from AZN 300 to 2,500 (USD 382 to 3,187).

On 10 March 2013, activists from several organisations attempted to stage a peaceful protest in central Baku against non-combat deaths in the Azerbaijani armed forces. The organisers had sought a permission from the Baku City Executive Authority, but it was denied. The demonstration went ahead, with around a thousand people attending. Although it was peaceful, it was immediately broken up by police who used batons, rubber bullets and a water cannon. Several demonstrators were injured, some during their arrest and some allegedly already in custody. One protestor had his jaw dislocated after being hit in the face with a police helmet. According to local human rights activists, around 90 participants were rounded up and loaded onto police buses. Most were released later on the same day, but dozens were held until the following day. Of these, 20 received fines ranging from AZN 300 to 600 (USD 382 to 764).

Several activists from the NIDA youth movement who had earlier tried to promote this event through the social media were arrested and criminally prosecuted on trumped-up charges of drug possession and calls for violent protest (see above, “The targeting of NIDA activists”).

On 29 December 2013, a small group of opposition youth activists took part in a peaceful demonstration against corruption, in Fountain Square in central Baku. The protest was triggered by the funeral of a man who had died as a result of injuries sustained from self-immolation in protest against the loss of his property to an official. The event had been organised via Facebook. The organizers had not sought permission for it, and police had issued a warning that those planning to attend should refrain from taking part in this unsanctioned event. No more than 50 individuals came to the Fountain Square on the day, and all or nearly all were arrested. Available video footage of the scene shows how plainclothes and uniformed police officers moved in to immediately break up the protest, dragging and carrying individuals who showed no resistance to waiting police vehicles. Most of those arrested were released the same day. On 29

and 30 December, in cursory hearings each lasting only around 10 minutes, Sabail District Court sentenced six participants to detention of between 15 and 18 days, and 16 other demonstrators to fines of AZN 300-500 (USD 382-640).

According to the lawyers who represented these detainees in subsequent court hearings, none of them had been given an opportunity to be represented by a lawyer of their own choosing.

One of the detainees, Orkhan Eyyubzade, told Amnesty International after his release that he had been slapped, punched and kicked by three officers after he refused to sign a police statement at Sabail District Police Department. When he tore the sheet presented to him, the chief of the police department ordered other officers present at the scene to beat him again. Orkhan Eyyubzade was then taken to another room, where three uniformed and one plainclothes officer slapped and punched him for 30 minutes. Orkhan added that while he served his 18 day detention in Binagadi Temporary Detention Centre, he was frequently handcuffed to a radiator and locked in a windowless isolation cell, allegedly for disobeying prison rules.

Another protester, Tural Sadigli, alleged that during his detention he had been locked in solitary confinement after he complained about detention conditions to the head of the detention centre. When he began to bang on the door of his solitary confinement cell, seven or eight wardens entered, handcuffed him, forced him to lie down and began kicking and punching him on the sides of his torso, his back and face.

On 9 and 10 January 2014, defence lawyers appealed against the jail terms handed down to the protesters at the Baku Court of Appeals. The appeals of Orkhan Jarchi and Orkhan Eyyubzade also called for an investigation into their allegations of ill-treatment in custody, but the Court upheld the original judgement and dismissed the calls for investigation.

RECOMMENDATIONS

Amnesty International makes the following recommendations to the Azerbaijani authorities:

- Immediately and unconditionally release all prisoners of conscience;
- End the harassment, intimidation, arbitrary detention and criminal prosecution of individuals who peacefully exercise their right to the freedoms of expression, association and assembly;
- End the harassment of, and arbitrary restrictions placed on, organizations that engage in legitimate civil society and political activities;
- Ensure that anyone charged with offences relating to alleged acts violence, possession of illegal arms and substances, and any other crimes, is tried in public proceedings that fully comply with international standards of fair trial;
- Ensure that all allegations of intimidation, harassment, arbitrary arrest and detention, torture or other ill-treatment, and fabrication of false charges against civil society activists, human rights defenders, members and supporters of political parties, journalists and lawyers are investigated promptly, impartially, effectively and thoroughly, and the perpetrators identified and brought to justice in accordance with international fair trial standards;
- Stop criminal and administrative prosecution of organizers and participants of peaceful demonstrations, and ensure that criminal and administrative proceedings are not used against peaceful protesters, civil society and political activists;
- Ensure that the Law on Freedom of Assembly and the local authorities' policy and practice are brought fully in accordance with international human rights standards, including taking measures to lift the effective ban on peaceful demonstrations in the centre of Baku;
- Ensure that human rights defenders, lawyers and other civil society actors are able to carry out their legitimate activities without fear or threat of reprisal, obstruction or legal and administrative harassment;
- Ensure that independent media outlets and journalists are able to operate freely in Azerbaijan, without fear of reprisal, unlawful restrictions and arbitrary prosecutions;
- Respect the right to freedom of assembly and allow peaceful demonstrations to take place in the centre of Baku;
- Amend the law on NGOs so as to:
 - Simplify the registration and reporting requirements for NGOS, including representational offices of foreign NGOs;
 - allow NGOs to receive donations without state registration;

- ensure that the penalties for failing to satisfy administrative requirements are proportionate and comparable to penalties for equivalent breaches by other legal persons;
- Refrain from the arbitrary denial of state registration to human rights and pro-democracy NGOs.

To the relevant Council of Europe institutions:

- Urge the government of Azerbaijan to immediately and unconditionally release all 19 prisoners of conscience in Azerbaijan;
- Urge the government of Azerbaijan to fully respect and protect the right to freedom of expression, association and assembly, as guaranteed under Article 10 and 11 of the European Convention on Human Rights; and ensure that everyone can peacefully enjoy these rights;

To the Committee of Ministers:

- Make the 2014-2016 Action Plan for Azerbaijan public;
- Ensure that the implementation of the Action Plan is effectively monitored and publicly reported on.

ENDNOTES

¹ For further information see: Amnesty International, *Downward Spiral: Continuing crackdown on freedoms in Azerbaijan* (AI Index: EUR 55/010/2013), 8 October 2013.

² *Nasibova v. Azerbaijan*, European Court of Human Rights (ECtHR), 18 January 2008, at <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-82825>;
Aliyev and others v. Azerbaijan, ECtHR, 18 December 2008, at <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-90340>;
Ramazanov and others v. Azerbaijan, ECtHR, 1 February 2007, at <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-79301>;
Ismayilov v. Azerbaijan, ECtHR, 17 January 2008, at <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-84461>;
Tebieti Muhafize Cemiyeti and Israfilov v. Azerbaijan, 8 October 2009, at <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-94854>.

³ In an opinion published on 3 October 2011, the amendments introduced to NGO laws in 2009 and 2011 were deemed by the European Commission for Democracy through Law (the Venice Commission) to have “overtur[ed] previous efforts” to meet Azerbaijan’s international human rights obligations. See Opinion on the compatibility with human rights standards of the legislation on non-governmental organisations of the Republic of Azerbaijan, Venice Commission, 19 October 2011, Opinion no. 636 / 2011, CLD-AD(2011)035, at [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2011\)035-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2011)035-e) (accessed 28 April 2014). See also Amnesty International, *Downward Spiral: Continuing crackdown on freedoms in Azerbaijan* (AI Index: EUR 55/010/2013), 8 October 2013, p 19.

⁴ Decision of the Committee of Ministers at its 1197th meeting. Available at: [https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Del/Dec\(2014\)1197/2.1bis&Language=lanEnglish&Ver=original&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864](https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Del/Dec(2014)1197/2.1bis&Language=lanEnglish&Ver=original&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864) (accessed 28 April 2014).

⁵ On 9 December 2013, Ilham Amirasalanov was granted early release after serving two thirds of his sentence. For more details on the case of Ilham Amirasalanov, see: Amnesty International, *Downward Spiral: Continuing crackdown on freedoms in Azerbaijan* (AI Index: EUR 55/010/2013), 8 October 2013, p 21.

⁶ For information on Dashgin Melikov, Ilgar Mammadov and Tofiq Yagublu please see: Amnesty International, *Downward Spiral: Continuing crackdown on freedoms in Azerbaijan* (AI Index: EUR 55/010/2013), 8 October 2013.

For information on Sardar Alibeyli and Rashad Ramazanov please see, Amnesty International, *Azerbaijan: Journalist and writer jailed as ruthless crackdown continues* (AI Index: PRE01/602/2013), 13 November 2013.

For information on Anar Mammadli please see, Amnesty International, *Azerbaijan: Freedom of expression restricted further, NGO leader persecuted* (AI Index: EUR 55/013/13), 23 December 2013.

⁷ For further details on the cases of Hilal Mammadov and Bakhtiyar Mammadov please see: Amnesty International, *Azerbaijan starts presidential election campaign with at least 14 prisoners of conscience* (AI Index: EUR 55/006/2013), 8 August 2013.
and Amnesty International, *Downward Spiral: Continuing crackdown on freedoms in Azerbaijan* (AI Index: EUR

55/010/2013), 8 October 2013.

⁸ Ceyhun Osmanli, Grants from Europe are being transferred to personal accounts, Azerbaijan- Official State Newspaper, 12 September 2013, <http://www.azerbaijan-news.az/index.php?mod=3&id=28547> (accessed 19 December 2013).

⁹ Press Service of the Prosecutor General's Office, 18 December 2013, at <http://www.genprosecutor.gov.az/?az/pressreliz/view/274/> (accessed 28 April 2014).

¹⁰ Azadliq Radio, "No tax investigation has been initiated in relation to Anar Mammadli", 20 December 2013, <http://www.azadliq.org/content/article/25206170.html> (accessed 20 December 2013).

¹¹ *Nasibova v. Azerbaijan*, European Court of Human Rights (ECtHR), 18 January 2008, at <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-82825>; *Aliyev and others v. Azerbaijan*, ECtHR, 18 December 2008, at <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-90340>; *Ramazanova and others v. Azerbaijan*, ECtHR, 1 February 2007, at <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-79301>; *Ismayilov v. Azerbaijan*, ECtHR, 17 January 2008, at <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-84461>; *Tebieti Muhafize Cemiyeti and Israfilov v. Azerbaijan*, 8 October 2009, at <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-94854>.

¹² The European Commission for Democracy Through Law (Venice Commission) issued an opinion regarding the previous set of changes to the NGO legislation in Azerbaijan, see: "Opinion on the Compatibility with Human Rights standards of the Legislation on Non-Governmental Organisations of the Republic of Azerbaijan," Opinion no. 636/2011, Strasbourg, CDL-AD(2011)035, 19 October 2011, at [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2011\)035-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2011)035-e) (accessed 28 April 2014). This opinion remains relevant in its entirety at present.

Azadliq Radio, "NGOs are unable to withdraw money given to them by donors", 29 March 2014, <http://www.azadliq.org/content/article/25313958.html>.

¹⁴ APA, "The average monthly wage has risen by 7% in Azerbaijan", 17 April 2014, at <http://az.apa.az/news/339085> (accessed 28 April 2014).

¹⁵ APA, "The average monthly wage has risen by 7% in Azerbaijan", 17 April 2014, at <http://az.apa.az/news/339085> (accessed 28 April 2014).

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