

Flygtningenævnets baggrundsmateriale

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Fråga-svar

Azerbajdzjan. Myndighetsskydd

Fråga

Hur fungerar myndighetsskyddet i praktiken för civila personer som exempelvis åberopar våld mellan två olika familjer?

Svar

Polisen

US Department of State (2014):

...Reports indicated that most mistreatment took place while detainees were in police stations and that abuse ceased once detainees moved to pretrial detention facilities...(sid.3)

...NGOs reported detentions by both ministries of individuals who exercised their rights to fundamental freedoms, including freedom of expression....(sid. 6)

While the law allows police to detain and question an individual for 48 hours without a warrant, police detained individuals for several days without warrants. Legal experts asserted that in other instances judges issued warrants after the fact....(sid 7)

Arbitrary Arrest: Arbitrary arrest, often based on spurious charges of resisting police, illegal possession of drugs or weapons, or inciting public disorder, remained a problem throughout the year.....(sid 7)

...There were also reports of police violence against lawyers....(sid. 10)

Police continued to intimidate, harass, and sometimes arrest family members of suspected criminals and political opposition members as well as employees and leaders of certain NGOs and their family members....(sid. 11)

...Corruption among law enforcement officers was a problem....(sid. 27)

A local NGO reported that there were numerous incidents of police brutality against individuals based on sexual orientation but noted that authorities did not investigate or punish those responsible....(sid. 34)

Council of Europe - Parliamentary Assembly (2012):

The combination of the restrictive implementation of freedoms with unfair trials and the undue influence of the executive results in the systemic detention of people who may be considered prisoners of conscience. Alleged cases of torture and other forms of ill-treatment at police stations, as well as the impunity of perpetrators, raise major concern. (sid. 2)'

Domstolar och Åklagarväsende

US Department of State (2014):

Although the law provides for an independent judiciary, judges did not function independently of the executive branch. The judiciary remained corrupt and inefficient. Verdicts were largely unrelated to the evidence presented during the trial.(sid. 8)

The law provides for public trials except in cases involving state, commercial, or professional secrets or confidential, personal, or family matters....(sid.9)

Judges often ignored claims of police mistreatment. Investigations often focused on obtaining confessions rather than gathering physical evidence against suspects. Serious crimes brought before the courts most often ended in conviction, since judges generally required only a minimal level of proof and collaborated closely with prosecutors. (sid. 10)

Citizens have the right to bring lawsuits seeking damages for, or cessation of, human rights violations. The law does not provide for a jury trial in civil matters; the judge decides all trials...(sid. 11)

Freedom House (2013):

Local Democratic Governance. Azerbaijan's constitution provides for local selfgovernance, but in reality, municipalities function as arms of the executive branch. Municipalities are seriously underfunded and lack meaningful responsibilities or decision-making authority.

Corruption. Azerbaijan has consistently ranked among the world's most corrupt countries, with wealth from the state's massive oil exports creating huge opportunities for graft. Because critical institutions, including the media and judiciary, are largely subservient to the president and ruling party, government officials are rarely held accountable for corruption. (sid. 92)

.. Moreover, courts are financed from the state budget, but the salaries of judges are low, which feeds into widespread corruption once judges are employed.(sid. 102)

Council of Europe - Parliamentary Assembly (2012):

There is a persisting problem with regard to justice in Azerbaijan. There are too many reports by international NGOs on the alleged use of fabricated charges (see below), or repressive use of some Criminal Code articles against activists and journalists, to be ignored or considered as simple mistakes by the courts. (sid. 27)

Frivilligorganisationer

Freedom House (2013):

.... The Ministry of Justice, which oversees civil society organizations, frequently refuses organizations' applications for registration or delays their accreditation by months or years. The ministry also has the right to dissolve an NGO after issuing it two warning letters within one year, and organizations must report all financial grants within one month of receipt. Independent organizations must also compete with a growing number of government-organized nongovernmental organizations (GONGOs), which receive substantial funding from the President's Council on State Support to NGOs. Moreover, a resolution passed by the Cabinet of Ministers in March 2011 obliges foreign NGOs seeking registration to first reach an agreement with the government on their planned activities, as well as demonstrate respect for "national moral values" and refrain from engaging in "religious and political propaganda."¹⁷ The exact definitions of these terms remain ambiguous, giving the government a wide purview to reject the presence of foreign NGOs. (sid. 98)

Council of Europe - Parliamentary Assembly (2012):

The question of registration of non-governmental organisations remains a concern. The amendments to the law on NGOs, adopted on 9 June 2009, introduced a number of restrictive provisions concerning international NGOs, including the provision barring foreign NGOs from operating unless their activities were based on a formal international agreement. The procedure for concluding such agreements, which was announced by the government in the Decree published only on 16 March 2011, remains unclear. (sid. 33)

Familjedispyter

United Kingdom: Upper Tribunal, Immigration and Asylum Chamber (2013):

8. Although the concept of family honour among more traditional families in Azerbaijan (namus) exists there is nothing to indicate that there is a real risk of honour killings or other ill-treatment of those who are considered by members of their families to have brought dishonour on the family. Nor is there any indication that there would not be a sufficiency of protection for those women. (sid. 2)

He commented that given that the appellant was a Lutheran Christian it would be a contributory factor in that "Police would likely ignore requests from a Protestant Christian if she asked for protection from a family blood feud or honour killing"... (sid. 8)

He referred to the appellant's comment at interview that her family considered that she had committed a shameful act, that she had been threatened and that she would be found and killed. In her statement she had said that she feared revenge on the basis of "cultural laws and traditions" which was clearly a reference to adat. (sid. 16)

Central Asia-Caucasus Institute (2012):

... Lezgin and Avar areas have historically belonged to the most traditionalist communities in Azerbaijan with partially still prevalent archaic patterns of social organization (tukhums or clans), the principles of customary law (clan or family honor, blood feud) and Islamic religion playing a bigger role in the mountainous north than elsewhere in Azerbaijan. Following the scheme of mobilization familiar from the case of the Dagestani insurgency, "Wahhabis" from among Lezgins, Avars, and North Azerbaijani highlanders are generally more prone to avenge members of law enforcement agencies for injuries and humiliation inflicted on them than in the rest of Azerbaijan.

... Should the Azerbaijani authorities continue to carry out fierce and indiscriminate “anti-Wahhabi” policies fueled by nationalist sentiments in the republic’s borderland areas with Dagestan, Salafism might turn into an umbrella – a transnational ideology of resistance among Avars, Lezgins, and Tsakhurs ...

Lagstiftning/internationella konventioner

Azerbaijan: Civil Procedure Code (2000):

Article 25. Jurisdiction of general court in respect of disputes
25.1 Disputes arising out of, or related to, civil, family, labour, residential, land relationships, relationships on use of natural resources and protection of environment, tax, administrative and other types of relationships, where at least one party to such dispute is physical person and does not have status of entrepreneur, or where person has status of entrepreneur and the dispute has not been caused by his entrepreneurial activities, shall be within the jurisdiction of general courts.

Azerbaijan: Criminal Code (2000):

Article 61. Circumstances aggravating punishment

61.1.6. Commitment of a crime on grounds of national, racial, religious hatred or fanaticism, revenge from lawful actions of other persons, with mercenary purpose or other low prompting, and also with a purpose to hide other crime or to mitigate its commitment;

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Källförteckning

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