

Human Rights Center of Azerbaijan
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Information about HRCA

Non-governmental organization established in April 1993 and officially registered as public association by Ministry of Justice under no. 1262 in December 6, 1999. The HRCA deals with monitoring of civil and political rights, prison reform, human rights education, advocacy in European Court of Human Rights. It is a national branch of the FIDH and OMCT as well as a member of the Federation of Human Rights Organizations of Azerbaijan.

Keywords (Executive summary)

Civil society, human rights defenders, national minorities, political prisoners, unfair trials, Chechen asylumseekers, non-refoulement.

Submission

1. The political background of the human rights situation in Azerbaijan is defined by the continuing transition to the market economy, unresolved conflict with neighboring Armenia for the Nagorno-Karabakh region, authoritarian tradition of governance with absence of separation of powers, election frauds, lack of national reconciliation and high level of corruption. Economy is based at the exploration of Caspian oil and is not transparent.

Civil society

2. The role of civil society is underestimated. The human rights defenders often are criticized as the national traitors. The peacemaking initiatives face the special criticism. That is a violation of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.

3. Until the last period, the most serious problem was obtaining a state registration by the new NGOs. Several NGOs lodged the applications in the European Court of Human Rights and won the cases or reached the friendly solution in their favor. Among them are the NGO "Assistance in the Protection of Citizens' Constitutional Rights" (Asabali Mustafayev, no. 14712/05, 9 November 2006), "Karabakh Warriors" dealing with protection of Karabakhi war invalids (Etimad Asadov and Others, no. 138/03, 26 October 2006), International Organisation for Legal Research (Solmaz Suleymanova, no. 26241/05, 18 January 2007), "Assistance to the Human Rights Protection of the Homeless and Vulnerable Residents of Baku" (Nabat Ramazanova and Others, no. 44363/02, 01 February 2007). The application from the "Independent Trade Union of Transporters" (Siyavush Ismayilov, no. 6285/03, 07 June 2007) was struck off the list because of death of applicant.

4. Following the above-mentioned European case-law, the NGO registration practice was significantly liberalized. Many new NGOs were successfully registered in 2007-2008. Moreover, in December 2007, the Council for Support of NGOs under President was set up, and the state budget of 2008 allocated \$1,5 Mln. for NGOs. In April 2008, the President appointed 11 members of the Council, 8 of whom are NGO representatives. Each of the eight NGO representatives will represent a concrete sector in the Council. The

Council chairman will be elected for the period of 2 years and members for 4 years no more than twice. In August 2008, first grants to the NGOs were distributed.

5. In comparison with situation of 2002-2003, the physical assaults became rare. So, Mr. Emin Huseynov, director of the Institute for Reporter Freedom and Safety, was subjected to severe beatings during his staying at police station on 14 June 2008 in Baku. He was delivered in 22nd police station of Nasimi district of Baku city after police detained in café about 20 fans of famous revolutionary Ernesto Che Guevara who peacefully celebrated his birthday. Yet, nobody was punished.

6. The chairman of NGO "Care over Children's Homes" Sahib Teymurov who raised a problem of AIDS and prostitution of minors was consequently arrested in August 2007 for alleged extortion of money. After the alleged torture in police, Teymurov became mentally ill in detention and in May 2008 was put in mental clinics. The criminal accusations against him never were examined on merits.

7. Most difficult situation is now in Nakhchivan Autonomous Republic (NAR), where Human Rights Resource Centre (HRRC) in Nakhchivan city is under the pressure. For example, on 05 December 2007, the HRRC was raided by police who searched its office and flat of the HRRC director, correspondent of Radio Liberty Mrs. Malahat Nasibova without warrant. The part of computer equipment was seized. All court instances of NAR rejected the suit. On 06 March 2008, the HRRC employee Elman Abbasov received the death threats by mobile phone. The police did not act despite all incoming calls are logged by the GSM provider.

National minorities

8. In February 2007, the head of the Talysh Cultural Center and Editor-in-Chief of the *Tolyshi Sado* (Voice of Talysh) newspaper, Novruzali Mammadov was arrested as alleged Iranian spy and sentenced, on 24 June 2008, by the Grave Crime Court to ten years in prison for high treason (article 274 of the Criminal Code the Azerbaijan Republic). The Court clarified the sentencing for high-treason, on these terms: appealing to international organizations due to violation of human rights of Talysh people in order to damage Azerbaijan's image; propaganda of the Talysh language, culture and art; sending young Talysh people for getting religious education outside Azerbaijan; appealing to the management of the Public TV for opening a programme in Talysh language, and appealing to the Ministry of Justice for registering the Talysh Cultural Centre and the *Tolishi Sedo* newspaper; cooperating with Iranian and Western linguist colleagues and research on the contemporary Talysh language by conducting social surveys, trips, etc. Entire family was persecuted, in result one of his sons died; another was arrested for alleged possession of drugs. After the sentence, Mr. Mammadov was considered a political prisoner by the Federation of Human Rights Organizations of Azerbaijan. This case raised concerns not only under Declaration on Human Rights Defenders but also under Convention on the Elimination of Racial Discrimination.

9. Very characteristic is that both defendants on this case related to alleged separatism of Talyshes (ethnic minority in Southern regions) were registered in their passports as ethnic Azeri (title nation). That is very wide spread phenomenon in minority regions, and there are well-grounded doubt of accuracy of official statistics on ethnic composition of country population in the context of difference between passport identification and self-identification.

10. For example, at the basis of census of 1989 and 1999, the entire Azeri population increased by 13.3%. In the same time, the number of Lezgins remained almost constant – 171.4 thousand and 178.0 thousand (growth of only 3.85%), while official number of Talyshes increased from 21.2 to 76.8 thousand, i.e. in 3.6 times.

11. Till now, the legislation of Azerbaijan contains no definition of the term "national minority". Some Azerbaijan obligations to the Council of Europe have not been fulfilled

yet, in particular an obligation «to adopt, within three years of its accession, a law on minorities which completes the provisions on non-discrimination contained in the constitution and the penal code and replaces the presidential decree on national minorities». The Permanent representative of Azerbaijan in the Council of Europe signed the European Charter for Regional or Minority Languages on December 21, 2001. But the Charter is still not ratified. Moreover, a head of Permanent Human Rights Commission of Parliament Mrs. Rabiyyat Aslanova told in June 2006 that Azerbaijan can be template as a country which has not minority problems and doubted necessity of adoption of law about national minorities.

Judiciary and Political prisoners

12. The human rights defenders believe that in Azerbaijan are 23 to 51 prisoners who can be considered as political under definition of Amnesty International and special criteria elaborated by the experts of Council of Europe in 2001. Besides, 17 more “political prisoners” were liberated in 2008 by pardon or because the end of their sentences. Most known politically motivated arrests of 2006-2007 which faced the negative reaction of OSCE and Council of Europe are the cases of journalists Qanimat Zahidov, Mirza Sakit, Eynulla Fatullayev.

13. In June 2005, the Government created the Task Force (TF) on political prisoners with participation of human rights defenders and officials. In the framework of the TF were elaborated the ways to solve the problem and liberated about 130 political prisoners.

14. However, corruption and the lack of independence of the judiciary remain serious problems in Azerbaijan. That results in the creation of new cases of unfair and politically motivated trials and imprisonments. In its Resolutions 1457 (2005), 1545 (2007), 1614 (2008), the Parliamentary Assembly of Council of Europe does not consider the issue of political prisoners to have been resolved, despite efforts made by the Azerbaijani delegation to the Assembly in the search for a definitive solution to this issue, within the framework of the Task Force composed of representatives of the authorities and of human rights defenders.

15. The authorities try to improve the negative image of domestic judiciary by renewal of judges through the test examination and cleansing of judiciary from the most corrupted and non-professional judges. In 2007, more than 30 judges were dismissed, about 50 judges were punished in disciplinary order. However, that has a little impact at the situation of political persecutions, pressure at media, investigation of torture where perpetrators of violations still enjoy impunity.

16. Last years, the former and current political prisoners lodged numerous applications in the European Court of Human Rights (ECHR). In the judgments on the cases of *Fehmin Hajiyev* (no. 5548/03, 16 November 2006), *Sardar Mammadov* (no. 34445/04, 11 January 2007), *Alakram Hummatov* (nos. 9852/03 and 13413/04, 29 November 2007), *Elchin Abbasov* (no. 24271/05, 17 January 2008), the ECHR found violations of fair trial standards. Yet, nobody of the judges who had adopted the wrongful decisions was punished.

Prison reform

17. The penitentiary reform is one of most successful areas of cooperation between the Government and civil society. In 2006, the Ministry of Justice created the Public Committee of 10 non-governmental experts to monitor the situation in prisons. Results of prison visits are reported to the Human Rights and Public Relations Department of the Ministry. Following the recommendations of Public Committee and foreign experts, on 24 June 2008 the Parliament amended the penitentiary legislation improving the detention standards. In particular, there were increased permitted family visits, food parcels, money to spent in prison shop and phone calls to life prisoners, lifted some restrictions for high education, use of TV sets, number of inmates in cells of lifers.

18. However, the human rights defenders noted a lot of shortcomings in the detention of prisoners in cellular prisons, i.e. remand prisons in Bayil, Shuvelyan and Ganja, closed type prison in Qobustan and prison of special regime #8 in Puta. The national standard of 4 sq.m per inmate under Article 91.2 of Code of Enforcement of Punishments is lower than the regional standard established by the European Committee on Prevention of Torture (CPT), i.e. 7 sq.m. In some cases, this norm also is violated. In Qobustan prison where are detained lifers and punished prisoners transferred from ordinary prisons, the situation raises special concern under provisions of Convention Against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) because of often mental disorders and suicides. There are not recreational and educational activities, job, the prisoners have to spend up to 25 years in the cells. In fact, the life imprisonment in its current status is a postponed death sentence.

19. The Government still ignores the recommendation of CAT (2003) to close the remand prison of the Ministry of National Security or to transfer it under the subordination of the Penitentiary Service of Ministry of Justice. It is a prison most closed for public control.

Chechen asylumseekers

20. Other concern under the CAT and the 1951 Convention Relating to the Status of Refugees is created by unsecure situation of Chechen asylumseekers in Azerbaijan. While more than 230,000 other refugees enjoy a refugee status even after receiving the Azerbaijani citizenship in 1998, the 6,000-strong community of Chechen asylum seekers faces permanent problems with registration of their status. The Azerbaijan State Committee on Work with Refugees and IDPs still refuses to deal with this group of asylum seekers and re-addressed this issue to the UNHCR office in Baku. The Chechens are generally provided with a standard letter confirming that UNHCR is examining their cases, which helps them to avoid forced eviction from the country. But even after 3-4 and more years of such "examination", they have no official refugee status. Even widow of first Chechen President Djohar Dudayev and family of Aslan Maskhadov failed to receive this status and were forced to leave country.

21. Despite the authorities of Azerbaijan do not practice the formal refoulement of Chechens, they tolerate the disappearances and extradite the Chechens in Russia. Since 1999, at least 24 Chechens were illegally transferred in Russia where faced the tortures. Most famous is a case of Ruslan Eliyev who had been registered by UNHCR as refugee under No.6032. After kidnapping in Baku on 09 November 2006, he was found dead in Samashki, Chechnya in March 2007 with traces of severe torture, in the bag thrown down from helicopter. In April 2008, here was arrested for extradition in Russia Yusup Nagayev, who had been registered by the UNHCR under no. 4338 already in 2002. In June 2008, Azerbaijan hidden extradited disabled asylum seeker Suleyman Ayubov, registered by the UNHCR office in Baku under No. 6024. On 30 June 2008, the Azerbaijan authorities kidnapped Alikhan Khasuyev who had been registered under no. 786-06c06036. Only urgent request of interim measures from the ECHR in the framework of case *Khatuyeva and Khasuyev v. Azerbaijan and Russia* (no. 33810/08) prevented him from immediate extradition.

22. The similar was a fate of Turkish journalist of Kurdish origin Ms. Elif Pelit (communication No. 281/2005: Azerbaijan. 29/05/2007), arrested at the territory of Azerbaijan. Despite she already had a refugee status in Germany, she had been extradited in 2005 from Azerbaijan in Turkey where she had been sentenced *in absentia*. The UN CAT found the violation in her case.

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