

Information of the NGOs Coalition on the Fulfillment of the International Obligations for Universal Periodic Review (Azerbaijan - 16 –th session)

Baku, Azerbaijan: 2012

The NGOs Coalition on the Fulfillment of the International Obligations (FIO)

The coalition deals with problems on the observation of human rights and fulfillment international obligations.

Goal: to provide the observation international liabilities by the government by means of monitoring and lobbying at the local and international level.

The coalition was established in 2010 and includes next organizations:

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Paragraph 1.

Article 3. Everyone has the right to life, liberty and security of person.

Article 12. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

1. According to Article 32 of the Republic of Azerbaijan everyone has the right for personal immunity. It is not allowed to obtain, keep, use and disseminate information about a person's private life without his or her consent. No one may be subjected to being followed, videotaped or photographed, tape recorded or subjected to other similar actions without his or her consent save activities in cases prescribed by law.

2. Education on Human Rights Public Association mentions that inspite of the national legislation ensures security of person and prohibits usage and spreading information about private life without any consent of this person, many people have suffered from spreading information (their photos and videos taken secretly) about their private life on mass media, internet sites. Though video or photo shooting, voice recording and such kind of activities without persons consent are prohibited.

3. For example, Xadija Ismayilova, well-known journalist (radio "Azadlig") have been repeatedly blackmailed, because she investigated business interests of the persons which worked in the upper government bodies. Furthermore secret cell assembled to her apartment, her private relations received to the ribbon and it has been broadcasted in the Internet.

4. The journalist of "Azadlig" newspaper, Azar Ahmadov has also met pressures like Xadija Ismayilova (his images were broadcast on Lider TV).

5. Moreover, some human rights defenders, Ilham Amiraslanov, Taleh Xasmammadov, Mirabad Rzayev, Bakhtiyar Mammadov, Vidadi Isgandarov arrested because of their open thoughts.

For more information, please see the links:

<http://www.news.az/articles/society/56705>

<http://www.hrw.org/world-report-2012/world-report-2012-azerbaijan>

Paragraph 2.

Article 5. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

6. Article 46 of the Constitution of the Republic of Azerbaijan defines that nobody must be subject to tortures and torment, treatment or punishment humiliating the dignity of human beings. Medical, scientific and other experiments must not be carried out on any person without his/her consent.

7. However the prisoners are suffering from social problems in penitentiaries like corruption, bribery, physical and mental torture against them. In cases when they complain about these willfulness they again face a variety of threats and pressures. They meet psychological pressures and are forced to refuse their signature in complaints.

8. For instance, while EHR PA monitored 14th prison it was known that the prisoners kept there were deprived from the rights mentioned both in international and national legislation. Bribes are required from prisoners for using bathroom, barber, for opportunities to meet their families. Rahim Cafarov more than 3 months and Tural Huseynov more than 11 months were kept in carcer. Bakhtiyar Hajiyev who is considered political prisoner by national and international human rights organizations and human rights defenders was subject to torture, evil and degrading, discriminatory treatment by the chief of the prison. In the same prison is detained Vidadi Isgandarov.

In the same prison there is human rights defender Vidadi Iskandarov.

Paragraph 3.

Article 13. (1) Everyone has the right to freedom of movement and residence within the borders of each state.

9. According to Article 41 of the Constitution of the Republic of Azerbaijan Everyone has the right for protection of his/her health and for medical care.

10. But people who suffer from dialysis are not able to realize their rights of freedom of movement to choose of residence.

At present, more than 1700 patients who are constantly on dialysis are officially registered. According to the Ministry of Health, every year 14 of 100 dialysis patients die.

According to the Ministry of Health, 22 public branches of dialysis provide service in Azerbaijan at present. 8 of them are located in rural areas, 14 branches operate in Baku. Patients who require dialysis usually face difficulties in registration. This restricts their right to freedom of movement and leads to additional expenses.

11. EHR regretfully notes that dialysis patient is suffered for being forced to be examined in hospitals where they are registered. For these reasons dialysis patients registered in Baku cannot move to other regions for rest or to visit their relatives. Moreover they are considered I group invalid persons and are not provided with job (because it is mentioned in disability card that, not

to be provided with job). The allowance for them is very low (it is 110 AZN for now) and most of them are living by their relatives support.

As there are no medicine and experienced doctors in prisons, the prisoners suffering from the lack of renal are sentenced to die. But the government doesn't provide us with the statics. For example, in 2010 in the prison number 7 Samadov Latiph and in 2012 Saphiyev Raphick died from the lack of renal.

Paragraph 4.

Article 15(1). Everyone has the right to a nationality.

12. According Article 11 of the “Law on Citizenship” of the republic of Azerbaijan“A person shall acquire the citizenship of the Republic of Azerbaijan in the following cases:

1. when born on the territory of the Republic of Azerbaijan, or born from citizens of the Republic of Azerbaijan;
2. as a consequence of admission to citizenship of the Republic of Azerbaijan;
3. by reasons stipulated by bilateral and multilateral international treaties of the Republic of Azerbaijan;
4. by other reasons stipulated by the present Law.

13. In Article 14 of the same Law it is indicated that Foreign citizens and stateless persons living on the territory of the Republic of Azerbaijan already for 5 years and submitting a document about the knowledge of the state language may be admitted to the citizenship of the Republic of Azerbaijan upon their application in compliance with this Law irrespective of racial and national affiliation, sex, education, language, religious beliefs, political and other convictions, place of residence.

14. Although there are enough legislative acts regulating the relations with regard to stateless persons, these acts do not define the rules or process of documenting individuals who become stateless after 1st January 1992.

15. According to the current legislation, since 01 January 1992 stateless persons who have obtained permanent permission to reside in Azerbaijan have been provided with ID documents by the Ministry of Internal Affairs ('MIA').

16. At present, neither the MIA nor the SMS accept applications of, or provide documents for, individuals who became stateless after 1992 and do not document them. Even individuals provided with stateless person ID cards by the Ministry of Internal Affairs from 1992 to 2007 are not recognized as stateless persons by SMS.

17. There is currently no formal mechanism for determining statelessness in Azerbaijan. In the absence of a determination procedure, individuals affected by statelessness can be trapped in a legal limbo for years. As they have lost the citizenship of the country in which they were born, these persons are unable to return back to that country.

18. Living undocumented or with undefined status deprives a person of many of their rights. Undocumented persons are unable to sign a labor contract or contracts that require the approval of notary, and they cannot use their rights to medical and legal assistance or their right to a pension. In cases when they face coercion and other violations they dare not risk applying to law-enforcement bodies as they live without valid documents. As a result, they gradually become dependent on others and often become victims of various crimes, including human trafficking.

19. Iran citizen Mohammad Said who has migrant status, has been deported from the country in spite of his marriage with Azerbaijan citizen and having the young child.

Other 4 foreign citizens has been deported from the country notwithstanding that they have permission for temporary residence and the court decision doesn't come into force. The right of these people were broke.

Paragraph 5.

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.

20. Pursuant to Article 29 of the Constitution of the Republic of Azerbaijan Everyone has the right to own property. Neither kind of property has priority. Ownership right including right for private owners is protected by law.

21. Although in the national legislation it is indicated that, everyone has property right, it is one of the most violated rights in Azerbaijan.

22. The fact is that nowadays Azerbaijani citizens are being forced (with participation of local executive authorities, with bulldozers) to leave the apartments they live. People suffer a lot from inadequate and low compensation rates, also necessity to leave their houses leaving necessary equipments inside.

23. Workers of SOCAR destroyed houses that belong to citizens by use of force and without any warning in **Sulutapa settlement, in Khojahasan district**. Dozens of people were injured as a result of this dispute. Any legal measure was not taken with regard to this event. For more: <http://www.youtube.com/watch?v=EdOg4RzaE4U>

24. In accordance with the claim by ‘Azerneftyagh’ oil production plant, a body of SOCAR,

Khatai District court decided on destruction of house in settlement of NZS, Ilham Mammadov Street 168. As to the decision, houses have to be destructed by its owners, they are must be emptied, and owners need to pay 100 AZN fine to government. Ground for this decision was identified as oil pipeline of the plant are located in this area. Settler made local protests after warning on destruction of their houses and mass media highlighted this event.

In connection with this, EHR initiative to send more than 300 collective appeal to the President Administration, also EHR has sent statements to the local and international organizations and appeal to the govermental structures and Ombudsman. Also the organization has sent 68 appeal and cassation complaints (Khatai District Court has already adopted resolution about the demolition of buildings of almost 100 families) . As example we can also show the deal of Raphael Rzayev with the “Surakhani Oil Operation” company.

<http://www.nrk.no/nyheter/verden/1.8155559>

- 25.** Akif Cafarzadeh has been deprived from his property on the basis of false contract.
- 26.** Afag Ismayilova has been beaten by executive authority and taken out from her flat enforceably.
- 27.** Nina Ivanovna Pavlopa (has sent the appeal to The European Court) və Mathis Urs Adrianin also have been deprived from their property rights and enforceably taken out from their flats.
- 28.** According to information by ‘Kur’ Civil Society Headquarters, more than 20,000 settlement, 110,000 hectares plantation and pasture fields were damaged as a result of floods on Kura and Araz rivers in 2010, according to approximate calculations, over 100,000 people, as well as various agricultural fields, nourishment and household buildings, also educational, religion and health care buildings, and infrastructure gravely suffered.

An important point shall be noted that, at the time of decree no. 197s was signed by Cabinet of Ministers on July 09, 2010, floods were still remaining in majority of the fields that suffered and there was no life there. It was hard to enter the flooded fields, to investigate and clearly identify in which situation the houses are. For this reason, as stated in the decree, construction of 3205 houses, repairing 3222 buildings and restoration of 700 houses could not be exact numbers.

Actual evaluation by the governmental commission started in July-August of 2010, after flooding has stopped. But should be noted with regret that, despite considered by presidential decree of May 19, 2010, the damage done by Kura-Araz river floods has not still been comprehensively and fairly investigated yet.

Despite a long time passed since the floods and abovementioned decree by the Cabinet of Ministers, the issued indicated in the decree were not solved. Many houses in critical conditions still remain even though 3143 houses were built in flooded fields. Compensation provided to people that suffered was not adequate to solve their problems. Although not covering the whole list of damaged houses, numbers that were indicated in decree no. 197s ($3222+700=3922$) express that minimum 3922 families still suffer as their property rights are not restored. But in reality, numbers of people that are suffering from not restored property rights are far more than indicated numbers.

In spite of a long time passed from the acceptance of this Decree, the issues indicated in it have not been resolved yet.

29. Entrepreneurs also face with difficulties while registering their properties. So, they are required illegal fees for registering by State Register Service for Real Estate and bureaucracy circumstances happen.

Furthermore, the fabrics belong to businessmen brothers Zulfugarli have been taken away, Nureddin Zulfugarli was detained in custody and as result of pressure declare off his property.

Paragraph 6.

Article 18. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

30. Article 47 of the Constitution of the Republic of Azerbaijan stipulates that Everyone may enjoy freedom of thought and speech.

31. But taken into account the cases that 8 journalist are in prison, Idrak Abbasov was beaten, Xadija Ismayilova was blackmailed, it creates doubt of realizing this right.

32. The editor-in-chief of “Xayal TV” detained more than two weeks in Organized Crime Department of the Ministry of Internal Affairs.

33. Physical and psychological attacks against journalists are continuing in recent months.

Council for Center Television and Radio has been adopted decisions which can be considered a serious interference with television and radio program policy. So, Foreign television series, non-formal programs to promote marriage are banned.

34. Complaints and lawsuits have been filed against newspapers “Yeni Musavat”, “Azadlig” and “Xural”. The arrest of journalists has demanded. Amount of the compensation demanded from media during last 6 months was above 2, 600,000 AZN. Court decisions on the media is obliged to pay compensation of at least 91 000 AZN.

35. Journalist Anar garayli was arrested 10 days, a criminal case has been failed against press photographer Mehman Huseynov.

36. At least 35 journalists in the last 6 months faced with physical, psychological pressure, , technical obstacles. The number of cases of pressure was more than 45.

37. Pursuant to Article 48 of the Constitution of the Republic of Azerbaijan Everyone enjoys the freedom of conscience everyone has the right to define his/her attitude to religion, to profess, individually or together with others, any religion or to profess no religion, to express and spread one's beliefs concerning religion. Everyone is free to carry out religious rituals, however this should not violate public order and contradict public morals.

38. Citizens of Iran Sabir Mehdi, Mahammad Said, Yusif Pur, Xoshdel were accused in mystification and deported from the country, because they listened to religious music.

Paragraph 7.

Article 20.(1) Everyone has the right to freedom of peaceful assembly and association.

39. Pursuant to Article 58 of the Constitution of the Republic of Azerbaijan Everyone is free to join other people.

40. However, many of the of non-governmental organizations face different obstacles while state registration. Thus, the documents submitted to the Ministry of Justice for registration should be reviewed within 30 days and a certificate must be issued if there is no reason for refusal of registration. Unfortunately, at present, hundreds of NGOs are refused state registration without any reason.

41. Since 2006, the number of registered NGOs are decreasing: in 2006 548 NGOs, in 2007 361 NGOs, in 2008 246 NGOs, in 2009 162 NGOs, in 2010 124 NGOs were registered. In 2011, there was a slight increase in this amount (144 NGOs were registered).

42. Association of Women Lawyers was founded in 2006 and still has not been registered.

43. "Learning Democracy" Public Union appeal was rejected 7 times for registration. The majority of the grounds for refusal of registration of the Ministry of Justice, in essence, is not a ground for refusal of registration.

As other example we can show the illegal cancellation of registration of The Norway House of the human rights.

44. The willfulness during registration of NGOs is not only stems from the law, but also from the lack of will and intention of the registering authority.

45. Pursuant to Article 49 of the Constitution of the Republic of Azerbaijan Everyone has the right for meetings. Everyone has the right, having notified respective governmental bodies in advance, peacefully and without arms, meet with other people, organize meetings, demonstrations, processions, place pickets.

46. March 17, 2012 in Baku, in the result of the meeting held by Youth Rights Protection Committee which was agreed with Baku City Executive Power Committee musician Jamal Ali, guitarist Natig Kamilov and speaker and a member of the “Nida” Citizens' Movement Etibar Salmanli were arrested. Please, see the link below:

<http://ehr-az.org/en/reports/statement-regarding-to-the-17-march-peaceful-protest>

47. A criminal case was filed against Mehman Huseynov who is coordinator of “Sign for Democracy” campaign and photo journalist of RATI that covered destruction of pickets by police authorities while Eurovision music contest held in Baku.

For more info please, see the links below:

<http://www.amnesty.org/en/library/info/EUR55/013/2012/en>

<http://www.amnesty.org/en/for-media/press-releases/azerbaijan-retaliates-against-eurovision-democracy-activists-2012-06-14>

<http://www.hrw.org/news/2012/05/29/azerbaijan-peaceful-protest-crushed-ahead-eurovision-final>

Paragraph 8.

Article 25. (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, and housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

48. Article 38 of the Constitution of the Republic of Azerbaijan stipulates that Everyone has the right for social protection on reaching specific age according to legislation, in case of illness, disability, loss of bread-winner in the family, due to unemployment and in other cases envisaged by legislation.

49. However, we can say that there are no conditions recovery centers for the disabled at the moment. In fact, the health and rehabilitation centers for the disabled built and created in recent years, there are not favorable conditions for the disabled people. Even bedding, toilet and bath, stairs in these centers are not designed for people with disabilities. Wheelchairs given to disabled people in each 4 yours are not qualified and a few months later become unusable (the government doesn't provide us with the statistics) .

50. In addition, legislative acts that should ensure disabled people's access to the labor market are still not exist. For example, there are some barriers to disabled people who want to practice entrepreneurial activity. The equipment of the Karabakh war invalid Abbasov Raphael destined for lemonade workshop has been unduly detained.

51. Article 39 of the Constitution of the Republic of Azerbaijan mentions that everyone has the right to live in healthy environment.

52. The quality of fresh water reserve in Azerbaijan is vulnerable. Especially, over 46% of suburban residents have to use pit water without any information on its physical and chemical compound. According to information by State statistics Committee, 29,6% of the country, 26,3% of city residents, and 29,9% of suburban residents obtain fresh water out of pits in their yards.

People in districts without centralized watering system obtain fresh out of pits, irrigation watercourses, as well as rivers and lakes, which are not subject to any ecological treatment. People located in majority of villages of Kurdamir, Yevlakh, Ujar, Bilasuvar, Salyan, Sabirabad and other districts primitively treat, clear and drink water of watercourses by Kura and Araz River.

53. It is not appropriate to check quality of of fresh water relying on USSR standards adopted in 1982: ‘Azerbaijan as a member of UN, World Health Organization and other international organizations is under obligations to provide people with continuing and safe fresh water. That’s why quality norms of water must base on standards of World Health Organization. But now it is regulated by standards of a country that does not exist. Whereas, new standards and technical conditions have been adopted in majority of CSI countries, including Russian Federation.’

Paragraph 9.

Article 2. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 21.(2). Everyone has the right of equal access to public service in his country.

54. According to Article 25.2 of the Constitution of the Republic of Azerbaijan men and women possess equal rights and liberties.

55. In Azerbaijan the right o to vote and to be elected to women were given in 1918 and now women are actively taking part in public and political life. However, the number of women in law-enforcement agencies, in the police and prosecutor authorities are very low. There is no woman working in traffic police, as well as in Custom Committee. Also among head of tax departments in the Ministry of taxes there is no woman.

14 out of a total of 125 members of the legislative body “National Assembly” are women and it is only 11%. There is also no woman among the chairman of the committees of national Assembly..