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Meeting: 1507th meeting (September 2024) (DH)

Communication from an NGO (International Partnership of Human Rights (IPHR)) (03/09/2024) concerning the group of cases of Mahmudov and Agazade v. Azerbaijan (Application No. 35877/04).

Information made available under Rule 9.2 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1507^e réunion (septembre 2024) (DH)

Communication d'une ONG (International Partnership of Human Rights (IPHR)) (03/09/2024) relative au groupe d'affaires Mahmudov et Agazade c. Azerbaïdjan (requête n° 35877/04) **[anglais uniquement]**

Informations mises à disposition en vertu de la Règle 9.2 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

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**Submission pursuant to Rule 9.2 of the Committee of Ministers' Rules
Mahmudov and Agazade group v. Azerbaijan (Applications No. 35877/04,
No.40984/07, No.13274/08)**

* * *

Submitting Organisation:

International Partnership for Human Rights

3 September 2024

1. Introduction

1. We write to lodge submissions pursuant to Rule 9(2) of the Committee of Ministers' Rules for the Supervision of the Execution of Judgments in respect of the Mahmudov and Agazade group of cases, which concern violations of the right to freedom of expression of the applicant journalists due to unjustified use of imprisonment as a sanction for criminal defamation on account of insult and defamation, as well as the arbitrary application of other provisions of the Criminal Code to limit freedom of expression.
2. The signatory organisation International Partnership of Human Rights (IPHR) is an independent, non-governmental organization founded in 2008. With a presence in Brussels, Kyiv, and Tbilisi, IPHR works closely with civil society groups from a broad range of countries in the Former Soviet Union Region to raise human rights concerns at the international level and promote respect for the rights of vulnerable communities by diverse means.
3. This submission provides an update on the most recent domestic developments relevant to general measures in this group of cases, identified by the CM (see para 5 below). The submission provides information on the situation of general media environment, continued failure to amend the criminal defamation legislation, defamation cases against journalists and the arbitrary application of other provisions of the Criminal Code to limit freedom of expression through retaliatory criminal prosecution of independent journalists and other media members. With regard to the latter, the submission provides a detailed account of the ongoing new wave of retaliatory arrests and detention of journalists. For a comprehensive overview of the situation, this submission should be read together with the Rule 9.2 submission made by the International Partnership for Human Rights on 19 August 2023.

2. Required General Measures

4. At its latest decision¹ on 19-21 September 2023, the Committee considered that the execution of this group of cases requires three main sets of measures to be taken by the Azerbaijani authorities:
 - a. Regarding criminal sanctions for defamation, the CM expressed great concern over legislative delays and urged authorities to expedite the legislative process without further delay.
 - b. Regarding the arbitrary application of other provisions of the Criminal Code, to limit freedom of expression to improve domestic judicial practice aimed at protecting journalists against arbitrary criminal prosecution in line with the Convention standards;
 - c. Respect the right to the presumption of innocence by the prosecution service and public officials (closed the supervision on this issue).
5. In its latest Action Report on this group dated 13 June 2024, the Government has only briefly mentioned the following issues relating to criminal defamation laws:
 - a. Amendments to the legislation on defamation to remove lengthy prison sentences are currently under consideration (para. 5),

¹ [https://hudoc.exec.coe.int/?i=CM/Del/Dec\(2023\)1475/H46-5E](https://hudoc.exec.coe.int/?i=CM/Del/Dec(2023)1475/H46-5E)

- b. The recent practice of the local courts shows their refraining from imposing imprisonment as a sanction for defamation, except in cases of hate speech or incitement to violence (para.6), and
 - c. Training of candidates to judiciary and newly appointed judges on the requirements and approaches of the Council of Europe in regard of defamation related matters (para.7).
6. When referring to the above points, the Government did not provide any further details or evidence to substantiate either of the points, e.g. regarding any timeframes for the legislative process or any statistics on the recent practice of domestic courts. The Government did not provide any information on another major issue examined by the CM, i.e. arbitrary application of other Criminal Code provisions against journalists. The below sections provide an update on these issues, as well as the wider repressive context for independent media in Azerbaijan.

2.1. General repressive media environment

- 7. A new Media Law of Azerbaijan was adopted by the Parliament of Azerbaijan on 30 December 2021 without a broad and meaningful public consultations (see previous Rule 9.2 submission of IPHR for a detailed account on the new Law and its key provisions).
- 8. On 20 June 2022, the Venice Commission and the DGI of the Council of Europe concluded² that Azerbaijan's new Media Law would further stifle independent journalism and fails to meet European standards, recommending its repeal or substantial revision, a stance echoed by the Council of Europe Commissioner for Human Rights³, who urged the President of Azerbaijan to return the law for revision.
- 9. The new Media Law further consolidated Government's control over the media environment and journalistic activity and imposed **numerous requirements and regulations on audiovisual media, print media, online media subjects, news agencies, and journalist activities in Azerbaijan**.⁴
- 10. According to the Reporters Without Borders' (RSF) World Press Freedom Index 2024, Azerbaijan fell 13 places below Russia (162) and Pakistan (152) on the index and ranked 164th out of 180.⁵ On 1 August 2024, Reporters Without Borders has released the Press Freedom Index for 2024, placing Azerbaijan in 164th position. This ranking reflects a decline in all indicators, particularly political ones, due to a wave of media repression ahead of the presidential elections.⁶

2 CDL-AD(2022)009-e. Azerbaijan - Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the Law on Media, adopted by the Venice Commission at its 131st Plenary Session (Venice, 17-18 June 2022). [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2022\)009-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2022)009-e)

3 Council of Europe news, 25 January 2022. Azerbaijan: new media law raises serious human rights concerns and should be changed. <https://www.coe.int/en/web/baku/-azerbaijan-new-media-law-raises-serious-human-rights-concerns-and-should-be-changed>

4 <https://www.az-netwatch.org/news/the-state-of-internet-freedom-in-azerbaijan-2022-legal-overview/>

5 Reporters Without Borders, Index 2024, <https://rsf.org/en/index>

6 Turan Information Agency: "Reporters Without Borders has released the Press Freedom Index for 2024: Azerbaijan is in one of the last places", 1 August 2024, <https://turan.az/en/politics/reporters-without-borders-has-released-the-press-freedom-index-for-2024-azerbaijan-is-in-one-of-the-last-places-783160>

11. 2023 and 2024 witnessed a major increase in arrests and detention of journalists in Azerbaijan (see 2.3 below for a detailed account). According to the Platform to promote the protection of journalism and safety of journalists of the Council of Europe, 23 journalists are in prison or pre-trial detention and two cases of impunity for murder were recorded in Azerbaijan.⁷
12. Baku-based Media Rights Group's⁸ (hereinafter "MRG") 2023 annual analysis on the Legal Environment for Media in Azerbaijan covering incidents related to media and journalists has registered more than 140 incidents in Azerbaijan during 2023.⁹ According to the MRG, the provisions of the new restrictive Media Law, effective from early 2022, were fully implemented in 2023 leading to a creation of a state-controlled registry for all media and journalists.
13. MRG's 2023 analysis reported that the Media Development Agency, overseeing the implementation of the law, have already requested the termination of the news portal dia.az (Dunya Information Agency) for not being registered with the new Media Registry, and the court ordered its closure, blocking access to the website. Similar sanctions were imposed on amia.az and siam.az, terminating their activities.
14. According to the same report, at least 10 media outlets, including newspapers like "Gundam Khabar" and "Yeni Khabar," and news portals like mi-news.az and az24saat.org, along with an individual journalist Vugar Alakbarov, were refused to be included to the Media Registry, limiting their journalistic rights, such as accreditation to public events. Additionally, the Narimanov District Court blocked the YouTube channel "Hurriyet TV" at the General Prosecutor's Office's request for disseminating allegedly prohibited information.¹⁰ Specifically, the Court cited Article 13-2.3.11 of the new Media Law, which broadly prohibits the distribution of "other information prohibited by the laws of the Republic of Azerbaijan" without clearly specifying the nature of the prohibited information. This vague phrasing allows for the restriction of information in an unspecified and potentially arbitrary manner. The Sabail District Court, at the Ministry of Digital Development and Transport's request, blocked access to "Kanal 13" internet TV for broadcasting allegedly false information about state officials.¹¹

7 Safety of Journalists Platform, The Platform for the Protection of Journalism and Safety of Journalists is a unique mechanism which helps the dialogue between the governments and the organizations of journalists, with the aim of stopping violations to press freedom in the member states of the Council of Europe and enabling journalists to exercise their profession without the risk of compromising their safety, <https://fom.coe.int/en/pays/detail/11709482>

8 Media Rights Group - is a civil society initiative working in Azerbaijan, especially in the field of adapting legislation and practice related to media freedom to advanced standards, protecting media and journalists, promoting freedom of expression and other basic rights, advanced practices.

9 Media Rights Group, 2023 annual analysis, Legal Environment for Media in Azerbaijan, https://aihmas.org/wp-content/uploads/2024/07/MRG_Media_Annual_Analysis_2023_en.pdf

10 Interviews with Reserve Colonel Elnur Mammadov on the YouTube channel "Hurriyyet TV" frequently discussed issues in the Azerbaijani army and cases of corruption. The Ministry of Defense, concerned that these interviews were spreading unfounded opinions and harming the army's reputation, requested the General Prosecutor's Office to take legal action to stop the channel's broadcasts. The Prosecutor General's Office claimed that "Hurriyyet TV" was broadcasting prohibited information, leading to a court decision to restrict access to the channel. The Ministry of Digital Development and Transport also supported this restriction, citing violations of the law regarding information dissemination. The court referenced Article 13-2.3 of the Law on Information, Informatization, and Information Protection, which outlines 14 categories of prohibited information. <https://www.azadliq.org/a/mehkeme-youtube-kanalina-girisi-baglamaq-barede-qerar-cixarib/32591080.html>

11 Media Rights Group, 2023 annual analysis, Legal Environment for Media in Azerbaijan, https://aihmas.org/wp-content/uploads/2024/07/MRG_Media_Annual_Analysis_2023_en.pdf

2.2. Continued failure to amend criminal defamation legislation and new criminal defamation cases against journalists

15. In contrary to the Government's position that the defamation related amendments are under consideration already over a year, submitting organizations observe that, despite the significant public interest in defamation-related legislation amendments, there have been no public discussions or any publicity on the matter within the country in recent years. This lack of transparency raises concerns about the Government's process for considering such amendments.
16. Furthermore, the 2023 MRG report indicates that, contrary to the Government's claims regarding the recent practice of domestic courts not imposing criminal sanctions for defamation to limit freedom of expression, Azerbaijani courts continue to apply criminal defamation provisions of the Criminal Code resulting in the correctional works and fines of journalists. According to the MRG 2023 legal analysis, at least in 3 cases, journalists and media outlets were brought to court under articles 147 (libel) and 148 (insult) of the Criminal Code of Azerbaijan, and subjected to criminal sanctions.
 - a. Ms. Sara Azimova, a member of the Television and Radio Council of the Nakhchivan Autonomous Republic, sued Heydar OGUZ, the editor-in-chief of the ovqat.com website under defamation laws and asked for his imprisonment. The Surakhani District Court found the journalist guilty of libel/defamation and sentenced him to 6 months of correctional labor.
 - b. The Sabunchu District Court has partially satisfied the claim of lawyer Aslan Ismayilov against journalist Aygun Muradkhanli and ordered the journalist to pay 800 AZN (approx. 430 EUR) compensation to the complainant.
 - c. Sabuhi Sadiyev, the head of the Goychay District Department of the State Service for Mobilization and Conscription, sued the "Daryaz" newspaper following the publication of an article accusing the aforementioned department for bribery. The lawsuit was partially satisfied, the newspaper was fined with 1138 AZN (approx. 613 EUR).
17. According to the MRG's report, the trend of administrative imprisonment sentences to journalists on various dubious grounds continued in 2023.¹² At least four journalists were administratively arrested on such grounds.
 - Reporter Nurlan Gahramanli was administratively arrested for 30 days on the grounds of 'spreading of prohibited information' over the Internet under Article 388-1.1.1 of the Code of Administrative Offenses. The reporter believes it is linked to him sharing Karabakh war related anti-war posts on social media.
 - Journalist Aydın Janiyev was sentenced to one month administrative arrest for his allegedly insulting posts following a complaint from another journalist, Eynulla Fatullayev¹³

12 Page 11, Media Rights Group, 2023 annual analysis, Legal Environment for Media in Azerbaijan, https://aihmaz.org/wp-content/uploads/2024/07/MRG_Media_Annual_Analysis_2023_en.pdf

13 <https://www.bizimyor.info/az/news/441320.html>

- Vugar Mammadov, editor-in-chief of “Hurriyat” newspaper, Youtube channel and news portal was sentenced to one month of administrative detention for posting confidential information on the internet and not preventing such information from being leaked.
- Photoblogger Veli Shukurov was sentenced to administrative arrest for one month under charges of minor hooliganism and disobedience to the police, which he believes are linked to his journalistic interest in the license plate of a car belonging to a high ranking official¹⁴

2.3. The arbitrary application of other provisions of the Criminal Code to limit freedom of expression: retaliatory persecutions, judicial harassment and unprecedented crackdown on independent media

18. 2023 and the first six month of 2024 witnessed an unprecedented repression against journalists and freedom of expression in Azerbaijan leading to retaliatory arrests and detention of journalists and media workers (as well as human rights defenders and activists).
19. As noted above, in 2022, Azerbaijan adopted repressive laws in the field of media placing the operation of the media under even tighter grip of the Government. These laws, coupled with their stringent application by the authorities, have not only stifled the civic space but also led to the unprecedented numbers of arrests of media personnel, political opposition and civil society representatives.¹⁵ Currently, 23 journalists are in prison or pre-trial detention in Azerbaijan, according to the Platform to promote the protection of journalism and safety of journalists of the Council of Europe.

¹⁴ <https://www.amerikaninsesi.org/a/6948623.html>

¹⁵ On February 10, 2022, the Committee to Protect Journalists International organization called Azerbaijan to repeal a newly enacted media law that increases state control of the press (<https://cpj.org/2022/02/new-azerbaijan-media-law-increases-restrictions-on-the-press/>). The Joint Opinion of the Venice Commission and the Directorate General on Human Rights and Rule of Law (DGI) of the Council of Europe on the Law on Media of Azerbaijan adopted on 17-18 June and published on 20 June 2022 noted following: “It has come to the conclusion that in the context of an already extremely confined space for independent journalism and media in Azerbaijan, the Law will have a further “chilling effect”. Many provisions are not in line with European standards on freedom of expression and media freedom and do not allow the media to effectively exercise its role as a “public watchdog”. Therefore, the Law should not be implemented as it stands.” ([https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2022\)009-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2022)009-e)). Legal analysis of the Law of the Republic of Azerbaijan “On Media” commissioned by the Office of the OSCE Representative on Freedom of the Media adopted on 24 February 2022 also maintained that the new law contains a series of provisions that are not aligned with applicable international and regional standards (https://www.osce.org/files/f/documents/d/9/512935_0.pdf). The new Law on Political Parties having been adopted by the Parliament on December 16, 2022, and subsequently signed into law by the President on January 11, 2023, was also another significant legislative backsliding in Azerbaijan. Following its enactment, the law was subject to scrutiny by the Venice Commission and the OSCE/ODIHR, which provided a joint opinion on March 10-11, 2023. Their assessment was critical, highlighting that the law introduced highly problematic new provisions which risk having further chilling effects on pluralism in the country. The aforementioned new regulations give rise to serious concerns with respect to the right to freedom of association which is guaranteed both in international human rights instruments and the national Constitution (Para., 117) (See annex [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2023\)007-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2023)007-e)).

20. The new wave has particularly escalated since November 2023, when the pro-government media outlets in Azerbaijan have noticeably intensified its slander campaign against civil society and media entities, with the accusations against them of collaborating with Western organizations and receiving funds from them that they allegedly illegally bring to Azerbaijan.¹⁶ This was soon followed by a series of legal repercussions for those targeted, including arrests, interrogations, blocking of bank accounts, and travel bans.¹⁷
21. A criminal investigation was opened into allegations of smuggling of funds received from foreign organisations abroad, primarily targeting AbzasMedia and Toplum TV, independent media outlets critical of the Government and its policies. The detained journalists of the two media outlets were charged with the same crime: a crime of smuggling committed by a group of persons who colluded in advance (Article 206.3.2 of the Criminal Code). The prosecution act accusing each journalist of smuggling was used as a general template, repeating the same information and accusations of smuggling charges. The prosecution and the domestic courts failed to substantiate such claims as to how the alleged smuggling was conducted, with no specific details provided about the supposed financial transactions, dates, or actions of cooperation among the accused.
22. Before and after the detention of AbzasMedia and Toplum TV employees, media outlets close to the Azerbaijani government conducted a mass smear campaign about media outlets and journalists, with identical or very similar content have been circulated in various pro-governmental media outlets, revealing preliminary investigation details.¹⁸

16 March 8, 2024 - "Toplum TV" adapts its activities not to the laws of Azerbaijan, but to the directives from the United States. https://musavat.com/news/toplum-tv-oz-fealiyyetini-azerbaycan-naunlarina-deil-abs-dan-gelen-direktivlere-ugunlasdirir_1051312.html ; March 8, 2024: Where does Toplum TV's funding come from? <https://qafqazinfo.az/news/detail/toplum-tv-nin-maliyye-menbeyi-haradan-gaynaglanir-429575>; March 9, 2024: More than half a million funds were illegally delivered to Azerbaijan via Toplum TV. <https://qafqazinfo.az/news/detail/toplum-tv-uzerinden-yarim-milyondan-cox-vesait-geyri-ganuni-azerbaycana-catdirilib-429641>; 30 January 2024: Authorities continue searching for "spies" and "traitors" among civil society, <https://turaz.az/en/politics/authorities-continue-searching-for-spies-and-traitors-among-civil-society>; November 22, 2023: How are unregistered grants from the West implemented in Azerbaijan? - RESEARCH,

<https://report.az/analitika/qerbden-gelen-qeydiyyat-siz-grantlar-azerbaycanda-nece-realize-edilir-arasdirma/> ; November 21, 2023: US Updates Subversive Technologies, Builds Compact, Agile Squads - INVESTIGATION <https://report.az/analitika/abs-texribat-texnologiyalarini-yenileyir-yigcam-cevik-desteler-formalasdirilir/> ; November 23, 2023: Treacherous plans of US institutions... This time NGOs and mass media were "controlled" by feminists... https://www.yeniazərbaycan.com/Siyaset_e93500_az.html;

17 STATEMENT OF CIVIL SOCIETY ON MEDIA FREEDOM AND HUMAN RIGHTS VIOLATIONS — ABZASMEDIA CASE, November 23, 2023, <https://medium.com/@journalistresistance/medi%CC%87a-azadli%C4%9Fi-v%C9%99-i%CC%87nsan-h%C3%BCquqlari-pozuntularina-dai%CC%87r-v%C9%99t%C9%99nda%C5%9F-c%C9%99mi%CC%87yy%C9%99ti%CC%87ni%CC%87n-b%C9%99yanati-abzasmedi%CC%87-391110dba311>

18 <https://apa.az/media/deputat-qerb-azerbaycan-eleyhine-qarayaxmada-yerli-media-strukturlerinden-istifade-dir-827583>_
<https://report.az/analitika/abs-texribat-texnologiyalarini-yenileyir-yigcam-cevik-desteler-formalasdirilir/>_
<https://apa.az/xarici-siyaset/abs-i-meyus-eden-secki-texnoloqlari-819541>_
<https://apa.az/daxili-siyaset/sahib-aliev-xarici-agentlerin-abs-da-nece-cezalandirildiqlari-kimseye-sirr-deyil-827785>_
<https://az.trend.az/azerbaijan/society/3871502.html>_
<https://az.trend.az/azerbaijan/politics/3872017.html>_
<https://az.trend.az/azerbaijan/politics/3871094.html>_
<https://xalqazeti.az/az/siyaset/169826-toplum-ile-bagli-obyektiv-arasdirmalar>_
https://publika.az/news/nida_tehlil/502959.html_

23. In those reports, it was claimed that Toplum TV, played a central role in operating a wide 'spy network' in Azerbaijan, increased dissatisfaction in the society in social, economic, and political directions with their funds, formed an environment of disobedience, and created and developed tensions in the public as its strategic line. Smearing campaign materials contained allegations of the delivery of more than half a million dollars to Azerbaijan, the illegal financing of various projects and events through Toplum TV, financing the radical opposition and trying to disrupt political stability in the country through Abzas Media, Toplum TV, and certain NGOs, the fact that the security bodies of the state of Azerbaijan allegedly timely identified and neutralized those who want to carry out their criminal goals against the state, etc.¹⁹
24. A wave of arrests escalated with the arrests of members of independent media outlet AbzasMedia when the police arrested six journalists from the entire managerial and editorial team of AbzasMedia under smuggling charges, followed by other arrests in 2023 and early 2024:
 - On 20-21 November 2023, Abzas Media director Ulvi Hasanli and his assistant Mahammad Kekalov (disability rights activist) and chief editor Sevinj Vagifgyzy were detained by Baku city main police department;²⁰ a week later, on November 30, journalist Nargiz Absalamova was summoned as a witness but was detained as a suspect. They were all charged under Article 206.3.2 (smuggling when committed by a group of persons) of the Criminal Code of the Republic of Azerbaijan²¹.

https://qafqazinfo.az/news/detail/toplum-tvni-maliyye-menbeyi-haradan-qaynaqlanir-429575_

https://www.musavat.com/mobile/news/toplum-tv-oz-fealiyyetini-azerbaycan-qanunlarina-deyil-abs-dan-gelen-direktivlere-uygunlasdirir_1051312.html_

https://news.milli.az/country/1188838.html_

https://www.azerbaijan-news.az/az/posts/detail/azerbaycan-butun-texribatlarin-qarsisini-qetiyyetle-alacaq-1709978197_

https://news.milli.az/society/1188629.html_

https://qafqazinfo.az/news/detail/abs-texribat-texnologiyalarini-yenileyir-arasdirma-419022_

https://www.yeniazərbaycan.com/xeberlenti_e98513_az.html_

https://pravda.az/news/138577_

https://sherg.az/gundem/255293_

https://baki-xeber.com/1137-abs-bu-subyektlerle-azerbaycanda-sabitsizlik-yarada-bilermi.html_

https://www.azerbaijan-news.az/az/posts/detail/milli-maraqlara-zidd-olan-emellerin-qarsisi-qetiyyetle-alinir-1709816047_

https://idealmedia.az/siyaset/13696-sekid-txribatlar-nec-ifa-olundu.html_

https://respublika-news.az/news/media-muzdlularina-novbeti-zerbe_

https://tv.ikisahil.az/post/476253-kamran-bayramov-qrant-ovchulari-ifsha-edilmelidir_

https://www.yeniazərbaycan.com/Siyaset_e93500_az.html_

<https://yenimedia.net/2024/02/07/az%C9%99rbaycandaki-q%C9%99l%C9%99b%C9%99-seckil%C9%99ri-q%C9%99rbin-%C9%99laltilarina-secki-il%C9%99-bagli-n%C9%99-tapsirilib/>

- 19 https://www.youtube.com/watch?v=YeVq8wLacDE_

https://www.youtube.com/watch?v=a4pOpcGGy7Y_

<https://report.az/xarici-siyaset/bezi-daireler-tesis-etdikleri-fondlar-hesabina-azerbaycan-daxilinde-sabitliyi-pozmaga-calisirlar-rey/>

- 20 The Committee to Protect Journalists, Azerbaijani anti-corruption journalists Ulvi Hasanli and Sevinj Vagifgizi detained for 4 months, November 21, 2023, <https://cpj.org/2023/11/azerbaijani-anti-corruption-journalists-ulvi-hasanli-and-sevinj-vagifgizi-detained-for-4-months/>

- 21 Frontline Defenders: Nargiz Absalamova, Hafiz Babali, And Elnara Gasimova Of Abzas Media Detained On Money Smuggling Charges, <https://www.frontlinedefenders.org/en/case/nargiz-absalamova-hafiz-babali-and-elnara-gasimova-abzas-media-detained-money-smuggling-charges>

- On 27 November 2023, Kanal 13 journalists Aziz Orujov and Shamo Eminov were arrested under the same charges.²²
- On 11 December 2023, Azerbaijani journalist, Teymur Karimov, was arrested on charges of extortion by threat (Article 182 of the Criminal Code)²³
- On 13 December 2023, investigative journalist Hafiz Babaly was detained on charges of smuggling when committed by a group of persons (article 206.3.2 of the Criminal Code) as a part of the same criminal investigation against AbzasMedia.
- On 13 January 2024, after her questioning at the Baku City Main Police Department, journalist Elnara Gasimova was detained as a suspect and accused on charges of smuggling committed by a group of persons by prior conspiracy (Art. 206.3.2 of the Criminal Code). Gasimova became the sixth journalist and media worker arrested in the Abzas Media case.²⁴

25. The arrests continued in early March 2024, starting with a police raid in the premises of the Institute for Democratic Initiatives (NGO), Toplum TV (media organisation), and the Third Republic Platform (political organisation), and the arrests of their representatives.²⁵ As a result of the raid, all employees in the offices were taken to the police en masse, detained there until midnight, and later some were released. On that day, the office door of Toplum TV and IDI was sealed, and also all programs of Toplum TV on its YouTube channel were deleted from the internet. Since March 6, 2024, the online portal and YouTube channel of Toplum TV was forced to stop its activity as a result of the police raid, and it was able to resume its activity only in June 2024. The materials from the YouTube page of this online publication have also been removed and Toplum TV's Instagram page was deleted.

- Eight representatives of the three entities, the Institute for Democratic Initiatives, Toplum TV and the Third Republic Platform, have been arrested following the raid. Between 6-8 March 2024, the Baku District Court ordered a four-month pre-trial detention for several journalists and human rights defenders, including Akif Gurbanov (co-founder of IDI and III Republic Platforms), Ali Zeynalov, Mushvig Jabbar, Ramil Babayev, Ilkin Amhrahov, and Alasgar Memmedli (all from Toplum TV), as well as Ruslan Izzatli (co-founder of III Republic Platform). Additionally, the prosecuting authority decided to impose police supervision on Elmir Abbasov and Farid Ismayilov, both journalists from Toplum TV.²⁶

22 Committee to Protect Journalists: Azerbaijani authorities charge Kanal 13 journalists Aziz Orujov and Shamo Eminov over alleged foreign donor money, order channel blocked, January 8, 2024, <https://cpj.org/2024/01/azerbaijani-authorities-charge-kanal-13-journalists-aziz-orujov-and-shamo-eminov-over-alleged-foreign-donor-money-order-channel-blocked/>

23 Amnesty International: "Azerbaijan: Authorities intensifying crackdown on independent media", December 12, 2023, <https://www.amnesty.org/en/latest/news/2023/12/azerbaijan-authorities-intensifying-crackdown-on-independent-media/>

24 The news agency Turan: "Journalist Elnara Gasimova detained in Abzas Media case", 13 January 2024, <https://turaz.az/en/politics/journalist-elnara-gasimova-detained-in-abzas-media-case-776231>

25 Committee to Protect Journalists, Azerbaijani police raid Toplum TV, detain journalists over alleged currency smuggling, March 11, 2024, <https://cpj.org/2024/03/azerbaijani-police-raid-toplum-tv-detain-journalists-over-alleged-currency-smuggling/>

26 The news agency Turan: "The detention of three more arrested "in the case of Toplum TV" has been extended", 3 July 2024, <https://turaz.az/en/politics/the-detention-of-three-more-arrested-in-the-case-of-toplum-tv-has-been-extended>

- Iqbal Abilov, a citizen of Azerbaijan and ethnic Talysh academician, who has lived in Belarus since childhood, was detained on 22 July 2024 by the State Security Service. His arrest is believed to be linked to his research on national minorities, including the Talysh, highlighting issues of freedom of expression and academic freedom. Despite the charges of incitement to ethnic hatred and state treason, those close to Abilov argue that his persecution is politically motivated due to his work on ethnic issues.²⁷
- Journalist Afgan Sadigov was detained in Tbilisi on August 3 at the request of the Azerbaijani Prosecutor's Office. On August 4, a court in Tbilisi ordered his arrest for two months for extradition to Azerbaijan, where a criminal case was launched against him on charges of extortion.²⁸
- On 22 April 2024, Imran Aliyev, the head of the Meclis.info portal that monitors the parliamentary activities, was arrested.²⁹

Arrests of other government critics

26. A number of other Government critics, human rights defenders and activists have been arrested and detained as a part of this new wave of crackdown:
- On 29 April 2024, Anar Mammadli, chair of the Election Monitoring and Democratic Studies Center and the applicant in the Mammadli group of cases has been arrested under charges of smuggling when committed by a group of people who conspired in advance. The arrest followed his three critical reports on the snap presidential elections held on 7 February 2024 and critical speech in the side event at UN Human Rights Council on 15 March 2024, mirroring the circumstances of his 2013 arrest.^{30 31} In 2024, Mammadli co-founded the Climate of Justice Initiative ahead of COP29, to be held in Azerbaijan with the purpose to call the release of political prisoners in Azerbaijan. The Khatai District Court ordered his pre-trial detention for 3 months and 28 days on 30 April 2024.

27 The news agency Turan: "Iqbal Abilov, Talysh researcher, detained", 23 July 2024, <https://turaz.az/en/politics/iqbal-abilov-talysh-activist-detained>

28 The news agency Turan: "The family of the journalist arrested in Tbilisi is seeking asylum in embassies", 6 August 2024, <https://turaz.az/en/politics/the-family-of-the-journalist-arrested-in-tbilisi-is-seeking-asylum-in-embassies-783292>

29 Committee to Protect Journalists, Azerbaijan arrests 13th journalist over alleged international donor funding, April 22, 2024, <https://cpj.org/2024/04/azerbaijan-arrests-13th-journalist-over-alleged-international-donor-funding/>

30 EMDS issued a statement regarding the snap presidential elections, 12.12.2023, <https://smdtaz.org/smdt-novb%C9%99d%C9%99nk%C9%99nar-prezident-seckil%C9%99ri-bagli-b%C9%99yanat-yayib/>

EMDS issued the Interim Report on the observations on the pre-election campaign stage of the February 7, 2024 snap presidential election, 03.02.2024, <https://smdtaz.org/emds-announced-the-interim-report-on-the-observations-on-the-pre-election-campaign-stage-of-the-february-7-2024-snap-presidential-election/>

EMDS issued the Preliminary Statement on the results of the observations of the snap presidential election held on February 7, 2024, 08.02.2024, <https://smdtaz.org/emds-issued-the-preliminary-statement-on-the-results-of-the-observations-of-the-snap-presidential-election-held-on-february-7-2024/>

31 HRC55: Media and Civil Society Under Pressure in Azerbaijan Ahead of COP29. On 15 March 2024, Human Rights House Foundation will host "Media and Civil Society Under Pressure ahead of COP29 in Azerbaijan", a civil society event on the sidelines of the 55th session of the UN Human Rights Council. Published: March 5, 2024 <https://humanrightshouse.org/events/hrc55-media-and-civil-society-under-pressure-ahead-of-cop29-in-azerbaijan/>

- On 14 December 2023, police arrested Tofiq Yagublu, a former journalist who is an outspoken critic of the government and a prominent opposition leader.³² Yagublu was charged under Articles 178.3.2 (fraud by an organized group), 320.1 (Forgery of official documents), and 320.2 (Use of counterfeit documents) of the Criminal Code of Azerbaijan.³³
- On 30 May, Azerbaijani well-known independent economist Farid Mehralizade, who was expected to testify in the AbzasMedia case, was abducted and detained by police and on 1 June 2024.³⁴
- On 22 July 2024, former diplomat and activist Emin Ibrahimov has been detained by the police on charges under Articles 126.2.4 (intentional infliction of serious harm to health from hooligan motives) and 221 (hooliganism) of the Criminal Code.³⁵ He is one of the fierce critics of Azerbaijan's policy towards Russia and attributed his arrest to his social media posts on these issues.³⁶

27. On April 26, 2024, while on a visit to Germany, in response to a foreign journalist's question about political arrests in Azerbaijan, President Ilham Aliyev said, making a reference to their guilt before trial, in violation of the presumption of evidence of the detainees: *"Some time ago, representatives of some media organizations illegally financed from abroad were detained by investigative bodies. This was done in full accordance with the legislation of Azerbaijan. Any country must defend its laws, and if a media representative who received illegal funds from abroad was investigated, it does not mean that our media is not free. It's just that everyone should act within the law."*³⁷ There are strong concerns that such incriminating references predetermines the direction of the investigation of these cases and the likely convictions.

3. Recommendations

28. We call upon the Committee of Ministers to urge the Government of Azerbaijan to take the following actions:
- a) An immediate end should be put to the ongoing wave of retaliatory criminal prosecution of the members of AbzasMedia, Toplum TV
 - b) Articles 147 (slander) and 148 (insult) of the Criminal Code should be repealed and defamation should be de-criminalised, with a clear plan with concrete timeframes for such actions
 - c) The Law on Media should be repealed based on the recommendations adopted by the Venice Commission at its 131st Plenary Session (Venice, 17-18 June 2022)

32 Human Rights Watch, Azerbaijan: Prominent Opposition Figure Arrested, Tofiq Yagublu Is Latest Government Critic Targeted, December 19, 2023, <https://www.hrw.org/news/2023/12/19/azerbaijan-prominent-opposition-figure-arrested>

33 JAMnews: "Prominent Azerbaijani opposition figure remains under arrest", 16.04.2024, <https://jam-news.net/azerbaijani-oppositionist-remains-under-arrest/>

34 The news agency Turan: "Farid Mehralizadeh is another arrested in "Abzas media" case", 1 June 2024, <https://turaz.az/en/politics/farid-mehralizadeh-is-another-arrested-in-abzas-media-case>

35 The news agency Turan: "The court arrested the former diplomat for 4 months (UPDATED)", 24 July 2024, <https://turaz.az/en/politics/the-former-diplomat-charged-under-two-articles-of-the-criminal-code>

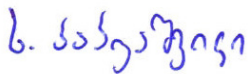
36 JAMnews: "Former diplomat detained in Baku on stabbing charges", 23.07.2024, <https://jam-news.net/arrests-in-azerbaijan-former-diplomat/>

37 <https://www.youtube.com/watch?v=1xOeEPdM0k>

d) The Government should provide statistics on the judicial application of civil and criminal defamation laws for CM's assessment of courts' practice in that regard

29. The Committee of Ministers is invited to adequately react to the ongoing retaliatory prosecution of dozens of journalists by the prosecution and the domestic courts as a direct disregard and non-implementation of the CM's calls, under the Mahmudov and Agazade group, to the Government to stop arbitrary application of other Criminal Code provisions.

Respectfully submitted:



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