

Ref: CommHR/DM/sf 007-2020

Mr Vilayat EYVAZOV
Minister of Internal Affairs of Azerbaijan

Strasbourg, 25 February 2020

Dear Minister,

I am writing to you to raise certain issues relating to the dispersal of recent protests in Baku and reported limitations imposed on freedom of assembly in this context. Such limitations include the banning of all forms of peaceful protest in the centre of Baku, these protests being instead moved to the outskirts of the city; the excessive use of force against demonstrators by law enforcement officials during the dispersal; and arrests and convictions to administrative fines and detentions of protesters for their participation in an “unauthorised” demonstration. It has also come to my attention that a number of protesters have been arrested prior to a planned demonstration and taken to remote locations by car or bus, sometimes several hundred kilometers away from Baku, thus preventing them from taking part in the protest. In addition, journalists covering the protests were reportedly mistreated by law enforcement officers during the dispersal of protests.

Freedom of peaceful assembly in the Council of Europe member states has been a key focus of my Office. In several reports, letters and other statements, as well as in a recent Human Rights Comment, I have stressed that protecting the right to freedom of peaceful assembly is crucial for the good health of democratic societies. However, I am concerned that the latest restrictions imposed by the authorities constitute disproportionate interference with the freedom of peaceful assembly in Azerbaijan.

Firstly, I note that the notification procedure provided by the Azerbaijani legislation continues to be interpreted by the authorities as requiring prior permission to hold an assembly, which is not the case. However, in a number of judgments against Azerbaijan, the European Court of Human Rights (the Court) found that the legislation governing public assemblies lacked foreseeability and precision which resulted in banning or dispersal of public assemblies abusively by the authorities. In this regard, I should like to stress that, according to the Guidelines on Freedom of Peaceful Assembly published by the OSCE Office for Democratic Institutions and Human Rights (ODIHR), together with the Venice Commission, prior notification should only be required when its purpose is to enable the state to put in place necessary arrangements to facilitate freedom of assembly and to protect public order, public safety and the rights and freedoms of others. Any such legal provision should require the organiser of an assembly to submit a notice of intent rather than a request for permission.

Secondly, I wish to reiterate that participants in peaceful assemblies should not be sanctioned for the mere fact of being present at and actively participating in the demonstration in question, provided that they do not do anything illegal, violent or obscene. Moreover, I note that the execution of several judgments of the Court against Azerbaijan, in which numerous breaches of the applicants' freedom of assembly through the dispersal of unauthorised peaceful demonstrations were found, are examined under the enhanced supervision of the Council of Europe Committee of Ministers (*Gafgaz Mammadov* group of cases). The Committee has repeatedly deplored that no information had been provided by the authorities. A comprehensive action plan/action report on individual and general measures taken or envisaged to execute these judgments is still awaited.

Finally, I am aware that numerous peaceful protesters and journalists reporting on the protests sustained injuries, some of them serious, reportedly as a result of force used by law enforcement officials. I would like to repeat that all allegations of police misconduct in the context of demonstrations must be investigated effectively and sanctioned. It is also important to ensure that police officers operating in the context of demonstrations receive specialised training both on the negotiated management of assemblies and on the proportionate use of force in this context.

I would like to respectfully request your comments and/or clarifications on the above points as well as information on measures taken to verify the lawfulness of the arrests and to investigate the allegations of physical ill-treatment and other forms of abuse of participants in protests.

I look forward to receiving your reply and continuing a constructive dialogue with you.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Dunja Mijatović', with a large, stylized initial 'D'.

Dunja Mijatović