

Information on the issues raised in the letter of
the Commissioner for Human Rights of the Council of Europe
dated 4 November 2024

Azerbaijan reaffirms its commitment to upholding its international obligations, including under the international human rights law and categorically rejects all allegations claiming the opposite without any reliable proof.

The persons mentioned in the letter (Alasgar Mammadli, Akif Gurbanov, Imran Aliyev, Anar Mammadli, Abzas Media, Kanal 13 and Toplum TV representatives) are accused of smuggling a large amount of funds in foreign currency into the territory of the country through the border customs of the Republic of Azerbaijan without customs control and secretly or without declaring them. Based on the collected facts, a criminal case was initiated under Article 206.3.2 of the Criminal Code of the Republic of Azerbaijan (smuggling committed by a group in prior collusion).

The investigative authorities have undertaken proceedings in question based on credible suspicions of violation of certain articles of the Criminal Code of the Republic of Azerbaijan. It should be emphasized that no journalist or media representative is being targeted for carrying out their professional work in Azerbaijan. Every individual, irrespective of their standing, is equal before the law and is expected to adhere to the legislation in force, as this forms the foundation of the rule of law principle. Therefore, it is of utmost importance to exercise due diligence and refrain from any actions, especially calling for immediate release of the persons under criminal investigation, that may be construed as interfering with the judicial process.

As per Gubad Ibadoghlu and his alleged arbitrary detention or ill-treatment, it should be noted that, he was detained on 24 July 2023 on suspicion of committing a criminal act stipulated in Article 204.1 (preparation, acquisition or sale of counterfeit money or securities) of the Criminal Code of the Republic of Azerbaijan. His act was classified to Article 204.3.1 of the Criminal Code (preparation, acquisition or sale of counterfeit money or securities by an organized group) on the same date and Gubad Ibadoghlu was charged with that article. According to the decision of Narimanov District Court, a pre-trial detention measure was chosen for him until 20 November 2023. On 25 August, a new charge was brought against him under Article 167-3.1 of the Criminal Code (preparation, storage or distribution of religious extremist materials). On 22 April 2024 Gubad Ibadoghlu was placed under house arrest. Later on 21 May pre-trial measure of house arrest was substituted with his statement on recognizance [undertaking not to leave for another place].

As regard the alleged ill-treatment of several individuals while in police custody, or restrictions on the right to access to a lawyer of their choice or allegedly having serious health concerns, it should be clarified that none of these persons was subjected to physical or mental influence, ill-treatment or pressure during the detention, as well as during the investigation process. From the moment of their arrest, they met with their defenders and legal representatives in private, maintained confidential communication with them, have been provided with free meals, financial and household services, medical and sanitary services. Their personal safety has been guaranteed, and they

have not been subjected to pressure, torture, inhumane or degrading treatment, or punishment in the course of detention and investigation process.

Article 13 of the Code of Criminal Procedure of the Republic of Azerbaijan guarantees the protection of human dignity during criminal proceedings and prohibits taking any decisions or allowing acts during criminal proceedings that degrade the honor or dignity of any individual or pose a threat to their life or health. Article 13.2 ensures that no person shall be subjected to treatment or punishment that degrades human dignity, held in degrading conditions, or forced to participate in any procedure that degrades their dignity.

Moreover, according to the Article 1 of the Constitutional law on the Human Rights Commissioner (Ombudsperson) of the Republic of Azerbaijan, the Commissioner conducts unannounced visits to places where persons cannot leave at their own will and carries out monitoring within the national preventive mechanism (NPM) mandate. Appeals and the incoming calls to the Ombudsperson's Call Center by the persons in question, their family members and lawyers have been duly addressed. In response to the appeals regarding arrest, investigation, healthcare services, visits, and the detention conditions, the Ombudsperson sent necessary inquiries to the Office of the Prosecutor General, the Penitentiary Service of the Ministry of Justice and other relevant institutions. The mentioned individuals, their family members and lawyers were informed about the measures taken. Ombudsperson has regularly visited each of these individuals at the Baku Pre-Trial Detention Center of the Penitentiary Service. Their cells have been inspected, and issues related to their detention conditions, treatment, and access to healthcare services have been monitored.

When it comes to the indicated correlations between the European Court of Human Rights (the Court) cases involving Article 18 of ECHR, which happened almost a decade ago, it should be noted that the Government of Azerbaijan has consistently taken comprehensive general measures to avoid the repetition of similar violations in future. Thus, fundamental justice reforms have been carried out in the country to strengthen the independence of the judiciary, to increase efficiency and quality of the judicial system and to improve the enforcement of court decisions. A significant milestone was achieved in June 2023 in relation to the implementation of the recommendations of the Group of States against Corruption (GRECO) regarding the composition of the Judicial-Legal Council. The current composition of the Judicial-Legal Council fully complies with the recommendation, provided that the number of non-judge members of the Judicial-Legal Council have been reduced, it does not include a representative appointed by the President, and the Minister of Justice is no longer an ex-officio member of the Council. The Government undertakes consistent measures aimed at ensuring the independence of the judiciary.

Azerbaijan remains committed to the Convention system, including the execution of the judgments of the Court. As of August 2024, there have been 493 decisions and judgments of the Court transmitted to the Committee of Ministers for execution, with 175 cases (35.5%) having been fully executed. The number of executed cases has increased significantly over the past few years. In 2020, only 5 cases were executed. This number rose to 12 cases in 2021, 35 cases in 2022, 32 cases in 2023, and, as of August 2024, 53 cases have been executed. The Government of Azerbaijan regularly

submits relevant action reports and plans on the implementation of the Court's decisions.

Detailed information on the new Media law and its application had been earlier provided by the Media Development Agency of the Republic of Azerbaijan in response to the communication by the former Commissioner for Human Rights, Ms Dunja Mijatović.

When it comes to alleged violation of several fundamental rights mentioned in the letter, it should be recalled that necessary legislative provisions have already been introduced to ensure individuals, including civil society representatives and human rights defenders, can exercise their right to freedom of association and freedom of expression, free from intimidation or persecution, and in line with international human rights standards. Guided by the norms reflected in the Constitution of the Republic of Azerbaijan and the Law on Freedom of Assembly dated 13 November 1998 (the last amendment to the law was made on 29 March 2024), the state guarantees the exercise of freedom of assembly and takes all necessary security measures to maintain order in legally organized assemblies.

Furthermore, as stated in Part I of Article 12 of the Constitution of the Republic of Azerbaijan, ensuring human and civil rights and freedoms is the highest purpose of the State. According to Article 71 of the Constitution, the legislative, executive and judiciary powers shall have the duty to observe and to protect human and civil rights and freedoms set forth in the Constitution. Human and civil rights and freedoms shall have direct effect on the territory of the Republic of Azerbaijan. No one may restrict the exercise of human and civil rights and freedoms. Everyone's rights and freedoms shall be restricted on the grounds provided for in the Constitution and laws, as well as by the rights and freedoms of others. Restriction of rights and liberties shall be proportional to the result expected by the State.

In conclusion, Azerbaijan remains committed to upholding its international obligations, including under the international human rights law, and ensuring the safety and freedom of all persons in our diverse society.