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## Committee on Legal Affairs and Human Rights

**Thursday 27 April 2023 at 10.30-11.30am (Room 9)**

***Joint hearing with the Committee on Honouring of Obligations and Commitments by Member States of the Council of Europe and with the Committee on Culture, Science, Education and Media<sup>1</sup>***

### 1. Threats to life and safety of journalists and human rights defenders in Azerbaijan

*Rapporteur: Ms Hannah Bardell, UK, NR*

[AS/JUR (2023) 11 declassified

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*Rapporteur for opinion (AS/Cult): Mr Stefan Schennach, Austria, SOC*

Hearing with the participation of

Ms Arzu Geybullayeva, Journalist

Ms Jeanne Cavelier, Journalist, Reporters without borders

Mr Ulvi Hansanli « Founder and Executive Director of AbzasMedia »

The **Chairperson** of the Committee on Legal Affairs and Human Rights opened the hearing.

The Chairperson of the Committee on Culture, Science, Education and Media, **Ms Kravchuk**, reminded all members that the Assembly was the first body of the Council of Europe to deal with the issue of media freedom in Azerbaijan. She recalled that the Committee on Culture, including through the work of the General Rapporteur on Media Freedom, plays a key role in highlighting issues of media freedom in Azerbaijan. The country presents a climate of violence and self-censorship which curtails independent views. Threats are carried out through 'legal' and administrative practices. She referred to the 2021 Pegasus files, which show that many independent media and journalists in Azerbaijan have been targeted, making reference to Mr Omtzigt's introductory memorandum on "Pegasus and similar spyware and secret state surveillance". She reminded members that journalists in Azerbaijan face physical threats as well, which may include murder followed by impunity and/or unsatisfactory investigations. Those in jail or who left the country continue to face threats to their safety. She welcomed the experts, remarking that hearing the voices of those that live through these threats every day will allow members to better comprehend the issues at stake. She extended her full support to the journalists of Azerbaijan, recalling her own background as a journalist.

The Chairperson of the Committee on Honouring Obligations and Commitments by Member States of the Council of Europe, **Mr Fassino**, noted that the committee follows closely the situation of threats to the safety of journalists in Azerbaijan. He noted the 2017 report and the 2019 information note particularly on freedom of expression, association and of the press. The Monitoring Committee is currently preparing a new report on Azerbaijan, with the Co-rapporteurs having planned a visit to the country, which was then cancelled for security reasons. The Co-rapporteurs hope to go to Azerbaijan soon and remain concerned about the situation of media freedom, freedom of journalists and human rights defenders.

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<sup>1</sup> Extract of the minutes declassified by the committee on 20 June 2023.

**Ms Cavalier** began by stating that journalism is one of the most dangerous professions in Azerbaijan. She said that President Aliyev is listed by Reporters Without Borders as one of the worst predators of press freedom because, since 2014, he has been destroying any kind of pluralism. The 2022 RSF World Press Freedom Index placed Azerbaijan 154<sup>th</sup> out of 180 countries worldwide. She explained that almost all media space is under the control of the authorities, with political appointments of relevant media regulators and closures of independent media. Independent news sites such as Azadliq or Meydan TV are based abroad. Government media is used to smear the reputations of independent journalists. She noted that media legislation has become increasingly repressive, violating Article 50 of the Azerbaijani Constitution and Article 10 of the European Convention on Human Rights. The government-instated Media Development Agency has arbitrarily refused registration of around 40 publications and of around 20 journalists within only one year of activity. It also holds the personal data of all those who registered or wished to, exposing them to further risks. Ms Cavalier explained that, despite previous statements to the contrary, the Agency made it compulsory for any media to register within 6 months or they would risk legal repercussions. She then went on to illustrate the case of Polad Aslanov who was undertaking investigative journalism into the State Security Service when he was arrested and convicted to 16 years for “high treason”. He is suffering physically and mentally in prison and is not receiving the medical help he needs. Ms Cavalier noted that, in 20 years, no civil servant or police officer has been sanctioned for battering or insulting journalists. Ms Cavalier drew attention to the case of Mahammad Mirzali and how it illustrates that persecution continues even if the journalists leave Azerbaijan, as their families may face attacks or they themselves may face murder attempts. He was openly threatened on national Azeri television, owned by the Aliyev family. Reporters Without Borders has every reason to believe that the assassination attempts against Mr Mirzali were ordered from the highest level of State. Foreign journalists based abroad are also targeted, as was the case of Rasmus Canback when he reported on Nagorno-Karabakh. She finally called for the release of Polad Aslanov, the opening of access of international media to Azerbaijan, for the State of Azerbaijan to carry out a comprehensive review of its media law and for it to promote media self-regulation instead. Due to the persistent failure of Azerbaijan to adhere to fundamental values and standards of the organisation relating to the rule of law and fundamental rights, notwithstanding numerous, repeated alerts of experts on the topic for two decades, including numerous non-executed ECtHR judgments, Ms Cavalier on behalf of Reporters Without Borders asked the Assembly and member States to firmly condemn the continued repression and intimidation of journalists and media workers in Azerbaijan; to suspend the national delegation of Azerbaijan in the Assembly and to deprive them of their right to vote. She suggested that PACE should recommend to the Committee of Ministers the opening of a monitoring procedure, with a view to remedying human rights violations in Azerbaijan; ultimately leading to the suspension of Azerbaijan’s representation or its exclusion from the organisation in case of non-execution.

**Ms Geybullayeva** started by stating that the threats to life and safety take place in an environment where independent journalism is systematically viewed as a threat. Journalists are considered targets and they are silenced in total impunity. She underscored her job as a journalist is not to address the Assembly and advocate, but this is what she has to do to highlight how a member State is purportedly committing to democracy and the rule of law while silencing the media. Ms Geybullayeva drew on her experience, having been herself targeted and humiliated, and her reputation tarnished, even as a journalist living outside the country. She drew attention to the case of blogger Mahammad Mirzali, which was an example of how families are persecuted as well in Azerbaijan. His sister was threatened via what her organisation believes are government-sponsored Telegram channels, with the sharing of intimate pictures; equal to a death sentence, she added, in Azeri society. She highlighted Aytan Mammadova’s case as well, who was followed home and accosted in an elevator with a knife to her throat. The perpetrator is still at large, she noted, because the Azerbaijani police and judicial processes make no progress. The very few cases where progress is made owe it to international pressure. An example was that of Avaz Hafizli, an LGBTI journalist who was brutally murdered by his relative. Were it not for the international attention the case got, she estimated the chances of the perpetrator facing a lower sentence or being acquitted as very high. She then turned to the Azerbaijan 2022-2025 action plan, which reports positive developments in gender equality, judicial capacity building and court management, promoting freedom of the media, improving prison management etc. She asked where the proof of those improvements is. She concluded by drawing attention to the possibility that, next time her name might feature in the list of cases of fatally targeted journalists. She asked the Committee whether what she was saying would make a difference in how the Council would work with Azerbaijan.

**Mr Hasanli** began his intervention by recounting his story: in 2017 he was arrested after having gone to hospital and was “sentenced” to 1 year of military service in Karabakh despite health reasons

preventing him from doing military service. He considers this was due to his being an activist and journalist. During his military service and after his return, AbzasMedia (where he had been editor-in-chief) experienced cyberattacks, several website crashes and had their domain banned. Three other human rights defenders and journalists received similar punishments to Mr Hasanli, he explained. He said that State institutions have been filming journalists' private lives through hidden cameras and tapped devices. They then discredit journalists, and political and social activists by broadcasting their private lives on television and social media. This was the case for Jamil Hasanli, chairman of the main opposition party, the National Council of Democratic Forces, and his family. His daughter's intimate images with her boyfriend, who turned out to have been sent by the government, were spread online as the family found wires around their TV. Azer Ahmadov's career as editor of the Azadlig newspaper, the country's opposition paper, ended as a result of a personal video being broadcasted on prime-time pro-government television. He noted that, although the inviolability of private life is protected under the Constitution of Azerbaijan, no one was punished in court for these cases. Law enforcement refused to open criminal cases related to these incidents. A listening device was found in the office of imprisoned activist Bakhtiyar Hajiyev. In 2021, after the OCCRP revealed that the phones of over 1,000 people in Azerbaijan have had "Pegasus" installed in them, everyone in social and political circles was worried. He himself and the current editor-in-chief of AbzasMedia had "Pegasus" track their activity. The persecution does not stop there. It has happened that during protests, police would detain and beat activists in police stations, in order to get their phones and circulate their personal images on Telegram channels. It is also common for the government to place surveillance cameras and state-backed media in areas where rallies are held, in order to get images of those involved. Protesters are not allowed to wear glasses or any facial covering so that they can be identified. Once identified, the police may call protesters to the police station and threaten them were they to attend rallies again, otherwise their family may face consequences. Nargiz Absalamova, reporter for AbzasMedia, was subjected to physical and psychological violence with a group of activists, at a Baku police station. Courts and law enforcement agencies did not do anything about it. The officers at the police station were well-protected. Activist Bakhtiyar Hajiyev announced that he was being watched before being kidnapped and threatened. He is now in prison, his personal correspondence and images were released and a misinformation campaign against him launched. The February 2022 Media law allows the government to intervene in the editorial policies of media organisations. It sets strict standards for registration as a journalist; and without it, access to press conferences and official events is closed. Mr Hasanli encouraged the Committee to familiarise themselves with the new media law and to show support to journalists in Azerbaijan. He reaffirmed that independent journalists will never stop their unbiased reporting, no matter the cost.

The **Chairperson** of the Committee on Legal Affairs and Human rights opened the floor for a discussion. **Mr Schennach**, rapporteur for opinion for the Committee on Culture, Science, Education and Media noted that he had been rapporteur on Azerbaijan for the Monitoring Committee and confirmed that what Ms Cavalier said is true. He had gone to a women's prison in Azerbaijan, where he had met a journalist who had been imprisoned for 8 years for reporting on the Panama papers. He had also met with President Aliyev, advocating on behalf of a tortured journalist, saying that he was under his "personal protection". The journalist had been imprisoned for 2 years and Mr Schennach had visited him in detention. He had also told the Azerbaijani authorities that if the head of the only remaining independent media, the Turan Agency, was not freed by the time the co-rapporteurs returned to the country, they would not have any other activity outside of this subject. Indeed, he had been freed and they had also managed to speak to the media outlet's journalists. Such stances were important to show that Europe stands firmly with independent media in Azerbaijan. He mentioned that along with the Media law, the "NGO Law" works in a similar way by allowing government agencies to determine who is a human rights NGO and who is not. He also underlined that the illegal taking of private pictures of female journalists is completely unacceptable, noting that he had met female journalist Khadija Ismailova who had suffered such abuse. The violence had stepped up during the pandemic, and whenever there was a war anywhere, things got even worse. He was happy to put his 7 years' experience to assist Ms Bardell with the preparation of her report. He finally remarked that all the work he had been able to do was because the Council of Europe worked *with* Azerbaijani colleagues and because of discussions held with the President. Of course, the media situation in Azerbaijan was particularly dreadful, but the monitoring process should not be broken off as this was how some results had been achieved, including the freeing of Ilgar Mammadov.

**Mr Efstathiou** stated that he had gone to Azerbaijan and had spoken to many human rights defenders. He considered that the problem of Azerbaijan was the environment of impunity. Article 46(4) of the

European Convention on Human Rights could be useful. Impunity must end and it was time not to express verbal solidarity but to take concrete measures against the government of Azerbaijan as people were suffering.

**Mr Gadirli** noted that there can be positive outcomes from dialogue, citing the cases of Khadija Ismailova or Ilgar Mammadov. As a member of the opposition in the Azerbaijani delegation, he did not agree that Azerbaijan's voting rights should be suspended because the opposition would get punished as well. He noted that PACE constitutes an opportunity for Azerbaijani opposition to be heard in the Council of Europe. He conceded that the media situation worsened, noting he voted against the media law in parliament, and that the law does not correspond to Azerbaijan's international human rights obligations or the constitution. The Venice Commission also provided a negative opinion on that law. He had similarly voted against the new law on political parties, which was also the subject of a Venice Commission Opinion. It was important to work together.

**Mr Jensen**, General Rapporteur on Media Freedom and Safety of Journalists, found it difficult to hear about the situation. He noted that Azerbaijan is one of the worst countries in Europe when it comes to media freedom and attacks on journalists. In 2021 there had been 250 attacks. His report on "Guaranteeing media freedom and the safety of journalists: an obligation of member States" (in preparation) will feature Azerbaijani cases and will underline the need to put the strongest possible pressure on the government, through the work of the Assembly in addition to the work of the Committee of Ministers, who covered this in its 2022-2025 Action Plan on Azerbaijan.

**Mr Lacroix** noted that he is appalled by what he read and angered by what he heard from experts. He noted that keeping a member in the Council of Europe does enable visits and dialogue, but dialogue needed to be between good faith partners. If a member that does not actually do anything to improve the situation, one can no longer talk about dialogue. He noted the appalling situation of the LGBTI community in the South Caucasus and that the dialogue with Azerbaijan on that report had been awful. He noted the lack of adequate 'hate crime' elements in prosecutions in Azerbaijan for crimes that were due to hatred against LGBTI people, such as for Afaz Hafizli's murder. He asked, what the Assembly would do about this situation? How many cases have led to more rights and major victories in Azerbaijan thanks to the Council of Europe's action? He wondered about the Organisation's credibility given that the Sub-Committee on Human Rights is chaired by Mr Jafarov and suggested that the organisation should ask itself such questions.

**Mr Liddell-Grainger** noted that, as Co-rapporteur on Azerbaijan he will be visiting in June and anticipated the presentation of the report by the end of the year.

**Ms Cavalier** recalled that Azerbaijan has been condemned by the ECtHR 263 times for violating the Convention, since its 2002 ratification, this included 18 violations for freedom of expression, as well as failures to implement Court judgments.

**Ms Geybullayeva** expressed the frustration with the lack of substantive progress achieved by diplomatic dialogue on improving human rights and asked how it is just to insist on maintaining a dialogue faced with the need for continuous monitoring in order to ensure some progress. She also asked how it is possible that a member State that has a prison described as "hell on earth" can still be a part of the organisation.

**Mr Fassino** noted that an Italian journalist was killed by Russian troops on 26 April, which illustrated the danger of the conditions in which journalists work. We must support journalists who allow us to know what is happening in countries with wars or with dictatorships, such as Azerbaijan. Freedom of expression and opinion is one of the pillars of democracy and a country where these are not respected is simply not a democratic country. The Council of Europe must be very vigilant so as not to see a new type of political regime of "illiberal democracies" such as that of Putin – a sort of "controlled" democracy that tries to come across as democratic but is actually "illiberal" due to autocratic rule. The explanations of the hearing suggest that this is the case in Azerbaijan today. The Council of Europe needs to continue alongside media and NGOs to affirm democracy and human rights. For countries such as Azerbaijan one had a choice - either we isolate and expel them or continue discussing the issues. Yet dialogue was perhaps too positive a term – perhaps 'interlocution' was more fitting; yet we need to continue to engage with the interlocutor. Expelling leaves us with no means to exert influence. We must however continue to stand by journalists in the battle for progress.

**Ms Kravchuk** concluded that freedom of expression and the media cannot be taken for granted