

Bakı şəh., A.Bakixanov küç., 31, 4/4 AZ 1007 31
Tel.:(+9912) 44047 92; 050 220 89 20

A. Bakikhanov str.,4/4 Baku Azerbaijan AZ 1007
E-mail: mediarightsaz@hotmail.com

Delegation of the Republic of Azerbaijan to OSCE

All OSCE participating states

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STATEMENT

Severe concern about freedom of expression and media freedom in Azerbaijan

The Media Rights Institute express its deep concern about the continuous clampdown on freedom of expression and media freedom in Azerbaijan and the Government's backlash from its initial commitments to make reforms in that regard. Suppression of dissenting voices by the authorities continues to rely on applying a repressive legal framework, prosecution on fabricated criminal charges, followed by arbitrary arrests, threats and abductions.

CRIMINAL DEFAMATION

Defamation remains a criminal offense in Azerbaijan despite the Government's own commitments to decriminalize it and adopt a new law on defamation. Such a commitment is clearly established in the National Program for Action to raise effectiveness of the Protection of Human Rights and Freedoms in the Republic of Azerbaijan approved by the President of Azerbaijan in December 2011¹.

Recent developments in the country clearly show the Government's resistance to further reforms in that regard. Just recently, the provisions that stipulate the repeal of Criminal Code provisions providing for heavy penalties for defamation (and insult) and determine maximum amount of compensation for damage caused by defamation, have been removed from the draft defamation bill. Such a move was backed by public statements of highest officials that defamation will not be decriminalized in Azerbaijan and such promises have never been made.

¹ Article 1.2.7 of the National Program reads as follows:

1.2.7. Elaboration of proposals on improving the legislation in order to decriminalize defamation.

Moreover, in May 2013, **amendments to the Criminal Code of Azerbaijan** have been made, which allow penalties for slander and insult posted **on the Internet**². In July 30, 2013, the first conviction on charges of criminal defamation online has been handed down against a Facebook user for his critical comments about bank activities in Azerbaijan.

The Media Rights Institute is concerned that such provisions will be used to silence all the online critical voices towards the government. **It also runs contrary to general standards of the Organization for Security and Cooperation in Europe (OSCE), which on numerous cases called upon Azerbaijan to decriminalize defamation**³. It is incompatible with Azerbaijan's legal international commitments.

OTHER CRIMINAL CONVICTIONS

The Media Rights Institute is deeply concerned about the **ongoing wave of charges against journalists and bloggers not directly linked to their professional activities**. Charges of hooliganism, bribery, tax evasion, weapon possession, drug possession and public disorder are being brought against them. It can be seen as yet another, more sophisticated way to suppress freedom of expression in Azerbaijan. With the elections coming up in the three consecutive years, such repression is expected to grow and requires particular attention.

Currently, at the time of our discussions here, **11 journalists and bloggers are behind the bars** in Azerbaijan. 7 of them have been persecuted for their journalistic activities online.

Khural Newspaper Chief Editor Avaz Zeynalli

AvazZeynalli was arrested on October 28, 2011 following a lawsuit brought by MP Gular Ahmadova on October 19, 2011. The Anti-Corruption Office launched a criminal case against Zeynalli under article 311.3.3 (taking a large bribe) and article 311.3.4 (extortion). Later he was charged under article 306 (contempt of court) and article 213.1 (tax evasion). A large number of local and international human rights organizations believe that the charges against AvazZeynalli are trumped-up and that he was arrested for his articles criticizing high-ranking state officials.

Tolishy-Sado Newspaper Chief Editor Hilal Mammadov

HilalMammadov was arrested on June 21, 2012 on charges of drug possession. A criminal case was filed against him under Article 234.4.3 of the Criminal Code (illegal possession of drugs). On July 3rd, Mammadov faced new charges under Articles 274 (high treason) and 283 (incitement of national, racial, social and religious hatred, hostility, and ethnic discrimination).

Chief Editor of www.azadxeber.com News Website Nijat Aliyev

Nijat Aliyev was arrested on May 20, 2012, and charged under Article 234.1 of the Criminal Code (illegal possession of drugs in a quantity greater than that which would be required for personal use). Human rights organizations believe that Aliyev was arrested for his criticism of government policies on issues including religion, LGBT rights, and high expenditures for the Eurovision Song Contest. On January 26th, news charges were brought against Aliyev under

²<http://www.mediarights.az/index.php?lngs=eng&id=77>

³<http://www.osce.org/fom/101227>

three Articles of the Criminal Code: 167.2.2.1 (import, sale and distribution of religious literature, religious items and other informational materials of religious nature with the aim of reproduction, sale and distribution without appropriate authorization), 281.2 (making appeals to violent capture of authority, violent deduction of authority or violent change of constitutional grounds or infringement of territorial integrity of the Azerbaijan Republic, as well as distribution of materials of such contents) and 283.2.3 (Incitement of national, racial or religious hostility, humiliation of national honor, as well as discrimination of citizens based on their national, racial or religious background committed publicly or with use of mass media).

Director of Xeber44.com News Website, Araz Guliyev

Araz Guliyev was arrested on September 8, 2012, on charges of attempting to prevent an international folklore festival in Masalli region, and causing bodily harm to ordinary people and police officers. On December 11th the previous hooliganism charge against Guliyev was replaced by five new charges, under Article 228.1 (illegal possession of fire arms), Article 233 (violation of public order), Article 283.1 (incitement of national, racial, ethnic or religious animosity and hostility), Article 315.2 (resistance and violence against a representative of the authority) and Article 324 (insulting the national flag or emblem of the Azerbaijan Republic) of the Criminal Code.

Freelance Journalist Faramaz Novruzoglu

Faramaz Novruzoglu was arrested on April 2012, after criticizing the authorities on social media and calling on people to protest. Faramaz Novruzoglu was sentenced to 4.5 years in jail under Article 220.2 (Appeals to mass disorders and violence against citizens) and 318.1 (Crossing protected frontiers of the Azerbaijan Republic without established documents or outside of check point of frontier).

Freelance Journalist Fuad Huseynov

Fuad Huseynov was arrested in October of 2010, after fighting and reporting illegal actions of employees of law-enforcement agencies and government in Ujar region. On September 26, 2011 Huseynov was sentenced to six and a half years in prison under Article 221.3 of the Criminal Code (hooliganism).

Yeni Musavat Newspaper Columnist Tofiq Yagublu

Tofiq Yagublu was arrested on February 4th 2013, for allegedly attempting to undermine sociopolitical stability in Ismayilli region by calling on local people to resist the police and block the roads, during his visit to the region on January 24. He was eventually sentenced to two months of pretrial detention by Nasimi District Court on charges of “organizing public disorder” (Article 233 of the Criminal Code) and “resisting the representative of authorities or using violence against them” (Article 315 of the Criminal Code). Yagublu’s appeal against the decision was denied by the Baku Appeals Court on February 8. On April 27th one of the previous two charges filed against Yagublu, “organizing public disorder” (Article 233/Criminal Code), was replaced by the charge of “organizing or participating in mass disorders accompanied by violence, looting, arson, destruction of property, application of fire-arms or explosives, or armed resistance against representative of authority” (Article 220.1/Criminal Code). Yagublu is currently held at Baku Investigative Prison.

Ilkin Rustamzade, blogger and online activist

Ilkin Rustamzade, member of the “Free Youth” organization and online activist, was arrested on charges of hooliganism as well as disturbing public order on May 17, 2013. His arrest is connected with the “Harlem Shake” video posted on YouTube where he is accused of being involved in its organization, despite the fact that he is not present there. In September 2013, new charges have been brought against Ilkin Rustamzadeh under Article 220.1 (organization of mass disorders) of the Criminal Code and faces up to 12 years in prison.

Editor in Chief of newspaper Note Bone Serdar Alibeyli

In August 2013, Editor in Chief of newspaper Note Bone Serdar Alibeyli was detained following charges under Article 221.3 of the Criminal Code (hooliganism using a weapon or items used as a weapon). On 2 August 2013, the journalist was sentenced to two-month pretrial detention on August 2. His arrest is considered illegal and politically motivated, followed by serious procedural violations made on a political ground.

Bizim Yol (Our Way) newspaper journalist **Parviz Hashimli**, who is also the director and editor of moderator.az news website and the Chairman of the Center for Protection of Political and Civil Rights, was detained on September 17 by employees of the Ministry of National Security. On September 18, 2013, the journalist was handed down a two-month pretrial detention sentence by the Sabail District Court under two articles of the Azerbaijani Criminal Code: Article 206.3.2 (smuggling of firearms on preliminary arrangement by an organized group) and 228.2.1 (illegal obtaining, storing, carrying firearms and their spare parts on preliminary arrangement by an organized group). His lawyer was denied access to the journalist and fears of possible ill-treatment of his client.

Blogger Rashad Ramazanli

On May 9, 2013, blogger Rashad Ramazanov, known for his critical views towards the Azerbaijani government, has been detained and charged with suspicious drug possession charges. The fact that Rashad Ramazanov was detained shortly after his sharply critical views against the government were shared in social networks casts doubts over legality of drugs-related charges against him and provides grounds to believe that his detention serves as retaliation for his criticism. His lawyers also report that the blogger was tortured while in custody, was insulted by law enforcement official during custodian interrogation and tried to commit suicide due to his psychological condition.

CIVIL DEFAMATION

Civil defamation cases with draconian disproportional financial claims that are often launched against newspapers and journalists critical towards the incumbent government is yet another method to suppress media in Azerbaijan. With the lack of independence of judicial system in Azerbaijan, the Media Rights Institute considers it to be applied selectively towards critical media to suppress already shrinking media pluralism in Azerbaijan. The amounts ruled by courts are disproportional and result in heavy financial burden to newspapers that may lead to their closure, like in the case of largest opposition newspaper Azadliq. To illustrate, just in the first half of 2013, Azadliq newspaper was fined with 62.000 EUR under civil defamation claims.

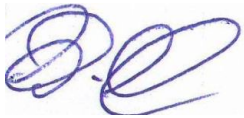
NON-EFFECTIVE INVESTIGATION

With judiciary being heavily dependent on executive power in Azerbaijan, investigations into attacks and harassment of journalists, including murder, have been marked by no effective results. To date, investigation into the murder of journalist Elmar Huseynov killed in 2005. Almost 2 years passed since the stabbing of Azerbaijani journalist Rafiq Tagi but no tangible developments seen so far. No effective investigation is being conducted into the numerous cases of harassment, defamation and invasion of privacy of a prominent investigative journalist Khadija Ismayilova, to mention among other cases of harassment against journalists.

We call upon the Government of Azerbaijan:

- **To take immediate steps to repeal the criminal defamation provisions of the Criminal Code, including the recent amendments aimed at criminal defamation online;**
- **To ensure the immediate release of all imprisoned journalists on politically motivated charges;**
- **To end abusive application of civil defamation laws and cease the practice of application of draconian fines to critical media;**
- **To ensure independent, prompt and effective investigations into attacks, threats and other violations of journalists' rights.**

Sincerely,



**Rashid Hajili
Chairman
Media Rights Institute**