

# 2<sup>nd</sup> cycle Universal Periodic Review of the Republic of Azerbaijan

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- **Democracy and NGO's Development Resource Centre (Autonomous Republic of Nakhchivan)**
- **Human Rights Club**
- **Institute for Reporters' Freedom and Safety**
- **Legal Education Society**
- **Media Rights Institute**
- **Public Association for Assistance to Free Economy**
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*(Submission of 5'549 words without the chapter titles.)*

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## Introduction

1. The deteriorating human rights situation in Azerbaijan, particularly the arrests of journalists and human rights defenders on spurious charges, pressure and violence against them committed with full impunity, new restrictive laws to limit freedom of expression and continuing crackdown on peaceful protests in the last years clearly demonstrate Azerbaijan's unwillingness to take all necessary actions to fully implement its human rights commitments.
2. Being a human rights defender in Azerbaijan is risking retaliation for promoting human rights. Authorities undertake to threaten human rights defenders and arrest them for some hours, or use administrative detentions, as well as their relatives, who lose their jobs or are harassed.
3. The campaign "Sing for Democracy"<sup>1</sup> organised in connection with the Eurovision 2012 in Baku shed light on human rights violations in Azerbaijan, which we underline in this joint report.
4. The situation in the Autonomous Republic of Nakhchivan is even more worrying on many of the same issues.
5. Azerbaijan's Government unwillingness to commit to its international obligations is illustrated by the lack of implementation of its Universal Periodic Review (UPR) recommendations made in 2008. The mid-term implementation report prepared by the Government does not report on the implementation of the few critical recommendations in regard to civil and political rights, the situation of human rights defenders and journalists or the right to freedom of assembly and association. The same is true for concluding observations made at the Committee against Torture and the Human Rights Committee. Azerbaijan's authorities are also deaf to their obligation to execute judgements of the European Court of Human Rights and implement recommendations made by Council of Europe bodies.
6. In the preparation of the Government's mid-term UPR report and in follow-up to the 2008 UPR, none of the NGOs submitting this report have been consulted or invited to a discussion with relevant Government representative or members of the public administration. To date, no consultations or discussions were held with independent human rights NGOs on the upcoming UPR.

## I. Freedom of assembly

7. Generally, Azerbaijan is a country in which exercising the right to peacefully assemble is extremely difficult. The few peaceful protests that receive an authorisation have to take place outside of city centres, in regions where nobody can notice them.
8. In March and April 2011, hundreds of Azerbaijanis took to the streets to take part in pro-democracy protests inspired by the uprisings in the Middle East and North Africa. The authorities responded by using excessive force to disperse the protests and arresting hundreds of protesters – as well as pre-emptively detaining some political activists.
9. The Government uses unlawful methods and preventive measures to inhibit the gatherings of registered assemblies.
10. The restrictions go as far that even for the 20<sup>th</sup> anniversary of the Independence Day of the Republic of Azerbaijan, on 18 October 2011, the Executive Power of Baku City did not allow the opposition coalition's Public Chamber to hold a holiday march. The reason invoked for not issuing an authorisation was heavy traffic.

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<sup>1</sup> See: <http://www.singfordemocracy.org>.

11. Peaceful protestors are regularly arrested when they assemble in Baku. 4 of the protestors arrested in connection with the 2 April 2011 are to date still imprisoned.

12. The use of force against peaceful demonstrators is almost systematic. Authorities do not tolerate any assembly and use force to disperse assembly and detain participants for several hours before releasing them. This is also the case for assemblies that are not organised by opposition movements or human rights NGOs, as for example demonstrations organised in January 2012 by Baku taxi drivers or religious groups.

13. The use of administrative detention of up to 10 days against peaceful protestors is an additional worrying trend.

14. On 1 March 2012 protests were held in Quba demanding the resignation of the Executive Chief Rauf Habibov. Some buildings of the Executive Power and the private residence of Rauf Habibov were burned. Some days ahead of the protests a video-tape featuring a speech by Rauf Habibov in which he insulted Quba citizens at a conference dedicated to the discussions of social issues on 22 November 2011. Criminal cases were launched against 25 Quba citizens for these actions, and 12 of them were arrested.<sup>2</sup>

15. The right to assemble in meetings is also hindered in Azerbaijan, especially in the regions, where you need a permission form the local authorities. It is difficult for independent NGOs to rent meeting rooms. It has also been proven difficult again and again to organise gatherings in internationally known hotels, due to State officials discouraging hotel managers from renting their rooms to certain NGOs.

### **Recommendations:**

- Allow peaceful assemblies on the basis of a notification system and limit the authorisation procedure to specific places in city centres.
- Adopt a clear code of conduct for police forces preventing the use of violence against peaceful protestors and should not use force to disperse peaceful protestors.

## **II. Freedom of association**

16. NGOs and their representatives are allowed to operate freely, without harassment, unless they demonstrate serious criticism of the Government and its policies or implement projects that do not receive Governmental support. The Government imposes partial registration procedures, often resulting in the refusal of the registration of NGOs, establishes a wide discretionary right to control NGO activities or applies financial constraints.

17. In June 2009, amendments to the law on NGOs increased control in the NGO sector through imposed restrictions on activities, depriving them of financial resources, broadening controlling mechanisms, which considerably restricts the activities of international NGOs in Azerbaijan. The amendments were followed by the adoption of several presidential decrees related to the implementation of the respective changes<sup>3</sup>.

18. In its opinion of 19 October 2011 on the Azerbaijani NGO Law, the European Commission for Democracy through Law, better known as the Venice Commission, came to a conclusion that the 2009 amendments and further rules that followed later “overturn the previous efforts to meet with the requirements of international standards”<sup>4</sup>.

19. Obstacles also apply for NGOs that seek funding to pursue their activities. Regulations with legal restrictions on funding result in exercise of the discretionary right of the authorities

<sup>2</sup> See: [http://obyektiv.tv/index.php?view=video&id=2984&option=com\\_jomtube&Itemid=17&lang=az](http://obyektiv.tv/index.php?view=video&id=2984&option=com_jomtube&Itemid=17&lang=az).

<sup>3</sup> See: [http://www.cdsn.gov.az/en/index.php?option=com\\_content&task=view&id=167&Itemid=125](http://www.cdsn.gov.az/en/index.php?option=com_content&task=view&id=167&Itemid=125) and [http://www.cdsn.gov.az/en/index.php?option=com\\_content&task=view&id=166&Itemid=124](http://www.cdsn.gov.az/en/index.php?option=com_content&task=view&id=166&Itemid=124).

<sup>4</sup> Opinion of the Venice Commission on Azerbaijani NGO Law of 19 October 2011, paragraph 117.

to interfere in such affairs and place unclear burdensome financial reporting requirements for NGOs, which may result in their dissolution.

20. Overall, activities of independent NGOs, civil society gatherings, including public debates, are viewed with suspicion or are discouraged, especially in the regions. Surveillance by security bodies of activities organised by NGOs outside of Baku is usual.

21. The government also uses NGO regulations in order to pressure independent NGOs. In February 2012, the Ministry of Justice issued warnings to the Institute for Reporters' Freedom and Safety and to the Nakhchivan-based Democracy and NGO's Development Resource Centre, citing the dissemination of "biased" information via [www.nakhchivan.org.az](http://www.nakhchivan.org.az) in February 2012.<sup>5</sup> After two warnings an organization can be closed down.

### **New requirements for foreign NGOs**

22. The latest provisions of Azerbaijani NGO Law of 2009 state that foreign NGOs or those permanently funded by foreign governments shall be registered on the basis of an agreements concluded between the NGO and the State. Such a vague regulation and its discriminate application to foreign NGOs results in legal uncertainty of the foreign NGOs in Azerbaijan, which might lead to refusal of registration.

23. The Government adopted a decree on 16 March 2011, which provides rules on State registration of foreign NGOs and negotiations with them on required agreements<sup>6</sup>. However, the decree does not specify the procedure as to how to conclude a required agreement with the authorities. It is also not clear what is meant by the provision that organisations must respect the national moral values and the organisations must not be involved in political or religious propaganda in order to finalize an agreement with the authorities. It therefore provides the Ministry of Justice with a broad discretion to interpret it and to define the requirements for agreements in a way restricting the right to freedom of association.

24. In 2007, the Azerbaijan Human Rights House was registered as an international branch of the Human Rights House Foundation, and officially opened in 2009. In accordance with the order of the Azerbaijani Ministry of Justice of 10 March 2011 the activities of the Human Rights House have been ceased. Partner organisations continue all activities, until an agreement with authorities on the reopening of the Azerbaijan Human Rights House is reached. The action taken against the Human Rights House is a symbol of the methods used by authorities in Azerbaijan against international NGOs and independent NGOs.

25. This case is an illustration of the increased administrative burden on international NGOs and the discriminatory regulations with regard to certain NGOs. The legislation provides State authorities, with excessive discretion, the right to monitor and pursue supervision over compliance of NGO activities or even ban certain actions or suspend operation, without any precise criteria on when such powers should be exercised, and gives space for them to arbitrarily apply the laws in order to suppress organisations whose work is related to sensitive areas like injustice, election observations, human rights violations or impunity of State officials.

### **Registration procedure of NGOs**

26. Organisations critical to the Government are more often subject to abusive application of the regulation resulting in delays of their registration. The procedure of NGO registration is becoming more and more complex and there are some lengthy delays in the registration. One has to apply to the Ministry of Justice for registration within 30 days of the establishment of

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<sup>5</sup> See the Human Rights House Foundation's statement at the UN Human Rights Council on 14 March 2012: <http://humanrightshouse.org/Articles/17762.html>.

an NGO. The Ministry of Justice then inquires at the ministries of Interior and of National Security regarding the credibility of the founders of the NGO.

27. If an officially registered NGO does not have branches in one third of the administrative districts of Azerbaijan, in practice it is used as a ground not to allow them to hold such activities as seminars, meetings and monitoring procedures in the regions of the country. NGOs find it particularly difficult to operate in regions outside of Baku, and many regional NGOs have been unable to register.

28. In its opinion on the Azerbaijani NGO Law, the Venice Commission stated that the NGO registration procedure in Azerbaijan is “lengthy and complicated, whose outcomes are difficult to predict” and expressed concern that “applications of many NGOs, especially human rights NGOs, are for some reasons or even without any reasons treated as ‘exceptional’”, and encouraged Azerbaijani authorities “to strive to reduce the number of such cases”<sup>7</sup>.

29. Domestic courts have not been supportive of NGOs and their founders in the lawsuits against the registration body. However, in all cases that were brought to the European Court of Human Rights<sup>8</sup>, the Court found Azerbaijan to be in violation of article 11 (freedom of association) of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention of Human Rights).

30. Following the Court’s decisions, amendments to Azerbaijani State Register Law prolonged the deadline for the registration of NGOs up to 40 days. In exceptional cases, with further investigation, the period can be prolonged for additional 30 days. The law established the automatic acquisition of a legal status for NGOs if the Ministry of Justice does not respond within the defined deadlines. In addition, it included a requirement for the Ministry to define all the shortcomings at the same time and present it to the applicant.

31. In practice national authorities continue to abuse State registration procedures. The refusal of NGO registrations is a common practice on various grounds and the deadlines set by the legislation are not respected in most cases.

#### **Recommendations:**

- The legislation on State registration of NGOs and funding for NGOs should be amended, in line with the Venice Commission recommendations, in order to ensure free and open space for human rights NGOs, including by simplifying the registration procedures;
- End the practice that requires NGOs to get permission of the President’s Administration through local authorities to conduct NGO seminars, workshops and other NGO activities in the regions. The police and the local authority should not interfere in the activities of the NGOs;
- Immediately and unconditionally allow the Azerbaijan Human Rights House to reopen and effectively pursue its activities, and provide with all necessary documentation proving that the order to cease all activities has been lifted.

### **III. Threats and actions against independent journalists**

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<sup>6</sup> Decree of the Cabinet of the Ministers of the Republic of Azerbaijan of 16 March 2011, number 43.

<sup>7</sup> *Ibidem*, paragraph 62.

<sup>8</sup> Ismayilov v. Azerbaijan (ECHR 17 January 2008), Nasibova v. Azerbaijan (ECHR, 18 October 2007), Aliyev and Others v. Azerbaijan (ECHR, 18 December 2008), Tebieti Mühafize Cemiyeti and Israfilov v. Azerbaijan (ECHR, 8 October 2009).

32. The Government has developed sophisticated judicial machinery that stifles critical and independent reporting. The Government has been using defamation lawsuits to intimidate and silence criticism and the opposition, which had a chilling effect on the free flow of information in the country. Legislation poses a serious threat to the access and dissemination of information.

33. The adoption of the Defamation Law that decriminalizes acts of libel and insult has been deferred. Since 2009 there have been more than 150 defamation allegations against the media. There were more than 20 criminal sentences addressed to journalists for their articles.

34. Furthermore, authorities have used indemnities to fulfil the role of censorship. Many critical newspapers face high fines.

35. In 2009, the Government banned Radio BBC, Radio Liberty and Voice of America of local FM frequencies. It is impossible to obtain a license for broadcasting in Azerbaijan, despite the fact that there are a sufficient number of available frequencies. At the same time, the State broadcast media has expanded with now 3 State-run TV channels functioning.

36. Distribution channels are usually discriminatory towards print media based on its content. There were about 700 houses that were selling print media in 2011, more than 200 of those were demolished with the excuse of reconstruction in 2012. The Government also systematically publishes Government announcement only in newspapers friendly to the Government, thereby not providing publicity revenue to independent or opposition newspapers.

37. A freedom of information law was adopted in 2005, but the Government has taken little action to implement its provisions and increase transparency at public institutions.

#### **Recommendations:**

- The article stipulating criminal responsibility for defamation should be removed of the Criminal Code of the Republic of Azerbaijan.
- Allow foreign and national radio to broadcast on national TV and radio frequencies and set-up an independent broadcasting regulatory body to ensure fair and transparent distribution of TV and radio frequencies through simplified application for licenses.
- Withdraw restrictive amendments to the legislation that intends to limit the activities of mass media and media representatives, including the law on access to information.
- Establish the Institution of Independent Press Ombudsman in line with international standards and empower it with the authority of Press Ombudsman that currently belongs to the Commissioner for Human Rights.
- Establish an independent authority in charge of distributing Government-funded advertising to media outlets in a fair manner.

#### **Safety and privacy of journalists**

38. Authorities often resort to violence, beatings, abductions, torture and the illegal detention of journalists. Such practices have led to an increasing sense of insecurity and a high incidence of self-censorship within the media community.

39. Elmar Huseynov, editor-in-chief of the weekly magazine *Monitor*, was shot dead in front of his apartment on 2 March 2005. Although more than seven years passed since Huseynov's murder, no one has been punished for this crime.

40. Another symbol of impunity is Rafiq Tagi, an Azerbaijani journalist, writer and longstanding critic of political Islam, who died after suffering multiple stab wounds in the attack in Baku on 19 November 2011. No one has yet been punished for this crime.

41. From 2009 until now, four well-known independent journalists faced interference to their personal lives. Two correspondents of the newspaper *Azadliq*, Natiq Adilov and Tural Aliyev, were taped nude in their hotel room. Correspondent of *Azadliq* Azer Ahmadov was

taped with during an intimate moment. Award-winning investigating journalist, Khadija Ismayilova, was subject to moral attacks when in March 2012 she received a threatening letter containing intimate pictures of her, a direct attempt to stop her latest investigations.<sup>9</sup> An intimate video clip with scenes from the intimate relations with her partner was posted on Internet as well as broadcasting on State owned LIDER TV channel. Idrak Abbasov, a correspondent of the Institute for Reporters' Freedom and Safety and Ayna and Zerkalo newspapers, was severely beaten to the point of hospitalisation on 18 April 2012 by guards of SOCAR, the State Oil Company, whilst filming the demolition of houses by the company.<sup>10</sup>

42. During 2010-2012, 9 journalists who were known for their critical research articles were arrested on fabricated and politicized charges ranging from hooliganism and drug possession to incitement to mass disorder, that stemmed from their work.<sup>11</sup>

### **Recommendations:**

- End impunity for those harassing, attacking or killing journalists, including the killings of Elmar Huseynov and Rafiq Tagi and ensure that all cases are investigated, and all guilty parties are punished in accordance with the law. Ensure that the investigations are made in a transparent manner.
- Ensure that journalists and media workers do not face retaliation for their publications and investigations.
- Review all cases in which journalists are charged for hooliganism or drug possession and immediately release and compensate all of those who were arrested on trumped-up charges. Ensure that the investigations are made in a transparent manner and provide that all trials are open and fair.

## **IV. Political prisoners**

43. Azerbaijan is one of the few European countries still having several political prisoners. The Parliamentary Assembly of the Council of Europe mandated a rapporteur to report on this situation, but the rapporteur has not been granted a visa to undertake visits to the country per his mandate. Since the country became a member in 2001, the Council of Europe has kept a specific focus on political prisoners. The Government has persistently failed to cooperate with Council of Europe bodies, unwilling to open any door of cooperation to find a solution to the problem.

44. To date, 16 activists arrested related peaceful protests in 2011 were recognized as prisoners of conscience by Amnesty International. They were released in June 2012. However, new charges have been brought against other activists and journalists since then.

45. It became a practice in Azerbaijan to imprison people for exercising their right to freedom of expression. Journalists and human rights defenders are subject to imprisonment due to their engagement, as we highlight in the previous paragraphs.

<sup>9</sup> See: <http://humanrightshouse.org/Articles/17785.html>.

<sup>10</sup> See: <http://humanrightshouse.org/Articles/17948.html>.

<sup>11</sup> At its latest review of Azerbaijan, the United Nations Human Rights Committee expressed its concern at reports of a pattern of harassment and criminal libel suits or hooliganism charges against journalists and urged Azerbaijan "to effectively protect media workers against attempts on their integrity and life, and to pay special attention and react vigorously if such acts occur." It also recommended Azerbaijan to "not unreasonably restrain independent newspapers, as well as local broadcasting of radio stations [and to] treat users of non-conventional media in strict compliance with article 19 of the Covenant." (Concluding observations on Azerbaijan, 13 August 2009, paragraph 15, UN Doc.: CCPR/C/AZE/CO/3).



**Recommendations:**

- Immediately and unconditionally release all journalists, human rights defenders, and activists currently imprisoned and fully compensate and rehabilitate them.
- Fully cooperate with all relevant European and international mechanisms willing to analyse the situation of political prisoners in the country, including by extending an invitation to the United Nations Working Group on Arbitrary Detentions and the Parliamentary Assembly of the Council of Europe mechanism to follow-up the resolution on political prisoners in Azerbaijan (if adopted in January 2013).

**V. Internet Freedoms**

46. Internet is partially free in Azerbaijan. The Government does not typically restrict internet access, but it has repeatedly blocked some websites featuring opposition views and intimidated the online community through its harsh treatment of so-called “cyber dissidents”. Those using Internet to disseminate pro-democracy views that do not coalesce with the official Government line have been punished, interrogated, were sentenced to jail and fined.

47. For the last three years at least 5 journalists were subject to such prosecutions related to their online activities:

- In 2012, popular journalist Faramaz Novruzogly (Allahverdiyev), was sentenced to 4.5 years for posting his views online, he was accused of calling out against the Government;
- In 2011, human rights activist Taleh Khasmammadov was imprisoned for his critical speech in a social network. Mehman Huseynov, the photo correspondent of the Institute for Reporters’ Freedom and Safety, was also subjected to criminal prosecution. Executive Director, Vugar Gonagov, and Editor-in-Chief, Zaur Guliyev, of Quba regional TV were imprisoned for uploading the speech of a Governmental official on YouTube in 2011. A criminal proceeding is held against the blogger and Facebook-activist Elnur Majidli, who has so far managed to escape imprisonment due to his residence in France.

48. Emin Milli and Adnan Hajizade, two video bloggers from the Republic of Azerbaijan were arrested on 8 July 2009 on “hooliganism” charges. On 19 August 2010, the Azerbaijani Supreme Court convicted Milli and Hajizade of hooliganism and sentenced them to two and a half years and two years of imprisonment respectively. They were released in 2011.<sup>12</sup>

49. Furthermore, no investigation is undertaken after the websites of critical media institutions such as *Azadliq*, *Yeni Musavat* and Radio Liberty were blocked or faced cyber-attacks.

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<sup>12</sup> For more information on these cases: <http://humanrightshouse.org/Articles/15605.html>.

**Recommendations:**

- Stop the persecution of individuals for their online legal activities and immediately release and compensate those arrested for their online activities. Provide fair trial for those who were subjected to criminal prosecution in relation to their critical views expressed on Internet.
- Implement policies aiming at allowing access to Internet to all in every part of Azerbaijan, especially outside of cities.

**VII. Access to justice and legal aid**

50. Article 60 of Constitution of the Republic of Azerbaijan States that “Legal protection of rights and liberties of every citizen is ensured”. But there are still problems regarding access to court in the legislation of Azerbaijan and its implementation. The main problems are followings:

- Returning claim petitions and/or refusing to accept them;
- Unfeasibility of hearing the case in a Cassation Court without the participation of a lawyer;
- Refusing, in most cases, to accept individual complaints for proceeding in the Constitutional Court
- Preventing detainees in prison to meet with lawyers or appealing to court, etc.

51. Sometimes individuals, NGOs and the mass media whose rights are violated have to wait years so that illegal decisions on refusing to accept complaints to proceedings will be dismissed and the court starts to examine the case on its merits. Specifically, complaints on violation of rights to assembly, to access information, not to be subjected to torture or to inhuman or degrading treatment, the right to education are mostly being refused insubstantially.

52. As there is no requirement for compulsory participation of parties in by law, judges formalize the decisions with previous dates. Contrary to requirement of law, in these cases courts do not indicate which body the applicant should apply to, if the case is not within the court competence. Consequently, right to access to court is violated, and as the body responsible to settle the dispute avoids executing its obligation, legal and physical persons remain unprotected.

53. One of the challenges for citizens, regarding access to fair trial, is the refusal by the Supreme Court to hear cassation complaints, which is not constituted by a person who is not a member of Bar Association. People of low income whose rights are violated cannot retain a lawyer. Cost of advocacy service is out of reach for them. Individuals with low income are entitled to a State-funded lawyer, however, the law does not say how to do this. The Supreme Court, Appellate Court, District Courts, Bar Association have always refused to examine applications for legal aid by citizens with low income.

54. Concrete actions are taken against those lawyers who dare to provide legal counsel to those who criticise the government They are threatened, harassed and in some cases disbarred. As a part of the broader government campaign against those who raise their critical voices, an alarming pressure is put on the activities of independent lawyers and human rights defenders, and their organisations. Several lawyers have been openly warned not to defend the rights of those detained. In addition to harassment, concrete actions are taken against those lawyers who dare to provide legal counsel to those who criticized the government

55. Finally, the Grave Crimes Court, which does not correspond with the structure of the judicial system, does not have any professional distinction and is more a tool for the

execution of political orders. The establishment of these courts is envisaged in the Law on Courts and Judges, no specific actions had been undertaken in this field.

**Recommendations:**

- Abolish the Grave Crimes Court and replace it by a jury system.
- Allow the public to access trials, publish all court decisions publicly including on Internet, and ensure that trials can be freely monitored by civil society organisations and international organisations, including by adopting a transparent and accessible judicial power methods of work.
- Take effective measures to guarantee the independence of the judiciary and to put an end to infringements of judiciary independence through rapid, in-depth, independent and impartial investigations into allegations of interference as well as prosecutions and sanctions against the perpetrators.

## VII. Restrictions by law on the right to information

56. On 12 June 2012, the Azerbaijani Parliament swiftly adopted restrictive amendments to the laws “On the right to obtain information”, “On state registration and state registry of legal entities” and “On commercial secrets” without any public consultations.

57. These amendments severely restrict the right to information and increase state control on mass media. According to the amendments to the law “On the right to obtain information” access to information shall be released provided that it is not contradictory to purposes of the protection of political, economical, military, financial and credit and monetary interests of Azerbaijan, to the protection of public order, health and morality, protection of rights and freedoms, commercial and other economic interests of other individuals, ensuring the prestige and impartiality of the court.

58. After the amendment to the law “On commercial secrets” comes into effect, the information about the founders of commercial legal entities and their shares in the charter capital shall be considered confidential. This information shall only be disclosed based on an inquiry to the courts and investigative bodies.

**Recommendation:**

- Recall the legislation adopted in 2012, including the laws “On the right to obtain information”, “On state registration and state registry of legal entities” and “On commercial secrets”, excessively restricting the right to access information and ensure that the public has a right to access information in practice.

## VIII. Housing rights and evictions

59. Since 2008, the government of Azerbaijan has undertaken a sweeping programme of urban renewal in Baku. In the course of this program, the authorities have illegally expropriated hundreds of properties, primarily apartments and homes in middle-class neighborhoods, to be demolished to make way for parks, roads, a shopping centres, and luxury residential buildings.

60. The government has forcibly evicted homeowners, in several cases without warning or in the middle of the night, in order to demolish their homes. It has refused to provide homeowners fair compensation based on the market values of properties, many of which are in highly-desirable locations and neighbourhoods.

61. A building of the Institute for Peace and Democracy was completely destroyed on 11 August 2011 by the authorities. The house which belongs to the human rights defender Leyla Yunus and also included a crisis centre for women, was demolished in less than an hour. All documents, equipment and office inventory were either destroyed or taken by the officials; none of IPD staff were allowed to take anything from the building. The destruction took place although the Baku Administrative Economic Court ruled that destruction of the building is inadmissible without a court decision. There was no court decision on the destruction of this building.<sup>13</sup>

**Recommendations:**

- Halt all further expropriations, evictions, and demolitions until they can be carried out in a fair and transparent manner and are consistent with Azerbaijani national law, court decisions related to the case, and international human rights standards. The authorities should in no circumstances begin to demolish or disassemble buildings in which people continue to live.
- Provide all property owners affected by expropriation access to an effective complaint mechanism that addresses grievances in a clear and transparent manner, and a remedy.

## IX. Domestic violence and early marriage

62. Although the Parliament of Azerbaijan adopted the law “On the Prevention of Domestic Violence Act” in August 2010, there are still no fixed implementation mechanisms in relation to this law. A growing trend of domestic violence in the country is observed by independent NGOs working on these issues.

63. In 2012 the Parliament of Azerbaijan adopted the law amendment, increasing the marriage age for girls from 17 to 18 years, which is warmly welcomed as a strong measure to prevent early marriage. However, in average about 4000 early marriages are still registered in Azerbaijan each year. Early marriages happen for girls 14 years young. This affects their development and often comes along with school drop-out and a complete dependence to their family life and their husbands.<sup>14</sup>

64. State officials, including police officers and medical staff in hospitals, lack an in-depth understanding of domestic violence. They also ignore what their role is in giving first counsel to a victim of domestic violence. The same problem is also seen in courts, where judges do not understand the importance of the role of the court to protect the victim of domestic violence

**Recommendations:**

- Establish women’s shelters and rehabilitation centres in the capital and other regions of Azerbaijan founded by the State.
- Increase the number of women police officers.
- Ensure that religious marriage cannot be registered prior to the registration of State marriage.
- Develop an effective and transparent implementation and monitoring mechanism of the law on domestic violence, especially in relation to the protection of victims and the effectiveness of restraining orders.
- Provide training on domestic violence for police officers and other professionals,

<sup>13</sup> For more information, see: <http://humanrightshouse.org/Articles/16889.html>.

<sup>14</sup> See: <http://www.eurasianet.org/node/63727>.

including medical personnel and judges.

## **X. Participation in public life**

65. The Government has developed effective methods for keeping political forces, popular initiatives, non-partisan civil groups, media, religious communities and independent business alike from becoming self-sustainable challengers and public participants in decision-making issues. In Azerbaijan, civic and political apathy is widespread, and self-censorship is prevalent in public participation work. The Government has deliberately promoted a sense of impunity so as to ingrain self-censorship in the public and discourage any unsanctioned collective action and public initiatives. The Government managed to discourage meaningful citizen participation in political and decision-making processes and put a lid on genuine public debate on issues of wider public interest, such as elections, social problems or the transparency of oil and gas revenue expenditures.

66. The credibility to the electoral process has long been seriously damaged by traditional prevalent abuses and massive frauds.<sup>15</sup> The pre-election situation increases the banning of protest rallies, stifling dissent and restricting public outreach. The political opposition is ousted from the formal political process and there is not much option left for the public participation in country's democratic process.

67. In 2001, Azerbaijan ratified the European Charter of Local Self-Government, which endows municipalities with substantial responsibilities and decision-making authority. However, in reality, municipalities remain fully subordinate to the Government. Constitutional amendments in 2009 further decreased the independence of local self-governments, granting the State powers to “oversee” activities of municipalities, without clearly defining the exact scope of this supervision. Municipalities lack financial independence making them dependent on funds coming from the central State budget which turns them into obedient implementers of the Government's policy.

### **Recommendations:**

- Allow Government critics' a regular access to State and private media to broadcast their alternative views and participate to the public debate, and ensure that opposition candidates can participate equally to majority candidates in public debates before during election campaigns.
- Implement “open government” strategies, allowing citizens to actively participate in shaping public policies.

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<sup>15</sup> The final OSCE Election Observation Mission report on 2010 parliamentary elections, of 25 January 2011, noted that “certain conditions necessary for a meaningful and competitive election were lacking in these elections. The fundamental freedoms of peaceful assembly and expression were limited and a vibrant political discourse facilitated by free and independent media was almost impossible...” OSCE listed “a deficient candidate registration process, a restrictive political environment, unbalanced and biased media coverage, disparity in access to resources to mount an effective campaign, misuse of administrative resources as well as interference by local authorities in favor of candidates from the ruling party, creating an uneven playing field for candidates. Not all electoral contestants were able to compete on a basis of equal treatment by the authorities as called for in paragraph 7.6 of the OSCE Copenhagen Document.” The conclusion was that “overall, these elections failed to meet a number of key OSCE commitments for democratic elections and important elements of Azerbaijani domestic legislation.”

## **XI. Situation in the Autonomous Republic of Nakhchivan**

68. In contrast to other regions of Azerbaijan, the social and political situation in the Autonomous Republic of Nakhchivan is more severe and known to be a region that is governed by subjective and partial “rules” instead of the laws.

69. People in Nakhchivan live under strong repressive management of the Supreme Assembly of Nakhchivan. The severe political situation of the region has caused the massive migration of the population, as they are forced to live in fear.

70. There is no room for opposition in Nakhchivan, as the ruling party does not hesitate to use all forms of pressure to weaken political opposition and oppress civil opposition. Opposition parties are in a paralyzed situation – many of them do not have offices and the people are forced to be member of the ruling party.

71. The situation for NGOs is similar to other regions of Azerbaijan; the space for civil society is limited and controlled by local authorities.

72. Incidents of forced replacement in psychiatric hospitals and use of torture against persons who dear to speak up against corruptions and abuses are documented. There are no independent lawyers in Nakhchivan. The judges and the public prosecutor carry out the orders of the State. The four existing lawyers in the Lawyer’s Association do not work as independent agents.

73. Journalists and their families are subjected to pressure and intimidation by the local authorities. In order to restrict the activities of independent journalists and the media, they are often subject to false accusations, imprisonment and fines.

74. The rule of the local administration also impedes the participation of the locals in public affairs. Workers of organisations that are financed by the Government are involved in a day of voluntary unpaid labour, which is compulsory on weekends. On the other hand volunteers cooperating with independent public organisations are threatened, local authorities try to suspend the publics participation in the activities of civil society.

75. To discredit human rights defenders, the local administration spreads rumours and accusations of cooperation with foreigners, whilst exerting psychological and physical pressure against them.

### **Recommendations:**

- Ensure a transparent control over local authorities in Nakhchivan.
- Investigate all accusations of corruption and human rights violations against representatives of the local administration and hold those guilty accountable.
- Ensure that the international commitments of Azerbaijan, are communicated to local authorities and follow-up on the implementation in Nakhchivan of those recommendations.
- Allow visits of international organisations and NGOs to Nakhchivan with no restrictions.
- Protect human rights defenders and independent journalists in Nakhchivan against harassments and attacks.