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Human rights situations that require the Council's attention

Joint written statement* submitted by the Human Rights House Foundation (HRHF), Be Active Be Emancipated B.a.B.e, the Helsinki Foundation for Human Rights, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 February 2013]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Grave restrictions to freedom of association and assembly in the Republic of Azerbaijan*

Freedom of expression, association and assembly remains under serious threats in the Republic of Azerbaijan. Increased administrative burdens and financial restrictions were imposed on the activities of NGOs, and control mechanisms were broadened. Journalists, bloggers, human rights defenders and activists are subjected to pressure, threats, smear campaigns, harassment, arrests on politically motivated or fabricated charges, and violence committed with full impunity.

On 11 February 2013, Hafiz Hajiyev, chairman of the Modern Musavat Party, publicly announced “he would give 10,000AZN (approximately 9500 euros) to anyone who could cut off the ear of writer Akram Aylisli”.¹

Akram Aylisli is a renowned member of the Union of Writers of Azerbaijan and the author of “stone dreams” a novel describing the Nagorno-Karabakh conflict. Aylisli is currently the victim of a violent smear campaign and harassments, by public burnings of his novel and the removal of his honorary title of «People's Writer» through a Presidential decree. The harassment of Aylisli comes few days after the Union of Writers publicly announced the creation of a non-political movement to advocate for democratic reforms and free elections in the country.

In June 2009, amendments to the law on NGOs,² increased the government's control over the sector, stating that foreign NGOs or organisations fully funded by foreign governments shall be registered on the basis of an agreement concluded between the NGO and the state. On 16 March 2011, the government adopted a decree on rules governing registration of foreign NGOs and negotiations with them on required agreements. Other provisions provide the Ministry of Justice with broad discretionary powers in interpreting and defining the requirements for the agreements.³

At the same time, on 10 March 2011, the Azerbaijan Human Rights House (AHRH) was forced to suspend its activities following an order of the Ministry of Justice requesting to conclude the newly required agreement with the state. AHRH had been registered in Azerbaijan as an international branch of the Human Rights House Foundation in 2007 and officially opened in 2009. After a process of negotiations since April 2011, a final application was submitted on 3 November 2011. Nevertheless, to date, there has been no progress and no further instructions by the Azerbaijani authorities. Partner organisations continue to carry out activities, but cannot use the joint premises and facilities anymore, or the joint brand, both of which were instrumental in strengthening the human rights community in Azerbaijan. AHRH was fully registered and had developed activities since 2007. The changes of legislation in 2009 should not have affected AHRH's registration as it

* Institute for Peace and Democracy, Legal education Society, Human Rights Club, Media Rights Institute, Human Rights Centre of Azerbaijan, Public Union of Democracy and Human Rights Resource Centre, Nakhchivan Regional Resource Centre for NGO Development and Democracy, Institute for Reporters' Freedom and Safety, NGOs without consultative status, also share the views expressed in this statement.

¹ More information on: <http://ann.az/en/?p=116418> and <http://www.ajc.com/news/ap/social-issues/azerbaijan-accused-of-intimidating-writer/nWMTF/>.

² Venice Commission, “Honouring of obligations and commitments by Azerbaijan”, 25 April 2012: http://assembly.coe.int/CommitteeDocs/2012/amondoc05rev_2012.pdf.

³ Two examples are the stipulations that organisations must respect national moral values and must not be involved in political or religious propaganda in order to finalize an agreement with the authorities.

was already registered. The rules adopted by the government cannot have a retroactive effect as they *de facto* do, since they apply to the closure of AHRH, which was ordered on 10 March 2011 before the legal framework allowing the government to close an institution was adopted on 16 March 2011.

The authorities of Azerbaijan have adopted legal texts to justify the closure of an NGO that they did not want to be active in the country, due to its activities and its impact. We therefore call for the immediate and unconditional reopening of AHRH, and for it to be fully allowed to carry out its activities.

The Azerbaijan branch of the US-based organisation National Democratic Institute (NDI) was also told to seize all activities in March 2011. Following negotiations, NDI was allowed to continue its activities after an agreement with the Ministry of Justice was signed in September 2012. However, the agreement is only valid for one year.

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 the website nakhchivan.org.az. After two warnings an organisation can be closed down.⁴

The criminal case filed against the Azerbaijan Cinematographers Union, the eviction of the Union staff from their office and the smear campaign run by National TV channels and newspapers against the well known filmmaker and screenwriter Rustam Ibrahimbekov, are an additional attempt to suppress critical voices.

Obstacles also arise for NGOs that seek funding to pursue their activities, particularly concerning grants from international organisations. The grants have to be registered by the Ministry of Justice before the activities start.

On the 6 February 2013 the Standing Commission on Legal Policy and State Building of the Azeri Parliament had adopted new restrictive amendments to the NGO Law and Administrative Violations Code.⁵

Although there is a *de facto* ban on assemblies in the country since 2006, this growing climate of repression also reflects on the latest restrictions and tightening of rules regulating freedom of assembly.⁶ In November 2012, new changes to the Law on Freedom of Assembly, the Code of Administrative Offenses (CAO) and the Criminal Code (CC) doubled the existing fines and added community service as a sentencing option for participation in an unsanctioned demonstration. The increased punishments come despite the fact, that according to the Azerbaijani law, assemblies do not require permission or sanctioning, the authorities only have to be notified about them 5 days prior to the date of the assembly.⁷

Depending on the offense, fines run from 500 up to 30,000AZN (approximately the equivalent in Euros). Under the adopted changes, a participant in an unauthorized rally

⁴ HRHF already informed the Human Rights Council on this development in its oral intervention on 14 March 2012: <http://humanrightshouse.org/Articles/17762.html>.

⁵ Report of the Special Rapporteur to the Human Rights Council, 21 May 2012, paragraph 68 (UN Doc.: A/HRC/20/27).

⁶ After being passed by Parliament, the law entered into force following the president's signing of executive orders to pass the amendments.

⁷ Article 5 of the Law on Freedom of Assembly.

would risk getting a 500-1,000AZN fine, 160-200 hours of community service, or up to 15 days administrative detention. Organizers of a rally would face the harsher sentences.⁸

On Saturday 26 January 2013, as an effect of the new regulations, 63 people were to our knowledge arrested for peacefully assembling in Baku. Among the people arrested were several close partners of the Human Rights House Network, including prominent human rights blogger Emin Milli, human rights defender and Rafto Award laureate Malahat Nasibova, human rights lawyer Intigam Aliyev, as well as an investigative journalist and Fritt Ord Foundation and ZEIT Foundation Award laureate Khadija Ismayilova.

The highest penalty was imposed on Emin Milli who was sentenced to administrative detention for 15 days for promoting the opposition protests on Facebook in violation of article 298.1 and 298.2 of the code of the Azerbaijani Republic on administrative offences.⁹ Emin Milli has already suffered two and a half years of arbitrary detention for his critical views about the government.¹⁰

In addition to Emin Milli, Abulfaz Gurbanli, Chairman of Azerbaijan Popular Front Party (APFP) Youth Committee, Turkel Azerturk and Tunjay Guliyev, members of the same Committee, and Rufat Abdullayev, NIDA Movement member, were sentenced with 13 days administrative detention.

An additional number of 21 detainees were fined for taking part in this so-called “illegal demonstration”. Among them journalist Khadija Ismayilova, already a victim of a harsh smear campaign,¹¹ received a fine of 400AZN (approx. 400 EUR).

This wave of repression happened a few days after the Parliamentary Assembly of the Council of Europe (PACE) adopted a resolution on the human rights situation in Azerbaijan and called upon the Azerbaijani authorities to stop attacks and harassments of human rights defenders, journalists and activists. Several of the Azerbaijani human rights defenders, who were detained or fined on Saturday, were present at the Assembly in Strasbourg or commented on it on blogs and newspapers, including Emin Milli, Malahat Nasibova, Intigam Aliyev and Khadija Ismayilova.

The Azerbaijani delegation at PACE expressed in the plenary debate on Azerbaijan that “in Azerbaijan, it is not a crime to express one’s opinion” (MP Rovshan Rzayev) and that “the political will for full implementation of [Azerbaijan’s] obligations and commitments has always prevailed. We should all realize that the development of democracy, the rule of law and human rights is a continuous process” (MP Ali Huseynli).

However, by selectively arresting within a big crowd of protesters these prominent human rights defenders, journalists and activists, Azerbaijani authorities show that they use detention as a tool to punish critical voices.

In 2009, The Human Rights Committee had already expressed its concern about “persistent reports according to which [Azerbaijan’s] authorities unreasonably restrict the right of individuals to freedom of peaceful assembly” and recommended to Azerbaijan to “re-examine its regulations, policies and practices, and ensure that all individuals under its

⁸ Contact.az, “Parliamentary Committee Adopts Tougher Amendments for Unauthorized Rallies”, 23 October 2012: <http://contact.az/docs/2012/Politics/102300015756en.htm#.ULkP0zlhZfg>.

⁹ See: <http://www.wipo.int/wipolex/en/details.jsp?id=9210>.

¹⁰ See: <http://humanrightshouse.org/Articles/15605.html>.

¹¹ Smear campaigns and intimidations against Khadija Ismayilova: <http://humanrightshouse.org/Articles/17921.html>.

jurisdiction fully enjoy their rights under article 21 [of the International Covenant on Civil and Political Rights].”¹²

Having in mind the increasing pressure and persecution faced by human rights defenders and others freely expressing their views, we, the undersigned organisations, call upon Azerbaijan to fully implement its international obligations to promote and protect the rights to peaceful assembly and association, in line *inter alia* with the Human Rights Council resolutions 15/21, 19/35 and 21/16.

We urge the Government of Azerbaijan to eliminate the practice of ungrounded postponement of or refusal to register national and international non-governmental organisations, in particular those organisations that defend human rights and to take appropriate steps to guarantee the re-opening of the Azerbaijan Human Rights House.

We also call upon the Azerbaijani Parliament to repeal the recent amendments to the rules regulating freedom of assembly and to ensure that national legislation are in line with Azerbaijan’s international human rights obligations.

¹² Concluding Observations of the Human Rights Committee, 96th session, 13 August 2009, paragraph 16 (UN Doc.: CCPR/C/AZE/CO/3).