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Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)

Honouring of obligations and commitments by Azerbaijan

Information note by the co-rapporteurs on their fact-finding visit to Baku (4-6 July 2019)

Co-rapporteurs: Mr Stefan Schennach, Austria, SOC and Mr Roger Gale, UK, EC.

1. Introduction

1. The fact-finding visit to Baku took place from 4 to 6 July 2019. Unfortunately, due to some important domestic commitments, my co-rapporteur, Mr Gale, had been prevented from participating in it. However, given the long time elapsed since the last rapporteurs' visit in January 2017², we agreed not to postpone this one any longer.

2. The most recent resolution on the functioning of democratic institutions in Azerbaijan dates back to 11 October 2017.³ It evoked a number of serious concerns with regard to the independence of the judiciary, media freedom and freedom of expression, freedom of association and political freedom, and more generally respect for human rights including conditions of detention and allegations of torture and ill-treatment by law enforcement officials. It called on the Azerbaijani authorities to address all these issues and promptly ensure the full implementation of the relevant decisions of the European Court of Human Rights (ECtHR) and to co-operate more closely with the Committee of Ministers and the Department for the Execution of Judgements of the ECtHR.

3. My visit focused on these outstanding concerns. I held meetings in the Ministry of Justice, in the Prosecutor's General Office, in the Supreme Court, the Ministry of the Interior, Presidential Administration and in the Milli Mejlis (Parliament). I also exchanged views with a number of Ambassadors and the Head of the EU Delegation on the situation in Azerbaijan. Last, but not least, I had extensive exchanges with numerous representatives from civil society, human right defenders, lawyers, independent journalist, and representatives of the opposition parties which are not present in the Parliament.

4. Regrettably, despite my request submitted in due course prior to the visit, I received no authorisation to meet four prisoners: MM Taleh Bagirzade, Abbas Huseynov, Afgan Mukhtarli and Said Dadashbayili.

5. In the present Note, I will concentrate on the findings of the visit, information received directly from the authorities on the one hand, and from the civil society on the other, completed by relevant

¹ Document declassified by the Monitoring Committee at its meeting on 30 September 2019.

² See AS/Mon(2017)06 declassified on 08/03/2017.

³ See Report (Doc. [14403](#) and [addendum](#)) and Resolution [2184](#)(2017).

information gathered from a number of different sources, including Council of Europe monitoring mechanisms and relevant reports of international and national NGOs. I have taken due note of the preliminary conclusions of the visit of the Council of Europe Commissioner for Human Rights, which took place following my visit. I will also take account of the findings of the hearing on political prisoners, which the Monitoring Committee organised jointly with the Committee on Legal Affairs and Human Rights on 9 April 2019.

6. I am obviously aware of the ongoing work of the Committee on Legal Affairs and Human Rights with regard to the preparation of a report on “Reported cases of political prisoners in Azerbaijan”. While I do not intend to duplicate the Rapporteur’s work, as co-rapporteur on the monitoring of Azerbaijan’s commitments and obligations I cannot abstract from the reports of politically motivated charges, unfair trials and repressive measures applied by the authorities against political critics and opponents. They are of direct relevance to issues such as independence of the judiciary or freedom of expression and have to be taken into account during the assessment of the state of compliance of Azerbaijan with the principles of democracy, rule of law and human rights⁴.

7. I hope to continue the dialogue with the authorities on a regular basis and go back to the country – with my co-rapporteur - towards the end of this year. I am confident that we will be able to prepare a full monitoring report after the parliamentary elections due in the second half of the next year.

8. I would like to thank here the Parliament of Azerbaijan for the organisation of meetings with officials. In particular, I address my gratitude to the Deputy Minister of the Interior who facilitated the visits to the police stations, where I visited detention places. I am also grateful to the French Ambassador for the organisation of the meeting with her colleagues, ambassadors of some EU countries and the Head of the EU Delegation. Last but not least, I express my great gratitude to the Head of the Council of Europe Office in Baku and his staff for the organisation of the meetings with the civil society.

2. Judiciary

9. During the previous visit in Azerbaijan, we focused in particular on the use of pre-trial detention, the development of alternative sanctions and the creation of a separate juvenile justice system. Indeed, in a number of judgements, the ECtHR found violations of Article 5 of the Convention showing that, in practice, judges order pre-trial detention in the vast majority of criminal proceedings without proper or adequate consideration of the grounds or whether less restrictive alternative measures such as house arrest or release on bail would be sufficient.

10. We welcomed the then openness of the President of the Republic on this matter and acknowledgement – including at the level of the Ministry of Justice and the Prosecutor’s General Office—of the need to reduce reliance on prison sentences for minor and mid-range offenders. Our discussions focused on the need to establish a probation service in Azerbaijan, to develop alternative sanctions and to limit imprisonment to certain crimes and shorten the length of sentences.

11. During my recent meetings with the Ministry of Justice, the Supreme Court and the General Prosecutor’s Office, I was informed about two Presidential Decrees which have addressed these outstanding concerns.

12. The Presidential Decree of 10 February 2017 on the Humanisation of the criminal penalties policy provided for the introduction of probation into the penalties system. The Probation Service was established within the Ministry of Justice and probation supervision was introduced into the Code for the Execution of Punishments.

13. The Decree also significantly expanded the use of alternative sanctions. The procedure for serving newly introduced types of punishments such as “restriction of liberty” were legally regulated, while procedures for the execution of already existing alternative punishments were improved. For the

⁴ Since the debate by the Assembly on political prisoners in Azerbaijan in 2012, the co-rapporteurs have followed the issue of political prisoners, visited many of them—including Ms Ismaylova, Mrs Yunus, Mr Hussein, Mr Mammadov and many others—and have worked for their release, in some cases successfully. I personally visited in total 12 different prisons, including pre-detention centres and special Prison Gobustan.

first time in Azerbaijan, the use of electronic monitoring tools, (“bracelets”) was introduced and the Electronic Monitoring Center was set up at the Probation Service. The number of monitored persons reached 500 in six months.

14. Furthermore, the Decree initiated the decriminalisation of minor offences by introducing about 300 amendments to the Criminal Code. A number of offences were decriminalised and moved to the administrative area, some sanctions were reduced and alternative punishment was introduced. During the first year of the application of the Order, the number of pre-trial detainees decreased by 25%, while the number of detainees released on various grounds increased by 14%.

15. On 3 April 2019, the President signed the Decree “On deepening reforms in the judicial and legal systems”. In the framework of the implementation of this decree, the Law on the establishment of specialised commercial courts was adopted. These specialised courts will become operational in 2020.

16. The decree provided for further decriminalisation of certain minor offences. Some of them have been moved from the Criminal Code to the Administrative Code. As a result, 15 offences have been fully decriminalised. Terms of punishment have been reduced and alternatives to detention have been encouraged. Some of them had already been foreseen in the legislation, but they have not been applied. New provisions would affect approximately 6000 people already convicted. The Ministry of Justice has prepared draft laws which had been submitted to the Milli Mejlis for further legislative procedure.

17. Furthermore, the Presidential Decree provided for the widespread use of the e-court and e-enforcement system, introducing modern technologies into different areas of judicial system, the continuous audio-recording of all court hearings, improvement of the enforcement of court decisions and the application of alternative measures in forensic examination.

18. According to my interlocutors, all these measures are aimed at providing for a more accessible, transparent, efficient and independent judicial system and the Decree itself sets strategic priorities for the development of the judicial system.

19. In November 2017, the Law on Prosecutor`s Office was amended in accordance with GRECO`s respective recommendation formulated in the Fourth Evaluation Round report. The aim of the changes is to eliminate undue influence and interference of the executive in the investigation of criminal cases. As a result, the Prosecutor General informs the President of the State only about general activity of Prosecutor`s Office and not about specific criminal cases.

20. While I certainly welcome these developments, I have to express my deep concern about serious problems with regard to the lack of independence of the judiciary in Azerbaijan, as illustrated by the continuous presence of political prisoners. A troubling pattern of arbitrary arrests and detention, prosecution on trumped-up charges, unfair trials, disproportional sentences for government critics, human right defenders and extra-parliamentary opposition members illustrates the misuse of criminal law in defiance of the rule of law.

21. The presidential pardon decree (Novruz amnesty) of March 2019, when 52 political prisoners were released, raised hopes and led to speculations about future less restrictive policies towards critics and opposition. Unfortunately, to this day, these hopes have not materialised.

22. The number of political prisoners and prisoners of conscience varies considerably depending on the sources. A document entitled “A Unified List of Political Prisoners in Azerbaijan” (Unified List) elaborated by a Working Group of civil society organisations working in Azerbaijan and bringing together human rights defenders, lawyers, journalists and experts refers to 127 political prisoners as of 20 February 2019. While 52 people have been removed from the list as a result of the Presidential pardon, the Working Group has recently added 51 new names of persons detained last year in connection with the attempted murder of the Mayor of the country`s second largest city, Ganja, and the murder of two police officers in this city⁵.

⁵ I have been informed that there are substantial allegations that the law enforcement bodies have replaced proper investigation by politically motivated persecution and violated a number of procedures and fundamental human rights during arrests and investigative action including torture, mis-treatment, no access to lawyer, arbitrary detention etc.

23. I do not wish to enter into the discussion on the numbers, particularly as another report specifically dealing with this issue is under preparation ⁶ as I mentioned in my Introduction. I intend to focus on the malfunctioning of democratic institutions which results in trumped charges, unfair trials, politicized justice and undue pressure on judges.

24. A flagrant example of politicised justice is the case of Mr Mehman Huseynov, an anti-corruption blogger and director of the Institute for the Reporters` Freedom and Safety (IRFS) who served a two-year prison sentence following his conviction on 3 March 2017 for publicly complaining about his experiences of ill-treatment and torture by the police. He also criticised government officials by exposing their unexplained wealth. 2 months before his release, he was accused of attacking a prison guard and charged with “violence not dangerous to life or health to employees of criminal-executive establishments or investigator isolators” facing an additional prison sentence of up to 7 years. He started a hunger strike on 28 December 2018 to protest against these attempts to extend his detention. Following the mobilisation of the international community including the CoE Commissioner for Human Rights, EP, OSCE Representative on Freedom of the Media (as co-rapporteurs on the monitoring of Azerbaijan we also made statements urging the authorities to drop the charges) the charges were dropped.

25. I would also like to refer here to a number of ECtHR`s judgements, which have found violations of the European Convention on Human Rights in a number of relevant cases including what is perhaps the most emblematic case of Mr Ilgar Mammadov, leader of the opposition party Republican Alternative (REAL). Mr Mammadov was jailed in February 2013 on charges of inciting mass violence after he travelled to Ismaylli region to observe social protests and was sentenced to 7 years in prison. Earlier that year, he announced his intention to run for presidential elections.

26. In 2014, the ECtHR ruled that Mr Mammadov`s arrest and prosecution had been politically motivated. In 2017, it also ruled that his trial had been unfair. On both occasions, the Court urged the authorities for an immediate release of Mr Mammadov. However, both decisions were ignored and the judgements were not implemented. On 7 December 2017, the Committee of Ministers of the Council of Europe launched infringement proceedings against Azerbaijan. It was the first time that this procedure was used.

27. Mr Mammadov was finally released on probation in August 2018. In March 2019, the Supreme Court of Azerbaijan ruled to end the probation sentence and lifted the travel ban. However, the ECtHR judgment is still not executed as Mr Mammadov is not acquitted and cannot stand for elections. On 29 May 2019, the ECtHR ruled that the Azerbaijani government had failed to fulfil its obligation to abide by the Court`s decision. The Azerbaijani authorities must immediately quash Ilgar Mammadov`s conviction and ensure he has access to adequate reparations, including compensation for his unlawful imprisonment.

28. Administrative detention is used by the authorities as a repressive tool against their opponents and critics. According to the report of the Election Monitoring and Democracy Studies Centre (EMDS), at least 131 documented politically motivated detentions took place between January 2018 and February 2019. EMDS stresses that the real number of such cases is likely to be much higher, but they are not reported or covered by independent media.

29. Restrictions on freedom of movement and politically motivated travel bans are also widely used in persecution of opponents and critics. According to EMDS, as of February 2019, at least 18 journalists, 5 political activists, 4 lawyers and human rights defenders, 2 writers and 1 civil society representative were subject to politically motivated travel bans. During my visit in July, I was informed that six people`s travel ban has been lifted, but two new people were added to the list of people prohibited from leaving the country.

30. Another serious concern is raised by the situation of lawyers defending the rights of journalists, activists and other government critics in Azerbaijan. I was told that out of 1700 advocates in the country, no more than 8 are prepared to undertake to defend the rights of government`s critics. Alongside undue pressure, they frequently face harassment and intimidation. They risk disciplinary proceedings and

⁶ See Introductory Memorandum on Political Prisoners in Azerbaijan of the Committee on Legal Affairs and Human Rights (AS/Jur(2019)01).

reprimands or even suspension or expulsion from the membership of the government-dependent Bar Association, which is instrumental in this process.

31. On 1 December 2017, amendments to the Code of Civil and Administrative Procedure and the Bar Act excluded lawyers who are not members of the Bar Association from court proceedings and from representing their clients. This new rule obviously targets lawyers representing opposition and human rights activists who have been disbarred or who face disciplinary measures.

32. To illustrate the pattern of persecution, I will refer to the recent case of Mr Elchin Sadigov, a human rights lawyer who earlier this year received a reprimand from the Bar Association after he criticized the State Penitentiary Service. Recently, when he took on the case of detained journalist Polad Aslanov, he received threats from the investigation officer.

33. In another case, the Bar Association launched disciplinary proceedings against human rights lawyer Mr Fariz Namazli, after the head of the country's Penitentiary Service lodged a complaint about the lawyer's allegedly inappropriate behaviour during his visit to Gobustan prison, where he met his client. He denies the allegations and the video footage is unavailable. The Bar Association has, in the past, annulled the membership of Mr Yalchin Imanov following a similar complaint from the Penitentiary Service.

34. Another emblematic case concerns Mr Intigam Aliyev, a well-known human rights lawyer representing many independent NGOs in Azerbaijan. In April 2015, he was sentenced to seven and half years in prison for allegedly politically motivated charges of tax avoidance, illegal entrepreneurship and abuse of power. Although he was released in March 2016 on appeal and given a suspended sentence, he remains subject to a travel ban. In September 2018, the ECtHR in its judgement on the case *Aliyev vs Azerbaijan* found that the arrest of Mr Intigam Aliyev was politically motivated and aimed at silencing and punishing him for his human rights work.⁷

3. Restrictive political environment, prospects for free and fair elections

35. The political environment remains very restrictive. During my meetings with representatives of extra-parliamentary political parties, a number of serious concerns were raised. Leaders and members of opposition parties are often targets of harassment and intimidation. They are faced with arbitrary administrative detention and frequently undergo a travel ban. The limitations imposed on freedom of expression and freedom of assembly foreclose most of the ordinary political parties' activities. Even renting a venue for a meeting or offices creates a big problem for an opposition party because of threats addressed to potential landlords.

36. For example, the police raided the headquarters of opposition party Musavat on 28 June 2019. Additionally, the police did not allow for a charity event, which was organised by the Committee against Repression and Torture and aimed at collecting funds in support of activists and opposition members fined during assemblies.⁸ Several people were arrested including the Chair of another opposition party, Popular Front and two journalists; they were released after several hours.

37. Freedom of assembly is another serious concern. The last authorised rally took place on 19 January 2019 in the Mahsul Stadium, a place outside the city centre where the opposition has been allowed in the past to gather its supporters. Since then, seven requests of the Azerbaijani opposition have been declined on the grounds of destabilisation to public order. While restrictions on freedom of assembly have also been common in the past, a total ban has never taken place before. My interlocutors from civil society and the opposition thought that the real reason is the authorities' growing fear vis-à-vis an increased number of gathering people.

38. The situation in the region is even more difficult. It may be illustrated by the incident in the village of Zakatala, where a local branch of Musavat Party wanted to hold a meeting in a private house. The police broke in, interrupted the meeting and arrested participants.

⁷ Case of *Aliyev vs Azerbaijan* applications nr 68762/14 and 71200/14.

⁸ According to Mr Ogtay Gulaliyev, the coordinator of the Committee, around 60 activists had fines.

39. With regards to the future parliamentary elections which are due in Autumn 2020, the representatives of the opposition with whom I met, expressed their lack of confidence in the electoral process. None of the extra-parliamentary parties I met have participated in the elections since 2013. They referred to a number of shortcomings and deficiencies in the current Electoral Law, which were also identified by the OSCE/ODiHR and the Venice Commission in their joint Opinion on the Draft Law on Amendments and changes to the Electoral Code.⁹

40. So far, the authorities have not fulfilled the recommendations included in the Joint Opinion of the OSCE/ODiHR and the Venice Commission and have not addressed concerns raised during the last elections, in particular with regards to the composition and functioning of election commissions, registration procedure, observation of elections, equal conditions for conducting electoral campaign (free airtime, media coverage, financial resources).

4. Freedom of expression and media freedom

41. The media environment and the state of freedom of expression in Azerbaijan has unfortunately not shown any progress. Quite to the contrary, Azerbaijan is ranked 166th out of 180 countries in the 2019 World Press Freedom Index published by Reporters without Borders. It moved down from 163th in 2018. According to the Committee to Protect Journalists, as of 1 December 2018, ten journalists were imprisoned in Azerbaijan in direct relation to their work.

42. During all my meetings with civil society, independent journalists, politicians from extra-parliamentary opposition and human rights defenders, the message was very clear: the situation remains difficult and freedom of expression continues to be under threat.

43. Broadcast and print media have been under the complete control of the authorities for many years now. I was told that, since 2016, when a newspaper Azadliq was closed, there had been no single independent printed media in Azerbaijan.

44. Recently, repressions have expanded to the internet media as well. While the authorities cannot exercise full control over websites, they systematically block access to them. Since May 2017, over 20 websites were blocked, including 5 by court decisions following a claim by the prosecutor's office that they posed a threat to national security. They included Meydan TV (Berlin-based online media outlet), Radio Free Europe/Radio Liberty, Turan TV and Azerbaijan SAATI. Currently, these websites can only be accessed by Virtual Private Network from Azerbaijan.

45. The criminal case was opened against Meydan TV four years ago and the travel ban has been imposed on 12 journalists working or contributing to it.

46. The restrictions on traditional – paper and online – media have turned social media, and in particular Facebook, into a platform for independent news. Mr Mehman Huseynov, a young blogger known for exposing corruption, mentioned in paragraph 24, has over 1 million followers in a country of 10 million inhabitants!

47. The criminal persecution of independent journalists is a major concern. In August 2017, the prosecution opened an investigation into Azerbaijan's only independent news agency, Turan. Its director, Mr Mehman Aliyev was arrested on fabricated charges of illegal entrepreneurship. Following international pressure, Mr Aliyev was transferred to house arrest on 11 September. Following international mobilisation, the prosecution dropped the charges against him and closed investigation against Turan.

48. There are two most recent cases from a long list of independent journalists who have been prosecuted on trumped up charges following their criticism of the authorities or exposure of corruption: Mr Ikram Rahimov, chief editor of independent news website Realliq who, on 12 June 2019, was sentenced to five and a half years in prison on charges of extortion; and Mr Polad Aslanov, chief editor of independent news websites Xeberman and Press-az who was arrested on 12 June 2019 and remains in detention for four months pending an investigation on charges of high treason.

⁹ See Joint Opinion on the Draft Law on Amendments and changes to the electoral Code of Azerbaijan by the Venice Commission and OSCE/ODIHR (CDL=AD(2008)011.

49. In May 2017, Mr Aziz Oruyev, head of the independent online TV Channel Kanal 13 was arrested and held in administrative detention for 30 days for purportedly disobeying police orders. On the day of his release, he was detained on allegedly fabricated charges of illegal entrepreneurship, ordered to pre-trial detention and, in December 2017, was sentenced to six years imprisonment.

50. Three journalists investigating the Ganja case (Mammadov Anar, Mustafa Hacili and Nuraddin Hoca) were sentenced 3 months ago to over 5 years of imprisonment on charges of disseminating false information, anti-state appeals, abuse of power and official forgery.

51. On 12 January 2017, Mr Afgan Sadygov, a journalist and blogger was sentenced to two and a half years in prison on hooliganism charges after writing about government corruption and refusing to remove his articles from the internet.

52. On 14 June 2017, Mr Fikret Faramazoglu editor of the independent news website Journalistic Research Center was sentenced to 7 years in prison and banned from his profession for a further two years for allegedly extorting money from a restaurant owner.

53. In May 2017, investigative journalist Mr Mr Afgan Mukhtarli was abducted in Tbilisi, Georgia and reappeared in the custody of Azerbaijani border police the following day. He was accused of smuggling and illegal border crossing, and sentenced to six years of imprisonment.

54. Mr Bayram Mammadov, a member of NIDA (youth civic movement) and blogger was arrested in May 2016, together with Mr Giyas Ibrahimov for spraying a protest graffiti on the monument of the late President. They were sentenced to 10 years in prison and released during the Novruz amnesty last March. A few days after his release, Mr Bayram Mammadov was detained while walking in the street with his father, charged with disobeying a police order and sentenced to 30 days of administrative detention. Most probably, the real reason for his detention was his interview to the independent Turan News Agency.

55. In its 2018 report, Human Rights Watch stated that at least 25 journalists had been convicted during the year, while dozens more had been detained or were under criminal investigation. Journalists also faced harassment and travel bans or had fled the country. It is clear that the authorities have lost their monopoly over information

56. The Assembly has repeatedly called on the authorities to decriminalize defamation. According to the authorities, while this has not been done, no single journalist has been sentenced to imprisonment under Articles 147 or 148 of the Criminal Code.

5. Freedom of association

57. Since the amendments adopted in 2014 to the law on NGOs, there has been a cumbersome legislation procedure for NGOs that allows for wide government discretion, far reaching restrictions on accessing foreign funding, extensive state control on NGO activities and excessive, difficult to meet, reporting obligations. There are no safeguards against the abuse by authorities. Furthermore, the law provides for harsh penalties in case of violations of legal requirements and extensive grounds for suspension or closing down NGOs.

58. The ECtHR has issued several rulings against Azerbaijan in cases involving the arbitrary denial of registration to NGOs. In 2017, the Court began its communication with the Azerbaijani authorities on complaints filed by representatives of nine NGOs regarding the refusal to register them on various pretexts.

59. In January 2017, the Government adopted amendments to the rules on registration of foreign grants with a stated aim of simplifying procedures which allowed for applying of a "one-stop shop" approach¹⁰. In December 2018, the Steering Committee of the Open Government Partnership (OGP- under the aegis of the UN) recognized some positive steps taken by Azerbaijan such as the development of a new one-stop shop e-service platform. It stressed, however, that the most serious

¹⁰ See Report on the functioning of democratic institutions in Azerbaijan (Doc. 14403).

concerns signalled by NGOs had remained unresolved. The evidence assessed by OGP and third party experts shows that, although there have been sporadic improvements in the operating environment of civil society in 2018, the Government has not made systematic changes or reforms. All NGOs consulted highlighted that substantial challenges remained in two main areas: registration and funding of NGOs.

60. The pattern of persecution described above with regard to government critics and opposition politicians or independent journalists, is fully applied to NGO activists working in the field of human rights and democracy.

6. Allegations of ill-treatment and violations of human rights

61. I was informed by the Minister of Justice and by the Minister of the Interior about the measures aimed at eliminating violation of human rights and all kinds of ill-treatment in prisons and police stations. They included increased controls, monitoring and video cameras in prisons, police stations, police cars, no tolerance and punishments for perpetrators, training of staff and police officers.

62. According to the statistics provided by the Ministry of the Interior, during the last five years, 1964 police members were punished for unlawful acts. Out of this number, 3 persons were criminally persecuted, 168 were removed from the police, 189 were downgraded; to others, some other disciplinary measures were applied.

63. I note with satisfaction that in, June 2018, the Government of Azerbaijan fulfilled a long-standing PACE recommendation and agreed to the publication of six CPT reports on the Committee's visits to Azerbaijan in 2004, 2012, 2013, 2015, 2016 and 2017. As a result, all CPT's reports on Azerbaijan are public.

64. I was informed that, out of 71 detention police stations, 42 were renovated or newly constructed in line with European standards. Thanks to the deputy Minister for the Interior, I had a chance to visit two police stations, including detention premises in Baku. They were newly constructed. I regret not having had the possibility to visit prisons. As I mentioned earlier, my request to visit 4 prisons had been rejected.

65. This is even more regrettable in the light of information that I have received from human rights defenders, opposition activists and independent journalists. According to them, there are still cases of ill-treatment in detention and impunity of perpetrators. I was also informed about cases of torture and deaths in the military. There is an absence of an independent anti-torture mechanism in the country.

66. A short time before my visit, on 31 May 2019, a lawyer, Mr Orchan Kangarli, was beaten at the police station. A video recording is unavailable, as cameras were switched off, which, according to my interlocutors, is systematic during such incidents.

67. On 28 April 2017, the blogger Mehman Galandarov was found hanged in his cell in Baku detention centre Nr 1. He had been arrested in February 2017 on drug-related charges for his Facebook posts in support of two other activists, who had been arrested for spraying political graffiti (see paragraph 54). According to local human rights defenders, Mehman Galandarov had been tortured in prison. So far there has been no progress in investigation into his case.

68. On a more positive tone, I would like to express my satisfaction at the Court's decision to release Mr Abulfaz Bunyadov, a seriously ill person who was wounded during the operation in Nardaran and paralyzed. I regret that the Court has not taken a similar decision in the case of Mr Elnur Farajov, an opposition party member imprisoned on bogus drugs charges who died from cancer shortly after his release by presidential pardon in May 2018, having been denied adequate medical treatment in prison.

69. As of 1 July 2019, a total of 2182 applications are pending before the ECtHR. During my meetings at the Supreme Court and the Ministry of Justice, I was informed about general measures undertaken by both institutions in response to the ECtHR judgements. These measures were taken with a view to, firstly, implementing Court's decisions and, secondly, removing the causes that gave rise to the violation of the European Convention on Human Rights, so that it is not repeated in the future. They included, inter alia, regular analysis and reflection on judgments in the context of national

legislation and its implementation and a follow up action, as well as trainings of judges, law enforcement officials and staff.

70. 178 judgements transmitted to the Committee of Ministers for supervision of their execution are pending. While I welcome the measures undertaken by the authorities aimed at the implementation of the Court's decisions, I am also receptive to concerns expressed by civil society. The case of Mr Mammadov is emblematic, but there are other examples of non-execution of judgements. In particular, I was told that the authorities have suspended paying financial compensations decided by the Court.

71. The Head of the Council of Europe Office in Baku provided me with an exhaustive information on co-operation projects recently completed and still underway. They included support to justice sector reform initiatives, gender equality and media freedom, support for penitentiary system, strengthening anti-money laundering, strengthening the efficiency and quality of the judicial system in Azerbaijan and many others.

72. Freedom of religion, interlinked with freedom of expression, freedom of association and freedom of assembly is also significantly restricted. The authorities have constructed a labyrinth of legal acts which make it practically impossible for a worship community to register. Without state registration, religious communities and even informal groups of people meeting together to exercise worship are prosecuted, arrested and tortured, whilst places of worship are systematically raided and closed. There is no right to conscientious objection to military service. Jehovah's Witnesses are particularly targeted.

73. However, "legal" places of worship are also closed. I have been informed of several forcible closures of Sunni Muslim mosques. Shia Muslims (by far the largest religious community in the country) are faced with bans on activities, such as iftar meals at the end of Ramadan fasts, outside mosques or, in some cases, even inside mosques.

74. The largest groups of prisoners who are currently jailed in connection with their religious beliefs, are Muslims associated with the Muslim Unity Movement. In January 2017, the Serious Crimes Court in Baku sentenced 18 Muslims arrested during and after the Nardaran raid to prison terms between 10 and 20 years on a range of serious charges, including terrorism, an attempt to seize power violently, illegal firearms possession and murder¹¹.

75. The situation of LGBT people in Azerbaijan is particularly worrisome. In 2017, reports emerged of an alleged crackdown on LGBT people. Human Rights groups condemned news of mass arrests and abuses. At least 80 people were arrested and detained for several days. All were later released without being charged. The authorities responded by claiming that the raids were not specifically targeting LGBT people, but prostitution and referred to a danger of sexually transmitted diseases. In February 2019, the ECtHR began a formal inquiry into 25 people who were arrested.

76. An advocacy group for LGBT people, "Minority Azerbaijan" made a statement in April 2019 in which it accused police of "hunting" transgender people through the Internet. The group identified at least 12 people who were arrested, most of them transgender sex workers.

77. Azerbaijan is one of two Council of Europe member states (together with the Russian Federation) which has neither signed nor ratified the Council of Europe Convention on Preventing and Combating violence against women and domestic violence (Istanbul Convention). During my meetings with the authorities, I was assured that the procedure is underway.

78. While my mandate does not cover the conflict over Nagorno-Karabakh, I cannot abstract from the impact that this protracted conflict has on the internal situation. Azerbaijan has a significant number of IDPs (almost 1 million as compared to 10 million population) as a result of the unresolved conflict in the N-K region and the seven adjacent districts. I reiterate the importance of reaching a peaceful settlement to the unresolved conflict in and around Nagorno-Karabakh region and allowing those IDPs who wish to return, to do so.

¹¹ In November 2015, Azerbaijani law enforcement forces carried out a special operation in Nardaran, a township near Baku. Its purpose was to break the backbone of the Muslim Unity Group, a purportedly militant Shia organisation. During the operation five locals and two police officers were killed, over 80 people were detained.

7. Conclusions

79. The overall situation with regard to democracy, the rule of law and human rights in Azerbaijan continues to raise serious concerns. In particular, the continuous presence of political prisoners is worrying. While a number of new pieces of legislation including the Criminal Code and the Criminal Code Procedure are to be welcomed, the vicious cycle of detaining and releasing political opponents and simple critics like youth bloggers is to be deplored. The issue of political prisoners will continue as long as the rule of law is not fully enforced. As soon as basic freedoms have been respected and the independence of the judiciary has been ensured, there will be no political prisoners.

80. De facto independence of the Bar Association from the executive should be ensured. The arbitrary disbarment of lawyers representing members of the opposition and human rights activists should be immediately stopped. Independently practising lawyers should be allowed to continue practicing and representing their clients under the notarised power of attorneys.

81. Safeguarding freedom of expression and freedom of assembly are preconditions for political pluralism. The crackdown on independent media and journalists is unacceptable. The authorities should immediately refrain from persecutions and harassment, blocking websites and imposing travel bans and fines. Peaceful rallies must be authorised.

82. A less restrictive political environment is a necessary condition for free and fair elections. Furthermore, the authorities should, before the forthcoming elections in Autumn 2020, amend the electoral code in line with VC and ODiHR recommendations. Extra-parliamentary parties should be allowed to conduct their activities without interference, including in the region.

Programme of the fact-finding visit to Baku (4-6 July 2019)

Co-rapporteur: Mr Stefan Schennach, Austria, SOC

Secretariat: Ms Agnieszka Nachilo, Head of the Secretariat of the Monitoring Committee

Thursday, 4 July 2019

10:00-11:00	Meeting with the members of the Azerbaijan Delegation to PACE
11:00-12:00	Meeting with the leaders of political groups in Milli Mejlis
12:30-13:30	Meeting with Mr Azer Jafarov, Deputy Minister of Justice
13:45-14:45	Break for lunch
15:00-16:00	Meeting with Mr Rustam Usubov, First Deputy Prosecutor General
16:15-17:15	Meeting with Mr Chingiz Asgarov, Head of the Human Rights' Protection Unit, Department on Work with Law Enforcement Bodies and Military Issues
18:00	Meeting with Mr Ilgar Mammadov, leader of REAL party and former political prisoner

Friday, 5 July 2019

08:00	Meeting with Mr Mehman Huseynov, Chairperson of IRFS, blogger, former political prisoner
10:15-11:15	Meeting at the Supreme Court
11:30-12:30	Meeting with Mr Oruj Zalov, Deputy Minister of Internal Affairs
12:45-13:45	Meeting with the Deputy Speaker of the Milli Mejlis
14:00-16:00	Meetings with Ambassadors of selected EU countries and the Head of the EU Delegation
16:30-18.00	Meeting with human rights defenders
18:30-19:30	Meeting with representatives of extra-parliamentary opposition parties
19:30- 21:00	Meeting with independent media representatives

Saturday, 6 July 2019

08:00	Meeting with Mr Fuad Hasanov, Chairman of the Democracy Monitor Public Union
09:30	Meeting with Mr Fuad Garamanli, former political prisoner and party leader
11:00	Visits to police stations
15:00	Visit to Turan Press Agency, meeting with independent journalists
17:00	Meeting with members of family of Mr Said Dadashbayili
19:00	Meeting with Mr Ilkin Rustamzadeh, former political prisoner