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The honouring of obligations and commitments by Azerbaijan

Report¹

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

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Summary

The Monitoring Committee recognises the progress made by Azerbaijan with regard to the establishment of the legislative framework in some areas crucial for the respect for the rule of law such as fighting corruption and organised crime and the recent reform of the Judicial Legal Council. It also welcomes the recent ratification of some key Council of Europe conventions and progress in implementing certain judgments of the European Court of Human Rights.

Nevertheless, the lack of independence of the judiciary and the situation with regard to basic freedoms are still preoccupying, as illustrated by numerous judgments of the Court. The committee is particularly worried about continued restrictions on freedom of expression, freedom of association and freedom of assembly. It also expresses its alarm at numerous allegations of use of politically motivated charges against activists and journalists, a practice which has already been condemned by the Parliamentary Assembly and the Court. Moreover, alleged cases of torture and other forms of ill-treatment at police stations, as well as the impunity of perpetrators, raise major concern.

Finally, the committee regrets the lack of implementation of some of the most important recommendations of the Venice Commission with regard to the separation of powers and pluralist democracy, including on a new law on political parties. It also notes that issues related to the situation in Nagorno-Karabakh add another level of complexity to the whole picture.

1. Reference to committee: [Resolution 1115 \(1997\)](#).



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A. Draft resolution²

1. The Parliamentary Assembly recalls that, in acceding to the Council of Europe on 25 January 2001, the Republic of Azerbaijan has agreed to honour several specific commitments which are listed in [Assembly Opinion 222 \(2000\)](#). It has thus accepted the obligations incumbent on all member States under Article 3 of the Statute of the Council of Europe (ETS No. 1): compliance with the principles of pluralist democracy and the rule of law as well as respect for human rights and fundamental freedoms of all persons placed under its jurisdiction.
2. The Assembly recalls [Resolution 2184 \(2017\)](#) “The functioning of democratic institutions in Azerbaijan” and [Resolution 2185 \(2017\)](#) “Azerbaijan’s Chairmanship of the Council of Europe: what follow-up on respect for human rights?”, both adopted on 11 October 2017, in which it raised a number of serious concerns relating to the separation of powers, the independence of the judiciary and the human rights situation in the country, with a focus on the rights to freedom of expression, of association and of assembly, as well as conditions of detention and allegations of torture and ill-treatment by law enforcement officials.
3. The Assembly notes that the Republic of Azerbaijan has a presidential system of government under which the President, who is appointed for a seven-year term of office, exercises wide constitutional powers vis-à-vis the other branches of power, including the parliament (Milli Majlis), and can even dissolve the latter. It regrets that the recommendations of the European Commission for Democracy through Law (“Venice Commission”), included in its Opinion [CDL-AD\(2016\)029](#) of 18 October 2016 on the draft modifications to the Constitution, have not been addressed and that, as a result, the issue of checks and balances remains highly problematic. It invites the authorities to make the necessary constitutional amendments aimed at strengthening the parliament, in line with the Venice Commission’s opinion.
4. The Assembly regrets the fact that the 2018 earlier presidential election and the 2020 earlier parliamentary elections were boycotted by some opposition parties, mainly due to restrictions imposed on political freedoms. It notes that a new Law on Political Parties, adopted by Parliament on 16 December 2022, has entered into force and regrets that the recommendations made by the Venice Commission and the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE/ODIHR) in its Joint Opinion of 10 March 2023 ([CDL-AD\(2023\)007](#)) concerning this law have remained unaddressed. The Assembly is concerned that the application of the provisions of the law might have a chilling effect on political pluralism and on the exercise of political freedoms. It therefore invites the authorities to amend this law as soon as possible in light of the recommendations included in the joint opinion.
5. The Assembly is concerned about various credible reports concerning large-scale – including high-level – corruption and concerning the “Azerbaijani Laundromat”, exposed in its [Resolution 2279 \(2019\)](#) on “Laundromats: responding to new challenges in the international fight against organised crime, corruption and money laundering”. It welcomes the measures taken by the authorities to implement the recommendations of the Group of States against Corruption (GRECO) adopted in its Fourth Evaluation Round concerning the prevention of corruption in respect of members of parliament, judges and prosecutors, such as changes in the framework of public consultations on draft legislation and the adoption of the Law on Rules of Ethical Conduct of Deputies. It invites the authorities to take further measures to implement the outstanding GRECO recommendations, including those formulated in its Fifth Evaluation Round on “preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies”.
6. The Assembly welcomes Azerbaijan’s legislative reforms and activities in the area of combating the financing of terrorism and money laundering, which were positively assessed by the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) and invites the authorities to pursue these reforms.
7. The Assembly is seriously concerned about allegations of a lack of independence of judges and public prosecutors vis-à-vis the executive, particularly in politically-sensitive cases, and the arbitrary application of criminal law, which has also been illustrated by a number of cases in which the European Court of Human Rights has found violations of the European Convention on Human Rights (ETS No. 5, “the Convention”).
8. The Assembly welcomes the adoption on 9 June 2023 of a law which provides for changes in the composition of the Judicial Legal Council (JLC), in line with the recommendations of GRECO and other Council of Europe bodies. Accordingly, 10 out of 15 members of the JLC are judges elected by their peers

2. Draft resolution adopted by the committee on 5 December 2023.

and the JLC is no longer chaired by the Minister of Justice but by a judge. The Assembly believes that this reform will strengthen the judiciary's independence and impartiality and calls on the authorities to continue the reforms aimed at establishing a judicial system which complies with the Council of Europe standards.

9. The Assembly remains concerned about the human rights situation in the country, as illustrated by numerous judgments of the European Court of Human Rights finding violations of human rights and fundamental freedoms guaranteed by the Convention.

10. Referring to [Resolution 2494 \(2023\)](#) "Implementation of judgments of the European Court of Human Rights", the Assembly points out that Azerbaijan is one of the Council of Europe member States having the highest number of non-implemented Court judgments concerning serious structural or complex problems, some of which have not been resolved during a period of over 10 years. More than 320 Court judgments against Azerbaijan have not yet been executed or have been only partially implemented. The Assembly is worried that little progress has been made regarding the execution of certain judgments, in particular regarding torture or ill-treatment by the police and the lack of adequate criminal investigations relating to such allegations, impediments to registering associations and the holding of peaceful demonstrations, issues concerning internally displaced persons, the right to free elections as well as violations of the right to freedom of expression, including due to restrictive criminal provisions on defamation. While some progress has been noticed as regards the authorities' responsiveness to the legal obligation to execute Court judgments and their co-operation with the Committee of Ministers and the Department for the Execution of Judgments of the European Court of Human Rights, the Assembly calls on Azerbaijan to intensify its efforts to deal with the backlog of non-implemented judgments and to demonstrate its sense of accountability in addressing Court judgments in a timely manner.

11. The Assembly remains also concerned about continued restrictions on the right to freedom of expression. Media outlets critical of the authorities have been banned or closed or practice self-censorship. Many journalists and bloggers publicly criticising the government remain in detention on remand, have been convicted on various allegedly fake charges or face surveillance or other forms of harassment. Moreover, the Law on Media of 30 December 2021 imposed on journalists and media outlets an obligation to register at the Media Development Agency; in its Opinion of 20 June 2022 ([CDL-AD\(2022\)009](#)), the Venice Commission considered that it might have a further "chilling effect" on independent journalism and media.

12. Recalling [Resolution 2362 \(2021\)](#) "Restrictions on NGO activities in Council of Europe member States" and [Resolution 2226 \(2018\)](#) "New restrictions on NGO activities in Council of Europe member States", the Assembly notes with concern that civil society organisations and actors continue to operate in a very repressive environment. As regards the right to freedom of association, the restrictive legislative framework introduced in 2011 and 2014 and criticised by the Venice Commission in [Opinions Nos. 636/2011](#) and [787/2014](#) is still in force. Human rights defenders and civil and political activists critical of the authorities face various forms of reprisals for their work (threats, arrest, detention, fake criminal charges or even physical violence). Moreover, the exercise of the right to freedom of assembly is also restricted, as law enforcement authorities often use disproportionate force against protesters, the latter are sanctioned by administrative arrest and the authorities do not allow gatherings in some central venues such as the centre of Baku.

13. The Assembly stresses that the exercise of the rights to freedom of expression, association and assembly is essential for the proper functioning of a democratic society, and urges the Azerbaijani authorities to:

13.1. remove obstacles to the work of journalists, bloggers, human rights defenders and other civil society activists and put a stop to reprisals against them;

13.2. create an environment conducive to the work of the independent media and civil society actors;

13.3. bring the legislation on media, NGOs and defamation into line with the requirements arising from the judgments of the European Court of Human Rights and/or the recommendations of the Venice Commission;

13.4. step up, in a constructive and co-operative spirit, dialogue with civil society and media representatives, and involve them in the process of preparation of draft laws which are relevant to them.

14. Recalling its [Resolution 2322 \(2020\)](#) "Reported cases of political prisoners in Azerbaijan", the Assembly is still seriously worried about the continuing presence of prisoners detained on politically motivated charges. Although the reported number of such persons varies considerably depending on the sources, the denial of the authorities is no longer tenable in view of the numerous judgments of the Court finding breaches of Article 18 taken in conjunction with Article 5 of the Convention based on misuse by the authorities of criminal law provisions in relation to arrest and detention for purposes not permitted by the Convention (*Ilgar Mammadov*

v. Azerbaijan, judgment of 22 May 2014, and other similar judgments). The Assembly notes that despite some progress in the execution of these judgments, the majority of its recommendations included in [Resolution 2322 \(2020\)](#) remain unimplemented and the authorities have neither duly recognised nor adequately addressed the problem. It therefore urges the authorities to fully implement [Resolution 2322 \(2020\)](#), and in particular to ensure the review of individual cases by an independent and impartial body and to release those persons found to be political prisoners in accordance with the definition set out in [Resolution 1900 \(2012\)](#). It also exhorts the authorities to put an end to retaliatory prosecutions against critics of the government, civil society activists and human-rights defenders, and not to misuse criminal legislation in defiance of the rule of law.

15. The Assembly is also very much concerned about reported cases of ill-treatment and torture in law enforcement, including against political opposition, journalists and human rights defenders. It therefore calls on the authorities to:

15.1. carry out effective investigations into all such cases to ensure that the perpetrators are brought to justice and sanctioned;

15.2. take all the necessary measures to prevent further incidents of this type;

15.3. step up its co-operation with the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), fully implement its recommendations and request publication of the reports of its visits.

16. The Assembly calls on the authorities to take all necessary measures to ensure protection of other human rights and fundamental freedoms enshrined in the Convention and other European and international instruments on human rights protection. It invites them in particular to:

16.1. ensure full observance of the right to freedom of thought, conscience and religion, by adopting legislation on alternative military service for conscientious objectors;

16.2. remove unnecessary restrictions to the freedom of movement and the right to leave the country;

16.3. take further measures to combat discrimination such as adopting an effective general anti-discrimination legislation covering all grounds and areas of life and tackling inflammatory rhetoric and hate speech, including at the highest political level;

16.4. adopt an adequate legal framework for the protection of national minorities, set up a specialised body to co-ordinate issues relating to this protection and provide the opportunity for national minority representatives to effectively participate in decision-making processes affecting them.

17. The Assembly also calls on the authorities to ratify the European Charter for Regional or Minority Languages ([ETS No. 148](#)).

18. Recalling its [Resolution 2418 \(2022\)](#) “Alleged violations of the rights of LGBTI people in the Southern Caucasus”, the Assembly reiterates its concerns about the situation of LGBTI people in Azerbaijan and calls again on the authorities to put an end to reprisals against them and to adopt effective legislation and policies to strengthen action against discrimination based on sexual orientation, gender identity, gender expression and sex characteristics. It also urges the authorities to sign and ratify without delay the Council of Europe Convention on preventing and combating violence against women and domestic violence ([CETS No. 210](#), “Istanbul Convention”).

19. The Assembly recalls that the [Action Plan for Azerbaijan 2022-2025](#) is intended to support the country’s efforts to honour its obligations as a Council of Europe member State, and in particular to carry out reforms to improve, *inter alia*, the implementation of the Court case law and the criminal justice system and to ensure fundamental freedoms. The Assembly hopes that the authorities will make full use of the co-operation arrangements offered by this action plan.

20. The Assembly notes that Azerbaijan is currently party to 67 Council of Europe conventions and welcomes the fact that it ratified Protocol No. 16 to the Convention ([CETS No. 214](#)), which entered into force on 1 November 2023. It also hopes that the Constitutional Court and the Supreme Court will make use of the possibility to request the European Court of Human Rights for advisory opinions, in order to ensure a better implementation of the European Convention on Human Rights.

21. The Assembly welcomes the fact that on 8 March 2023 Azerbaijan also signed Protocol No. 13 to the Convention concerning the abolition of the death penalty in all circumstances ([ETS No. 187](#)) and calls on the authorities to ratify it without delay. It also welcomes the recent ratification of the Fourth Additional Protocol to the European Convention on Extradition ([CETS No. 212](#)) and the signing of the Council of Europe Convention against Trafficking in Human Organs ([CETS No. 216](#)).

22. The Assembly is satisfied with the recent adoption of a constitutional law expanding the powers of the Commissioner for Human Rights (Ombudsperson) and invites the authorities to implement the recommendations of the European Commission against Racism and Intolerance (ECRI) concerning this institution, in particular those on ensuring a transparent selection and appointment procedure of the Ombudsperson and on increasing the capacity of the staff of its office.

23. As regards the situation in the Nagorno Karabakh/Karabakh region, the Assembly recalls its [Resolution 2517 \(2023\)](#) and [Recommendation 2260 \(2023\)](#) "Humanitarian situation in Nagorno-Karabakh", [Resolution 2508 \(2023\)](#) "Ensuring free and safe access through the Lachin Corridor" and [Resolution 2391 \(2021\)](#) "Humanitarian consequences of the conflict between Armenia and Azerbaijan / Nagorno-Karabakh conflict". It calls on the authorities to respect the human rights and fundamental freedoms of all persons living in this area. Those who have left the region should not be prevented from returning to their homes and the Azerbaijani authorities should create adequate conditions for full enjoyment of their human rights and fundamental freedoms upon return. The Assembly welcomes the fact that the Commissioner for Human Rights of the Council of Europe visited this area in October 2023; this was the first time in decades that a human rights mission of this kind was able to visit the region.

B. Explanatory memorandum prepared by Mr Liddell-Grainger and Ms Christoffersen, co-rapporteurs

1. Introduction

1. On 11 October 2017, the Parliamentary Assembly adopted [Resolution 2184 \(2017\)](#) “The functioning of democratic institutions in Azerbaijan”,³ in which it raised a number of serious concerns relating to the separation of powers, the independence of the judiciary and the human rights situation in the country.

2. We were appointed on 24 May 2022 (Mr Ian Liddell-Grainger) and on 12 October 2022 (Ms Lise Christoffersen) to replace respectively Mr Richard Bacon (United Kingdom, EC/DA) and Mr Stefan Schennach (Austria, SOC).

3. Since the adoption of [Resolution 2184 \(2017\)](#), several statements concerning the developments in Azerbaijan have been issued by ourselves and the previous co-rapporteurs.⁴ Moreover, the previous co-rapporteur, Mr Schennach, undertook a fact-finding visit to Baku from 4 to 6 July 2019, the outcome of which was summarised in his information note of September 2019.⁵

4. On 3-7 June 2023, we visited Azerbaijan to further assess the honouring of its membership obligations and commitments to the Council of Europe. During our visit, we met with the Ministers of Foreign Affairs, Internal Affairs, Justice, the Vice-President of the Supreme Court, the Prosecutor General and the Ombudsperson, the heads of the political parties represented in the parliament and the Azerbaijani delegation to the Assembly. We also met with representatives of the Bar Association, civil society, extra-parliamentary opposition and relatives of some persons allegedly detained on politically-motivated charges (“political prisoners”) and visited the town of Aghdam, which was returned to Azerbaijan after the 2020 war with Armenia, on the basis of the Trilateral Statement signed on 9 November 2020 by President of the Republic of Azerbaijan Ilham Aliyev, Prime Minister of the Republic of Armenia Nikol Pashinyan and President of the Russian Federation Vladimir Putin (“the Trilateral Statement”). Following our visit, on 13 June 2023, we made a statement, which reflects our findings and concerns.⁶

5. We would like to thank the Azerbaijani delegation for their hospitality and the excellent organisation of that visit and especially for the trip to Aghdam, which was carried out within one day despite the 300 km distance between Baku and Aghdam. We had a fruitful dialogue with the authorities and we are grateful for their willingness to provide us with information on the issues at stake, including those which are politically sensitive or legally complex.

6. On 20-21 November 2023, another visit to Baku took place (with the participation of only one co-rapporteur, Ms Christoffersen). The programme included three meetings: with officials in the Ministry of Justice, with officials and prosecutors in the Prosecutor General’s Office and with the Azerbaijani delegation to the Assembly. Regrettably, the foreseen meetings with some persons detained allegedly on politically motivated charges did not take place because of lack of approval from the executive authorities.

2. Issues at stake

7. The Republic of Azerbaijan became the 43rd member State of the Council of Europe on 25 January 2001. Accordingly, it has entered into, and has agreed to honour, several specific commitments which are listed in Assembly [Opinion 222 \(2000\)](#). It has thus accepted the obligations incumbent on all member States under Article 3 of the Statute of the Council of Europe (ETS No.1): compliance with the principles of pluralist democracy and the rule of law as well as the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms.

8. Azerbaijan is currently party to 67 Council of Europe conventions.⁷ It has recently ratified the Fourth Additional Protocol to the European Convention on Extradition ([CETS No. 212](#)), which entered into force on 1 May 2023. On 30 October 2023, it signed the Council of Europe Convention against Trafficking in Human Organs ([CETS No. 216](#)).

3. On the basis of a report of the Monitoring Committee; see [Doc. 14403](#) and addendum, co-rapporteurs: Mr Stefan Schennach (Austria, SOC) and Mr Cezar Florin Preda (Romania, EPP/CD).

4. For a full list of them, see the Committee’s [Work Overview](#) (4 September 2023), pp. 17-18.

5. [AS/Mon \(2019\) 18](#) of 30 September 2019. The other co-rapporteur, Sir Roger Gale (United Kingdom, EC/DA), could not participate in the visit.

6. [Statement](#), 13 June 2023.

9. The [Action Plan for Azerbaijan 2022-2025](#) was adopted by the Committee of Ministers of the Council of Europe on 16 February 2022. It is intended to support the country's efforts to honour its obligations as a Council of Europe member State; it serves to bring the legislation into line with European and international standards, enhance institutional capacities, introduce best practices and, ultimately, to improve living standards for the citizens of Azerbaijan. Under this action plan, the Council of Europe and the Azerbaijani authorities have agreed to continue to carry forward jointly, through co-operation programmes, reforms to improve, *inter alia*, the implementation of the European Court of Human Rights case law and the criminal justice system and to ensure fundamental freedoms. Numerous areas of co-operation have been identified. The overall budget for this action plan is €9.6 million.

10. The latest Assembly's resolution adopted in the framework of the country's monitoring – [Resolution 2184 \(2017\)](#) – evoked a number of serious concerns with regard to checks and balances (in particular the separation of powers and the insufficient parliamentary control over the executive), the independence of the judiciary and the human rights situation, with a focus on media freedom and freedom of expression, freedom of association and political freedom, as well as conditions of detention and allegations of torture and ill-treatment by law enforcement officials. It also called on the Azerbaijani authorities to “put an end to systemic repression of human rights defenders, the media and those critical of the government”, to “review the cases of the so-called ‘political prisoners’/‘prisoners of conscience’ detained on criminal charges following trials whose conformity with human rights standards has been called into question by the European Court of Human Rights, civil society and the international community” and to “use all possible means to release those prisoners whose detention gives rise to justified doubts and legitimate concerns”. It also called on the Azerbaijani authorities to promptly ensure the full implementation of the relevant judgments of the European Court of Human Rights and to co-operate more closely with the Committee of Ministers and the Department for the Execution of Judgments of the European Court of Human Rights.

11. The adoption of [Resolution 2184 \(2017\)](#) was coupled with that of [Resolution 2185 \(2017\)](#) “Azerbaijan’s Chairmanship of the Council of Europe: what follow-up on respect for human rights?”, based on a report of the Committee on Legal Affairs and Human Rights,⁸ which voiced concerns similar to those evoked by the co-rapporteurs of the Monitoring Committee.

12. Since then, on the basis of reports by other committees, the Assembly also adopted other texts referring to the human rights situation and the rule of law in Azerbaijan: [Resolution 2509 \(2023\)](#) “Transnational repression as a growing threat to the rule of law and human rights” (concerning renditions and cross-border abductions)⁹, [Resolution 2494 \(2023\)](#) “Implementation of judgments of the European Court of Human Rights”¹⁰, [Resolution 2418 \(2022\)](#) “Alleged violations of the rights of LGBTI people in the Southern Caucasus”¹¹, [Resolution 2362 \(2021\)](#) “Restrictions on NGO activities in Council of Europe member States”¹², [Resolution 2322 \(2020\)](#) “Reported cases of political prisoners in Azerbaijan”¹³ and [Resolution 2279 \(2019\)](#) “Laundromats: responding to new challenges in the international fight against organised crime, corruption and money laundering” (on the so-called Azerbaijani Laundromat).¹⁴ The Assembly had also a closer look at the situation and the conflict in Nagorno-Karabakh¹⁵ in its recent [Resolution 2517 \(2023\)](#) and [Recommendation 2260 \(2023\)](#) “Humanitarian situation in Nagorno-Karabakh”¹⁶, [Resolution 2508 \(2023\)](#) “Ensuring free and safe access through the Lachin Corridor”¹⁷ and [Resolution 2391 \(2021\)](#) “Humanitarian consequences of the conflict between Armenia and Azerbaijan / Nagorno-Karabakh conflict”¹⁸.

7. As of 11 November 2023; Council of Europe Treaty Office; [By member States of the Council of Europe - Treaty Office \(coe.int\)](#)

8. [Doc. 14397](#), rapporteur: Mr Alain Destexhe (Belgium, ALDE).

9. See also [Doc. 15787](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Sir Christopher Chope (United Kingdom, EC/DA).

10. See also [Doc. 15742](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Constantinos Efstathiou (Cyprus, SOC).

11. See also [Doc. 15429](#), report of the Committee on Equality and Non-Discrimination, rapporteur: Mr Christophe Lacroix (Belgium, SOC).

12. See also [Doc. 15205](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Ms Alexandra Louis (France, ALDE).

13. See also [Doc. 15020](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Ms Thorhildur Sunna Ævarsdóttir (Iceland, SOC).

14. See also [Doc. 14847](#) and [addendum](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Mart van de Ven (Netherlands, ALDE).

15. The Azerbaijani authorities disagree with the use of the term “Nagorno-Karabakh”, which they consider as an “outdated Soviet terminology” (“Nagorno-Karabakh Autonomous Oblast”). They point out that there is no administrative entity called “Nagorno-Karabakh” and that by a decree of 7 July 2021 the President of the Republic of Azerbaijan established the Karabakh Economic Zone.

13. The above-mentioned Assembly's resolutions illustrate well the fact that the majority of concerns raised in its [Resolution 2184 \(2017\)](#) remain valid and that some new worrying developments need to be examined, despite a few positive developments. The unresolved issues related to the conflict over Nagorno-Karabakh add another level of complexity to the whole picture. Although, we are generally satisfied with the dialogue conducted with the authorities and their willingness to provide us information, we cannot close our eyes on numerous issues of serious concern affecting the state of democracy, the rule of law and the protection of human rights. Therefore, this report will take stock of the developments concerning the issues raised in [Resolution 2184 \(2017\)](#), which relate mainly to the human rights situation in the country. Nevertheless, other and new topics will also be examined.

3. Issues related to the conflict over Nagorno-Karabakh

14. For more than 30 years, Armenia and Azerbaijan have been in conflict involving Nagorno-Karabakh and the surrounding areas, which were occupied by Armenian and separatist forces following the 1992-1994 conflict and despite Resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993) of the United Nations Security Council (UNSC) calling on the latter to withdraw from the occupied territories. In autumn 2020, Azerbaijan regained control of parts of its territory after a 44-day war, which resulted in the loss of more than 6 500 lives and ended with the Trilateral Statement. Although both countries recognised their territorial integrity, no peace agreement has been signed yet and there are many unresolved human rights and humanitarian issues, related mainly to the presence of an Armenian population in Azerbaijan and the return of Azerbaijani internally displaced persons to their homeland. The 1990s conflict produced around 700 000 internally displaced persons and approximately 3 890 missing persons in Azerbaijan and around a thousand in Armenia.¹⁹ As a result of 2020 outbreak of hostilities the number of missing persons has increased on both sides.²⁰

15. The area in and around Nagorno-Karabakh is among the areas the most contaminated with mines in the world. Most of the mines were planted during the conflict in the early 1990s.²¹ According to the Azerbaijani authorities, they have been planted by Armenian forces and the maps provided by Armenia are not reliable, with 25% accuracy only. It is possible that Armenia, which was responsible for carrying engineering and fortification works during the occupation of this area, is still in possession of some accurate mine maps. People continue to be killed and injured by mines.²² Between 10 November 2020 and 15 October 2023, 194 incidents of landmine explosion took place in Azerbaijan, with 65 people being killed and 268 severely injured. The number of victims of landmines and cluster munitions in the last 30 years stands at 3 412. The presence of mines and cluster munitions poses significant threats to people's life and safety and creates significant obstacles for the return of internally displaced persons to their homes. The United Nations Development Programme (UNDP) is supporting the Azerbaijan National Agency for Mine Action (ANAMA) with technical expertise, equipment, capacity development and funding. ANAMA's head of operations estimated that it could take up to 10 years to completely demine the territory.²³ Neither Armenia nor Azerbaijan have ratified the [United Nations \(UN\) Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects \(CCW\)](#) and its relevant protocols (II and V), which prohibit or restrict the use of certain conventional weapons, such as antipersonnel mines or cluster munitions.

16. See also [Doc. 15840](#), report of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Mr Domagoj Hajduković (Croatia, SOC).

17. See also [Doc. 15796](#), report of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Mr Paul Gavan (Ireland, UEL).

18. See also [Doc. 15363](#), report of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Mr Paul Gavan (Ireland, UEL).

19. Memorandum of the Commissioner for Human Rights on the humanitarian and human rights consequences following the 2020 outbreak of hostilities between Armenia and Azerbaijan over Nagorno-Karabakh, CommDH(2021)29, 8 November 2021, paragraphs 12 and 41.

20. According to an ICRC report issued in August 2022, over 300 Armenians missing on Azerbaijan's territory remained unaccounted for.

21. [CommDH\(2021\)29](#), op. cit., paragraphs 24 and 25.

22. Amnesty International, "Azerbaijan 2022".

23. ANAMA reported that since 10 November 2020 and up until 2 October 2021, it has found and cleared 11 062 pieces of unexploded ordnance, 9 835 pieces of anti-personnel mines and 4 175 pieces of anti-tank mines, with a cleared territory representing 5 537 hectares. [CommDH\(2021\)29](#), op. cit.

16. Violations of international humanitarian law continue to be reported and there has been no notable progress investigating alleged war crimes and other violations of international humanitarian law committed during the 2020 Armenia-Azerbaijan conflict and in its immediate aftermath. Bringing the perpetrators of these crimes to justice is of great importance for ending impunity and ensuring lasting peace and reconciliation in the region. The Council of Europe Commissioner for Human Rights has received credible reports from NGOs and victims and their families about breaches of international humanitarian law as well as serious violations of human rights by the parties to the conflict (ill-treatment, torture, decapitation, mutilation or other forms of despoliation of dead bodies, indiscriminate or disproportionate use of force, extrajudicial summary or arbitrary executions).²⁴ She is also concerned about the issue of captives, in particular of Armenian ones in Azerbaijan. According to the Azerbaijani authorities, eleven criminal cases had been opened in relation to the offences allegedly committed by armed forces of the Republic of Azerbaijan during the 2020 war, as a result of which four servicemen were brought to court and convicted for crimes committed against Armenians during the armed conflict. Moreover, on 29 July 2023, a 68-year-old Armenian resident of Nagorno Karabakh, Vagif Khachatryan, had been arrested at the Lachin corridor checkpoint by Azerbaijani border guards during his medical evacuation carried out by the International Committee of the Red Cross (ICRC). As he had been on a wanted list since November 2013, he was subsequently placed in detention on remand in an Azerbaijani prison and accused of war crimes allegedly committed in 1991 during the first Karabakh war. At the beginning of November 2023, he was sentenced to 15 years of prison.

17. Azerbaijan and Armenia lodged interstate applications before the European Court of Human Rights containing allegations of widespread violations of the European Convention on Human Rights, including executions, ill-treatment and mutilations of combatants and civilians. Seven interstate applications are now pending before the Court in relation to the 2020 war.²⁵ Both countries have also instituted proceedings before the International Court of Justice (ICJ) with regard to alleged violations of the International Convention on the Elimination of All Forms of Racial Discrimination. While Azerbaijan is not a State Party to the Rome Statute of the International Criminal Court, Armenia ratified it on 13 October 2023.

18. Security along the Armenia-Azerbaijan border remains fragile due to the lack of delimitation and frequent violations of the ceasefire. Following an agreement with Azerbaijan and Armenia, in February 2023, the European Union deployed a civilian mission in Armenia.

19. On 19 September 2023, Azerbaijan launched “local counter-terrorism activities in the Karabakh economic region” in response to the deaths of two civilians and four police officers in incidents involving landmines allegedly planted by Armenian armed forces. The military operation has reportedly led to more than 200 deaths and 400 wounded, including civilians and children. The Russian peacekeeping forces, who did not intervene to prevent this use of force, evacuated to their base several front-line villages (around 13 400 persons, including several hundred children). On 20 September 2023, an agreement was reached on a complete cessation of hostilities and seems to have been holding. On 28 September 2023, the self-proclaimed authorities of the Republic of Nagorno-Karabakh announced it would dissolve itself and would cease to exist by 1 January 2024.²⁶

20. This military action, which was condemned by the Assembly in its Resolution 2517 (2023), took place after a ten-month period of tension during which the Armenian population of the region had been denied free and safe access through the Lachin Corridor, the only road allowing it to reach Armenia,²⁷ in clear disregard of the Trilateral Statement²⁸ and interim measures by the International Court of Justice²⁹ and the European Court of Human Rights.³⁰ The blockage of the Lachin corridor implied the prolonged disruption in the movement of people and access to essential goods, services and energy supplies, leading to the prospect of

24. CommDH(2021)19, op. cit.

25. Out of them, one case has been lodged by Armenia against Türkiye. For more information, see European Court of Human Rights, Press Unit, [Questions and Answers on Inter-State applications](#), 18 July 2023.

26. For more information see Doc. 15840, op. cit., paragraphs 14-22.

27. The Lachin corridor had been blocked by Azerbaijani forces on 12 December 2022. Following the presence of some Azerbaijani eco activists calling for retaking control over the corridor, Russian peacekeeping forces subsequently barricaded the road to prevent an escalation of tensions. On 23 April 2023, the Azerbaijani authorities installed a checkpoint along the Lachin corridor. According to the Azerbaijani authorities, the corridor has been used by Armenia for illegal military purposes, such as rotation of military personnel, transfer of weapons, ammunition and mines.

28. According to Article 6 of the Trilateral Statement, Azerbaijan is obliged to “guarantee the security of persons, vehicles and cargo moving along the Lachin Corridor in both directions”.

29. In its Orders of 22 February 2023 and 6 July 2023.

30. Of 21 December 2022.

a slow starvation of the local Armenian population (around 120,000 persons) and was condemned by Council of Europe³¹ and European Union institutions³² and discussed by the United Nations Security Council in August 2023.³³

21. Due to this situation and the military action of 19-20 September 2023, in only a few days at the end of September, more than 100 600 Armenians from Nagorno-Karabakh, representing nearly 99% of the region, fled to Armenia, inviting suspicions of many aspects of ethnic cleansing (mainly from the Armenian authorities but not only).³⁴ Following her October 2023 visit to the region, the Council of Europe Commissioner for Human Rights was “shocked” to see that the capital of the region – the city of Khankendi (Stepanakert, in Armenian) – was almost empty following the departure of its population.³⁵ The issue of the human rights, the humanitarian situation of Karabakh Armenians and international obligations of Azerbaijan was discussed on 12 October 2023 during a joint hearing of the Monitoring Committee with the Committee on Legal Affairs and Human Rights and the Committee on Migration, Refugees and Displaced Persons.³⁶ In the above-mentioned Resolution 2517 (2023), the Assembly did not exclude the initiation of a complementary joint procedure between the Committee of Ministers and itself. On 19 November 2023, the International Court of Justice issued an order stating that Azerbaijan should ensure that persons who left Nagorno-Karabakh after 19 September and wished to return there are able to do so in a safe, unimpeded and expeditious manner (in the case *Armenia v. Azerbaijan*, concerning the application of the International Convention on the Elimination of All Forms of Racial Discrimination).

22. We discussed the situation in Nagorno-Karabakh during our visit to Aghdam and during our meetings in the parliament and with the Minister of Foreign Affairs. We were informed about the recent steps taken by Azerbaijan and Armenia to reach a peace agreement and we hope that both governments will intensify their bilateral negotiations in this respect. We were also informed about the Azerbaijani authorities’ plans to demine the region in and around Nagorno-Karabakh and to reconstruct all destroyed infrastructures in this area and about the situation in the Lachin corridor. The authorities also informed us about the envisaged measures aimed at the integration of the Armenian population, including granting citizenship; unfortunately, these measures now seem to be less relevant following its mass exodus to Armenia. Nevertheless, the Azerbaijani authorities stress that they are ready to accept and reintegrate those who want to return to the country and accept Azerbaijan’s jurisdiction and that they have established a special registration system for this purpose.

4. Political context

23. The Republic of Azerbaijan has a presidential system of government under which the President exercises wide constitutional powers vis-à-vis other branches of power, including the parliament (Milli Majlis). Since 2016, the President can dissolve the parliament which effectively renders the latter ineffective as a countervailing power.³⁷ The European Commission for Democracy through Law (“Venice Commission”) in its opinion on the 2016 constitutional amendments concluded that it was incompatible with European democratic standards.³⁸ The President also make submissions to the Milli Majlis regarding the appointment of judges of the Constitutional Court, the Supreme Court and courts of appeal; appoints judges of other courts and

31. See Assembly’s [Resolution 2508 \(2023\)](#) and the following statements: [PACE monitors urge the restoration of freedom of movement along the Lachin corridor](#), 16 December 2022 and [The Lachin corridor: statement by the PACE monitors for Azerbaijan and Armenia](#), 26 April 2023; statement by Council of Europe Secretary General Marija Pejčinović Burić [Humanitarian Situation in Nagorno-Karabakh - Portal \(coe.int\)](#), 28 July 2023; statement by the Commissioner for Human Rights Dunja Mijatović [Restore free movement along Lachin Corridor and ensure rapid and unimpeded delivery of humanitarian assistance to Nagorno-Karabakh - Portal \(coe.int\)](#), 28 August 2023.

32. [Azerbaijan: Statement by High Representative Josep Borrell on the humanitarian situation on the ground](#), 26 July 2023.

33. The UNSC did not adopt any resolution. During the discussion, diplomats of the Western States, including the US, the UK and France, as well as the representative of the European Union, called on Azerbaijan to immediately unblock the Lachin Corridor to prevent a deepening humanitarian crisis facing the Armenian population in Nagorno Karabakh. The Armenian foreign minister, Mr Ararat Mirzoyan, urged the UNSC to avert a risk of “genocide”.

34. See paragraph 13 of [Resolution 2517 \(2023\)](#) and European Parliament’s [Resolution of 5 October 2023 on the Situation in Nagorno-Karabakh after Azerbaijan’s attack and the continuing threats against Armenia](#).

35. [Council of Europe Commissioner for Human Rights concludes her visit to Armenia and Azerbaijan with a focus on the human rights situation of people affected by the conflict in and around the Karabakh region](#), 26 October 2023.

36. With the participation of Mr Thomas de Waal, Senior Fellow, Carnegie Europe, London, United Kingdom (online), Mr Andreas Wissner, Representative of the United Nations High Commissioner for Refugees to the European Institutions in Strasbourg, and Prof. Dr. Björn Schiffbauer, Professor of Public Law, European and International Law, University of Rostock, Germany.

37. PACE, [Observation of the early presidential election in Azerbaijan \(11 April 2018\)](#), Election observation report, rapporteur: Mr Viorel Riceard Badea (Romania, EPP/CD), Doc. 14584, paragraph 7.

appoints and dismisses the Prosecutor General, with the consent of the parliament. In his capacity as the head of executive power, he appoints vice-presidents of the Republic and appoints and chairs the Cabinet of Ministers, as well as central and local executive authorities.³⁹ As a result, the issue of checks and balances in Azerbaijan remains highly problematic, although the separation of powers is enshrined in the Constitution and parliament has very limited oversight over the executive (namely through the possibility of expressing no confidence to the government and overruling the President's veto).

24. The most recent and earlier presidential election took place on 11 April 2018 and was called by the President (although the Venice Commission considered that the provision allowing for the incumbent president to call for an early presidential election is incompatible with democratic standards). President Ilham Aliyev (who is also the Chairperson of the ruling New Azerbaijan Party (YAP) and has served as president since 2003) stood and won a fourth consecutive term with 86,02% of the number of valid votes. The constitutional amendments of 2016 extended the presidential term in office to 7 years so the next election should take place in 2025.

25. The turnout was 74,3%. Some opposition parties boycotted the election, referring to restrictions imposed on political freedoms which made impossible genuine competition. Some others which had put their candidates, complained about limited time for campaigning and unfair conditions. Ilgar Mammadov, a well-known opposition politician, was prevented from running as he remained in prison despite judgments of the European Court of Human Rights (see below).⁴⁰

26. The International Election Observation Mission (which included Assembly's representatives) concluded that the election took place within a restrictive political environment and under laws which curtailed fundamental rights and freedoms. Against this backdrop and in the absence of pluralism, including in the media, the election lacked genuine competition.⁴¹

27. The most recent (early) parliamentary elections were held on 9 February 2020. They were originally scheduled to take place in November 2020, but were brought forward after parliament was dissolved in December 2019. Opposition parties accused President Ilham Aliyev of limiting their ability to campaign and called for a boycott of the election. Therefore, main opposition parties boycotted the elections. At that time, Ilgar Mammadov was released from prison, but his sentence had yet not been quashed despite the Committee of Ministers' calls on the authorities to do so (in the context of the implementation of the Court judgment). The turnout was 46,8 %. Next parliamentary elections are scheduled for 2025. The electoral system provides for single-member constituencies using the first-past-the-post system.

28. The ruling YAP retained its majority, winning 72 of the 125 seats, although this was later reduced to 70 after results in two constituencies had been annulled. The second largest party (the Civic Solidarity Party) won only three seats. Several other minor parties received one seat. There are 41 independent members. The International Election Observation Mission concluded that voters did not have a meaningful choice, despite the large number of candidates. The use of social media by many candidates did not compensate for the absence of campaign coverage.⁴²

29. Therefore, main opposition parties are not represented in the parliament. These are: Popular Front Party (chaired by Ali Kerimli); Liberal Party (chaired by Avaz Temirkhan); Musavat Party (chaired by Arif Hajili) and National Council of Democratic Forces (chaired by Jamil Hasanli). REAL party (chaired by Ilgar Mammadov) has got one seat in the parliament.

30. The New Law on political parties was adopted by Parliament on 16 December 2022 and signed by the President on 11 January 2023. Following a request by the Monitoring Committee, the Venice Commission adopted its opinion on 10 March 2023.⁴³ The opinion was critical and stressed that the new law had introduced a number of new highly problematic provisions which risked having further chilling effects on pluralism in the country. The most serious among them are the following:

- the increase of the minimum number of members of the party from 1 000 to 5 000;

38. [Azerbaijan - Opinion on the draft modifications to the Constitution submitted to the Referendum of 26 September 2016, endorsed by the Venice Commission at its 108th Plenary Session \(Venice, 14-15 October 2016\)](#), CDL-AD(2016)029, 19 October 2016, paragraphs 85 and 87. The Venice Commission Opinion also criticised the introduction of non-elected vice-presidents and extension of the presidential mandate to 7 years.

39. [Doc. 14584](#), op. cit., paragraph 7.

40. *Ibid*, paragraphs 10 and 23.

41. *Ibid*, Appendix 3.

42. PACE, Observation of the early parliamentary election in Azerbaijan (9 February 2020), Election observation report, rapporteur: Mr Frank Schwabe (Germany, SOC), Doc. 15090, 27 February 2020, Appendix 5.

- the need for the already registered political parties to undergo a re-registration;⁴⁴
- the lengthy terms and cumbersome procedure foreseen for the establishment and registration of political parties;
- the prohibition to operate a political party without State registration;
- the overregulation of internal party structures and operations;
- the excessive control exercised by the Ministry of Justice over party activities and over the registers of members of political parties;
- the possibility to suspend the activities of a political party or even dissolve a party in cases not involving serious violations of legal acts by such a party.⁴⁵

31. The Venice Commission pointed out that these new regulations gave rise to serious concerns with respect to the right to freedom of association. It made a number of recommendations addressing the above concerns including the need to define more precisely the purposes for which it was not allowed to establish and operate political parties, while removing unclear or vague terminology and to facilitate the establishment and registration of political parties, inter alia by – at the very minimum – reverting to the original number of members required for the State registration of a political party that figured in the 1992 law (1 000 members), or replacing the membership requirement by other less stringent requirements for demonstrating minimum support.

32. During our visit to Baku, we discussed the Law on political parties of 16 December 2022 and in particular the increase of the minimum number of members of a political party from 1 000 to 5 000. We were informed by our colleagues from the parliament about the plan to move from majoritarian to proportional system in parliamentary elections, that would need a further approval in a nationwide referendum. We also met with Ilgar Mammadov and representatives of extra-parliamentary opposition. They complained about restrictive environment, restrictions in the enjoyment of freedom of expression, association and assembly, continuous threats and harassment and repeated arbitrary detentions. They were also worried about the need for the already registered political parties to undergo a re-registration and the application of other controversial provisions of the Law on political parties. Although some opposition parties, including the REAL party, faced difficulties in being re-registered, on 9 September 2023, their register of members was finally approved.

5. Rule of law

5.1. Fight against corruption and money laundering

33. According to [Transparency International](#) Corruption Perceptions Index (which offers an annual indicator of public sector corruption), in 2022 Azerbaijan ranked 157th out of the 180 countries examined by this organisation.

34. According to Transparency International and [Freedom House](#), corruption is widespread, as power heavily concentrated in the hands of President Ilham Aliyev, and his extended family, and formal political opposition has been weakened by years of persecution. Investigative reports published by foreign media (the [International Consortium of Investigative Journalists](#) in the “Panama Papers” and “Pandora Papers”) in recent years have revealed evidence that the Aliyev family and persons closed to it used their positions to amass large private fortunes and to transfer the money abroad. In the framework of the “Azerbaijani Laundromat”,⁴⁶

43. [Azerbaijan - Joint opinion of the Venice Commission and the OSCE/ODIHR on the Law on political parties - Approved by the Council for Democratic Elections at its 76th meeting \(Venice, 9 March 2023\) and adopted by the Venice Commission at its 134th Plenary Session \(Venice, 10-11 March 2023\), CDL-AD\(2023\)007, paragraphs 114-118.](#)

44. By virtue of Article 30.1 of the law, all the registered political parties have 180 days from the date of the entry into force of the law to fulfil the obligation foreseen in Article 6.1, that is to ensure the minimal number of members and to compile a register of members. The fulfilment is checked by the Ministry of Justice within 30 days from the submission of the register. If deficiencies are established, the party has 30 days to remove them and report back to the authorities. A new 30-day verification period starts then again. Once the Ministry of Justice has established that there are no deficiencies, the party has 90 days to adopt or revise its main documents, the charter and the programme. The failure to fulfil all the requirements, to remove the deficiencies in the set deadline or to adopt or revise the main documents may result in the dissolution of the political party (under Articles 7.4 and 9.3.4 of the law).

45. The authorities do not agree with the use of the term “re-registration” and consider that possibility to dissolve a political party as a last resort measure. They also state that the Ministry of Justice has no authority to “supervise” a political party but only the authority to verify the compliance of the activity of the political party (except for financial activity) with the requirements of normative legal acts and its charter.

money was passed through shell companies, mainly based in the United Kingdom and its Overseas Territories. The Azerbaijani Laundromat was also used to corrupt certain members of the Assembly, as described in the report of the Independent Investigative Body on the allegations of corruption within the Parliamentary Assembly (IBAC) of 15 April 2018. Despite these bad practices, Azerbaijan's reforms and activities in the area of combating the financing of terrorism and money laundering were positively assessed by the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) at the end of 2018.⁴⁷ In March 2023, MONEYVAL experts visited the country for the Fifth evaluation round. The authorities indicate that they have undertaken research and analysis activities in order to align legislation with the recommendations of the Financial Action Task Force (FATF) and international standards. Consequently, new laws, namely, the Anti-Money Laundering and Combating the Financing of Terrorism Act and the Targeted Financial Sanctions Act, have been adopted, and other relevant legislation has been amended in order to ensure compliance and effectiveness of anti-money laundering and counter-terrorism legislation and policies.

35. Transparency International's Global Corruption Barometer also indicates that 15% of public service users paid a bribe in the previous 12 months. In its report following its visit to the country in 2017, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) expressed concern about the lack of progress in fighting corruption at Pre-Trial Detention Facility No. 2 in Ganja, where inmates continued to be obliged to pay for a majority of basic services (such as visits, telephone calls, receiving parcels, and receiving food from the prison shop) to which they were entitled by law.⁴⁸ The authorities indicate that they have taken measures in order to implement the recommendations mentioned in the above CPT report. An internal investigation had been conducted on the shortcomings identified by the CPT in some penitentiary establishments and disciplinary or other measures had been taken against employees responsible for those shortcomings. A call centre ((012) 889) has been established in the Penitentiary Service in order to ensure transparency and quick consideration of individuals' complaints.

36. According to the 2022 US State Department [Country Report](#) on Human Rights Practices: Azerbaijan,⁴⁹ there are also credible reports about bribes paid to obtain a waiver of the military service obligation or assignments to easier military duties. According to the authorities, one criminal case related to this type of corruption was completed and sent to relevant courts for consideration in 2021, while two other similar cases were completed and sent to relevant courts in 2023. Currently, criminal investigation is pending in five similar cases. It seems that the government has made some progress in combating low-level corruption. According to the Anticorruption Department of the Prosecutor General's Office, in 2022, over 600 criminal cases were investigated, 186 cases were sent to courts and 255 persons were convicted (but no senior official). As regards preventing and combating high-level corruption cases, the authorities claim that it has been one of their priorities in the past few years, resulting in identification and prosecution of senior officials suspected of corruption-related offences. Some officials at the level of ministers, deputy ministers and other high-ranking positions have been prosecuted. Between 2019 and 2020, criminal cases related to malfeasance and other associated crimes were initiated against ten mayors. Nine of these cases have been transmitted to the respective courts, while one of them is at the stage of preliminary investigation. As regards the nine cases which have been examined by courts, three mayors have been sentenced to imprisonment for varying terms and one to a corrective works sentence (the five remaining cases are still pending). In addition, "ASAN service centres" have been established under the State Agency for Service and Social Innovations. Their purpose is to ensure that services provided by State bodies (over 300 services) are implemented in a transparent, unified and co-ordinated manner.

37. In 2020, the Group of States against Corruption (GRECO) assessed again the issue of corruption prevention in respect of members of parliament, judges and prosecutors in the framework of its Fourth Evaluation Round. It concluded that "only a modest progress" could be noted in the implementation of the recommendations addressed to Azerbaijan, as 14 out of its 21 recommendations had been implemented satisfactorily and four had been partly implemented. At that time, three recommendations remained not implemented, in particular regarding the composition of the Judicial Legal Council (JLC) and its greater role in judicial appointments, reducing the influence of the executive over the prosecution, and enhancing

46. It was described in detail in a report by the Committee on Legal Affairs and Human Rights, rapporteur: Mr Mart van de Ven (Netherlands, ALDE), see [Doc. 14847](#).

47. MONEYVAL(2018)26-Analysis, 4th Round Mutual Evaluation of Azerbaijan. Exit Follow-up Report Submitted to MONEYVAL, 26 November 2018, p. 17.

48. CPT/Inf(2018)37, 18 July 2018, paragraph 52.

49. "Section 4. Corruption and Lack of Transparency in the Government."

transparency of asset disclosure of members of parliament, judges and prosecutors.⁵⁰ GRECO noted progress as regards prevention of corruption in parliament, due to changes in the framework of public consultations on draft legislation and the adoption of Law on Rules of Ethical Conduct of Deputies.

38. During our visit to Baku, we took note of the various steps taken by the authorities to combat corruption and the implementation of GRECO's recommendations, including those contained in its 2022 evaluation report adopted in the framework of the Fifth Evaluation Round "on preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies" (which has not been published at this time). We discussed these issues in particular with the Prosecutor General and the Minister of Justice. We stressed that they had to be tackled at each level of the State, in line with the recommendations of the GRECO.

39. The authorities have indicated that GRECO's recommendations concerning the JLC had been recently implemented (see below). With respect to the recommendations on increasing transparency in the disclosure of assets of members of parliament, judges and prosecutors, the form of submission of financial information (declaration) and the terms for its submission, as well as officials providing such financial information, authorities receiving this information and the rules for verifying it have been determined in a law of 24 June 2005 "Rules for submission of financial information by officials". Further measures are being considered in the framework of the "National Action Plan to strengthen the fight against corruption for 2022-2026" (in particular the creation of a system of electronic information exchange for checking the compatibility of information provided by officials in their declarations of financial information with the information contained in the relevant databases).

5.2. Independence of the judiciary

40. There are credible reports that both judges and prosecutors took instructions from the Presidential Administration and the Ministry of Justice, particularly in politically sensitive cases, and that judges regularly accepted bribes.⁵¹ Independence of the judiciary and public prosecutors remains an issue as illustrated by the number of numerous cases of arbitrary detentions and many trumped-up or otherwise flawed cases brought against opposition figures, critical journalists and civil society activists (see below). Criminal defendants are often denied the right to a presumption of innocence, a fair and public trial, the possibility to communicate with a lawyer of their choice, to adequately prepare their defence or to confront witnesses or present their own witnesses and evidence.⁵²

41. Judges of the first instance courts are appointed by the President on the proposal of the JLC. Judges of appeal court and the Supreme Court are appointed by parliament on the submission by the President following the proposal of the JLC. The JLC is responsible for judicial appointments, transfers, evaluation and disciplinary measures. For many years its composition raised concerns as regards its independence as only a minority of its members-judges were appointed or elected by their peers and it was chaired by the Minister of Justice. This was not in line with Recommendation [CM/Rec\(2010\)12](#) of the Committee of Ministers to member States on "Judges: independence, efficiency and responsibilities" and was criticised by GRECO, notably in its 2020 report.⁵³

42. In its 2020 report, GRECO also noted that measures had been taken to increase the role of the JLC in the selection of judges, to introduce training on integrity-related matters and counselling on ethics, and, as it appears, a methodology for judicial appointments. The JLC should be involved in the appointment of all categories of judges.

43. During our visit to Baku, we noted with satisfaction the fact that the parliament was examining a draft law which aimed at reforming the JLC and had taken into account the Council of Europe bodies' recommendations concerning its composition. The law was finally adopted on 9 June 2023. According to its provisions, the JLC is composed of 15 members: three judges of the Supreme Court elected by the Conference of Judges, three judges from appeal courts elected by the Conference of Judges, three judges from courts of first instance elected by the Conference of Judges, a judge appointed by the Constitutional Court, a person appointed by the parliament, a person appointed by the relevant executive authority (the Ministry of Justice), a person appointed by the Bar, a legal professional appointed by the Azerbaijani National Academy of Sciences and a representative of legal community elected by the Conference of Judges.

50. GRECO, Addendum to the Second Compliance Report. Azerbaijan, adopted on 29 October 2020 and published on 19 May 2021, GrecoRC4(2020)16.

51. 2022 US State Department Report, Chapter "E. Denial of fair public trial."

52. Ibid.

53. GrecoRC4(2020)16, op. cit., paragraph 48.

Accordingly, 10 out of 15 members of the JLC are judges elected by their peers. There is only one representative of the executive branch among the remaining five members of the Council. The chairperson of the JLC is elected from among members who are judges. In accordance with the new legislation, the judicial members of the JLC and representatives of the legal community were elected by open voting at a conference held this year with the participation of 130 judges representing all courts of the country. The JLC started its work in a new composition and elected its chairperson (the President of the Supreme Court) at its first meeting. According to the authorities, independence of the JLC is ensured by the fact that all its decisions are taken by voting, all votes have the same weight and decisions on important issues related to judges, including their disciplinary responsibility and immunity, are taken only by its judicial members. Decisions of the JLC can be appealed to the Plenum of the Supreme Court. The activities of the JLC are directly financed from the State budget and the amount of current expenses foreseen for its functioning cannot be lower than that of the previous financial year.

44. As to prosecutors, the main concerns are the undue influence of the executive over the Prosecutor's Office and the lack of asset disclosure regime; GRECO's recommendations in this respect have not been implemented yet. Nevertheless, GRECO noted progress as regards disciplinary offences, the Code of Ethical behaviour and the periodic appraisal system. Further, a new set of criteria has been introduced for recruiting law enforcement officers, the rules on competitive selection of prosecutors have been extended to cover senior prosecutors, and new guidelines have been adopted on accessory activities. Improvements have also been made regarding training on integrity-related matters.⁵⁴

45. Issues concerning the reform of the JLC, the training of prosecutors and the fight against corruption are also currently examined by the Committee of Ministers in the context of the execution of the Court judgments concerning arbitrary arrests and detention or other misuse of criminal law against government critics, civil society activists and human rights defenders (Mammadli group, see below). In the context of the examination of this group of judgments, the Committee of Ministers recently welcomed the information provided by the authorities regarding the removal of all metal cages from court rooms in Azerbaijan.⁵⁵

6. Human rights issues

6.1. European Convention on Human Rights

46. Azerbaijan ratified the European Convention on Human Rights in 2002. It has recently ratified Protocol No. 16 to the Convention ([CETS No. 214](#)).⁵⁶ On 8 March 2023, Azerbaijan also signed Protocol No. 13 to the Convention concerning the abolition of the death penalty in all circumstances ([ETS No. 187](#)) but has not ratified it yet.

47. Since the entry into force of the Convention in Azerbaijan on 15 April 2002 and till 31 December 2022, the European Court of Human Rights has delivered 274 judgments concerning this country, including 263 judgments finding at least one violation of the Convention (concerning in particular violations of the right to a fair trial, the right to liberty and security, the protection of property and the right to freedom of assembly and association).⁵⁷ In only three judgments (out of 274), the Court found no violation of the Convention.

48. In 2022, the Court dealt with 320 applications concerning Azerbaijan, of which 269 were declared inadmissible or struck out. The Court delivered 23 judgments (concerning 51 applications), 22 of which found at least one violation of the Convention.⁵⁸

49. According to the latest statistics from the Court, 2 050 of the 74 050 pending applications as of 31 October 2023 – that is 2,8% of the total – concerned Azerbaijan, putting it in eighth place in terms of the States with the largest number of applications pending before the Court.⁵⁹

54. Ibid, paragraph 49.

55. See the latest decision taken in this group of cases by the Ministers' Deputies at its 1468th meeting (Human Rights - DH), CM/Del/Dec(2023)1468/H46-3, 7 June 2023.

56. On 6 July 2023. It entered into force on 1 November 2023. This protocol allows the highest courts and tribunals to request the European Court of Human Rights to give advisory opinions. According to the Declaration of the Republic of Azerbaijan on this Protocol, the Constitutional Court and the Supreme Court were designated as national courts entitled to request such opinions.

57. According to the Court's statistics, [Violations by Article and by State 2022](#).

58. European Court of Human Rights, press country file on [Azerbaijan](#), March 2023.

59. Including the Russian Federation. See, European Court of Human Rights, [Pending applications](#).

6.2. Implementation of judgments of the European Court of Human Rights

50. Azerbaijan belongs to ten Council of Europe member States which have the biggest number of unimplemented Court judgments (namely judgments pending before the Committee of Ministers, which supervises their execution according to Article 46, paragraph 2, of the Convention). According to the latest – 16th – Annual Report of the Committee of Ministers on Supervision of the [execution of judgments](#) and decisions of the European Court of Human Rights (“CM Annual Report 2022”), it ranked 4th, with 285 judgments pending before the Committee of Ministers as of 31 December 2022 (after Ukraine, Romania and Türkiye).⁶⁰ In 2022, the Committee of Ministers closed the examination of 35 cases concerning Azerbaijan, including 32 “leading cases” (namely cases identified as disclosing a problem, in law and/ or practice, at national level, often requiring the adoption by the respondent State of new or additional general measures to prevent recurrence of similar violations of the Convention).⁶¹

51. As of 22 September 2023, 323 cases were pending before the Committee of Ministers, out of which 50 “leading cases” and 273 “repetitive cases” (namely cases relating to a structural and/or general problem already raised before the Committee of Ministers in the context of one or several leading cases). In total, so far 436 cases have been transmitted to the Committee of Ministers for supervision, out of which 113 have been closed by final resolutions. While 14 “leading cases” have been closed, 64 are still pending.⁶² Many of them, concerning structural problems have been pending for over 10 years.⁶³

52. Cases/groups of cases under “enhanced procedure” (that is a procedure designed for more complex or urgent cases and aimed at allowing the Committee of Ministers to closely follow progress of the execution) concern:

- arrests and detention considered by the Court as a misuse of criminal law with the intention to punish and silence the applicants (group Mammadli);⁶⁴
- violations of the right to freedom of expression (Mahmudov and Agazade group concerning unjustified convictions and prison sentence of journalists as sanction for defamation⁶⁵ and the Khadija Ismayilova judgment⁶⁶ also concerning a violation of the right to respect for private life and reputation of a renowned investigative journalist);
- violations of the right to freedom of assembly through the dispersal of unauthorised peaceful demonstrations not posing any threat to public order (the Gafgaz Mammadov group);⁶⁷
- excessive use of force by the security forces and lack of effective investigations (the Muradova, Mammadov (Jalaloglu) and Mikayil Mammadov groups);⁶⁸
- cases concerning non-enforcement of final domestic court decisions, including orders for the eviction of internally displaced persons unlawfully occupying houses or apartments (the Mirzayev group,⁶⁹ which makes up a significant proportion of Azerbaijan’s unimplemented cases), decisions pertaining to other kind of property rights, such as the right to use a plot of land (the Humbatov group)⁷⁰ and decisions ordering the applicants’ reinstatement in their previous posts (Tarverdiyev group);⁷¹
- the Sargsyan judgment concerning the impossibility for persons displaced during the active military phase of the Nagorno-Karabakh conflict to gain access to their homes and properties in the region;⁷²
- violations of the right to free and fair elections due to arbitrary application of electoral legislation in the context of the parliamentary elections of 2005 and 2010 (Namat Aliyev group);⁷³

60. CM Annual Report 2022, p. 96.

61. Ibid, p. 101.

62. Department for the Execution of judgments of the European Court of Human Right, [Azerbaijan](#).

63. As of 31 December 2022, there were 13 such cases under “enhanced supervision” of the Committee of Ministers and 17 under “standard supervision”; CM Annual Report 2022, p. 110.

64. *Mammadli v. Azerbaijan*, application No. 47145/14, judgment of 19 April 2018, and four similar cases.

65. *Mahmudov and Agazadev. Azerbaijan*, Application No. 35877/04, judgment of 18 December 2008 and four similar cases.

66. *Khadija Ismayilova v. Azerbaijan*, Application No. 65286/13, judgment of 10 January 2019.

67. *Gafgaz Mammadov v. Azerbaijan*, Application No. 60259/11, judgment of 15 October 2015 and 36 similar cases.

68. *Muradova v. Azerbaijan*, Application No. 22684/05, judgment of 2 April 2009, and six similar cases; *Mammadov (Jalaloglu) v. Azerbaijan*, Application No. 34445/04, judgment of 11 January 2007, and thirteen similar cases, and *Mikayil Mammadov v. Azerbaijan*, Application No. 4762/05, judgment of 17 December 2009 and nine similar cases.

69. *Mirzayev v. Azerbaijan*, Application No. 50187/06, judgment of 3 December 2009 and 17 similar cases.

70. *Humbatov v. Azerbaijan*, Application No. 13652/06, judgment of 3 December 2009 and three similar cases.

71. *Tarverdiyev v. Azerbaijan*, Application No. 33343/03, judgment of 26 July 2007 and three similar cases.

72. *Sargasyan v. Azerbaijan*, Application No. 40167/06, judgment of 16 June 2015 (Grand Chamber).

- inhuman and degrading conditions of detention as well as unfairness of civil and criminal proceedings (the group of two cases: *Insanov v. Azerbaijan*⁷⁴ and *Rzakhanov v. Azerbaijan*⁷⁵);
- violation of the right to respect for private life and the right to a fair trial on account of lawyers' disbarment (the Namazov group);⁷⁶
- the Makuchyan and Minasyan judgment⁷⁷ concerning failure to take effective action to deter the commission of offences against the lives of individuals due to the impunity granted to an Azerbaijani officer who murdered two Armenian officers during a NATO event in Budapest in 2004;
- extra-legal transfer from Azerbaijan to Türkiye and denial of effective guarantees of protection against arbitrary (*Shenturk and Others v. Azerbaijan*);⁷⁸
- two cases concerning violations of freedom of religion of Jehovah's Witnesses: due to the absence of alternative service system for conscientious objectors⁷⁹ and due to a refusal to allow the import of religious books.⁸⁰

53. Moreover, the Committee of Ministers is supervising under "standard supervision" (that is supervision applied to all cases, mainly followed by the Department for the Execution of Judgments) the execution of over 140 cases (judgments and friendly settlements), including judgments concerning extradition (Garayev group),⁸¹ unfair criminal proceedings against some opposition activists (Huseyn and Others group),⁸² violations of the right to freedom of association due to impediments to registering associations (the Ramazanova group),⁸³ cases concerning unlawful evictions and other violations of the right to protection of property (*Akhverdiyev v. Azerbaijan*⁸⁴) and cases concerning pre-trial detention without any judicial order (*Farhad Aliyev c. Azerbaijan*⁸⁵).

54. As regards just satisfaction awarded by the Court in cases against Azerbaijan, it amounted to € 890 490 in 2021, € 986 152 in 2022 and € 407 035 in the first half of 2023 (till 8 June 2023).⁸⁶ In 2022, just satisfaction was paid within deadline in 13 cases and in 25 cases – outside the deadline. As of 31 December 2022, confirmation of payment of just satisfaction was awaited in 73 cases (including 45 cases awaiting this information for more than six months, that is outside payment deadline) and there were 3 cases only awaiting default interest.⁸⁷

55. According to the CM Annual Report 2022⁸⁸, in 2022, the Azerbaijani authorities submitted a total of 47 action plans⁸⁹, action reports⁹⁰ and communications. At the end of 2022, the Department for the Execution of the European Court of Human Rights judgments was still awaiting for initial action plans/action reports in 17 groups/cases (despite the expiry of the extended deadline in this respect) and updated action plans/action reports or communications containing additional information in six cases.

56. As regards the progress in execution of judgments against Azerbaijan in 2022, the CM Annual Report 2022 points out to the closure of the Azizov and Novruzlu cases (see the Mammadli group below), *Sargsyan v. Azerbaijan* judgment (in which the Committee of Ministers welcomed the readiness of the authorities of

73. *Namat Aliyev v. Azerbaijan*, Application No. 18705/06, judgment of 8 April 2010, and 22 similar cases.

74. *Insanov v. Azerbaijan*, Application No. 16133/08, judgment of 14 March 2013.

75. *Rzakhanov v. Azerbaijan*, Application No. 4242/07, judgment of 4 July 2013.

76. *Namazov v. Azerbaijan*, Application No. 74354/13, judgment of 30 January 2020, and two similar cases.

77. *Makuchyan and Minasyan v. Azerbaijan*, Application No. 17247/13, judgment of 26 May 2020.

78. *Shenturk and Others v. Azerbaijan*, Application No. 41326/17, judgment of 10 March 2022.

79. *Mushtig Mammadov and Others v. Azerbaijan*, Application No. 14604/08, judgment of 17 October 2019.

80. *Religious Community of Jehova's Witnesses v. Azerbaijan*, Application No. 52884/09, judgment of 20 February 2020.

81. *Garayev v. Azerbaijan*, application No. 53688/08, judgment of 10 June 2010, and two other cases.

82. *Huseyn and Others v. Azerbaijan*, application No. 35485/05, judgment of 26 July 2011, and four other cases.

83. *Ramazanova and Others v. Azerbaijan*, Application No. 44363/02, judgment of 1 February 2007.

84. *Akhverdiyev v. Azerbaijan*, Application No. 76254/11, judgment of 29 January 2015.

85. *Farhad Aliyev c. Azerbaijan*, Application No. 37138/06, judgment of 9 November 2010. For the full list of cases under standard supervision, see [HUDOC EXEC](#).

86. The total amount of just satisfaction awarded in cases against this country between 2012 and 2022 was of €6410629.

87. CM Annual Report 2022, p. 117.

88. *Ibid* p. 59.

89. An "action plan" is a document setting out the measures taken and/or envisaged by the respondent State to implement a judgment of the European Court of Human Rights, together with an indicative timetable.

90. An "action report" is a report transmitted to the Committee of Ministers by the respondent State setting out all the measures taken to implement a judgment of the Court and/or the reasons for which no additional measure is required.

Azerbaijan to proceed with the payment of just satisfaction, depending on the reciprocal readiness of the Armenian authorities to pay the just satisfaction in the *Chiragov and Others v. Armenia* case), cases from the Namazov group (see below) and cases concerning freedom of expression (see below).⁹¹

57. In 2022 and 2023, the Department for the Execution of Judgments carried out visits to Baku to discuss the implementation of the Court's judgments and strengthen its co-operation with the Azerbaijani authorities. At the same time, a new Council of Europe project "Support for the improvement of the execution of the judgments of the European Court of Human Rights by Azerbaijan" was launched, in the framework of the Council of Europe Action Plan for Azerbaijan (2022-2025). The project, which started in September 2022, is funded by the Council of Europe's Human Rights Trust Fund (HRTF) and is aimed at supporting the revision of the national practices to ensure prevention of – and provide redress for – the human rights violations that occur in the most frequent cases being lodged with the Court.⁹²

58. The implementation of judgments of the European Court of Human Rights against Azerbaijan was recently examined by the Assembly in its [Resolution 2494 \(2023\)](#). The Assembly noted that Azerbaijan was one of the Council of Europe member States having the highest number of non-implemented Court's judgments and facing serious structural or complex problems, some of which had not been resolved for over 10 years. The rapporteur of Committee on Legal Affairs and Human Rights, Mr Constantinos Efstathiou (Cyprus, SOC), discussed this issue during his fact-finding visit to Baku on 20-23 November 2022.⁹³ In his final report, Mr Efstathiou took note of information concerning some positive steps such as the establishment in early 2022 of a working group on the execution of judgments within the Presidential Administration, including the most relevant agencies (such as the Ministry of Justice, Ministry of Interior, Office of the Prosecutor General and Supreme Court), the swift payment of just satisfaction in many cases and a number of legislative and practical reforms adopted, especially in the field of justice. However, he also noted that the working group was confronted with a backlog of cases and the authorities had delays in taking action to address individual and general measures to implement the Court judgments. He recommended to "(...) improve the domestic accountability of the government for addressing ECtHR judgments in a timely manner, perhaps through giving a greater role to civil society, the parliament and ombudsman, whose remit could perhaps include supervising the implementation of human rights judgments or even to have the right of legislative initiative to help in resolving human rights issues".⁹⁴ He also encouraged the Azerbaijani authorities, including the Supreme Court, to take timely action in addressing the outstanding cases as swiftly as possible, in particular to promote the independence of the judiciary as well as freedom of expression and of association.

59. During our visit to Baku, we raised the issue of the implementation of judgments of the European Court of Human Rights, in particular with the Vice-President of the Supreme Court, Mr Çingiz Əsgərov. We stressed that one of the biggest issues was the implementation of the cases concerning violations of the Convention arising from the arbitrary arrest and detention of opposition politicians, civil society activists, human rights defenders and critical journalists. We heard from the Vice-President of the Supreme Court that its Plenum was more and more involved in the implementation of the Court's decision by taking judgments on individual measures (such as on the reopening of proceedings), in particular in cases concerning unfair trial, torture or ill-treatment. The Supreme Court also took some legislative initiatives, as regards reform of criminal and civil law or the ratification of Protocol No. 16 to the Convention. It was also taking initiatives to harmonise the domestic case law and avoid discrepancies between lower courts' case law, in line with the requirements stemming from the Convention.

6.3. Freedom of expression and media freedom

6.3.1. General situation

60. Since the adoption of [Resolution 2184 \(2017\)](#), serious concerns about restrictions on the right to freedom of expression has remained valid and there have been new negative developments, as pointed out by various Council of Europe bodies (including the Assembly, the Committee of Ministers and the Commissioner for Human Rights), the US State Department and renowned human rights NGOs such as Amnesty International, Human Rights Watch and Reporters Without Borders.

91. CM Annual Report 2022, pp. 16, 20, 30, 36-37, 59.

92. Ibid, pp. 46-47 and p. 54.

93. For a detailed information on the outcome of this visit, see [AS/Jur \(2023\) 01](#) "The Implementation of judgments of the European Court of Human Rights – 11th report. Information note following the rapporteurs visit to Azerbaijan, November 2022".

94. See [Doc. 15742](#), op. cit.

61. On 27 April 2023, the Monitoring Committee held a joint hearing with the Committee on Legal Affairs and Human Rights and the Committee on Culture, Science, Education and Media, in the context of the preparation of a report by the Committee on Legal Affairs and Human Rights entitled “Threats to life and safety of journalists and human rights defenders in Azerbaijan” (rapporteur: Ms Hannah Bardell, United Kingdom, NR).⁹⁵ Issues concerning media freedom in Azerbaijan are also followed within the Committee on Culture, Science, Education and Media by the general rapporteur on media freedom and safety of journalists, Mr Mogens Jensen (Denmark, SOC).

62. According to the authorities, more than 5 100 media outlets freely operate in Azerbaijan and the overall number of internet users exceeds 80% of the population. Nevertheless, the 2022 [Reporters Without Borders' World Press Freedom Index](#) placed Azerbaijan 154th out of 180 countries. According to Reporters Without Borders, since 2014, any kind of pluralism has been destroyed. Almost all media space is under the control of the authorities, with political appointments of relevant media regulators and closures of independent media. Independent news sites such as Azadliq or Meydan TV are based abroad. Government media are used to smear the reputations of independent journalists, even by publishing personal information that could compromise them. Reporters Without Borders also stress that journalists' access to information is restricted, with government agencies refusing to answer their questions. Tensions with Armenia over the disputed Nagorno-Karabakh region provide an additional pretext for censoring the media; only Azerbaijani journalists from State or pro-government media can cover the events in the Lachin corridor.⁹⁶ Generally under surveillance by security forces, journalists cannot guarantee protection for their sources.

63. Media remain severely restricted, and many media outlets practice self-censorship and avoid topics which might be politically sensitive due to fear of government retaliation. Many websites publishing dissenting views (including the Organised Crime and Corruption Reporting Project or Azerbaijani media outlets such as Azadliq and MeydanTV or Xural.com, Bastainfo.com or Criminal.az) have been blocked. Foreign media outlets, including Voice of America and Radio Free Liberty (RFE/RL), were banned in 2009. In June 2022, the Azerbaijani authorities also blocked Russian news agency RIA Novosti. Despite these restrictions, the internet remains the main method for citizens to access independent media. For example, while Meydan, Azadliq and other media outlets were blocked, the information they released was accessible on social media such as Facebook or YouTube.⁹⁷

6.3.2. *Situation of journalists and bloggers*

64. Journalists and other people publicly criticising the government face arrest, detention and other forms of harassment. Many journalists remain in detention on remand or have been convicted on various allegedly fake charges. The Council of Europe's Platform to promote the protection of journalism and safety of journalists is currently following several cases of that kind, including of Nurlan Gahrmanli, Avaz Zeynali (and lawyer Elchin Sadigov), Elnur Shukurov, Osman Narimanoglou Rzayev, Rashad Ramazanov, Polad Aslanov, Aslan Gurbanov and Vugar Mammadov.⁹⁸

65. In September 2023, Nurlan Gahrmanli, a freelance journalist and blogger known for his anti-war posts, was arrested and sentenced to 30 days in administrative detention for “disseminating prohibited information”. In September 2022, Avaz Zeynali, chief editor of the independent news outlet Xural, and lawyer Elchin Sadigov, a human rights lawyer known for representing opposition figures, were arrested on allegedly politically motivated charges of accepting and facilitating bribery, respectively. Their case is related to that of Elnur Shukurov, the owner of the Sada TV Internet channel. He was also arrested on charges of active bribery in September 2022. Osman Narimanoglu Rzayev, a journalist and owner of the news website Demokratik.az, was arrested on 5 July 2022 on charges of extortion or request to transfer property or rights. In May 2022, blogger Rashad Ramazanov (who had previously spent six years in prison following a conviction for alleged drug possession) was arrested again and is detained on charges of large-scale drug trafficking. He considers that the charges have been fabricated in connection with his criticism of the authorities on social media, and stated in court that he had confessed under torture.

95. For more information, see her introductory memorandum on this subject, [AS/Jur \(2023\) 11](#), 23 March 2023. The following experts took part in the hearing: Ms Arzu Geybullayeva, journalist; Ms Jeanne Cavelier, journalist, Reporters Without Borders; and Mr Ulvi Hasanli, founder and Executive Director of AbzasMedia.

96. Reporters Without Borders, [After three -month blockade, RSF urges Azerbaijan and Russian peacekeepers to let reporters visit Nagorno-Karabakh](#), 10 March 2023.

97. According to the 2022 US State Department Report.

98. As of 10 November 2023. See [Platform to promote the protection of journalism and safety of journalists \(coe.int\)](#)

66. In February 2022, Polad Aslanov, chief editor of independent news websites Xeberman and Press-az, who was undertaking an investigation into alleged corruption in the tourism sector involving high-ranking officials, was finally convicted by the Supreme Court to 13 years of prison for “high treason”. In January 2022, he undertook a 20-day hunger strike due to the physical and mental pressure he suffered from in prison.

67. In April 2021, Talysh blogger Aslan Gurbanov, was sentenced to seven years in prison for “public incitement against the State” and “incitement to national, racial, social, religious hatred and hostility through the media”. He remained for many months in Gobustan prison (where detention conditions are very tough). In June 2022, the Supreme Court reduced his term in Gobustan prison from two years to one year. In July 2023, Vugar Mammadov, the editor-in-chief of the daily Hurriyyet, the Youtube channel Hurriyyet TV and the news portal Hurriyyet.az, was sentenced to one month in administrative detention on charges of “posting, or failure to prevent from posting, confidential information on the internet” after he had broadcast a critical interview about the Ministry of Defence.

68. Moreover, during the April 2023 hearing, Ulvi Hasanli indicated that in 2017 he had been arrested after having gone to hospital and “sentenced” to one year of military service in Karabakh despite health reasons preventing him from doing military service. He considers this was due to his being an activist and journalist. During his military service and after his return, AbzasMedia (where he had been editor-in chief) experienced cyberattacks, several website crashes and had their domain banned. On 20 and 21 November, Mr Hasanli and his two collaborators Sevinc Vaqifqizi and Mahammad Kekalov were arrested by police and are now detained on charges of unlawfully bringing money to the country. They face a sentence of up to 8 years of prison. Mr Hasanli and Mr Kekalov also allege that they were ill-treated by police during their apprehension on 20 November.

69. Moreover, recently, since 22 June 2023, police have detained, beaten, threatened, or otherwise obstructed the work of, at least six journalists who reported about the protests against a local goldmine in the village of Soyudlu.⁹⁹

70. As stressed during the April 2023 hearing, journalists in Azerbaijan face physical threats as well, which may include murder followed by impunity and/or unsatisfactory investigations. For the past 20 years no official or police officer has ever been sanctioned for hitting or insulting a journalist. In February 2022, Avaz Hafizli, a reporter and LGBTI activist, was brutally murdered by his cousin; the latter was sentenced to nine years and six months in prison, a sentence which might be considered as duly lenient.¹⁰⁰ In May 2022, journalist Aytan Mammadova was followed home, accosted in an elevator and threatened with a knife to her throat; the perpetrator is still at large. Ms Mammadova believes that the threat was aimed at stopping her to investigate on a high-profile child murder trial. Earlier, in February 2022, police detained, beat and insulted two other female journalists, Fatima Movlamli and Sevinj Sadigova, who were covering protests by mothers of deceased Azerbaijani servicemen.¹⁰¹

71. Those in jail or who left the country, as well as their relatives, continue to face threats to their safety. During the April 2023 hearing, Arzu Geybullayeva drew on her experience, having been herself targeted and humiliated, and her reputation tarnished, even as a journalist living outside the country.

72. The case of Mahammad Mirzali illustrates that persecution continues even if the journalists leave Azerbaijan. This well-known blogger, who had been arrested and tortured in 2013 and then constantly under threats, left Azerbaijan in 2016. He now lives in France, where he has been granted political asylum. In March 2021, he was stabbed in the centre of Nantes. In June 2022, another suspected attempt to murder him occurred at a motorway toll in Angers.¹⁰² Reporters Without Borders believes that the assassination attempts against Mr Mirzali were ordered from the highest level of State. Moreover, a former Azerbaijani deputy economy minister brought a defamation suit against Mr Mirzali before a French court, but the latter considered it as inadmissible.¹⁰³ The blogger’s family was also subject to various forms of harassment: in 2018, his father and brother-in-law were arrested and, in 2021, his sister was threatened, by an anonymous person, with the sharing of intimate pictures.¹⁰⁴

99. Platform to promote the protection of journalism and safety of journalists, [Azerbaijani Journalists Detained, Beaten, and Obstructed by Police over Protest Coverage](#), 6 July 2023.

100. AS/Jur (2023) 11, op. cit.

101. Amnesty International, op. cit.

102. AS/Jur (2023) 11, op. cit.

103. Reporters Without Borders, “Hit men sent to France to kill Azerbaijani blogger who is Aliyev foe”, 14 June 2022.

104. AS/Jur (2023) 11, op. cit.

73. Foreign journalists based abroad are also targeted, as was the case of Swedish journalist Rasmus Canbäck, who reported on Nagorno-Karabakh and was harassed on Twitter by Azerbaijani trolls and diaspora members.¹⁰⁵

74. The Council of Europe's Platform to promote the protection of journalism and safety of journalists also follows the situation of Emin Huseynov, founder of the Institute for Reporters' Freedom and Safety, an NGO monitoring human rights violations against journalists, whose operations were shut down by the authorities in August 2014. Mr Huseynov, who now lives in Switzerland, was charged with tax evasion and abuse of power and faces up to 12 years in prison if convicted.¹⁰⁶ Before he left for Switzerland, he had clandestinely resided for several months in the Swiss Embassy in Baku; during this period, he renounced his Azerbaijani citizenship, being under pressure. On 13 July 2023, the European Court of Human Rights found that the termination of Mr Huseynov's citizenship, which made him stateless, was arbitrary and amounted to an interference with his right to respect to private life (violation of Article 8 of the Convention).¹⁰⁷

75. As stressed by the experts during the April hearing, State institutions film journalists and activists' private lives through hidden cameras and tapped devices. They then discredit them by broadcasting their private lives on television and social media. Azer Ahmadov's career as editor of the *Azadlig* newspaper, the country's opposition paper, ended as a result of a personal video being broadcasted on prime-time pro-government television. A listening device was found in the office of imprisoned activist Bakhtiyar Hajiyev.

76. There are suspicions that the Azerbaijani authorities might have used cyber tools to target journalists. In 2021, as part of the Pegasus revelations, it was revealed that over 1 000 Azerbaijani numbers were selected for targeting by the government.¹⁰⁸ Among them were 48 journalists from Azerbaijan, including Sevinc Vaqifqizi, a freelance journalist for independent media outlet Meydan TV, whose phone had been infected over a two-year period until May 2021; Khadija Ismayilova, an investigative journalist at the Organized Crime and Corruption Reporting Project, whose phone had been regularly infected for nearly three years and Jasur Sumerinli, a journalist based in Germany and reporting on military affairs.¹⁰⁹ In [Resolution 2513 \(2023\)](#) "Pegasus and similar spyware and secret state surveillance", the Assembly stressed that there was a "strong evidence" that Azerbaijan had used the Pegasus spyware against journalists and civil society activists, including in connection with the conflict with Armenia.¹¹⁰

77. It should be noted that the Committee of Ministers is examining the issue of protection of journalists and the establishment of a favourable environment to ensure their safety and security against threats, attacks, abuse and harassment from State and/or non-State actors in the context of the implementation of the Court judgment *Khadija Ismayilova group v. Azerbaijan*. On the occasion of the latest examination of this case, the Committee of Ministers "underlined the importance of ensuring that the investigating authorities duly investigate any possible connection and links between crimes committed against journalists and their professional activities, bearing in mind the importance of meaningful investigations and adequate sanctioning for the fight against impunity". It also asked the Azerbaijani authorities "to consider measures aimed at improving the practice of domestic courts with respect to balancing exercise between the right to respect for private life and reputation and the right to freedom of expression."¹¹¹

6.3.3. Legal framework

6.3.3.1. Criminal sanctions for defamation

78. Journalists operate in a very restrictive legal framework, which has become increasingly repressive over the past 20 years.

105. Reporters Without Borders, "[RSF calls on Azerbaijan to end online harassment of Swedish journalist](#)", 23 September 2022.

106. [Media Freedom Activist Emin Huseynov Charged with Tax Evasion and Abuse of Power](#), updated 19 July 2023.

107. European Court of Human Rights, *Emin Huseynov v. Azerbaijan (No.2)*, application No. 1/16, judgment of 13 July 2023.

108. Amnesty International, "[Armenia/Azerbaijan: Pegasus spyware targeted Armenian public figures amid conflict](#)", 25 May 2023.

109. Committee on Legal Affairs and Human Rights, rapporteur: Peter Omtzigt (Netherlands, EPP/CD), Introductory Memorandum (AS/Jur (2022) 04) "Pegasus and Similar Spyware and Secret State Surveillance", 8 April 2022, paragraph 14, and Platform to promote the protection of journalism and safety of journalists, [Journalists Targeted with Pegasus Spyware](#), updated on 30 January 2023.

110. See also [Doc. 15825](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Pieter Omtzigt (Netherlands, EPP/CD).

111. See decision taken at 1451st (DH) meeting (6-8 December 2022), CM/Del/Dec(2022)1451/H46-3, paragraph 7.

79. Despite judgments of the European Court of Human Rights criticising the use of criminal sanctions for defamation, criminal provisions are often used to silence government critics. According to the Media Rights Institute, an independent media monitoring group, in 2022, at least four individuals were convicted following private prosecution procedures.¹¹² Ali Aliyev, the chairman of the opposition Citizen and Development Party (VİP) was sentenced to one year of imprisonment following slander lawsuits brought by a border guard (Mr Aliyev commented on a helicopter crash in which the guard had survived); journalist Jamil Mammadli was sentenced to a year and six months of correctional labour on slander and insult charges for corruption allegations he had made against the head of the executive authority of a regional district; lawyer İlham Aslanoglu was convicted to six months in prison for insult due to comments allegedly made concerning the Terter case (namely a wide-scale 2017 military investigation that involved the systematic torture of more than 400 soldiers and civilians; see below);¹¹³ activist Abid Gafarov was sentenced to one year in prison for alleged defamation of Nagorno-Karabakh veterans (it is believed that this was related to the fact that he had highlighted torture in the Terter case).¹¹⁴

80. It should be recalled that the Committee of Ministers is still examining the implementation of the Mahmudov and Agazade group concerning unjustified convictions and prison sentences of journalists as sanction for defamation (see above). According to the Court's case law, while the use of criminal law sanctions in defamation cases is not in itself disproportionate, a criminal conviction is a serious sanction, having regard to the existence of other means of intervention and rebuttal, particularly through civil remedies. It can be used only in exceptional circumstances, notably where other fundamental rights have been seriously impaired, as, for example, in the case of hate speech or incitement to violence.¹¹⁵ The Committee of Ministers notes that there has been no progress as regards the issues of reducing prison sentences for defamation (Article 147 of the Criminal Code) and insult (Article 148 of the Criminal Code) and legislative reforms are still awaited.¹¹⁶ It has recently received information on measures taken by the General Prosecutor's Office and statistical information on the use of criminal sanctions for defamation. However, the Committee of Ministers still awaits information on possible measures aimed at amending the legislation on defamation to remove lengthy prison sentences and, as regards other provisions of the Criminal Code which might limit freedom of expression.¹¹⁷ During our visit to Baku, we heard from Mr Əsgerov that there were no more cases before the Supreme Court concerning criminal sanctions against journalists for libel.

6.3.3.2. *The Law on Media of 30 December 2021*

81. A new Law on Media was adopted on 30 December 2021 and entered into force on 8 February 2022. According to its preamble, it determines "the organisational, legal and economic bases of activity in the field of media, as well as general rules for the acquisition, preparation, transmission, production and dissemination of mass information". It imposes on journalists and media outlets an obligation to register at the Media Development Agency (MDA)¹¹⁸ by 25 March 2023. It also allows the MDA to collect the personal information of those who have registered, bars non-residents from owning media and requires journalists to have higher education, a formal contract and three years' experience to obtain accreditation.

82. Following a request by the Monitoring Committee, the Venice Commission issued an opinion on this law on 20 June 2022. It concluded that "in the context of an already extremely confined space for independent journalism and media in Azerbaijan, the law will have a further "chilling effect". Many provisions are not in line with European standards on freedom of expression and media freedom and do not allow the media to effectively exercise its role as a "public watchdog".¹¹⁹ The Venice Commission recommended not to implement the law and expressed several concerns. In particular, it urged the Azerbaijani authorities to repeal the excessive restrictions on the establishment of media entities (including as regards foreign ownership and foreign funding) in order to foster media pluralism; to either abolish the Media Register or repeal the excessively restrictive conditions for journalists and media entities in order to be included in the Media Register (in particular as regards the provision of detailed personal information); to repeal the accreditation

112. Human Rights Watch, "Azerbaijan. Events of 2022".

113. Ibid.

114. See 2022 US State Department Report.

115. See European Court of Human Rights, *Perinçek v. Switzerland*, Application No. 27510/08, judgment of 15 October 2015 (Grand Chamber), paragraph 273, and *Cumpănaș and Mazăre v. Romania*, Application No. 33348/96, judgment of 17 December 2004 (Grand Chamber), paragraph 115.

116. See [Case Description](#) of this group of cases in HUDOC EXEC.

117. See decision taken at its 1443rd (DH) meeting (20-22 September 2022), CM/Del/Dec(2022)1443/H46-4.

118. It was established following a Presidential Decree of 12 January 2021. According to the authorities, it stimulates the use of new information and communication technologies and innovations.

119. CDL-AD(2022)009, paragraph 52.

scheme for journalists; to amend the provisions which do not guarantee sufficient protection for the right of journalists not to disclose their sources of information and to broaden the definition of a journalist in line with the “public watchdog” role of journalists. Similar concerns were also expressed by the Commissioner for Human Rights in a letter addressed to the authorities of Azerbaijan in January 2022.¹²⁰ In December 2022, the Committee of Ministers, in the framework of the supervision of the implementation of the Khadiya Ismayilova judgement, called on the authorities to bring the Law on Media fully in line with the Council of Europe standards, to make full use of the Organisation’s expertise and to provide information on the composition and practice of the MDA.¹²¹

83. According to the journalists whom we met in Baku, this law is aimed at stifling independent electronic media. So far, within only one year of the activity of the MDA, around 40 journalists and media outlets have been refused registration, out of which around 20 have brought their cases to courts. Unregistered media and journalists are not allowed to attend open sessions of the parliament. The Media Register seems to have been created to essentially play the role of a license and permission provider, which is against the Constitution of Azerbaijan. During our visit to Baku, we raised the issue of freedom of expression and access to information during our discussion with colleagues from the parliament. We were informed that while classical media such as State television were losing their public, there were no problems with accessing electronic media, including social networks. According to the authorities, the draft of the Law on Media was discussed with over 800 journalists and media representatives. The law restricts the State bodies’ right to establish media entities, thus taking an important step towards preventing unfair competition and creating broad opportunities for media to continue their activities in a free, independent and pluralistic environment. It does not apply to social networks, video sharing platforms, bloggers or other activities within these platforms, nor does it attempt to regulate or restrict their activities in any way. With regard to the registration of journalists, the law allows journalists to obtain a card confirming their voluntary registration. The card does not classify him/her as a journalist; it only confirms that the information about its owner is recorded in the Media Register.

6.4. Freedom of association and peaceful assembly

6.4.1. Right to freedom of association

6.4.1.1. Legislative framework

84. Serious concerns remain with respect to ongoing restrictions on the right to freedom of association and assembly and the overall situation of NGOs and civil society activists, which continue to operate in a very repressive environment.

85. As regards the right to freedom of association, the Assembly has already offered a critical appraisal of the situation in Azerbaijan in [Resolution 2226 \(2018\)](#) “New restrictions on NGO activities in Council of Europe member States”¹²², [Resolution 2362 \(2021\)](#) “Restrictions on NGO activities in Council of Europe member States”¹²³ and [Resolution 2225 \(2018\)](#) “Protecting human rights defenders in Council of Europe member States”.¹²⁴

86. The restrictive legislative framework amended in 2014 is still in force and applied in a very restrictive way. Registration of NGOs seeking legal personality status (before the Ministry of Justice) is extremely cumbersome. Although certain rules have been simplified (due to the “single window” procedure for registering grants), NGOs have very limited access to funding. In particular, access to foreign funding is very limited due to the requirement for donors to obtain a pre-approval from the Ministry of Justice. The latter monitors NGO activities and conduct inspections. The bank accounts of some organisations or of their leaders (for example, Intigam Aliyev and Asabali Mustafayev) are still frozen.¹²⁵ Therefore, it is very difficult for NGOs to operate.

120. CommHR/DM/sf 002-2022, letter of 18 January 2022.

121. See decision taken at 1451st (DH) meeting (6-8 December 2022), op. cit.

122. On the basis of a report of the Committee on Legal Affairs and Human Rights, rapporteur Mr Yves Cruchten (Luxembourg, SOC), [Doc. 14570](#).

123. See [Doc. 15205](#), op.cit.

124. On the basis of a report of the Committee on Legal Affairs and Human Rights, rapporteur Mr Egidijus Vareikis (Lithuania, EPP/CD), [Doc. 14567](#).

125. According to the 2022 US State Department Report.

87. In 2021, the European Court of Human Rights delivered a judgment in the case *Democracy and Human Rights Resource Centre and Mustafayev v. Azerbaijan*.¹²⁶ The case concerns judicial orders against the applicants, a human rights NGO and its chairman (a human rights lawyer), pending the investigation into a criminal case brought against a number of NGOs in 2014 for alleged financial irregularities. The Court found, amongst others, a violation of the right to protection of property (Article 1 of Protocol No. 1 to the Convention (ETS No. 9)) as concerned the freezing of the applicants' bank accounts, and a violation of the right to freedom of movement (Article 2 of Protocol No. 4 to the Convention (ETS No. 46)) on account of travel bans imposed on Mr Mustafayev by the prosecuting authorities and by the domestic courts. Moreover, it considered that the purpose of the restrictions on the applicants' rights had been to punish them for their work in the area of human rights and to prevent them from continuing their activities (violation of Article 18 taken in conjunction with Article 1 of Protocol No. 1 in respect of both applicants and in conjunction with Article 2 of Protocol No. 4 in respect of Mr Mustafayev). The Committee of Ministers is now examining, under standard supervision, this case together with other cases concerning violations of the right of freedom of association (*Ramazanova and others v. Azerbaijan* group of cases¹²⁷). Questions relating to the legislation on the registration and operations of NGOs are being examined in connection with the execution of this group of judgments. The authorities have indicated that the freezing of bank accounts and other restrictions concerning Mr Mustafayev and his NGO had been lifted following the European Court of Human Rights judgment.

88. In a communication submitted to the Committee of Ministers in May 2023, a group of NGOs (Human Rights House Foundation, European Human Rights Advocacy Centre, Election Monitoring and Democracy Studies Center, Legal Education Society and Independent Lawyers Network) state that none of the systemic shortcomings have been adequately rectified. Arbitrary procedure for NGO registration is accompanied by cumbersome reporting requirements and excessive powers of the Ministry of Justice for monitoring and control. Nearly all NGOs working on human rights are forced to operate in grey zone as their bank accounts were frozen or offices raided, and they cannot receive grants from the European Union.¹²⁸

6.4.1.2. Reprisals against human rights defenders and other civil society activists

89. Like journalists and bloggers, civil society activists expressing critical views about the government are threatened, persecuted and harassed (also physically). The use of administrative detention and imprisonment on criminal charges is common. Human rights activists are particularly targeted. Their situation is constantly followed by the Assembly's General Rapporteur on the Situation of Human Rights Defenders and Whistleblowers.¹²⁹

90. In this context, the Council of Europe Commissioner for Human Rights and ourselves expressed concern about the arrest and detention of Bakhtiyar Hajiyev, a well-known Azerbaijani civil activist and former "prisoner of conscience". He was arrested on 9 December 2022 on charges of hooliganism and contempt of court.¹³⁰ In June 2023, new charges, in relation with his receiving grants from the European Endowment for Democracy, were brought against him. During our visit to Baku, we raised this issue during our talks with various authorities, who replied each time that his detention was linked with a private dispute. In December 2021, our predecessors, Messrs Schennach and Bacon, were also worried about the state of health of Saleh Rustamov, activist of the Azerbaijani Popular Front Party sentenced to 7 years and 3 months in prison in 2018 following a trial considered by human rights activists as unfair and based on unfounded grounds.¹³¹ Although he was released in May 2022, he is now harassed by pro-government media (according to his family). The Commissioner for Human Rights also highlighted the case of human rights lawyer Elchin Sadigov and journalist Avaz Zeynalli, prosecuted on grounds that lack credibility (see above).¹³² Concerns were also voiced about the arrest and conviction of Elchin Mammad, a fervent human rights defender and president of the Social Union of Legal Education of Sumgait Youth (SULESY), after publishing a critical report on the

126. *Democracy and Human Rights Resource Centre and Mustafayev v. Azerbaijan*, Application Nos. 74288/14 and 64568/16, judgment of 14 October 2021.

127. Application No. 44363/02, judgment of 1 February 2007.

128. *Ramazanova and Others v. Azerbaijan*, see the [description of this group of cases](#) in HUDOC EXEC.

129. Within the Committee on Legal Affairs and Human Rights. Emanuelis Zingeris (Lithuania, EPP/CD) has been recently appointed in this quality. For more information on the situation of human rights defenders in Azerbaijan see the revised information note by his predecessor Ms Alexandra Louis (France, ALDE), [AS/Jur \(2022\) 01](#), "Situation of human rights defenders in Council of Europe member States", 2 February 2022.

130. See the statement of the Commissioner for Human Rights of 3 February 2023, "[Azerbaijan's authorities should release activist Bakhtiyar Hajiyev and give him full access to medical care](#)", and our statement of 13 February 2023, "[PACE monitors call on Azerbaijan authorities to immediately release Bakhtiyar Hajiyev](#)".

131. See their statement of 10 December 2021, "[Azerbaijan: PACE rapporteurs concerned about the state of health of activist Saleh Rustamov](#)". The authorities claim that medical services were available to Saleh Rustamov during his imprisonment and that his health status had been assessed as stable during periodic medical examinations.

human rights situation in Azerbaijan. In October 2021, he was sentenced to four years' imprisonment for "theft resulting in serious damage" and "illegally buying and possessing firearms accessories", as the police had apparently found jewellery and ammunition in his office.¹³³ More recently, on 23 July 2023, Gubad Ibadoghlu, an Azerbaijani academic and chair of the Democracy and Welfare Party, was arrested in a violent manner and placed in detention on remand for four months. He is now charged with the "production, acquisition or sale of counterfeit money by an organised group" and "preparing, possessing or distributing religious extremist materials". It is believed that the charges against him result from his activism and are politically motivated because of his activities aimed at exposing and combating corruption.¹³⁴ According to his family, the conditions of Mr Ibadoghlu's detention are also of great concern, as he lacks appropriate medical care. According to the authorities, Mr Ibadoghlu has constant access to medical care. He had not given to the medical staff any information about having been tortured and showed no signs of "mental and physical torture". Currently, he is kept in a cell that meets the "requirements for detention and living conditions, including room temperature".

91. In recent years, the European Court of Human Rights has found breaches of the Convention in several cases concerning the arbitrary arrest and detention of political opposition figures, civil society activists, human rights defenders and critical journalists between 2013 and 2016, often in tandem with other infringements of their human rights and fundamental freedoms. In 10 judgments it also found breaches of Article 18 taken in conjunction with Article 5 of the Convention based on misuse by the authorities of criminal law provisions in relation to arrest and detention for purposes not permitted by the Convention¹³⁵ In one of these judgments – *Aliyev v. Azerbaijan*¹³⁶ – the Court held that there was "a troubling pattern of arbitrary arrest and detention of government critics, civil society activists and human-rights defenders through retaliatory prosecutions and misuse of criminal law in defiance of the rule of law". The Court therefore called on Azerbaijan to take general measures to "focus on the protection of critics of the government, civil society activists and human-rights defenders against arbitrary arrest and detention. The measures to be taken must ensure the eradication of retaliatory prosecutions and misuse of criminal law against this group of individuals and the non-repetition of similar practices in the future". The overturning of the criminal convictions of Ilgar Mammadov,¹³⁷ Rasul Jafarov and the applicants in the cases Rashad Hasanov and Others and Azizov and Novrozlu by the Plenum of Supreme Court are a step in the right direction. Nevertheless, the convictions of the other applicants who were detained for similar reasons are still in force and the Committee of Ministers continues to consider this issue as part of its supervision of the execution of the five Court's judgments concerning nine applicants (see the above-mentioned group of cases Mammadli).¹³⁸ These judgments have also been considered in detail in the report on "reported cases of political prisoners in Azerbaijan" and, in its [Resolution 2322 \(2020\)](#), the Assembly called on the Azerbaijani authorities to promptly implement them.¹³⁹

92. The Committee of Ministers is also examining the execution of three judgments of the European Court of Human Rights concerning disbarment of human rights lawyers between 2011 and 2015 (the Namazov group).¹⁴⁰ Some individual and general measures have already been taken to implement these judgments: in

132. See her statement of 13 September 2022, "[Azerbaijan's authorities should immediately release human right lawyer Elchin Sadykov and journalist Avaz Zeynalli and stop intimidating and harassing civil society activists and independent media actors](#)".

133. See the International Federation for Human Rights [Urgent Appeal](#) of 15 October 2020: "Azerbaijan: Sentencing and ongoing arbitrary detention of Mr. Elchin".

134. See the statement by the General Rapporteur on Political Prisoners, Ms Sunna Ævarsdóttir (Iceland, SOC), [PACE rapporteur calls for immediate release of Gubad Ibadoghlu \(coe.int\)](#), 24 August 2023.

135. *Ilgar Mammadov v. Azerbaijan*, application No. 15172/13, judgment of 22 May 2014; *Rasul Jafarov v. Azerbaijan*, application no. 69981/14, judgment of 17 March 2016; *Mammadli v. Azerbaijan*, application no. 47145/14, judgment of 19 April 2018; *Rashad Hasanov and Others v. Azerbaijan*, application no. 48653/13+, judgment of 7 June 2018; *Aliyev v. Azerbaijan*, application no. 68762/14+, judgment of 20 September 2018; *Natiq Jafarov v. Azerbaijan*, application no. 64581/16, judgment of 7 November 2019; *Ibrahimov and Mammadov v. Azerbaijan*, application no. 63571/16, judgment of 13 February 2020; *Khadija Ismayilova v. Azerbaijan (No. 2)*, application no. 30778/15, judgment of 27 February 2020; *Yunusova and Yunus v. Azerbaijan*, application 68817/14, judgment of 30 July 2014; and *Azizov and Novrozlu v. Azerbaijan*, applications no. 65583/13 and 70106/13, judgment of 18 February 2021.

136. *Aliyev v. Azerbaijan*, *op. cit.*, paragraph 223.

137. In the case of Ilgar Mammadov – following the issuing, by the Committee of Ministers, for the first time, of infringements proceedings under Article 46, paragraph 4, of the Convention; see *Ilgar Mammadov v. Azerbaijan*, application No. 15172/13, judgment of 29 May 2019 (Grand Chamber). The Court concluded that Azerbaijan had failed to fulfil their obligation under Article 46, paragraph 1, to abide by the *Ilgar Mammadov v. Azerbaijan* judgment of 22 May 2014, by not providing the applicant's unconditional release.

138. This group of cases was recently examined at the 1468th meeting (DH) in June 2023; see decision CM/Del/Dec(2023)1468/H46-3, 7 June 2023.

139. See [Doc 15020](#), *op. cit.*

April 2022, the applicant Aslan Ismayilov was restored in the Azerbaijani Bar Association (ABA) following a reopening of proceedings ordered by the Plenum of the Supreme Court; the number of disciplinary cases in the ABA has decreased in recent years and the authorities indicated that drafts amendments to the Law on Advocates and Advocacy Activity were prepared by the Cabinet of Ministers. However, the Committee of Ministers still awaits individual measures in the cases of the two other applicants (MM. Namazov and Bagirov) as well as general measures aimed at putting in place sufficient safeguards to prevent undue disciplinary action against lawyers in the exercise of their professional duties.¹⁴¹ Recently, the Presidium of ABA suspended the licence of lawyer Elchin Sadigov.

93. During our visit to Baku, we met with Mr Anar Bagirov, chairman of the ABA, and his colleagues. We were informed about the possibility of reinstatement of disbarred lawyers, following a judgment of the European Court of Human Rights, if the Plenum of the Supreme Court decided to reopen the case and to send it back to the lower court for re-examination. We also heard about the adoption by the ABA of a new code of ethics for lawyers in December 2020, the insufficient number of lawyers in the country (compared with other countries) and the low fees paid from the State budget to lawyers providing free legal aid. As a result of the examinations organised by the ABA, the total number of its members gradually increased and reached 2 334 (as of August 2023), while prior to its establishment, in November 2004, the number of lawyers was at 370.

6.4.2. Right to freedom of assembly

94. Although the right to freedom of assembly is guaranteed by the Constitution, its restrictive implementation makes it illusory. The legislation, which sets a system of prior notification has been replaced in practice by a system of prior authorisation that is in breach of national law.¹⁴² Systematically any opposition demonstrations are instructed to be held at the far outskirts of Baku with no public transport available. The last demonstration in the centre of Baku took place in January 2019. Independent NGOs and political parties have also difficulties in renting private venues for hosting their events.¹⁴³

95. The authorities often respond to peaceful assemblies by using force against protesters, detaining them (the law permits administrative detention for up to one month for resisting police, commonly applied to peaceful demonstrator) or removing them from the area of the demonstration¹⁴⁴ (very often protesters demonstrating in other parts of the capital are driven outside the city, sometimes several hundred kilometres away, by special buses, before or after the protest). For example, in May 2022, a group of civil society activists was prevented from holding a peaceful protest in Baku's Fountain Square; more than 40 activists were detained both and during the action.¹⁴⁵ The authorities consider that the actions they take in response to peaceful assemblies are compliant with national legislation.

96. The problem does not concern only political demonstrations in Baku. Many rallies convened on social or economic grounds are also prevented. On 13 March 2023, in Saatli a large group of residents protested against water shortages. Police used excessive force including rubber bullets and pepper spray. Three protesters were injured and eight detained by the police during the action (out of them, five were subsequently released and three sentenced to administrative detention).¹⁴⁶ On 20 and 21 June 2023, the police broke up a demonstration in the village of Soyudlu (in the Gadabay region), where dozens of residents gathered to express their concerns in relation to the construction of a chemical waste-disposal reservoir in the vicinity of their village, which they believed would pose a serious risk to their health. It was reported that police officers used disproportionate force and rubber batons, tear gas, and pepper spray, against the peaceful protesters, including many older persons. A dozen of demonstrators have been injured and access of non-residents to the village has been restricted.¹⁴⁷ According to the authorities, public order was violated in the village, several police officers and people working on the construction site were injured, the company's property was

140. *Namazov v. Azerbaijan*, Application no. 74354/13, judgment of 30 January 2020; *Bagirov v. Azerbaijan*, Applications no. 81024/12 and 28198/15, 25 June 2020, and *Aslan Ismayilov v. Azerbaijan*, application No. 18498/15, judgment of 12 March 2020.

141. See the [description of this group of cases](#) in HUDOC EXEC.

142. Universal Periodic Review (UPR) of Azerbaijan. 44th session of the United Nations Human Rights Council. Working Group on the Universal Periodic Review. Report submitted on 4 April 2023, Election Monitoring and Democracy Studies Centre, Human Rights House, Institute for Citizens' Rights and Legal Education Society, paragraph 4, and the 2022 US State Department Report, op. cit.

143. UPR submission, op.cit.

144. 2022 US State Department Report, op.cit.

145. UPR submission, op.cit.

146. Ibid.

147. See [letter](#) by the Commissioner for Human Rights to the Azerbaijani authorities, 13 July 2023.

damaged and pictures of those events were posted on social media. People who deliberately did not obey police's instructions and injured police officers by throwing blunt tools on them were only subject to administrative sanctions. Pepper spray had been used in a very limited way.

97. Since 2016, the Committee of Ministers is examining the execution of over 30 judgments of the European Court of Human Rights concerning violations of the right to freedom of assembly through the dispersal of unauthorised peaceful demonstrations not posing any threat to public order and the ensuing applicants' arrest, unfair administrative convictions and detention (the above-mentioned Gafgaz Mammadov group). In its latest decision of March 2023, it regretted that the authorities had not submitted in a timely manner an action plan on the measures to rectify these structural problems and stressed that legislative reforms were necessary in this group of cases.¹⁴⁸

6.5. The issue of "political prisoners"

98. Since Azerbaijan's accession to the Council of Europe, concerns have been voiced by various international instances about the arbitrary use of arrest and detention, and about persons allegedly detained on politically motivated charges.¹⁴⁹

99. In its latest resolution on this subject – [Resolution 2322 \(2020\)](#) "Reported cases of political prisoners in Azerbaijan" – the Assembly condemned the continuing presence of prisoners detained on politically motivated charges and the authorities' denial of this phenomenon. It stressed that the latter's position was no longer tenable in view of the numerous recent judgments of the European Court of Human Rights, including those finding violations of Article 18 of the Convention (see group Mammadli above). Although the Assembly welcomed the reforms undertaken by the authorities with respect to the judicial and penitentiary systems (such as those based on the Executive Order of 2017 and the Presidential Decree of 2019), it concluded that "there can no longer be any doubt that Azerbaijan has a problem of political prisoners and that this problem is due to structural and systemic causes" and that "much more remains to be done if the problem is to be fully and durably resolved." In a follow-up report of June 2021, the rapporteur of the Committee on Legal Affairs and Human Rights, Ms Thórhildur Sunna Evarsdóttir (Iceland, SOC), deplored the fact that most provisions of [Resolution 2322 \(2020\)](#) had not been implemented by the Azerbaijani authorities and that the problem of political prisoners in Azerbaijan had been "neither duly recognised, nor adequately addressed by the authorities, let alone resolved."¹⁵⁰

100. There are several lists of "political prisoners" established by various domestic and international human rights organisations. The most reliable list is drawn up by the Union for the Freedom of Political Prisoners in Azerbaijan, and more precisely by activists and former "prisoners of conscience" Leyla Yunus and Elshan Hasanov. It refers to the definition of "political prisoner" contained in Assembly's [Resolution 1900 \(2012\)](#). The [updated list](#) published on 19 April 2023 contained 182 cases: including 6 journalists and bloggers (including the above-mentioned Polad Aslanov, Aslan Gurbanov, Rashad Ramazanov and Bakhtiar Hajiyev), 6 members of opposition parties and movements, 5 "political emigrants" deported from Germany, 120 "peaceful believers" (mainly Shiite activists, including members of the Muslim Unity Movement and persons convicted in the Nardaran case), 8 persons convicted in the Terter case (see below), 26 persons convicted in the Ganja case and 11 life term sentenced (six former officers of the special police unit convicted in connection with the 1995 mutiny, 3 former members of the Garangush unit that fought in 1992-1993 in Karabakh, and 5 convicted in the case of former Prime Minister Suret Huseynov). As of 31 July 2023, the number of "political prisoners" increased to 204, the highest number over the past years¹⁵¹ On 4 October 2023, human rights groups published an updated list of 235 persons, including 2 human rights defenders, 6 journalists and bloggers,

148. Decision adopted at the 1459th meeting (DH) of Ministers' Deputies, CM/Del/Dec(2023)1459/H46-2, 9 March 2023.

149. It should be recalled that in [Resolution 1900 \(2012\)](#) "The definition of a political prisoner" of 3 October 2012, the Assembly considered that: 3. *A person deprived of his or her personal liberty is to be regarded as a 'political prisoner':*

a. if the detention has been imposed in violation of one of the fundamental guarantees set out in the European Convention on Human Rights and its Protocols (ECHR), in particular freedom of thought, conscience and religion, freedom of expression and information, freedom of assembly and association;

b. if the detention has been imposed for purely political reasons without connection to any offence;

c. if, for political motives, the length of the detention or its conditions are clearly out of proportion to the offence the person has been found guilty of or is suspected of;

d. if, for political motives, he or she is detained in a discriminatory manner as compared to other persons; or,

e. if the detention is the result of proceedings which were clearly unfair and this appears to be connected with political motives of the authorities." (SG/Inf(2001)34, paragraph 10).

150. [AS/Jur \(2021\) 12](#), "Reported cases of political prisoners in Azerbaijan: follow-up to [Resolution 2322 \(2020\)](#)", 17 June 2021, paragraph 12.

151. "Azərbaycanda 200-dən çox siyasi məhbus var, - hüquq müdafiəçiləri" (turan.az).

11 opposition activists, 5 former political immigrants repatriated from Germany, and over 170 religious believers.¹⁵² The authorities object to recognise the list: they consider that 12 persons from it do not exist, 9 had been released due to expiration of their terms of sentences before the list was established and 9 have been pardoned. Investigation is pending in respect of over 120 other persons from the list. The authorities also point out that the lifetime prisoners referred to in the list had been convicted for serious criminal offences, including aggravated murders and acts of terror.

101. Every year, usually during the Navruz holidays, a number of prisoners including political prisoners are released thanks to the presidential pardon. This year, on 8 May, 801 convicts were granted a pardon on the occasion of the 100-year anniversary of previous President Heydar Aliyev. However, only two people considered as “political prisoners” – journalist Elchin Mammadov and an opposition party’s leader Ali Aliyev – were released. According to the authorities, at least 10 persons whose names appeared in various lists by human rights activists or organisations were pardoned on 8 May 2023. While every release of unjustifiably detained person is welcome, this cannot replace a structural reform which would prevent their detention in the first place.

102. We raised this issue at almost every official meeting we had in Baku. Most of our interlocutors replied that there were no “political prisoners” in Azerbaijan, as there was no legally binding definition of this term, and that some persons appearing on the list of the Union for the Freedom of Political Prisoners in Azerbaijan were terrorists linked to Iran or the Russian Federation. We specifically inquired about the cases of Polad Aslanov, Bakhtiyar Hajiyev (both are on the list of the Union for the Freedom for Political Prisoners of Azerbaijan), Elchin Sadykov, Avaz Zeynali and Huseyn Abdullayev. The Minister of Justice informed us about the charges brought against them or for which they have been convicted. We also requested an authorisation to visit a few persons allegedly detained on politically motivated charges, but this was not granted. Nevertheless, the Minister of Justice promised us that such visits might be organised during our next visit to the country but this was not possible in November 2023 (see paragraph 6 above). During our visit to the Supreme Court, we were also informed about the fact that this jurisdiction was in contact with the parliamentary committee advising the President of the Republic on pardons. We remain very much concerned about this issue and will continue to closely scrutinise it.

6.6. Allegations of torture and ill-treatment and conditions of detention

103. The CPT visited Azerbaijan in January 2023 (*ad hoc* visit) and December 2020 (5th periodic visit), but its reports from these visits have not been published yet. The latest CPT’s report concerning this country was published in 2018 and refers to the CPT’s visit of October 2017. In this report, the CPT’s overall impression was that torture and other forms of physical ill-treatment by the police and other law enforcement agencies (the State Customs Committee, the State Border Service and the Armed Forces) and impunity remained “systemic and endemic”, and that its findings suggested the existence of a “generalised culture of violence among the staff of various law enforcement agencies”.¹⁵³ It also concluded that legal safeguards against ill-treatment, especially notification of custody, access to a lawyer, access to a doctor and information on rights, remain largely inoperative in practice. Concerning ill-treatment in prisons, as during previous visits, the CPT delegation received a number of allegations of deliberate physical ill-treatment by custodial staff (in Ganja).

104. The CPT specifically refers to the “Terter case”, in which 20 military servicemen from the Terter barracks were arrested in the end of April 2017 on charges of espionage and had been taken to a disused army base near Terter. Their hands and legs were tied with a rope or cuffed. The servicemen were made to undress completely except for their underwear and brutally interrogated for periods ranging from two to twelve days, using various methods of torture (electric shocks, pulling out nails, burning, waterboarding, sleep deprivation, deprivation of food and water).¹⁵⁴ The Assembly’s rapporteur on “Allegations of systemic torture and inhuman or degrading treatment or punishment in places of detention in Europe”, Mr Constantinos Efstathiou (Cyprus, SOC), was particularly shocked about this case (see [statement](#)). In his report, he noted that there had been 11 confirmed deaths as a result of that torture. While some of those detained and originally convicted have now been acquitted and released, others remain in prison. Whereas the rapporteur concludes that no high-ranking officials have been held to account for the use of torture in these cases,¹⁵⁵ the authorities indicate that the Baku Military Court now examines four criminal cases in respect of 19 servicemen,

152. “Hüquq- Müdafiə İttifaqının yeni siyahısında 235 siyasi məhbus var” ([turan.az](#)).

153. CPT/Inf (2018) 37, op.cit.

154. Ibid, paragraphs 23 and 36.

155. [Doc. 15880](#).

including high-ranking officials, accused of *inter alia* torture, incitement to suicide, illegal deprivation of liberty and premeditated infliction of heavy damages to health. They also stress that measures have been taken to address the CPT's recommendations concerning the prevention of torture.¹⁵⁶

105. According to Mr Efstathiou's report, torture and other forms of ill-treatment have been used against members of the political opposition, journalists and human rights defenders. This was particularly the case of members of Azerbaijan Popular Front Party (Saleh Rustamov, Agil Maharramov, and Babek Hasanov in 2019 and Alizamin Salayev and Seymour Ahmadov in 2020 and 2021). In 2021, opposition leader, Tofiq Yagublu, sustained multiple injuries in police custody. It is not clear whether effective investigations followed these allegations.

106. The European Court of Human Rights issued numerous judgments concerning excessive use of force by law enforcement agents in the course of the applicants' arrest or custody and the lack of effective investigation in this respect. Their implementation is now being examined by the Committee of Ministers in the context of a group of cases, *Mikayil Mammadov v. Azerbaijan*. In December 2021, the Committee of Ministers recalled that "ill-treatment in law enforcement is a repetitive and unresolved problem" and noted with serious concern that these cases were pending before the Committee for more than ten years, while over 70 new similar applications were currently pending before the Court.¹⁵⁷ It also took note of some measures taken by the authorities to prevent ill-treatment such as the possibility for the detainees to have a swift medical examination, regular unlimited meetings with their lawyers, sending uncensored letters and contacting the Ombudsperson. It also invited the authorities to extend the use of audio and video recordings during interrogations. As regards measures to enhance effectiveness of investigations, it noted with interest draft amendments to the Code of Criminal Procedure to ensure immediate initiation of criminal proceedings into allegations of ill-treatment as well as the increased fines imposed in such cases.

107. As regards conditions of detention, after its 2017 visit to Azerbaijan, the CPT concluded that the material conditions in police establishments were "on the whole acceptable" for the 72-hour custody period and "even very good" in a few of the establishments.¹⁵⁸ As regards the situation in penitentiary establishments, the CPT's delegation noted some positive results of the Executive Order by the President of the Republic of Azerbaijan "On improvement of operation of the prison system, humanisation of criminal policies and extension of application of alternative sanctions and non-custodial preventive measures", mainly as regards reducing prison overcrowding. It deplored, however, the fact that the national as well as international standards of 4 m² of living space per prisoner were still not observed in pre-trial detention facilities visited (especially in Shuvalan and Ganja). The authorities indicate that during its last *ad hoc* visit of 12-19 December 2022, the CPT delegation visited the Baku Pre-trial Detention Facility and did not express any objections regarding the conditions of detention and medical care of the prisoners.

108. According to the Council of Europe Annual Penal Statistics on prison population – SPACE I Report (2022), Azerbaijan has one of the highest incarceration rates within the Council of Europe member States (217 prisoners per 100 000 inhabitants), after Türkiye and Georgia. The total number of places in prisons is 25 471 and they are 87,7% occupied. The cost of imprisonment per day and per prisoner is of nearly € 8, which is the lowest figure after Ukraine (the European average is of € 81).¹⁵⁹

109. Since 2013, conditions of detention have been examined in the context of the implementation of the group of cases *Insanov v. Azerbaijan*. In March 2019, the Committee of Ministers welcomed the authorities' agreement to publish all previous reports drawn up by the CPT, following their visits to the country, together with the authorities' responses, and strongly encouraged them to authorise also the publication of all future CPT reports. The Committee of Ministers also "strongly underlined the pressing need to continue efforts to improve conditions of detention in general and invited the authorities to provide information on the concrete measures taken or planned to improve the situation in Gobustan Prison, which houses life-sentenced prisoners, and in respect of which the Court specifically criticised the lack of sufficient out-of-cell time and recreational and educational activities".¹⁶⁰

156. Every arrested person which enters a detention facility undergoes an initial medical examination within 24 hours, his/her old and new injuries are registered in a special column in the medical book. The origin of injuries is determined and is recorded in the body description according to the UN [Istanbul Protocol](#) and the director of the establishment receives a report, a copy of which is sent to the Medical Department General of the Ministry of Justice.

157. Decision taken at 1419th meeting (DH) of Ministers' Deputies, CM/Del/Dec(2021)1419/H46-5, 2 December 2021.

158. CPT/Inf (2018) 37, op. cit.

159. [SPACE I Report \(2022\)](#), 15 December 2022, updated 26 June 2023, pp. 31, 74 and 128.

160. Decision taken at 1340th meeting (DH) of Ministers' Deputies, CM/Del/Dec(2019)1340/H46-3, 14 March 2019, paragraphs 6 and 7.

6.7. Other issues

6.7.1. Transnational repression

110. In its [Resolution 2509 \(2023\)](#) “Transnational repression as a growing threat to the rule of law and human rights”, the Assembly took note of and condemned the use by Azerbaijani authorities of certain transnational repression techniques such as renditions and cross-border abductions, mainly against journalists. The report by Sir Christopher Chope (United Kingdom, EC/DA) on which this resolution is based, refers to five renditions, from Ukraine, Georgia, and Türkiye. It focuses on the cases of Afgan Mukhtarli, an Azerbaijani investigative journalist, vanished in May 2017 from Tbilisi and resurfaced in custody in Baku, after what appeared to be a harrowing cross-border abduction, and Fikret Huseynli, another Azerbaijani journalist, who claimed that Ukrainian authorities failed to protect him from the attack and attempted abduction by undercover Azerbaijani State agents tracking him down in Kyiv in March 2018.¹⁶¹ The European Court of Human Rights has recently found Azerbaijan responsible for an extra-legal transfer to Türkiye in circumvention of domestic and international law safeguards (*Shenturk and Others v. Azerbaijan*).

111. During our visit to Baku, we inquired about the case of Huseyn Abdullayev, an entrepreneur and former member of parliament (2005-2007). He was arrested in April 2018 by anti-terrorism police in the centre of Istanbul and then transferred to Azerbaijan within 24 hours despite the fact that he had been granted political asylum in Germany. In October 2019, he was sentenced to six years in prison on charges of tax evasion, which were fabricated according to his lawyer. He is now serving his sentence and his requests for earlier release have been rejected by courts, although, according to his relatives, his health is fragile. In August 2020, the United Nations Working Group on Arbitrary Detention (UNWGAD) called for his immediately release and considered that his deprivation of liberty by both Türkiye and Azerbaijan was arbitrary and contrary to international law norms.¹⁶² Previously, in May 2019, the European Court of Human Rights found a violation of the right to a fair trial (Article 6, paragraph 1, of the Convention) due to domestic courts’ refusal to examine some evidence in a criminal case lodged against Mr Abdullayev after he had openly criticised the government in his capacity of a member of parliament.¹⁶³

112. The report by Sir Christopher Chope also notes that incidents of transnational repression by foreign States have been reported in Azerbaijan. Apart from renditions to Türkiye, there have been murders or attempted murders of Azerbaijani journalists and politicians with suspected involvement of Iran. In March 2023, politician Fazil Mustafa, known for his anti-Iranian statements, was shot and wounded in Baku.

6.7.2. Freedom of thought, conscience and religion

113. Azerbaijan is a country where the Shi’ite majority (65 %) co-exists in perfect harmony with a very sizeable Sunni minority (35%), and with other much less numerous religions (various Christian groups, Jehovah’s witnesses, Jews, etc.). Although the Azerbaijan Constitution guarantees secularism and freedom of religion, there have been documented cases of prisoners of conscience jailed and tortured for exercising freedom of religion, strict State censorship or problems with registering of religious associations. According to the “2022 Report on International Religious Freedom”, released on 15 May 2023 by the US State Department, 22 individuals were in prison at the end of 2022 because of their religious beliefs. Two religious groups – Jehovah’s Witnesses and the unregistered Muslim Unity Movement – are particularly concerned.

114. The Jehovah’s Witnesses complain that there is still no civilian alternative to military service for conscientious objectors, despite a judgment of the European Court of Human Rights clearly calling for a legislative action in this field (*Mushfig Mammadov and Others v. Azerbaijan*). Therefore, they continue to face the threat of criminal prosecution along with travel restrictions. Moreover, the Azerbaijani authorities refused to recognise and register their religious communities as “religious centres” in any city or region outside Baku. There is also concern about access to religious publications: although since 2015 all Jehovah’s Witnesses’ requests for importing religious literature have been accepted, some bureaucratic requirements delay the whole process of acceding to this literature. It should be noted that the previous State’s practice of banning the import of such literature was criticised by the European Court of Human Rights in 2020 (see *Religious Community of Jehovah’s Witnesses v. Azerbaijan*). According to the authorities, the Jehovah Witnesses community in Azerbaijan does not face any restrictions on their activity and literature imports.

161. See [Doc. 15787](#), op.cit.

162. UN, Human Rights Council, UNWGAD, Opinion No. 48/2020 concerning Huseyn Abdullayev (Azerbaijan and Turkey), A/HRC/WGAD/2020/48, paragraphs 113 and 115.

163. European Court of Human Rights, *Abdullayev v. Azerbaijan*, application No. 6005/08, judgment of 7 March 2019. The Committee of Ministers examines the execution of this judgment in the context of the *Huseyn and Others* group.

115. The Muslim Unity Movement is considered by the government as an extremist group and accused of receiving funds from Iran. Many of its members reported physical abuses while in custody. This was particularly the case of Abbas Huseyn, who was arrested during the Nardaran incidents (a police operation that resulted in the death of six people in 2015). He was sentenced to 20 years of prison on numerous grave charges including attempted murder, incitement to terrorism and coup attempt but considers that these charges were politically motivated.

6.7.3. Freedom of movement and the right to leave the country

116. Although the law provides for these rights, authorities continue to prevent a number of opposition figures, civil society activists and journalists from traveling outside the country. For example, Ali Kerimli, chairperson of the Azerbaijan Popular Front Party, has been prohibited from travelling since 2006. Restrictions also apply to those who have been charged or convicted of criminal offences or given suspended sentences¹⁶⁴ (see above). Moreover, internal land border crossings have been closed to individuals since the outbreak of Covid-19 pandemic in 2020, officially due to the “risk of spread of viral infections.” This complicates the life of numerous Azerbaijanis living abroad and wishing to return home.¹⁶⁵

6.7.4. Combatting discrimination and the situation of minorities

6.7.4.1. Combatting racism and intolerance

117. According to the latest report of the European Commission against Racism and Intolerance (ECRI) of March 2023,¹⁶⁶ over the past seven years, Azerbaijan has developed good practices in education and migrant integration. As regards education, human rights related topics have been integrated into school curricula. Referring to the integration of migrants, significant efforts were invested notably to ensure their access to public services and benefits available to them, to facilitate the issuance of work and residence permits. Steps were also taken to regularise the legal status of migrants irregularly present in Azerbaijan. Moreover, the Law on Information and Protection of Information now prohibits internet providers and individuals from distributing any information promoting violence, religious extremism or inciting hatred and obliges them to take down and remove such illegal content within eight hours.

118. However, there are also issues of concern. More needs to be done in the fields of legislation and tackling inflammatory rhetoric and hate speech, including at the highest political level. The authorities should adopt an effective general anti-discrimination legislation covering all grounds and areas of life. As regards countering hate speech, ECRI is concerned about the use of a language in the public sphere that propagates racist stereotypes and perpetuates animosities, notably against Armenia, which is rooted in the context of the long-lasting conflict and confrontations related to Nagorno-Karabakh.¹⁶⁷

119. According to ECRI, the authorities should also take further measures to ensure institutional independence and increase the effectiveness of the Commissioner for Human Rights (Ombudsperson). This should be done by i) ensuring a transparent selection and appointment procedure of the Ombudsperson; ii) establishing a separate unit or department within the structure of the Ombudsperson’s Office which is dedicated to deal with non-discrimination and equality related work and complaints; iii) increasing the capacity of the staff of the Ombudsman’s Office, including those in regional offices, by providing them with ongoing training and developing awareness raising activities on non-discrimination and equality.

120. During our visit to Baku, we met the Ombudswoman, Ms Sabina Aliyeva, who informed us about a forthcoming reform aimed at expanding the remit of this institution. She also explained the measures taken by her office to protect individuals’ rights, including the rights of the most vulnerable persons such as children, persons with disabilities and internally displaced persons. We welcomed the efforts made by her office to ensure protection of human rights. After our visit, on 9 June 2023, the Constitutional Law on Ombudsperson was amended and the Ombudsperson’s powers were extended; they now also include a monitoring and promotion mechanism for ensuring equality and elimination of discrimination. According to the authorities, the amendments also aligned the procedure for selection and appointment of the Ombudsperson with international organisations’ recommendations.

164. According to the 2022 US State Department Report.

165. *OC Media*, “Three years since the COVID outbreak, Azerbaijanis still cannot cross their border”, 20 June 2023.

166. ECRI Report on Azerbaijan (sixth monitoring cycle), adopted on 29 March 2023, published on 21 June 2023, pp. 5-6 and the [press release](#) related to it.

167. *Ibid.*

6.7.4.2. The situation of persons belonging to national minorities

121. According to the 2017 opinion of the Advisory Committee on the Framework Convention for the Protection of National Minorities (ETS No. 157, “Framework Convention”), Azerbaijan society is broadly characterised by a climate of intercultural and interreligious tolerance.¹⁶⁸ There is long-standing tradition of living together in a multicultural society and the authorities promote the concept of “Azerbaijani multiculturalism”. Persons belonging to most minorities¹⁶⁹ receive support from the authorities for expressing their cultural identity and teaching of minority languages is relatively well developed for the Russian and Georgian languages. Nevertheless, the general restrictions on democracy, human rights and the rule of law in the country also negatively impact persons belonging to national minorities, notably with respect to their exercise of the right to freedom of expression and freedom of association. Some of them have also experienced intimidation, arbitrary arrest and imprisonment. In its Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Azerbaijan adopted on 3 February 2021 (CM/ResCMN(2021)7), the Committee of Ministers recommended to the Azerbaijani authorities *inter alia* to adopt without delay “an adequate legal framework for the protection of national minorities and comprehensive anti-discrimination legislation”, to set up “a specialised body to co-ordinate issues relating to national minority protection” and “provide the opportunity for national minority representatives to effectively participate in decision-making processes affecting them”. In October 2022, the authorities submitted a new report, which is now being assessed by the Advisory Committee in order to prepare its fifth opinion on the implementation of the Framework Convention. On 23-27 November 2023, the Advisory Committee visited the country. Azerbaijan is not party to the European Charter for Regional or Minority Languages (ETS No. 148).

6.7.4.3. The situation of LGBTI people

122. The situation of LGBTI people is particularly worrisome and was recently described in detail in a report by the Committee on Equality and Non-Discrimination.¹⁷⁰ LGBTI people are often subject to harassment, violence and hate speech, in full impunity. Moreover, the majority of society has a negative view on them. The above-mentioned case of Avaz Hafizli, an LGBTI activist who was murdered by his cousin, illustrates well this phenomenon. Recently, Mr Lacroix, who is also Assembly’s general rapporteur on the rights LGBTI persons, condemned the detention and ill-treatment by police of protesting LGBTI people and activists following a gathering that had taken place in Baku on 23 May 2023 in connection with the detention of several transgender women.¹⁷¹ During our visit to Baku, we heard from the authorities that they disagreed with his statement.

123. In [Resolution 2418 \(2022\)](#) based on Mr Lacroix’s report, the Assembly stated that Azerbaijan should adopt “effective legislation and policies to strengthen action against discrimination based on sexual orientation, gender identity, gender expression and sex characteristics” and addressed a number of concrete recommendations to the authorities. This recommendation was also repeated by ECRI in its most recent report on Azerbaijan.¹⁷² Moreover, ECRI recommended to the Azerbaijani authorities to reinforce their responses against hate speech by setting up an inter-institutional working group to develop a comprehensive strategy to tackle effectively LGBTI-phobic hate speech, and to set up a data collection system on the number of reported incidents of LGBTI-phobic hate crimes.

168. Advisory Committee on the Framework Convention for the Protection of National Minorities, Fourth Opinion on Azerbaijan, adopted on 8 November 2017, ACFC/OP/IV(2017)006.

169. The Advisory Committee refers to the 2009 census which listed 16 “nationalities” living on the territory of Azerbaijan: 180 324 Lezghins (2.02%), 120 306 Armenians (1,36%), 119 307 Russians (1.35%), 111 996 Talysh (1.26%), 49 838 Avars (0.56%), 37 975 Meshketian Turks (0.43%), 25 911 Tatars (0.29%), 25 218 Tats (0.28%), 21 509 Ukrainians (0.24%), 12 189 Sakhurs (0.14%), 9 912 Georgians (0.11%), 9 084 Jews (0.1%), 6065 Kurds (0.07%), 4 344 Kryzs (0.05%), 3 821 Udins (0.04%), 2 233 Khynalygs (0.03%), 1001 Budugs. Ibid, p. 9, footnote 13.

170. Doc. 15429, op.cit.

171. “Azerbaijani police must stop harassing LGBTI people and activists, says PACE General Rapporteur” (coe.int), 31 May 2023.

172. ECRI Report on Azerbaijan (sixth monitoring cycle), op.cit.

Appendix – Dissenting opinion by Mr Samad Seyidov (Azerbaijan, EC/DA), member of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe pursuant to Rule 50.4 of the Assembly Rules of Procedure

The delegation of Azerbaijan cannot approve the report on “Honouring of obligations and commitments by Azerbaijan,” as it does not reflect the real situation in Azerbaijan in the fields of democracy, human rights and the rule of law. In addition to a number of factual errors, we regrettably note the unfair and tendentious evaluation of the situation in the several key areas. For instance, the claims on alleged restrictions on the right to freedom of expression are unfounded. The fact is that in Azerbaijan, approximately 90% of the population has free access to the internet and a large number of independent media subjects operate freely in the internet space. Accordingly, people have the opportunity to receive and disseminate information freely without restriction from internet resources in addition to traditional sources.

Furthermore, the report regrettably recycles some of the obsolete groundless allegations regarding corruption and money laundering or so-called “political prisoners”, despite Azerbaijan’s substantiated and firm rebuttal of those speculative claims fuelled by recurrent anti-Azerbaijani campaigns. We strongly reject all those allegations.

Besides, Azerbaijan has been taking consistent measures to prevent possible ill-treatment and torture cases, and in this regard, the Azerbaijani authorities have been working on the implementation of the relevant recommendations of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT).

When it comes to combating discrimination, as a multi-ethnic and multicultural nation, Azerbaijan is proud of its longstanding tradition of tolerance and culture of mutual respect, which guarantee the peaceful co-existence of people of different backgrounds living in Azerbaijan. The Government of Azerbaijan remains committed, at the highest political level, to the protection and promotion of these crucial values.

Azerbaijan is a democratic State respectful of human rights and the rule of law. Since its accession to the Council of Europe, the country has been actively implementing transformative reforms that substantially improved the well-being of the Azerbaijani people. It should be also noted that for a long period of time, Azerbaijan’s efforts in all areas were greatly impeded by the consequences of the occupation of the Azerbaijani territories by Armenia.

Finally, regarding the Karabakh region of Azerbaijan, we deplore the use of the outdated Soviet terminology of “Nagorno-Karabakh,” which we perceive as a manifestation of disrespect for Azerbaijan’s Constitution and legislation. We also underline that neither during nor after the local counter-terror measures taken by Azerbaijan on 19-20 September 2023 to neutralize legitimate military targets within its sovereign territory, the Armenian residents of the Karabakh region were forced out, and notwithstanding Azerbaijan's calls to stay, it was their decision to relocate to Armenia and other countries. This comes in fact as the result of Armenia's long-standing Statesponsored policy of ethnic hatred against Azerbaijan and Azerbaijanis. Furthermore, the Government of Azerbaijan made formal declarations guaranteeing the security of the Karabakh residents as well as safe and prompt return of those who wish to return, and freedom of movement and residence for the persons remaining in the Karabakh region.