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Azerbaijan must stop its suppression of civil society

Mr President,

As the Chairmanship of the Council of Europe by the Republic of Azerbaijan takes an end, we, the undersigned members and partners of the Human Rights House Network (HRHN) and the South Caucasus Network of Human Rights Defenders, call upon the Azerbaijani authorities, through you, Mr President, to put an end to the unprecedented repression against civil society. We call upon you to immediately and unconditionally release all civil society actors currently detained due to their engagement in human rights work and for raising critiques against Azerbaijan's authorities, including and especially human rights defenders Leyla Yunus and her husband Arif Yunus, Rasul Jafarov, and Intigam Aliyev. Anar Mammadli and Bashir Suleymanli must also be released, as their detention is solely due to their monitoring of elections in the country, including the latest Presidential election of 9 October 2013.

This summer, one after the other, the main leaders of civil society were arrested. Many others decided to flee the country, rather than facing court hearings, of which the outcome is well known in advance. Few others have been forced into hiding in the country.

Leader of the Legal Education Society, human rights lawyer **Intigam Aliyev** was sentenced on 8 August 2014 to pre-trial detention for 3 months on the same charges as those held against human rights defenders **Rasul Jafarov**, who was arrested on 2 August 2014 for tax evasion, illegal business and abuse of authority. On similar charges, **Leyla Yunus**, and her husband, **Arif Yunus**, were arrested on 30 July and 5 August 2014 respectively. Charges of State treason are additionally held against Leyla Yunus. Furthermore, the lawyers of Leyla Yunus and Intigam Aliyev were called as witnesses against their clients and hence bared from being their defendants. Very few lawyers agree to take up politically charged cases in Azerbaijan, a country in which the Bar Association is controlled by the Ministry of Justice and has disbarred lawyers such as Intigam Aliyev himself.¹ On 6 November 2014, the lawyer of Leyla Yunus, **Alaif Hasanov**, was sentenced to 240 hours of community service due to his public statements about the detention conditions

¹ In 2005, Intigam Aliyev was rejected in his application for membership to the Azerbaijan Bar Association despite being completely eligible to be accepted to the Bar under the national laws. Intigam Aliyev challenged this unlawful refusal by applying to the national courts, which, however, ruled against him.

of his client. Leyla Yunus has indeed faced psychological and physical abuses in detention, from detainees and from prison officials.

Earlier this year, the regional civil society leader **Hasan Huseynli** was sentenced to 6-years imprisonment² and the leaders of the only independent election monitoring organisation in the country, **Anar Mammadli** and **Bashir Suleymanli**, were sentenced to respectively 5 years and 6 months and 3 years and 6 months imprisonment.

Facing investigations and charges, many other human rights defenders fled the country or are in hiding from authorities, as they know they will not enjoy a fair hearing in court.

The authorities have also targeted other respected human rights voices in the country, such as the **Institute for Reporters' Freedom and Safety (IRFS)**, a leading media rights NGO in the country. IRFS' leader, **Emin Huseynov**, is well known and an internationally recognised human rights defender, facing similar charges as the other human rights defenders. On 5 November 2014, the 67-year old mother of human rights defender **Gulnara Akhundova** was summoned to the Office of the General Prosecutor. She was extensively interrogated about her daughter's human rights activities. Following this interrogation, the Office conducted a search in the apartment registered as Gulnara Akhundova official address in Baku, which is her mother's apartment. The few other independent voices left are also facing investigations and can be arrested at any given time.

On 10 November 2014, the blogger **Mehman Huseynov**, brother of Emin Huseynov and also an IRFS employee, was stopped and interrogated at the Baku Airport and later released. He was arrested in relation to an on going investigation against him, based on which he was issued a travel ban.³ He is still not allowed to leave the country.

On 5 November 2014, the Nakhchivan City Court decided to end the investigation into **Ilgar Nasibov**. On 21 August 2014, Ilgar Nasibov was beaten in the office of the Democracy and NGO's Development Resource Center in Nakhchivan. He suffered multiple fractures and injuries and to date remains in dire need of treatment. In an often-used strategy against critical voices, the police filed a lawsuit against him on charges of deliberately inflicting serious damage to health (article 127.1 of the Criminal Code of the Republic of Azerbaijan). We believe Ilgar Nasibov should be compensated for the pain he suffered and immediately provided with adequate medical support.

Politically motivated detentions of **activists of the youth opposition movement NIDA** must also end, as well as those of *inter alia* journalists **Rauf Mirkadirov** and **Hilal Mammadov**⁴ and political activist **Tofiq Yaqubl**. On 30 October, the opposition journalist **Khalid Garayev** was sentenced to 25 days in detention on charges of hooliganism and disobedience to the police.

All of those human rights defenders are respected internationally and received various recognitions. Those do not protect them from the repression, just as the worrying health condition of a few does not deserve any special treatment in the eyes of the authorities. We are also extremely worried to hear that the health conditions of Leyla Yunus and Intigam Aliyev have greatly deteriorated. We believe that the

² We welcome the release of Hasan Huseynli following the presidential pardon of 17 October 2014 for 80 prisoners in Azerbaijan, among which were also the members of the NIDA movement, Shahin Novruzlu, Elsever Mursalli and Bakhtiyar Guliyev.

³ Mehman Huseynov was awarded in 2013 with the Press Prize Award from Fritt Ord Foundation and the Zeit Foundation. His travel ban was issued days before he was to travel to Oslo to receive his prize. More information available at <http://humanrightshouse.org/Articles/19355.html>.

⁴ In its opinion delivered on 27 March 2014 on the detention of Hilal Mammadov, the United Nations Working Group on Arbitrary Detention found that the charges are "based on Hilal Mammadov's legitimate exercise of the right of freedom of expression (...) and that the violations of international law relating to the right to a fair trial are of such gravity as to give the deprivation of liberty of Hilal Mammadov an arbitrary character" (decision available in the Working Group's report A/HRC/WGAD/2013/59). He was arrested on 21 June 2012 and sentenced to five years in prison with the accusation of "illegal selling of drugs", "high treason", and "incitement to national, racial, social and religious hatred and hostility".

conditions of their detention have had a detrimental effect on their health, as it appears that both have still not been provided adequate health care to address their respective illnesses. Intigam Aliyev has recently complained of increasing pain and Leyla Yunus is suffering a severe diabetes.

Repression of civil society: systemic problem remaining unaddressed

Unlike claims made internationally, Azerbaijan is not “on a journey towards human rights, to which it is committed.”⁵ For a few years, Azerbaijan has repeatedly and by various international mechanisms been called upon to reform its legislation to prevent any crackdown on civil society.

In 2009 already, the United Nations Human Rights Committee expressed its concern over the “extensive limitations to the right to freedom of expression of the media, the closure of independent newspapers, and the removal of licences to broadcast locally for a number of foreign radio stations. It also remains concerned at reports of a pattern of harassment and criminal libel suits or hooliganism charges against journalists.”⁶ The Committee was indeed shedding light on a wave of repression against media workers in the country, which included also the banning of foreign media, such as Voice of America and the Azerbaijani coverage of the British Broadcasting Corporation.

Another wave of repression then touched upon the presence of international non-governmental organisations in Azerbaijan. In July 2009, the Azerbaijani authorities made amendments to the Azerbaijani NGO Law, which state that registration of foreign NGOs in Azerbaijan “is processed based on the agreement signed with the organisations”. It followed with the adoption of the new decree of 2011, with the aim to set criteria for concluding such agreements. Based on that legislative evolution, on 10 March 2011, authorities ordered the **Human Rights House Azerbaijan (HRH Azerbaijan)** to cease all activities in Azerbaijan until concluding an agreement with the authorities. In an opinion on the legislation, the European Commission for Democracy through Law (Venice Commission) comes to the conclusion that the 2009 amendments to the Azerbaijani NGO law and the 2011 decree setting new requirements for foreign NGOs overturn the efforts to meet international standards and mentioned the registration of foreign NGOs among the most problematic aspects.⁷

Instead of committing to the Venice Commission’s findings, and to the execution of so many judgements of the European Court of Human Rights on freedom of expression and association, Azerbaijan continued to adapt its legislation affecting human rights defenders and their NGOs. As the Human Rights House Foundation (HRHF) highlighted in its intervention at the United Nations Human Rights Council on 10 September 2014, several United Nations independent experts have repeatedly called for a revision of Azerbaijan’s legislation regulating the registration and funding of non-governmental organisations, declaring them as contrary to international human rights law and the standards in regard to the right to freedom of association.

The legislation became the pretext to arrest independent human rights defenders and to freeze the bank accounts of dozens of other NGOs.⁸ When repeatedly questioned on Azerbaijan’s record at the Parliamentary Assembly of the Council of Europe (PACE) on 24 June 2014, you have argued, Mr President, that the country has no political prisoners, basically aiming at saying that actions are taken

⁵ Ambassador of the Republic of Azerbaijan to the United Kingdom Tahir Taghizadeh, in *The Guardian*, 6 November 2014, available at <http://www.theguardian.com/world/2014/nov/06/azerbaijan-journey-towards-human-rights-committed>.

⁶ Concluding Observations of the United Nations Human Rights Committee to the review of the Republic of Azerbaijan, 13 August 2009, paragraph 15, UN doc. CCPR/C/AZE/CO/3.

⁷ Opinion no. 636 / 2011 of 19 October 2011. More information available at <http://humanrightshouse.org/Articles/17215.html>.

⁸ In its interim resolution CM/ResDH(2014)183 of 25 September 2014, the Committee of Ministers of the Council of Europe reiterated its concern over the arbitrary application of criminal legislation to limit freedom of expression, stating that “the present situation raises serious concerns, in particular on account of the reported recent use of different criminal laws [...] against journalists, bloggers, lawyers and members of NGOs”, available at <https://wcd.coe.int/ViewDoc.jsp?id=2239635&Site=CM>.

within national legislation by an independent judiciary. The notion of “arbitrary detention” *lato sensu* can however also arise from the law itself or from the particular conduct of government officials. A detention, even if it is authorized by law, may still be considered arbitrary if it is premised upon an arbitrary piece of legislation or is inherently unjust, relying for instance on discriminatory grounds. United Nations and Council of Europe mechanisms and experts have repeatedly underlined that Azerbaijani legislation violates the country’s international obligations and standards, and hence the practices of authorities in applying such law is in violation to international human rights law, to which Azerbaijan says it is committed to.

It is in the backdrop of these repressive policies that you, Mr President, accepted to reestablish a working group on political prisoners under the auspices of the Council of Europe. The composition of the group discussing the issue is of great concern, given the fact that many of those independent human rights defenders who in the past worked on the issue of political prisoners are now behind bars, especially Leyla Yunus and Rasul Jafarov, who from prison on 8 August consolidated a list of 98 people detained on politically motivated charges.

Council of Europe chairmanship and reprisal against human rights defenders

The interrogation and search that took place following Gulnara Akhundova’s participation in a hearing of PACE’s Committee of Legal Affairs is a clear example of reprisal against human rights defenders perpetrated by Azerbaijani authorities. Another case of reprisal against those participating in events of international organisations is the harassment of investigative journalist **Khadija Ismayilova**.⁹ Most recently, she was recently arrested on charges of criminal defamation but later released. Leyla Yunus, Intigam Aliyev, Rasul Jafarov and Emin Huseynov are also well known names to the Council of Europe. They cooperate with its institutions, met the Secretary General at various occasions and provide information to the office of the Commissioner for Human Rights and to PACE rapporteurs. In June 2014, when you, Mr President, addressed PACE, Emin Huseynov, Rasul Jafarov and Intigam Aliyev together organised a side-event in Strasbourg, critical of the Azerbaijani human rights record. Previously already Azerbaijani authorities proved using reprisal against those raising human rights violations in Strasbourg: the order to HRH Azerbaijan to seize all activities followed the side-event organised at the January 2011 session of PACE by HRH Azerbaijan.

The rotating chairmanship of the Council of Europe, which Azerbaijan assumed for six months, is thought of as an occasion given to each of the Council’s 47 members to act as a role model in the implementation of European human rights law. It is a unique chance to prove a country’s commitment to the very spirit of the Council of Europe, its “devotion to the spiritual and moral values which are the common heritage of [Europe’s] peoples and the true source of individual freedom, political liberty and the rule of law, principles which form the basis of all genuine democracy” as stated in the Statute of the Council of Europe of 5 May 1949, to which Azerbaijan adhered. Instead, during the chairmanship of the Council of Europe, Azerbaijan embarked on an unprecedented repression of civil society.

Any country chairing the world’s strongest regional human rights protection mechanism has a duty to show good faith in the implementation of the its judicial mechanism; Azerbaijan has instead appealed one of the strongest judgements issued by the European Court of Human Rights on the pre-trial detention of **Ilgar Mammadov**, Chairman of the Republican Alternative Movement (REAL). In its judgement of 22 May 2014, the Court found that the criminal procedure against him is retaliation to critical public statements he made. In a rare move by the Court, it found a violation of Article 18 of the Convention for the Protection of Human Rights and Fundamental Freedoms, which obliges States to act in good faith and

⁹ Most recently, harassment against Khadija Ismayilova increased, including a travel ban imposed on her. She was also excessively searched and obstructed at the airport in Baku, upon her return from a PACE session in Strasbourg, where she spoke at a side-event on 2 October 2014. More information available at <http://humanrightshouse.org/Articles/20515.html>.

prohibits them from restricting rights for purposes other than those prescribed in the Convention. The Court's Grand Chamber rejected Azerbaijan's appeal, but Ilgar Mammadov remains in detention. The pre-trial detention of Ilgar Mammadov had the same justification as the one against Leyla Yunus, Arif Yunus, Rasul Jafarov and Intigam Aliyev. Recently, their pre-trial detentions were extended. Azerbaijan should instead review its policies in regard to the excessive use of pre-trial, in accordance with the Ilgar Mammadov judgement.

On 24 June 2014, you, Mr President, told PACE that "[the authorities of Azerbaijan] respect the decisions of the European Court of Human Rights." The chairmanship of the Council of Europe by the Republic of Azerbaijan will instead remain stained with the lack of execution of the Court judgements and the mark of repression since July 2014 against Azerbaijan's civil society.

The detention of Intigam Aliyev is a grave sign of non-cooperation with the Court. Intigam Aliyev is a prominent human rights lawyer engaged in the defense of human rights by providing legal defense, initiating strategic litigation, and training lawyers and providing human rights education. The work of Intigam Aliyev is essential in the promotion of human rights and democracy-building in Azerbaijan. He has strived for legal protection of victims of human rights violations for more than 15 years and has to date represented them in proceedings before the Court in more than 200 cases (around 40 cases are currently awaiting decision). He has succeeded in a number of cases concerning voting rights, freedom of assembly, freedom of speech and the right to a fair trial and has served as a trainer in nearly 100 training courses for judges, lawyers, journalists, and representatives of non-governmental organisations. The Committee of Ministers recently requested "detailed information on all criminal charges pending against [Intigam Aliyev]," which is indeed a sign of its dismay over this detention.¹⁰

As Azerbaijan's Chairmanship of the Council of Europe takes an end, we call upon the Azerbaijani authorities, through you, Mr President, to put an end to the unprecedented repression against civil society.

We specifically call upon you to immediately and unconditionally release all civil society actors currently detained due to their engagement in human rights activities and for raising critiques against Azerbaijan's authorities, especially human rights defenders Leyla Yunus and her husband Arif Yunus, Rasul Jafarov and Intigam Aliyev. Anar Mammadli and Bashir Suleymanli must also be released.

We further call upon you to put an end to the harassment and attacks against human rights defenders, journalists and activists, and lift all potential charges against them, including Emin Huseynov, Mehman Huseynov and Khadija Ismayilova.

Yours sincerely,

Due to the risk of retaliation against Azerbaijani human rights defenders, we decided not to indicate the names of the Azerbaijani NGOs who worked on preparing the present letter.

Barys Zvozkau Belarusian Human Rights House in exile, Vilnius (on behalf of the following NGOs):

- Belarusian Association of Journalists
- Belarusian Helsinki Committee
- City Public Association "Centar Supolnaść"
- Human Rights Centre "Viasna"

Human Rights House Belgrade (on behalf of the following NGOs):

- Belgrade Centre for Human Rights

¹⁰ Interim resolution CM/ResDH(2014)183 of 25 September 2014, available at <https://wcd.coe.int/ViewDoc.jsp?id=2239635&Site=CM>.

- Lawyers Committee for Human Rights YUCOM
- Civic Initiatives
- Helsinki Committee for Human Rights in Serbia
- Policy Centre

Human Rights House Kiev (on behalf of the following NGOs):

- Human Rights Information Centre
- Center for Civil Liberties
- Kharkiv Human Rights Protection Group
- Social Action Centre
- Ukrainian Legal Aid Foundation

Human Rights House London (on behalf of the following NGOs):

- Article 19
- Index on Censorship
- Vivarta

Human Rights House Tbilisi (on behalf of the following NGOs):

- Article 42 of the Constitution
- Caucasian Centre for Human Rights and Conflict Studies
- Georgian Centre for Psychosocial and Medical Rehabilitation of Torture Victims
- Human Rights Centre
- Union Sapari - Family without Violence

Human Rights House Oslo (on behalf of the following NGOs):

- Health and Human Rights Info
- Human Rights House Foundation

Human Rights House Voronezh (on behalf of the following NGOs):

- Charitable Foundation
- Civic Initiatives Development Centre
- Confederation of Free Labor
- For Ecological and Social Justice
- Free University
- Golos
- Interregional Trade Union of Literary Men
- Lawyers for labor rights
- Memorial
- Ms. Olga Gnezdilova
- Soldiers Mothers of Russia
- Voronezh Journalist Club
- Voronezh-Chernozemie
- Youth Human Rights Movement

Human Rights House Zagreb (on behalf of the following NGOs):

- APEO/UPIM Association for Promotion of Equal Opportunities for People with Disabilities
- B.a.B.e.
- CMS - Centre for Peace Studies
- Documenta - Centre for Dealing with the Past
- GOLJP - Civic Committee for Human Rights

- Svitanje - Association for Protection and Promotion of Mental Health

The Rafto House in Bergen, Norway (on behalf of the following NGOs):

- Rafto Foundation, Norway

The House of the Helsinki Foundation For Human Rights, Poland (on behalf of the following NGOs):

- Helsinki Foundation for Human Rights

About the Human Rights House Network (www.humanrightshouse.org)

The Human Rights House Network (HRHN) unites 90 human rights NGOs joining forces in 18 independent Human Rights Houses in 13 countries in Western Balkans, Eastern Europe and South Caucasus, East and Horn of Africa, and Western Europe. HRHN's aim is to protect, empower and support human rights organisations locally and unite them in an international network of Human Rights Houses.

The Human Rights House Azerbaijan is one of the members of HRHN and served as an independent meeting place, a resource centre, and a coordinator for human rights organisations in Azerbaijan. In 2010, 6'000 human rights defenders, youth activists, independent journalists, and lawyers, used the facilities of the Human Rights House Azerbaijan, which has become a focal point for promotion and protection of human rights in Azerbaijan. The Human Rights House Azerbaijan ceased all its activities following an order of the Ministry of Justice of the Republic of Azerbaijan on 10 March 2011.

The Human Rights House Foundation (HRHF), based in Oslo (Norway) with an office in Geneva (Switzerland), is HRHN's secretariat. HRHF is international partner of the South Caucasus Network of Human Rights Defenders and the Balkan Network of Human Rights Defenders.

HRHF has consultative status with the United Nations and HRHN has participatory status with the Council of Europe.