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AZERBAIJANI AUTHORITIES MUST HALT CRACKDOWN ON DISSENT AND INCARCERATION OF ACTIVISTS IN CONDITIONS PRONE TO THE SPREAD OF COVID-19

Amid growing concerns over the spread of Covid-19 in prisons, not only do the Azerbaijani authorities continue to hold their unfairly prosecuted critics behind bars, they have stepped up their campaign of incarceration of political opponents on spurious and politically motivated charges under the pretext of fighting the pandemic. This is the latest offensive against freedom of expression and other fundamental human rights in the country. Moreover, given the recent cases of Covid-19 infections in Azerbaijani penitentiary institutions, detained individuals are also exposed to higher risk of contracting the virus.

The Azerbaijani authorities must immediately halt the arbitrary detention of individuals simply for exercising their rights. They should free all political and civil society activists, including human rights defenders, journalists and any persons imprisoned solely for exercising their right to freedom of expression, immediately and unconditionally. Government abuse of the country's criminal justice system, including the incarceration of political opponents and other dissenting voices must stop.

On 15 May, Azerbaijani authorities reported 46 confirmed cases of Covid-19 in prisons.¹ According to local human rights defenders, who believe that the government is trying to underplay the extent of the pandemic in the country, the number of infected persons is likely to be significantly higher. Overcrowding and inadequate sanitary conditions in penitentiary facilities already pose a serious health threat to Azerbaijan's prison population. This will only be exacerbated by the coronavirus pandemic.

Against this background, Azerbaijani authorities mounted a new wave of arrests and prosecutions of political activists, journalists and human rights defenders.

On 19 March, President of Azerbaijan Ilham Aliyev announced "new rules" for the duration of the Covid-19 pandemic, and promised to "clean up" Azerbaijan's political opposition, which he called traitors and "the fifth column".² High profile arrests of political and civil rights activists under spurious charges have followed the President's pronouncement, including the arrest of an opposition leader, Tofiq Yagublu, on charges of hooliganism on 22 March,³ and human rights defender, Elchin Mammad, on charges of theft on 30 March.⁴ Both must be released immediately and unconditionally.

1 APA News. "46 prisoners contracted with coronavirus in Azerbaijan so far." 15 May 2020. See:

<https://apa.az/en/social-news/46-prisoners-contracted-with-coronavirus-in-Azerbaijan-so-far-320885>

2 Message of congratulation of President Ilham Aliyev to the people of Azerbaijan on the occasion of Novruz holiday

19 March 2020. See: <https://en.president.az/articles/36212>

3 Amnesty International, Azerbaijan: Opposition Activist Detained, Health at Risk: Tofiq Yagublu, 25 March 2020, Index number: EUR 55/2029/2020, see: <https://www.amnesty.org/en/documents/eur55/2029/2020/en/>

4 Amnesty International, Azerbaijan: Human Rights Defender Must be Freed: Elchin Mammad, 1 April 2020, Index number: EUR 55/2069/2020, see: <https://www.amnesty.org/en/documents/eur55/2069/2020/en/>

More than a dozen individuals, comprising activists, journalists and others who dared to criticize the authorities' handling of the pandemic, have been detained and remanded in so-called administrative detention for periods ranging from 10 to 30 days on bogus charges including disobeying police orders or breaking the rules of lockdown. At least four journalists have been detained and jailed for their critical reporting on the government lockdown measures.⁵ One of the country's biggest opposition parties, the Popular Front Party of Azerbaijan (PFPA), have reported that fifteen of their activists were arrested and jailed for up to 30 days under spurious administrative charges in connection with their peaceful political activism or criticism of the authorities. One of them, Niyameddin Ahmedov, arrested on 16 April, served in full his administrative detention of 30 days, given for his purported violation of lockdown rules. However instead of releasing him, on 18 May the authorities brought new criminal charges, accusing him of financing terrorism under article 214.1. The timing of his arrest, the nature of the charges, and the circumstances under which these were brought following his arrest and detention for a purported administrative violation, indicate that his prosecution is politically motivated. He was denied access to the lawyer of his choice and has now been remanded in detention for additional four months until September. The charges against Niyameddin Ahmedov must be dropped and he should be released immediately together with other activists serving administrative detentions on spurious politically motivated charges.

According to the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), all the prisons visited in 2016 were overcrowded to varying degrees, including some cases where inmates had to share beds or sleep in shifts or on the floor.⁶ A 2018 report by the Azerbaijani NGO Human Rights Club noted that they had systematically received complaints from prisoners about overcrowding, insufficient heating in cells, poor hygiene, lack of access to natural light, poor nutrition, and denial of access to required medical care in prisons and police custody.⁷

On 30 April, Ministry of Justice announced that some 260 prisoners were pardoned and released in connection with the coronavirus pandemic. Of these, 176 prisoners over 65 suffering from certain health conditions were released on 7 April, while the remaining prisoners were released on "humanitarian grounds".⁸ While this is a welcome measure, considering that individuals at this age are at a heightened risk of contracting Covid-19 with potentially deadly results, it does not go far enough as these represent only a fraction of Azerbaijan's prison population. Moreover, activists, journalists and government critics imprisoned or placed in detention over politically motivated charges were not included in the list of those released.⁹

According to its commitments under international human rights law, Azerbaijan is under a clear obligation to take necessary measures to ensure the right to health of all prisoners without discrimination. Amnesty International calls on the Azerbaijani authorities to respect the principle of non-discrimination in the measures taken to lessen the grave health risk in prisons and ensure that those detained on politically motivated charges also benefit from the Covid-19 related release.

5 The Institute for Reporters' Freedom and Safety (IRFS). "IRFS calls on the Azerbaijani authorities to put an end to all illegal restriction of freedom of expression under the pretext of safety measures against the covid-19 pandemic." April 25th, 2020 see: <https://www.irfs.org/news-feed/official-statement-irfs-calls-on-the-azerbaijani-authorities-to-put-an-end-to-all-illegal-restriction-of-freedom-of-expression-under-the-pretext-of-safety-measures-against-the-covid-19-pandemic/>

See as well: International Press Institute (IPI). "Azerbaijan abuses quarantine rules to jail critical journalists and bloggers". April 23. 2020 <https://ipi.media/azerbaijan-abuses-quarantine-rules-to-jail-critical-journalists-and-bloggers/>

6 Council of Europe. Report to the Azerbaijani Government on the visit to Azerbaijan carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 23 to 30 October 2017, see: <https://rm.coe.int/16808c5e46>

7 Human Rights Club, News. "Azerbaijan: Torture and Prisoner Abuse." 2018, available at <https://www.humanrightsclub.net/en/news/2019/azerbaijan-torture-and-prisoner-abuse/>

8 APA News Agency. Azerbaijan's Ministry: 260 prisoners released on parole amid coronavirus. 30 April 2020 <https://apa.az/en/social-news/Azerbaijan's-Ministry:-260-prisoners-released-on-parole-amid-coronavirus-319517>

9 Faik Mejid, "Азербайджанские правозащитники разочарованы указом о помиловании", Caucasian Knot, 6 April 2020. Available at: <https://www.kavkaz-uzel.eu/articles/348007/>

See as well: PACE. "COVID-19: rapporteurs welcome prisoner pardon in Azerbaijan but call for release of all political prisoners." 9 April.2020. see: <https://pace.coe.int/en/news/7849/covid-19-rapporteurs-welcome-prisoner-pardon-in-azerbaijan-but-call-for-release-of-all-political-prisoners>

Moreover, Azerbaijan should take all possible measures to reduce its prison population. It should consider if certain other groups of prisoners could be released on parole or granted early or conditional release or other alternative non-custodial measures. Azerbaijani courts should consider making full use of non-custodial pre-trial measures to avoid exposing people to the risk of infection in prisons.

Instead, Azerbaijan continues to incarcerate political and civil society activists, including human rights defenders, journalists and others on politically motivated charges, despite calls within and outside the country to immediately halt this practice.¹⁰

POLITICALLY MOTIVATED PROSECUTION OF GOVERNMENT CRITICS AND DISSENTING VOICES IN AZERBAIJAN: A LONGSTANDING ISSUE

Politically motivated prosecution is a longstanding issue in Azerbaijan, where the justice system is used by the government as an instrument of repression to silence dissent and imprison government critics under trumped-up charges.

For years now, Azerbaijan has denied entry to Amnesty International and other international human rights monitors. In the absence of unrestricted access to the country for independent human rights groups, and in light of severe suppression of all dissenting voices within, the true scale of reprisals is disguised, and the exact number of individuals held in prisons under fabricated, politically motivated charges is unknown.

A group of Azerbaijani human rights defenders, the Working Group on a Unified List of Political Prisoners in Azerbaijan, have compiled a list of more than 100 individuals currently in prison or in detention who they argue are, with meticulous reference to case detail, victims of politically motivated prosecution. The work of this group, and its constantly updated list, is widely regarded as an authoritative and credible reflection of the Azerbaijani government's persecution of its opponents and independent civil society, and its crackdown on the rights to freedom of expression and association and peaceful assembly. The Rapporteur of the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe, Thorhildur Sunna Ævarsdottir, described the list as the "most detailed and extensive", alongside the list of prisoners drawn up by the Union for the Freedom of Political Prisoners in Azerbaijan, and noted both to be credible and reliable.¹¹ The Rapporteur also points out that the credibility of the list "has been confirmed by the findings in the Court's [European Court of Human Rights] judgments", and adds that "[t]here is thus a rebuttable presumption that people on these lists are political prisoners".¹²

Amnesty International is concerned about the arbitrary detention of all individuals it regards prisoners of conscience, the alleged arbitrary detention of individuals on the above-mentioned credible list following politically motivated prosecutions, and the fact that these individuals, and all other prisoners, are exposed to higher risk of contracting Covid-19 because of the overcrowded conditions in Azerbaijani prisons. Every person in Azerbaijan arbitrarily deprived of their liberty should be released immediately. There must be no discrimination against any prisoners when Covid-19 related release measures are considered, including on the basis of an individual's political views and affiliations.

10 PACE. "COVID-19: rapporteurs welcome prisoner pardon in Azerbaijan, but call for release of all political prisoners." 9 April.2020. see: <https://pace.coe.int/en/news/7849/covid-19-rapporteurs-welcome-prisoner-pardon-in-azerbaijan-but-call-for-release-of-all-political-prisoners>

11 PACE. "Reported cases of political prisoners in Azerbaijan Report1 Committee on Legal Affairs and Human Rights. Report." Doc. 15020 18 December 2019 see: <http://semantic-pace.net/tools/pdf.aspx?doc=aHR0cDovL2Fzc2VtYmx5LmNvZS5pbnQvbncveG1sL1hSZWYvWDJILURXLWV4dHluYXNwP2ZpbGVpZD0yODMyMCZsYW5nPUVO&xsl=aHR0cDovL3NlbWFudGljcGFjZS5uZXQvWHNsdC9QZGYvWFJIZi1XRC1BVC1YTUwyUERGLnhzbA==&xslparams=ZmlsZWlkPTI4Mzlw>, paragraph 55.

12 PACE. Summary "Reported cases of political prisoners in Azerbaijan. Doc. 15020. 18 December 2019." available at:

<http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-en.asp?fileid=28320&lang=en>.