

Thursday, 4 October 2007:

*Working session 16, Fundamental freedoms II, including **Freedom of expression, free media and information:***

Journalists rights must be protected in the run-up to the 2008 elections in Azerbaijan

More than fifteen years after gaining independence, Soviet-style restrictions on the media – including censorship and defamation laws utilized to shield state officials from criticism – remain in place in Azerbaijan. What is more, the situation of critical journalists and media outlets in the country has deteriorated sharply in 2006 and 2007. Journalists and other media professionals struggle for their rights to freedom of expression and opinion and even for their liberty and lives. Several journalists are imprisoned while others faced other forms of harassment, and a number of past violent attacks against media workers remained uninvestigated and the perpetrators unpunished.

Formal legal protections for the media in Azerbaijan have improved over years through the adoption of domestic and international norms, and the country has been subject to continued monitoring *inter alia* by the OSCE and the Parliamentary Assembly of the Council of Europe. Implementation of laws and state practices with regard to media freedom have, however, adhered neither to international nor domestic human rights provisions. Each president of Azerbaijan has restricted media freedoms, and after the incumbent, Ilhan Aliyev assumed power, pressure on critical, non-governmental media has increased.

Criminal defamation laws remain in place, despite efforts by civil society groups to have them moved into the sphere of civil law. In 2006 and 2007, the use of these provisions to silence critics has increased notably. This has happened despite the fact that draft legislation to decriminalize defamation is in the pipeline and will, if adopted, put an end to some forms of serious harassment that are still allowed under national law. These punitive measures against media have contributed to a climate of self-censorship and fear among media workers.

In addition to defamation charges, members of independent and opposition media have been kidnapped, violently attacked, and murdered. Their work has been hindered by barring access to information of public importance, and by unequal access to public airwaves and newsprint materials. As of August 2007, seven opposition journalists were imprisoned in Azerbaijan.¹ The charges against them spanned from defamation to terrorism, but essentially all were incarcerated for expressing their opinions, which were critical of the established government or the executive, or influential persons close to the inner circles of power. Interior Minister Ramil Usubov has been especially active in filing defamation charges for criticism.

With a history that has shown an increase of state violence against opposition forces and journalists during election periods, the recently mounting harassment against journalists appears to be aimed at muzzling critical voices in the run-up to the presidential election scheduled for October 2008. This was also clearly indicated in President Aliyev's statement on 2 July 2007, in which he fully justified police violence during the 2005 elections – when journalists and political opposition were especially targeted – and rejected all demands for making abusive police officers accountable.² Such statements bode poorly for the up-coming elections and the general human rights climate.

Recommendations:

In light of the extremely precarious conditions journalists face in Azerbaijan today, the IHF calls for Azerbaijan to lift all restrictions on the operation of all media outlets; allow journalists to carry out their professional duties unhindered; and refrain from legal prosecution and other repercussions

against journalists for legitimate criticism. The IHF also urges Azerbaijan to forge a new tradition of open public debate ahead of the up-coming presidential elections in 2008, a prerequisite of which is the free operation of the media and dissemination of a wide variety of information and opinions.

More specifically, the IHF urges the authorities of Azerbaijan to:

1. Promptly adopt legal amendments to decriminalize defamation. Pending such amendments, the government should declare a formal moratorium on the application of articles 147 and 148 of the criminal code (on calumny and "deliberate humiliation"), and discontinue any defamation lawsuits under these provisions. All journalists imprisoned under defamation provisions should be immediately released, and they, as well as other jailed journalists, should be granted public and fair re-trials;
2. Conduct immediate investigations into all allegations of assaults against media workers and bring to justice their perpetrators. Further, all cases of alleged police involvement in violent acts against journalists and reporters should be examined by an independent body;
3. Allow and publicly encourage free public debate in the run-up to the 2008 presidential election. This also includes allowing for free and unbiased media reporting and respecting the rights of critics of the government to disseminate information freely, to organize and to demonstrate.

The IHF urges the OSCE to:

4. Launch pre-election monitoring of media freedoms to establish whether free public debate will be guaranteed as a crucial prerequisite for holding a fair, free and democratic presidential election in 2008.

¹ Sakit Zahidov, Eynulla Fatullayev, Rafiq Tagi, Samir Sadagetoglu, Farametz Novruzoglu, Rovshan Kebirli, and Yashar Agazadeh.

² President Aliyev said: "...a number of countries and international organizations demanded us to punish the policemen, condemned in violence. However, I stated that no one would be punished, as they were fulfilling their duties. I support the police today as well." (Recorded by the Institute of Peace and Democracy)