



HUMAN RIGHTS IMPACT ASSESSMENT OF THE STATE RESPONSE TO COVID-19 IN AZERBAIJAN

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Executive summary

As the world has been struck by the COVID-19 outbreak, posing serious threat to public health, states resort to various extensive unprecedented measures, which beg for their assessment through the human rights perspective. This report, prepared by the International Partnership for Human Rights (IPHR) and Baku Human Rights Club (BHRC), examines the measures taken by Azerbaijan and the impact that it has on human rights of the Azerbaijani population, including those most vulnerable during the pandemic.

The first COVID-19 case in Azerbaijan was diagnosed on 28 February 2020. As of 27 July 2020, over 30.000 COVID-19 cases were confirmed as positive, with 417 deaths, more than 22.000 recoveries, and 6949 active cases. The Government, having adopted a 'special quarantine regime' on 24 March 2020, imposed multiple strict measures on the population, severely restricting their freedom of movement and raising questions of potential privacy violations following the application of obligatory SMS approval system for residents willing to leave their homes. To manage the outbreak, at different periods of time, the Government has also imposed temporary 'tightened quarantine regime', that prevented the population from leaving their home in major cities unless there was 'immediate danger to life and health'.

Special laws establishing administrative and criminal liability for violations of quarantine rules or for spreading false information causing threat to harming human life have been adopted. Concerns have been raised by human rights groups for arbitrary and abusive application of these provisions against those who criticise the authorities, including in relation to their handling of the public health crisis. A number of journalists reporting on the issue have been given administrative detention on that basis, which serves as a strong chilling effect on freedom of expression and media freedom in this context.

This period in Azerbaijan has been marked by the intensified persecution of political opposition in the country, following the President's speech of 19 March 2020 accusing the opposition, as a 'fifth column', for spreading rumors and provocations, as a result of which their isolation 'will become necessary'. On 15 July 2020, following the rally to address the military escalations with Armenia in front of the parliament, which led to a brief break-in to the parliament building by a small group of protesters, the President further accused the opposition of provocative actions, allegedly aimed to disrupt the public order. Both speeches were soon followed by multiple arrests of and criminal charges against a number of political opposition members.

This report focuses on the following human rights issues affected by the state's handling of the pandemic:

- Violations of a right to liberty, documenting multiple cases of arbitrary arrests and detention of opposition members, journalists, activists and human rights defenders;
- Disproportionate police violence against ordinary citizens challenging strict quarantine measures or complaining about their dire social and economic situation caused by the pandemic;
- Violations of fair trial guarantees caused by the quarantine restrictions, in particular a right to a lawyer being denied to detainees;
- Growing concerns on a right to privacy relating to the imposed SMS verification system by police as the public has not been provided with any information on the use of the collected data and its further storage;

- Restrictions on freedom of expression and a right to impart information in particular, stemming from the newly adopted legislation in the context of pandemic, and the persecution of critical voices for their opinions and reporting;
- Restrictions of a right to freedom of assembly, including in relation to residents protesting the authorities' failure to provide them with the promised financial support;
- Impact on health care and health workers in the country;
- Impact on property and housing during the pandemic;
- Impact on social and economic rights of the population, and the Government's response to the crisis;
- A right to education, in particular of those living in rural areas where Internet connection and access to technologies is severely limited;
- Impact on most vulnerable groups, such as victims of domestic violence, LGBTI community, prisoners, elderly people, and ethnic minority groups

Introduction

Brief country information

Azerbaijan is the biggest country in the South Caucasus region, with around 10 million inhabitants, bordering Russia and Georgia to the north, Iran to the south, Armenia to the west and the Caspian Sea to the east. According to its Constitution, Azerbaijan is a secular democratic republic, with a strong presidential governing system. Its population consists of 96% Muslims, of which approximately 65% is Shia and 35% Sunni, with the remaining 4% shared among other religions. Since its independence from the Soviet Union, Azerbaijan is ruled by the Aliyev family. Except for the first year of independence, when the country's leadership was in the hands of Abulfaz Elchibey, elected in generally fair and free elections in 1992, the country's power was seized by Heydar Aliyev, the former leader of the Azerbaijan Communist Party and the leader of the KGB branch in Azerbaijan in 1993. A new 1995 Constitution has further cemented a strong presidential system, setting a legal and institutional framework for the President's institute, as the head of the executive power, with only nominal independence of the judiciary or the legislative power. The election of the incumbent President Ilham Aliyev, the son of Heydar Aliyev, in 2003 has allowed the Aliyev family to maintain its rule in the country to date. Azerbaijan's first post-Soviet parliamentary elections in 1995, described as not free and unfair by independent observers, secured a majority of seats for the Yeni Azerbaijan Party, which has remained the ruling party since then, chaired by Ilham Aliyev.¹ In September 2016, his wife Mehriban Aliyeva was appointed to a newly created position of a Vice President of Azerbaijan, a second constitutional office in the country.

Rich in oil and gas resources, Azerbaijan is yet to ensure strong economic and social welfare to its citizens. With the vast oil and gas resources managed under tight grip of the country's leadership, marked by widespread corruption and mismanagement allegations, many Azerbaijanis live in difficult social and economic conditions.² Monthly minimum salary is 250 AZN (approx. 130 EUR), with unemployment rate of 5% in 2019. Corruption is widely reported in the health sector and other public sectors, which further affects the population's ability to benefit from social welfare.³

1 Freedom House, Freedom in the World 2002, Azerbaijan <https://freedomhouse.org/report/freedom-world/2002/azerbaijan>

2 Azerbaijan is ranked 126th out of 180 countries in Corruption perception Index of Transparency International in 2019 <https://www.transparency.org/en/countries/azerbaijan>

3 <https://www.transparency.org/en/countries/azerbaijan#>

A member of the Council of Europe since 2001 and a party to multiple international human rights treaties, Azerbaijan stands out for its poor human rights record and increasingly authoritarian policies towards its critics. Its 2014 crackdown on the civil society landed leading human rights defenders, activists and journalists in prison on trumped up charges, which the European Court of Human Rights has found to be retaliatory for their human rights work and activism.⁴ The civil society has not been able to recover since then, due to very restrictive NGO legislation, widely criticised by the international community, and the repression expanded to other forms such as disbarment of human rights lawyers, blocking of critical independent or opposition oriented websites, travel bans against journalists and activists, and the continuing persecution of political opposition.

Against this domestic context, Azerbaijan's handling of the COVID-19 pandemic is marked by the intensified levels of crackdown on the political opposition and other critics through intimidation, arrest and detention, disproportionate police violence in handling violations of the quarantine measures and little to no public scrutiny of the authorities' crisis response due to limited information provided to the public and the de facto censorship over criticism of the authorities' actions.

Methodology

In order to respond to the unfolding human rights crisis across the former Soviet Union (FSU) region, IPHR devised a monitoring tool – an in-depth questionnaire covering civil political, social and economic rights which have potentially been affected by the restrictive measures introduced by the authorities to contain the spread of COVID-19. The monitoring tool provides a framework to assist local civil rights organisations in monitoring the ways in which the authorities respond to the crisis, so that core human rights, especially those of the most vulnerable are protected. The monitoring tool covers following areas on interest:

1. Emergency measures
2. Right to liberty and security and freedom of movement
3. Right to a fair trial
4. Prisons and other places of detention
5. Right to privacy
6. Freedom of assembly and association
7. Freedom of expression/access to information
8. Health care
9. Housing
10. Right to water
11. Economic and financial response
12. Right to education
13. Equality and non-discrimination
14. People living with disabilities
15. LGBTQI persons

4 <https://hudoc.echr.coe.int/...>

16. Migrants, ethnic minority groups and xenophobia

17. Children, young and older people

Much of the information and data presented in this report has been provided by national focal points – local researchers working with IPHR and local civil society organizations with which IPHR has been collaborating for many years. While collecting the data we paid particular attention to rights violations that occurred exclusively in the context of restrictive measures and policies that were introduced by the local authorities in relation to the COVID-19 response.

The IPHR team analyzed dozens of cases of alleged rights violations reported by local civil society actors and independent media. Statistical data on prevalence of the disease and information about restrictive measures introduced in response to COVID-19 crisis has been obtained from official government sources. Information collected has been analyzed against applicable regional (Council of Europe) and universal (United Nations) standards.

COVID 19 in Azerbaijan and the State's response

As of 27 July 2020, according to the official data, there are over 30.000 confirmed cases of COVID-19, with 417 deaths, 22684 recoveries, and 6949 active cases in Azerbaijan.⁵

Normative framework for management of the pandemic and restrictive measures

On 30 January 2020, in preparation to the spreading pandemic in the world, the Cabinet of Ministers announced that it adopted the 'Action Plan to prevent the spreading of a new corona disease in the Republic of Azerbaijan'. On 27 February 2020, Operational Headquarters under the Cabinet of Ministers, consisting of top officials of relevant government agencies and institutions, were established to monitor the situation and prevent the threat of coronavirus disease in the territory of Azerbaijan through preventive and urgent measures, and a revised action plan was adopted.⁶ On 28 February 2020, the Cabinet of Ministers adopted a decision No. 73-1 "On The Rules for quarantine-organization, prevention and other necessary measures in case of a threat of emergence or spread of infectious, parasitic and mass non-communicable diseases."⁷ These two executive decrees appear to form the normative basis for the Government's response to the pandemic crisis, however, according to local human rights groups, neither of the acts are available to the public to date, in violation of the domestic law requiring decisions of the Cabinet of Ministers to be published within 72 hours after their adoption, raising concerns over the public's ability to effectively scrutinise the Government's actions.

On 28 February 2020, the first COVID-19 case was diagnosed in Azerbaijan, with a few more the following day, all individuals who came from Iran, following which the border with Iran was closed for two weeks. Soon after, temporary border closures with Georgia, Russia and Turkey were put in place. Since 5 April 2020, entry and exit to the territory of the Republic of Azerbaijan by land and air, except for cargo

5 www.koronavirusinfo.az

6 <https://cabmin.gov.az/az/article/788/>; <https://cabmin.gov.az/az/article/680/>

7 <https://cabmin.gov.az/az/document/4363/>

transportation, have been suspended. The suspension remains valid until 1 August 2020 for further review.⁸

Following the Action Plan, first measures were introduced on 3 March 2020 to suspend activities of all educational institutions in the country. On 14 March 2020, the Government implemented further measures such as postponement of all mass events in the country, suspension of activities in indoor public places such as cinemas, theatres and gyms, prohibition of wedding parties and mourning ceremonies (except for funerals), limited and strictly defined working hours for restaurants, cafes and bars, prohibitions to visit patients in medical institutions, limitations on business trips abroad, and prohibition for state officials and health workers to leave the country without an official permission.

‘Special quarantine regime’

On 24 March 2020, as cases continued to grow, a ‘special quarantine regime’ was introduced by the Cabinet of Ministers to address the pandemic in the country, which was later extended until May 31, June 15, 5 July, 20 July and 31 August 2020.⁹ This regime was put in place in accordance with the Law on Sanitary and Epidemiological Safety, which allows the Government to apply special labor, education, movement, transportation conditions and regimes in the event of a threat of the emergence or spread of infectious, parasitic, mass non-communicable diseases.¹⁰

The status of this regime raises questions of its constitutionality as it is not defined in any domestic laws and falls outside the scope of the Constitution and the relevant laws on emergency situations. Unlike in the case of emergency situations, this special regime introduced by a decree of the Cabinet of Ministers is not subject to parliamentary supervision or constitutional review.

Under this regime, the Government enforced a series of restrictions on the population limiting their freedom of movement, such as restrictions on entry to and exit from certain areas, including capital Baku, suspension of public transportation, prohibition for people over the age of 65 to leave their homes, prohibition of gatherings of more than 10 people in public places (later reduced to groups of 5 people), a recommendation to keep 2-meters social distancing, with only essential shops and facilities allowed to remain open. This new regime entrusted the Ministry of Internal Affairs to ensure that these regulations are complied with.

From April 4, 2020, everyone, except for those working in certain sectors, such health, social, retail and transport sectors, and having a special permit, was required to send an SMS to a designated number to be able to leave their homes and this was limited to once a day for 2 hours. Anyone wanting to leave their house was required to send an SMS to number “8103” containing the serial number of their ID card or temporary or permanent residence permit and the relevant code indicating the reason for leaving the house. Residents were only allowed to seek for such permission in three instances:

- in cases of urgent medical necessity and scheduled medical appointment,
- for purchase of food and other daily necessities such as medicine, use of banking or postal services, and
- for attending funeral of a close relative.

8 <https://cabmin.gov.az/az/article/900/>

9 http://e-qanun.az/framework/45155_http://e-qanun.az/framework/45337_<https://cabmin.gov.az/az/article/942/>

10 Article 25 of the Law on Sanitary and Epidemiological Safety, adopted in 1992

As person was allowed to leave the place of stay only upon receiving a positive response. An exemption to this rule was applied in cases of imminent danger to life and health, and if a person was summoned to court or law enforcement agencies. Although it remains unclear if such new regulation enabled mobile phone tracking, according to official reports,¹¹ these SMS notifications were automatically transferred to the police to verify if a person had a permission to leave his/her home. A failure to comply with this rule led to administrative and criminal responsibility, similarly to violations of other quarantine requirements and measures (discussed in the next section below). This rule remained in place until 4 May in some regions and until 18 May in Baku.

On 1 May 2020, the Cabinet of Ministers adopted 'Rules of quarantine control and isolation in case of airborne infectious diseases in the territory of the Azerbaijan Republic' setting out specific rules to be applied during quarantine, such as isolation, self-isolation, placement of individuals in the quarantine places and others.¹² The amended version of this regulation of 9 June 2020 stipulates that individuals who fail to abide by the rules will be brought to administrative and criminal liability.¹³

On 31 May, some restrictions were eased or lifted, such as restoring activities of shopping malls and on-site service in restaurants and cafes under certain conditions, however, leaving the majority of restrictions in place. A new compulsory requirement to wear masks was introduced to the public and applied to the special quarantine regime on May 29 along with the existing requirement to maintain social distancing of 1,5-2 meters.¹⁴

'Tightened quarantine regime'

In early June 2020, as the lifting of some restrictions led to growing numbers of COVID-19 cases, the Cabinet of Ministers introduced two two-day long tightened quarantine regimes, also known as 'full lockdowns', prohibiting people from leaving their homes unless there is 'immediate danger to life and health' in a number of major cities and districts. The first such lockdown, that lasted on 6-8 June 2020, was imposed on the cities of Baku, Sumgait, Ganja, Lankaran, and the Absheron region. The second one was enforced on 14-16 June and was extended to Baku, Sumgayit, Ganja, Lankaran, Absheron, Salyan, Kurdamir, Yekhlakh and Ismayilli regions.¹⁵

Similar lockdown was further imposed for the period of 21 June – 6 July allowing residents of Baku, Sumgayit, Lankaran, Yevlakh, Masalli, Jalilabad cities and Absheron district to only leave their home for shopping of food and medicine, or for medical reasons and only when an SMS confirmation is received.¹⁶ Duration of such permission to leave is limited to 2 hours per day. Such tightened regulation was further extended until 5 August 2020.¹⁷

On 12 June 2020, further regulation was introduced requiring those tested positive for the virus displaying mild symptoms to self-isolate at home and commit to being tracked through a mobile tracking application, which enables authorities to verify his/her location at the place of residence.¹⁸

11 <https://www.digital.gov.az/az/media/press/8103-sms-icaze-sistemini-fealiyyeti-16-inzibati-erazide-davam-edecek>

12 <http://e-qanun.az/framework/44995>

13 <http://e-qanun.az/framework/45170>

14 <http://e-qanun.az/framework/45105>

15 <http://e-qanun.az/framework/45127> and <http://e-qanun.az/framework/45156>

16 <https://cabmin.gov.az/az/document/4517/>

17 <https://cabmin.gov.az/az/article/942/>

18 <https://contact.az/ext/news/2020/6/free/Social/en/124858.htm> ; <http://e-qanun.az/framework/45178>

Administrative and criminal liability for failure to comply with quarantine rules

In order to enforce the new regulations, a number of amendments to the domestic legislation have been made to establish both administrative and criminal liability for violations of quarantine measures and other related regulations.

On 17 March 2020, new amendments to the Code of Administrative Offences introduced fines of 100-200 AZN (approx. 52-104 EUR) to individuals, 1500-2000 AZN (approx. 780-1040 EUR) to officials, or administrative detention amounting up to one-month, and fines of 2000-5000 AZN (approx. 1040-2600 EUR) to legal entities for breaking 'anti-epidemic, sanitary-hygienic, and quarantine regimes'.¹⁹ This provision was further amended on 2 June 2020 to introduce a 50 AZN (approx. 26 EUR) fine for individuals, 100 AZN (approx. 52 EUR) to state officials and 200 AZN (approx. 104 EUR) to legal entities for failing to comply with the requirement to wear a protective mask.²⁰

On 17 March 2020, the Criminal Code was amended to introduce criminal liability to those who commit the aforementioned violations and who cause the spread of the disease or pose a real threat to such spread, with a fine of 2500-5000 AZN (approx. 1300-2600 EUR) or restriction of freedom for up to three years or imprisonment for up to three years. When such acts cause death or other serious consequences due to carelessness, a person shall be punished with imprisonment for the term of three to five years.²¹

The same day, on 17 March 2020, the Parliament amended the Code on Administrative Offences to establish new administrative offences for spreading false information causing threat to harming human life and health, causing significant property damage and increased administrative liability for violation of anti-epidemic, sanitary-hygienic and quarantine regimes.²² It stipulated fines amounting to 100-200 AZN (approx. 52-104 EUR) to individuals and 1500-2000 AZN (approx. 780-1040 EUR) to officials, or administrative detention of up to one month, and legal entities would be fined in the amount of 2000-5000 AZN (approx. 1300-2600 EUR). This newly introduced administrative liability was also stipulated in the Law "On Information, Informatization and Information Protection" expanding liability under administrative offence code to false information which threatens to harm human life and health, causes significant property damage, mass violation of public safety, disruption of life support facilities, financial, transport, communications, industrial, energy and social infrastructure facilities or leads to other socially dangerous consequences.²³

These rules do not specify circumstances of application such as the nature of the offence, the circumstances characterizing the offender, the degree of his guilt, property status, as well as mitigating and aggravating circumstances, which are to be taken into consideration and account. This results into wide discretion of law enforcement agencies in interpreting and applying the rules, and raises issues of proportionality of the sanctions. For example, in practice, many individuals were fined with 100 AZN (approx. 52EUR) for alleged violations of the Code of Administrative Offences regardless of the circumstances of each case. According to official reports, during the period of 1 April 2020 – 13 April 2020, traffic police officers fined 16,483 road users in accordance with Article 211 of the Code of Administrative Offences for violating anti-epidemic regime, sanitary-hygienic and quarantine regimes

19 Article 211 of the Code on Administrative Offences <http://e-qanun.az/framework/44785>

20 Article 211 of the Code on Administrative Offences, <http://e-qanun.az/framework/45088>

21 Article 139 of the Criminal Code <http://e-qanun.az/framework/44784>

22 Article 211 of the Code of Administrative Offences <http://e-qanun.az/framework/44785>

23 <http://e-qanun.az/framework/44788>

with a fine of 100 AZN.²⁴ Furthermore, on 7 July 2020, a domestic court ruled that the police obtained a right to issue fines for quarantine related offences from 14 April 2020 only, meaning that all fines issued before this date are deemed groundless.

In another instance, on 3 June, Baku residents Tatyana Ulankina, Ramin Bakhishov, Allahverdi Imanguliyev, Shirzad Shirzadov and Taleh Bakhshiyev were detained in the Baku Metro for allegedly attempting to resist police officers to comply with the lawful demands of the special quarantine regime. A criminal case was launched under Articles 139-1 (violation of anti-epidemic, sanitary-hygienic or quarantine regimes when there is a real threat of the spreading of the disease or the actual spreading of the disease) and 221 (hooliganism) of the Criminal Code, and the investigation. The video from the metro train that appeared on social media shows that there was a minor dispute between one person and two police officers in the metro over the wearing of a protective mask, which the person claimed he had and others joined to support him.²⁵

On 21 July 2020, the Ministry of Internal Affairs published information that administrative measures were taken against 195,000 people for violating the rules of the special quarantine regime during the period of 1 April – 20 July 2020.²⁶ According to the Ministry, 788 people were arrested and 193,560 were fined, including 17,820 people fined for not wearing medical masks.

Impact on human rights

As many countries across the world are putting enormous efforts to protect the public from the pandemic, the authorities in Azerbaijan will also come into history for using the pandemic as a pretext to continue their harassment of opposition groups and further clamp down on critical voices and expression of dissatisfaction by the public of the Government's policies and actions. Such an approach from the leadership was clear since the outset of the crisis. In his annual Novruz speech on 19 March President Ilham Aliyev addressed the nation with a warning that 'traitors' and representatives of a 'fifth column' who spread rumours and provocations will not be tolerated and that the isolation of representatives of the fifth column will become a 'historical necessity' in case of a need to declare a state of emergency.²⁷ Although a state of emergency has never been declared, the 'special quarantine regime' and its measures enforced instead *de facto* amounts to a state of emergency. Cases of journalists, political opposition members and online critics of the Government's handling of the crisis being harassed soon grew in numbers. On 15 July 2020, commenting on the rally of 14 July outside the parliament and the brief occupation of the parliament building to protest military escalations with Armenia, President Aliyev accused the opposition as a 'provocative group' that aimed to disrupt public order.²⁸ He called the opposition the fifth column, which is 'worse than Armenians' and that 'this cannot continue', following which a new wave of arrests of opposition members ensued.

Growing police violence against residents in cases of suspected violations of the quarantine rules or those protesting the rules or the difficult socio-economic situation is increasingly observed across the country as public concerns grow.

24 <https://dyp.gov.az/?/az/news/view/733/>

25 <https://www.moderator.az/news/328311.html>

26 <https://report.az/daxili-siyaset/karantine-emel-etmeyen-193-minden-artiq-sexs-mesuliyete-celb-edilib/>

27 https://azertag.az/en/xeber/Message_of_congratulation_of_President_Ilham_Aliyev_to_the_people_of_Azerbaijan_on_the_occasion_of_Novruz_holiday_VIDEO-1444323?_...

28 <https://oc-media.org/azerbaijani-opposition-hit-with-new-arrests-following-aliyev-speech/>

This Chapter of the report documents various human rights violations and heavy social and economic impacts on various groups of the society observed since the beginning of the pandemic in Azerbaijan.

Impact on a right to liberty

PERSECUTION OF OPPOSITION, JOURNALISTS AND OTHER CRITICS THROUGH ARRESTS, DETENTION AND OTHER JUDICIAL HARASSMENT

The Azerbaijani Government used the pandemic period to intensify its pressure on its political rivals and critical voices, or those who publicly expressed their critical opinions on the handling of the COVID-19 crisis in the country. Since March 2020, dozens of members of opposition political parties, journalists and activists were subjected to various administrative and criminal charges and were deprived of liberty and sentenced to prison terms, administrative detention or threatened with such punishment in police stations. Among those cases are the following:²⁹

- On 21 March 2020, Samir Babayev, a member of the opposition Muslim Unity Movement, was arrested while distributing medical masks and information brochures about COVID-19 outside a central metro station in Baku and was sentenced to administrative arrest for one month
- On 22 March 2020, three days after the President's Novruz speech, Tofiq Yagublu, a member of the National Council and the opposition Musavat Party was detained in relation to what appeared to be a fabricated car incident. The next day, he was charged with hooliganism (Article 221.3 of the Criminal Code) and sentenced to three months in pre-trial detention following accusations of a couple in a car that Yagublu allegedly attacked them with a screwdriver. In court, Tofiq Yagublu pleaded not guilty and said his arrest was politically motivated. On 19 June, his pre-trial detention was extended to two more months, awaiting trial. Tofiq Yagublu is a former political prisoner and was arrested in 2013 and sentenced on bogus charges of instigating violence, and released following a presidential pardon in 2016. In November 2015, the European Court of Human Rights found his detention illegal.³⁰
- On 31 March 2020, human rights defender Elchin Mammadli was arrested and his home was searched. He was subsequently accused of possessing stolen jewelry, which Mammadli believes was placed by the police during the search in his house. The same day, he was sentenced to 3-month pre-trial detention. Mammadli argues it is linked to his human rights work as he was arrested several days after publishing a critical report on the human rights situation in Azerbaijan. If convicted, he faces imprisonment for a term of two to five years.
- In April 2020, Zamin Salayev, a member of the Azerbaijan Popular Front Party (APFP) and an activist of the party's Salyan district branch, was convicted under charges of slander and insult (Articles 147.2 and 148 of the Criminal Code) and sentenced to 2 years and 3 months in prison. On January 10, 2020, a video was shared on YouTube showing Zamin Salayev arguing with police officer Hamza Azizov who accused him of raping a woman in the Salyan district. H. Azizov did not deny the accusation but instead told Salayev that the political activist had no right to question him on this matter because the woman's relatives did not file a complaint. Salayev was arrested and charged on the basis of a complaint from a police officer.

29 Cases of journalists are covered in the section 'Impact on freedom of expression' below

30 Yagublu v Azerbaijan, Appl. No. 31709/13, 5 November 2011, available at <http://hudoc.echr.coe.int/eng?i=001-158506>

- On 16 May 2020, Azerbaijan Popular Front Party activist Niyamaddin Ahmadov was charged with financing of terrorism (Article 214-1 of the Criminal Code) and put in pre-trial detention for four months. The investigation body accused Ahmadov of receiving money from another opposition member from abroad to finance terrorism. In court, Ahmadov denied the accusation, claiming that the person who sent him money from abroad repaid his debt. Ahmadov is the bodyguard of Ali Karimli, the leader of the APFP. On 15 April, he was detained for violating the quarantine regime and sentenced to 30 days of administrative detention.
- On 25 May 2020, activist Fuad Ismayilov has been arrested and put into pre-trial detention for two months under charges of drug possession (Article 206 of the Code of Administrative Offences). Fuad Ismayilov became well known for exposing the fraud in the early parliamentary elections on February 9. As a member with an advisory vote of the precinct election commission in the 32nd Surakhani third constituency, he posted a video documenting election violations at the precinct, following which he was removed from the precinct by force by police officers. After the election, he wrote on the wall of the building at the opposite of the Central Election Commission "Phew, Mazil!", thus expressing a protest against the head of the CEC, Mazahir Panahov, for refusing to consider complaints of fraud during the election.
- On 25 May 2020, the Sabirabad district court sentenced the assistant to the head of the Azerbaijan Popular Front Party, Faig Amirli, to 15 days of administrative arrest. He was found guilty for petty hooliganism (Article 510 of the Code of Administrative Offences). Over a month earlier, on April 8, he was given 30 days administrative arrest on charges of violating the quarantine regime. He considers his arrest politically motivated.
- On 16-24 July 2020, Asif Yusifli, Seymur Ahmadov, Bakhtiyar Imanov, Ramid Naghiyev, Ismayil Hasanov, Ayaz Maharramli, Baba Suleymanov, Jeyhun Novruzov, Mahabbat Naghiyev, Elvin Mammadov, Telman Seyfullayev, members of the APFP were arrested by the police and accused of committing crimes envisaged in Articles 186.2.1 (deliberate destruction or damage of property with causing damage to a victim in the large scale), 233 (organization of action promoting infringement of a social order or active participation in such actions) and 315.1 (resistance or application of violence concerning the representative of authority) of the Criminal Code relating to the rally that took place in front of the Parliament on 14 July 2020. The Nasimi district court sentenced all detainees to 3-month pre-trial detention as criminal investigation continues. During the spontaneous and overall peaceful rally that mobilized more than ten thousand people in support of military operations with neighboring Armenia, a small group of people entered the parliament building and damaged a police car prompting a forceful response from riot police. The rally was dispersed with water cannons and pepper gas shortly after. APFP claims that the authorities are using the incident that took place during the rally to further persecute its members.
- On 16 July 2020, Mahammad Imanli, a member of APFP, and Mehdi Ibrahimov, a son of Mammad Ibrahim, deputy of APFP Chairman, were arrested by the police and accused of violating anti-epidemic, sanitary-hygienic or quarantine regimes when there is a real threat of the spreading of the disease or the actual spreading of the disease, thereby committing a crime envisaged in Article 139-1 of the Criminal Code for their participation in the rally. On 20 July 2020, Nasimi district court issued decisions to place them in 3-month pre-trial detention.
- On 24 July 2020, Fuad Gahramanli, deputy chair of APFP was arrested under charges of violent seizure of power or violent deduction of power, violent change of the constitutional system of the state envisaged in Article 278 of the Criminal Code. The Nasimi district court put him to 3-month pre-trial detention.

Impact on prohibition of ill-treatment: disproportionate police violence against ordinary citizens

On 6 June 2020, during the first enhanced quarantine regime in Baku of 4-6 June, the police arrested a resident in front of his apartment in a residential area of the city in relation to his failure to comply with the quarantine rules. Protesting the arrest, some of the residents threw garbage on the policemen through the windows of their apartments.³¹ Two days later, in the early morning of 8 June 2020, the Yasamal police department, together with Special Riot Police Regiments, conducted an operation in the Yasamal district of Baku and arrested at least a dozen civilians allegedly connected with the earlier incident that took place on 6 June. The publicly available video footages document that the police forcibly entered private apartments in the early morning and arrested these individuals in their home, with some of them being taken by force naked and without being given an opportunity to put on clothes.³² Some of the detainees reported that they were slapped and insulted by the police during the arrest.³³

In the police station, most of them were handed administrative detention under charges of deliberate disobedience of a police order varying from 10 to 30 days. Some of them appealed their detention to the Baku Appeal Court, however, their appeals have been dismissed.

On 8 June 2020, at the end of the same day, one of the detainees, Elvin Suleymanov, was released and gave an interview to Meydan.TV news website that he was released to allow him to go home and convince his mother to accept the police apology, or otherwise he would be taken back to a police station³⁴. He also said that he and other detainees were ill-treated by police, and marks of injuries were clearly visible on his head, face, ear and other parts of his body. Lawyer Javad Javadov who interviewed him and who represented his brother Karim Suleymanov requested the Office of the Prosecutor General to launch an investigation into the ill-treatment allegations. Three days later, on 11 June 2020, the Presidium of the Azerbaijan Bar Association issued a warning to the lawyer Javad Javadov for allegedly 'forming a wrong opinion in the public' about the incident, following his sharing of the interview of his client about allegations of ill-treatment in police custody online.³⁵

The incident caused massive public outcry on the social media. Such excessive use of force by the police is representative of the systemic structural problem in Azerbaijan's law enforcement system. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment of Punishment of the CoE (CPT) concluded in 2018 that 'torture and other forms of physical ill-treatment by the police and other law enforcement agencies, corruption in the whole law enforcement system and impunity remain systemic and endemic'.³⁶

31 <https://www.youtube.com/watch?v=8HfHkVxXqwE>

32 <https://www.youtube.com/watch?v=IWivPc2HHmg>

33 <https://www.facebook.com/watch/?v=257957358750431>; <https://www.facebook.com/watch/?v=576925239877190>

34 <https://www.youtube.com/watch?v=tFXk91jr9kA>; <https://www.facebook.com/photo?fbid=3797006826983152&set=pcb.3797013910315777>

35 <https://barassociation.az/news/580>

36 <https://www.coe.int/en/web/cpt/-/azerbaijan-torture-impunity-and-corruption-highlighted-in-new-anti-torture-committee-publications>

Impact on fair trial guarantees

On 19 March 2020, in light of the pandemic, domestic courts were recommended by the Supreme Court to temporarily postpone all court proceedings except for cases where urgent consideration is necessary, such as administrative detention, application or extension of restrictive measures, or measures to secure a claim, among others. Administrative courts were advised to conduct proceedings without oral hearings. Court proceedings in civil and commercial disputes should be conducted through the Electronic Court information system. All courts restored their activities on 18 May 2020.

In the above reported cases of administrative detention and criminal proceedings, the accused political opposition members, activists, journalists and human rights defenders were provided timely access to courts, however, reported being denied effective judicial oversight of deprivation of their liberty. The domestic courts baldly upheld the position of the police or the prosecution and failed to effectively address the defence arguments. As during ordinary times, the judiciary failed to play an effective role in guaranteeing fair trial rights to those detained during the COVID-19 restrictive environment.

Some of the detainees reported being denied or otherwise interfered with their right to access a lawyer, a right that forms a fundamental part of fair trial guarantees. On 11 April 2020, lawyer Nemat Karimli was not allowed to meet with activist Agil Humbatov, a member of Popular Front Party who was placed in the Psychiatric Hospital No. 1 in the Mashtagha settlement of Baku.

On 27 April 2020, lawyer Elchin Sadigov was not allowed to meet his client Zamin Salayev, a APFP member, detained in the Baku Pre-Trial Detention Center despite the fact that he provided all the necessary documents for such a visit to be authorised.

In administrative detention cases, the arrested individuals are often brought before the court without a presence of a lawyer or in a presence of a state appointed lawyer when effective legal representation is not ensured. Among such recent cases are the cases of APFP members arrested during 16-24 July 2020 in relation to the rally held in front of the parliament on 14 July 2020, as well as the journalists arrested in April 2020 (see relevant sections of the report for further details on these cases).

Impact on a right to privacy

The imposed SMS verification system requiring citizens willing to leave their home during the quarantine regime to notify police raises serious privacy concerns. It requires everyone who wants to leave their home for groceries or medicine, or for medical services to notify the police and obtain permission to leave their home for up to two hours. Such a system was introduced twice, on 5 April-15 May, and on 21 June – 5 July and 6 July – 20 July and 21 July – 5 August. Although the official aim of such a system is to manage the disease spread by limiting the movement of residents, the public was not provided with any information as to how the data gathered through the SMS notification system is used and managed. No information on the legal regulations relating to such data collection was published, nor was any information given on how this data will be stored or dealt with once the purpose of the system is achieved. Critical voices further fear that this information can be arbitrarily used against them to track their location and eventually restrict their liberty or otherwise retaliate for their criticism. Although such a restrictive measure serves a legitimate purpose to protect public health, it must be introduced in line with the rule of law and democratic principles in times of emergency, which were not respected in this instance because this restrictive emergency measure on rights and freedoms was introduced by executive's decree, without any parliamentary oversight.

It was reported that during the first period, on 5 April – 18 May 2020, 36,184,000 SMS were sent by citizens to obtain permission to leave their home.³⁷

Impact on freedom of expression and a right to impart information

As in ordinary circumstances, freedom of expression has been under great pressure during the pandemic period in Azerbaijan. Azerbaijan is notorious for its very repressive environment for journalists and media outlets despite its constitutional and international obligations to protect and promote freedom of expression in the country. It was ranked 166th out of 180 countries in Reporters Without Borders' 2019 World Press Freedom Index.

On 17 March 2020, in the context of the fight against disinformation related to the COVID-19 pandemic, the Parliament amended the Law on Information, Informatization, and Protection of Information prohibiting the publication of 'false information' 'that results in damage to life and health of people, significant property damage, mass violation of public security, violation of activity of life support objects, financial, transport, communication, industrial, energy and social infrastructure, and that poses threats to the occurrence of other socially dangerous consequences'.³⁸ It obliges the owner of any internet information resource to prevent the publication of such information online. The publication of information that might cause other situations that are dangerous to the public was also prohibited. The Parliament further introduced an administrative penalty - a fine of 500 AZN - 1500 AZN for individuals, 1500 AZN - 2500 AZN for legal persons, and one-month administrative arrest for individuals - for distributing such 'false information' online. According to official records, since the enactment of the new law, 10 people have been put under administrative arrest for allegedly spreading false information on social networks, 18 people have been fined and 127 people have been issued a warning.³⁹ Article 388-1 of the Code of Administrative Offences was further introduced establishing administrative liability for placement of false information or failure to prevent publication of such information.⁴⁰

Although the need to fight false information during a pandemic emergency is necessary, such vaguely worded amendments as to what constitutes 'false information' or information 'dangerous to the public' raises serious concerns of arbitrary and abusive application of provisions against those who may report and criticise the authorities for their handling of the pandemic in the country's repressive context for media freedom. It is likely to have a chilling effect on those who would otherwise dare to express their opinions on social networks, where independent debates on issues of public interest mainly take place in Azerbaijan. The new amendments drew the concern of the OSCE Representative on Freedom of the Media who noted that such new provisions 'should not impede the work of journalists and their ability to report on the pandemic'.⁴¹

On 2 April 2020, the Cabinet of Ministers announced in its decision that mass media workers were allowed to move freely on the basis of service cards or a certificate of employment during the special quarantine period⁴². Although not provided for in the decision, the Cabinet of Ministers later warned that this privilege could only be granted to individuals associated with a media outlet under a service

37 https://apa.az/az/sosial_xeberler/SMS-icazsi-alanlarin-v-icazee-govazda-qeydiyyatdan-kecnlrin-sayi-aciqlanib-587187

38 <http://e-qanun.az/framework/44788>

39 <https://lent.az/news/345588>

40 <http://e-qanun.az/framework/44785>

41 <https://www.rferl.org/a/azerbaijan-s-coronavirus-disinformation-law-could-curb-press-freedom-osce-says/30509266.html>

42 <https://cabmin.gov.az/az/document/4364/>

contract. This effectively hindered the capacity of freelance journalists and independent reporters and bloggers to collect and impart information to the public during this period.⁴³ As it is the free will of every journalist to choose their contractual arrangement, either through an employment contract or as a freelance reporter, the authorities should create conditions for journalists to carry out their professional activities. There should be no restrictions or obstacles to the collection, preparation, and dissemination of information as part of their work. This is of particular concern as many independent journalists and reporters, critical of the authorities and their policies, work on a freelance basis because independent or opposition media outlets have long been under severe pressure of the authorities and prevented operating effectively. Such an unjustified and discriminatory restriction is in violation of the right to impart information, protected both by the Constitution of Azerbaijan and international human rights treaties, signed by Azerbaijan, such as the European Convention on Human Rights and the United Nations International Covenant on Civil and Political Rights.

Journalists reporting on issues of public interest, including those related to the pandemic, are being subjected to administrative and criminal charges, threats of prosecution and other types of harassment. At the time of this report's publication, four journalists, Araz Guliyev, Elchin Ismayilli, Ziya Asadli and Polad Aslanov, remain in prison following their criminal conviction in relation to their critical reporting.

Among the most recent cases are the following:

- On 6 February 2020, Elchin Hasanov, a journalist working in Mingachevir city, was detained by the police and taken to the Mingachevir City Police Department. The reason for the journalist's detention was the videotaping of the meeting of Aydin Mirzazadeh, the parliamentary candidate of the ruling New Azerbaijan Party (NAP) from the Mingachevir Constituency No. 47, with voters in Mingachevir House of Culture. The journalist was first removed from the hall without any clear grounds and was then detained by the police. It is only after giving an explanation to the police that the journalist was released.
- On 11 February 2020, Mustafa Hajibeyli, editor of the website "*bastainfo.az*", who was detained by the police during the protest in front of the Central Election Commission (CEC), was physically attacked by the police. The editor said he was detained and taken to a police car, in which three people punched and kicked him in the face. He was released the same day.
- On 14 March 2020, a criminal case was opened against Tazakhan Miralamli, an employee of the Azadlig newspaper, under Article 221 (hooliganism) of the Criminal Code, on the basis of a complaint by Azerbaijani citizen Ata Abdullayev, who identifies himself as a video blogger and is known to be a person close to the Government. Abdullayev claimed that the journalist punched him during a visit to the Khojaly monument on 26 February. On 19 June 2020, the Khatai District Court of Baku sentenced Tazahan Miralamli to one year of restraint of liberty. The Court also ordered Mirlamli to wear an electronic bracelet and has prohibited him from leaving his place of residence from 23:00 to 07:00.
- On 18 March 2020, a group of people demanding the release of Mubariz Mansimov, a businessman arrested in Turkey, held a rally in front of the Turkish Embassy in Baku. The police dispersed the demonstrators and attacked several journalists who were reporting on the gathering. RFE/RL journalist Ramin Deko and a freelancer journalist Tabriz Mirzayev were among the physically attacked journalists. Their equipment was either confiscated or broken. Journalist Nurlan Gahamanov was also subjected to police pressure for his reporting. The journalists complained to the Ministry of Internal Affairs about the illegal actions of the police.

43 <http://www.turan.az/ext/news/2020/4/free/Interview/en/123392.htm>

- In April 2020, journalists Ibrahim Vazirov, Mirsahib Rahiloghlu, Elgun Gencimsoy and Natig Izbatov were arrested and respectively placed under 25, 20, 20 and 30 days of administrative detention. All of them have been critical of the authorities during the pandemic and reported on the difficulties faced by the Azerbaijani society.^{44, 45}
- On 19 April 2020, journalist Teymur Karimov interviewed the Chairman of the Popular Front Party Ali Karimli in his apartment. When leaving his house, he noticed being surveilled by unknown men. Later in the day, while he was pursuing a different story, he was contacted by a man who stated being a Baku resident and had a story to share, which Karimov should report on. When he arrived to the man's house, he was confronted by four men and physically attacked. His laptop and the SD card containing an interview with Ali Karimli were taken and his camera was broken. He argues that the incident is related to his interview with Ali Karimli whose Internet and phone connections were cut off for several days at the time, most likely in the aim to prevent his appearance in the media or social media

Impact on freedom of assembly

During the quarantine regime period, several peaceful protests took place, mostly addressing social issues in the country:

- On 4 May 2020, a group of local residents gathered in front of the Bilasuvar District Executive Power protesting the fact that they could not get the promised social assistance from the authorities. The protesters attempted to enter the building of the executive power but the police prevented them from doing it. Several people were detained and injured during the protest.⁴⁶ Two of them were prosecuted under charges of hooliganism and resistance or use of force against a government official, as stipulated in the Criminal Code, and five others were charged for minor hooliganism.⁴⁷
- Residents of Garadirnagh village of Barda district held a protest action on 16 May 2020. The reason for the action was the protest against the detention of three people who expressed dissatisfaction with the transfer of a part of the land allocated to the villagers to the authorities. According to the residents, 40 hectares of the 104-hectare pasture allocated by the state were illegally taken from them. The police was called to the area and 14 protesters were detained.
- On May 29, the police arrested more than 50 people who tried to hold a short-term flash mob in connection with the June 1, the International Children's Day. According to the official report, a criminal case was launched against the organizer of the event, Akbar Rahmanov, under the relevant article of the Criminal Code. 50 people were fined under Article 211 of the Code of Administrative Offences.⁴⁸

44 <https://yenisabah.az/azerbaycanda-jurnalists-hebs-olundu>

45 <https://oc-media.org/azerbaijan-arrests-journalists-for-violating-guarantine/>

46 <http://www.contact.az/ext/news/2020/5/free/Social/az/123787.htm>

47 <https://mia.gov.az/?/az/news/view/1453/>

48 <https://gozetc.az/flesmob-təskilatçisi-barəsində-cinayət-isi-acilib/>

Impact on health care and health workers

In Azerbaijan, the dissemination of information related to COVID-19 is subordinated to the Operational Headquarters under the Cabinet of Ministers, established to manage the pandemic in the country. The Headquarters is the only information provider of information on the situation in medical institutions and the health care system during this period, with no alternative, independent information or public debates on the matters available in the public domain. The Headquarters reported that medical institutions have been provided with sufficient personal protective gear and medical equipment needed for the diagnosis and treatment of COVID-19 patients. According to unofficial information provided by health workers, as of 27 July 2020, 35 medical professionals died as a result of COVID-19 in Azerbaijan.

On 19 March 2020, President Ilham Aliyev announced the creation of the Fund to Support Fight Against Coronavirus to increase the measures' effectiveness and to ensure material support to the medical workers providing relevant services. According to this new regulation, the funds, generated from the state budget, shall be used for the remuneration of medical workers and the provision of material assistance to them; the improvement of the infrastructure and material and technical capacity of medical institutions; the formation of medical institutions of special regime; the organization and implementation of control and monitoring; the financing of researches in the medical field; the training of specialists in the medical field; awareness-raising and enlightenment activities; and other measures taken to fight against the coronavirus. According to information available to the public with regards to the Fund, 113,698,929 AZN have been collected for the Fund.⁴⁹

On 7 April 2020, President Ilham Aliyev issued an order to meet the growing demand for medical facilities and medical equipment and to effectively organize the treatment of infected patients within the framework of health measures related to COVID-19. According to this order, the Government built 6 modular hospitals with 200 beds to combat the pandemic.⁵⁰

At the beginning of the pandemic, the Government promised that it would strengthen health workers' social and economic protection. According to the initial information, the Government declared that it would raise salaries of health workers who are involved in the fight against COVID-19.⁵¹ The decision of the Cabinet of Ministers provided that salaries of the following medical workers shall be increased:

- employees carrying out preventive medical measures - in the amount of three times the monthly official (tariff) salary;
- medical workers providing emergency medical services, as well as laboratory workers engaged in the examination of biological material, including employees of the Forensic Medical Expertise, the Pathological Anatomy Association, and the Azerbaijan Institute of Food Safety - in the amount of four times the monthly official (tariff) salary;
- employees providing inpatient medical services to patients - in the amount of five times the monthly official (tariff) salary.

This temporary arrangement was to be applied for the period from March 1 to June 1.

49 <http://covid19fund.gov.az/en/donation>

50 <https://apa.az/en/social-news/AZN-14.8-mln.-allocated-for-the-installation-of-6-modular-hospitals-for-coronavirus-in-Azerbaijan-317400>

51 <http://www.aztv.az/az/news/6145/azerbaycanda-bu-tibb-iscilerinin-maasi-bes-defe-artirildi>

A month later, as some health workers protested the failure to keep the promise, the Government stated that the original information was misunderstood and that their promise related to payments for overtime at work.⁵² Since the Government did not live up to its initial promise, health workers in Lankaran district hospital and in Aghash Central Hospital held protests.^{53, 54}

Impact on property and housing

The Government's urbanization and 'beautification' process of Baku continued during the quarantine period. The demolition of allegedly dilapidated houses started in 2016, under the Cabinet of Ministers' decision No. 86 of 25 February 2016. More than a dozen residential buildings have been demolished since then.⁵⁵

On that basis, on 11 March 2020, the Baku City Executive Power issued an order stating a number of residential buildings located in the Narimanov district of Baku (at the intersection of Tabriz and Hasanoglu streets), deemed unfit for habitation and spoiling the general view of the city, will be demolished and new buildings will be built on the site. It is expected that 8 residential buildings, currently occupied by more than 300 inhabitants, will be demolished in Baku. The order does not contain any temporary suspension provisions for the quarantine period.⁵⁶

Impact on social and economic rights

On 19 March 2020, President Ilham Aliyev issued an order establishing measures to reduce the negative impact of COVID-19 on the economy, macroeconomic stability, employment and businesses.⁵⁷ One billion AZN (approx. 523.5 million EUR) were allocated to finance measures to reduce the negative impact on business entities. Along with supporting businesses, the Government allocated 400 million AZN (approx. 208.3 million EUR) to social protection of the most economically vulnerable citizens. On 9 April, as part of the social package, the Government announced that it would pay 190 AZN (99 EUR) lump-sums to those in need. It reported that in April and May, 200,000 unemployed citizens received this allowance and that this number would increase to 600,000. Such payments have also been made in June 2020 as well.

Among those who received one-time 190 AZN payments, 55% were men and 45% were women. 25% of them live in Baku, 4% in Sumgayit, 3% in Ganja, and 68% in other regions of the country. 8% of them are under 20 years old, 42% are 20-30 years old, 25% are 30-40 years old, 14% are 40-50 years old, and 11% are over 50 years old.⁵⁸

Social protection measures also included the creation of 50,000 paid public jobs, the increase of the monthly preferential electricity consumption limit for citizens by 100 kilowatts per hour in April and May, the allocation of 40 million AZN (approx. 21 million EUR) for student training from low-income families and 280 million AZN (approx. 146 million EUR) for transportation of vital importance.

52 <https://www.bbc.com/azeri/azerbaijan-52211790>

53 <https://www.youtube.com/watch?v=ZAJkpAAFTYo> and https://www.youtube.com/watch?time_continue=1&v=3np-JMZNlcy&feature=emb_logo

54 <https://gozetci.az/report/?item=1983>

55 http://qlobal.az/202002261627-abdin-ferzeliyev-prezidentin-gsterisine-niye-emel-etmir-video/#.Xtb8iy-cY_V

56 <https://bizimxeber.az/xeber/bakida-bu-binalar-skilecek--serencam/4663>

57 <http://e-qanun.az/framework/44791>

58 <http://scial.gov.az/3428>

The Government's scheme to provide emergency aid to the most vulnerable during the coronavirus crisis faced a number of implementation problems as thousands of individuals complained that they have been unable to access the funds.⁵⁹ Initially, many people faced technical problems when trying to register for support on the official website. Others reported having their claims rejected for apparently spurious reasons. Some people reported that they were rejected allowance if their spouse maintained their job or if they owned an apartment or a plot of land, or other property.

Impact on a right to education

After the introduction of the special quarantine regime in Azerbaijan, schools and universities were required to adjust to the new conditions and continue their educational programs online. The Ministry of Education uses its website, two public TV channels, YouTube, Facebook, Zoom and other platforms to deliver daily educational programs for schools. Public universities mostly use Zoom application for this purpose.⁶⁰

Schools faced serious technical difficulties during the practical implementation of this new program. Many teachers, especially in rural areas, have little knowledge of technology or use of Internet. In addition, internet coverage is not always available in these rural areas. This new educational system requires obtaining a mobile internet package, with additional fee, that leads to both financial and other difficulties for teachers and students in such areas.⁶¹ Although the Government requested one of the main mobile operators Azercell to provide discounted mobile internet packages to teachers, this service was not provided to students. This unequal treatment particularly affected economically disadvantaged families.⁶²

Impact on most vulnerable groups

VICTIMS OF DOMESTIC VIOLENCE

During the quarantine period, domestic violence cases were on the rise, as they were around the world. On 16 May 2020, the State Committee for Family, Women and Children Issues reported that there is an increase in the number of domestic violence during the pandemic in Azerbaijan. Taliya Ibrahimova, head of the legal department of the State Committee noted that in the first four months of 2020, the Committee received 73 appeals, most of which were related to domestic violence.⁶³

The Baku-based Clean World Organisation, which runs a shelter for domestic violence victims, received calls from 14 women who reported being subjected to violence at home.⁶⁴ It also reported at least 4 femicide cases during April 2020.⁶⁵ This however does not represent the real picture in the country as many victims do not report cases of domestic violence to the police.

59 <https://iwpr.net/global-voices/azerbaijan-citizens-struggle-access-covid-19>

60 <http://www.serqqapisi.az/index.php/humanitar/elm-v-t-hsil/23437-taehsil-sahaesindae-onlayn-taedbirlaer-kedzhirilir.html> and <https://edu.gov.az/az/page/9/18125>

61 <https://aztehsil.com/news/11709-virtual-mektebin-real-problemleri-pandemiyadan-acq-ders.html>

62 <https://aztehsil.com/news/11709-virtual-mektebin-real-problemleri-pandemiyadan-acq-ders.html>

63 <http://www.kaspi.az/az/pandemiya-dvrunde-aile-munaqiselerinin-sayinda-qismen-artim-musahide-edilir>

64 <https://www.meydan.tv/az/article/meiset-zorakiligi-pandemiyasi/?ref=search>

65 <https://mikroskopmedia.com/2020/05/06/karantin-dovrunde-azerbaycanda-meiset-zorakiligi-hallari-ne-qeder-artib/>

The strict quarantine regime, limiting citizens' ability to leave their home to two hours per day with the authorisation of the authorities, make it difficult for victims to seek the necessary assistance. Furthermore, there is a shortage of shelters, particularly in rural areas. In the country inhabited by around 10 million people, only three women shelters operate to assist and accommodate women in need.⁶⁶

LGBTQI PERSONS

Since 2015, Azerbaijan ranks in the last place among 49 European countries in the Rainbow Europe rankings published annually by ILGA-Europe.⁶⁷ The ranking is based on the annual assessment of the human rights situation for LGBTQI persons in each country. In 2017, state persecution escalated as over 80 LGBTQI persons were subjected to series of violent police raids. This led to their administrative detention in appalling conditions, ill-treatment in custody, and inability to effectively challenge such mistreatment in domestic courts, resulting in the absolute impunity of responsible police officers. All detainees reported being interrogated and harassed for their sexual orientation, in the wider context of prevailing anti-LGBTQI policies in Azerbaijan.

During the quarantine period, a private video conference of the National Council, consisting of members of opposition political parties, held on 14 May 2020, featuring homophobic statements made by some of the members, was published on social networks. The call participants discussed the US-based and openly gay Azerbaijani journalist, Ismayil Jalilov, who was critical of the National Council, and used homophobic insults against LGBT people and the journalist in particular.⁶⁸ In the video, Gultakin Hajibeyli, a member of the National Council, former member of the parliament and former member of the Azerbaijani delegation to PACE, referred to gays as "nasty" and said that "since the number one priority of the West is the rights of these minorities, they are compassionate towards them." Another member of the National Council Rafiq Namafli said he regretted that 'Hitler did not kill gays at the time'. Following the mounting pressure against such homophobic statements on social networks, Mrs. Hajibeyli issued a public apology and Mr. Namafli announced his resignation from the National Council.

On 19 May 2020, a young man who identified as gay reported to the media that he has been subjected to increased pressure from his parents for his sexual orientation during the forced stay at home measure during the quarantine period.⁶⁹ He also reported that a friend in the military service is harassed and bullied by other soldiers due to his sexual orientation.

On 18 June 2020, a 28-year old transgender sex worker Aysu Mammadli was stabbed to death, reportedly by her client in his apartment, when he learned about her sexual identity and refused to provide Mammadli with the promised payment. The attacker reported that there was an incident over the payment, following which he defended himself. It was reported that Mammadli was stabbed 11 times, which led to her death, raising questions about the self-defense argument. Local LGBTQI groups also raise concerns about the likelihood of effective criminal investigation into the murder in light of the wider prevailing anti-LGBTQI views and policies in the country.

A day after Mammadli's murder, local LGBTQI activists reported that another transgender sex worker was stabbed in Baku.

66 <https://eurasianet.org/living-with-fear-azerbajians-domestic-abuse-victims-have-nowhere-to-flee>

67 <https://rainbow-europe.org>

68 <https://www.bbc.com/azeri/azerbaijan-52670797>

69 <https://anews.az/az/olan-sevgilisini-esgerliye-gnderen-azerbaycanli-homoseksualin-heyatindan-teferratlar-video/>

PRISONERS

Individuals in detention facilities and prisons are at particular risk during the COVID-19 period. Information about the situation in closed institutions in Azerbaijan is very limited to the public due to the lack of access to such facilities for public monitoring and civil society groups. The only available information to the public is published by the authorities.

On 12 May 2020, the Ministry of Justice announced that 33 prisoners were diagnosed with the COVID-19 virus in Azerbaijan and were transferred to a special treatment centre.⁷⁰ It also noted that strict precautionary measures have been taken to manage the situation without providing any further details.⁷¹ On 10 July 2020, the Presidential Administration announced that 11 prisoners in prison No. 12, 5 prisoners in prison No. 14 and 2 prisoners in prison No. 4 were diagnosed positive.⁷²

The Azerbaijani National Preventive Mechanism, coordinated by the Ombudsman's Office, as the institution granted access to closed institutions, published no COVID-19 related reports on the situation in prisons. Furthermore, human rights defender Samir Kazimli who submitted an appeal to the Ombudsman on behalf of the detained opposition politician Tofiq Yagublu, reported that his appeal regarding Yagublu's inability to receive asthma related treatment and clothes from his family was addressed later than within 10 days as required by the domestic law. The Office eventually responded that Tofiq Yagublu was given clothes by the prison and that it was not possible to visit the prison due to quarantine.⁷³

In March 2020, the Ministry of Justice imposed a ban for detainees and prisoners to meet with their relatives and to receive clothes, food, and other necessary items due to the pandemic. Many families reported having no information about the situation of their relatives in prisons. Other families reported that prisoners were not provided with sufficient quantities of soap and other hygiene products, which raised concerns about the detainees' ability to take preventive measures against the spread of the virus. Similarly, lawyers reported that they can only communicate with their clients through a glass protector using a phone, and argued that using these phones may not prevent the spread of the disease among prisoners who use the same phone.⁷⁴ In such circumstances, the ability to communicate with a lawyer confidentially is significantly reduced.

On 6 April 2020, President Ilham Aliyev pardoned 176 prisoners who required special care because of their age and health condition in relation to the risk of the spreading of the COVID-19 virus.⁷⁵ On 30 April 2020, the Ministry of Justice additionally announced that 300 prisoners were released on parole due to threats caused by the pandemic.⁷⁶ On 7 July 2020, the Ministry reported that additional 1000 prisoners were released on parole on the same grounds.⁷⁷ Local experts consider that the authorities need to

70 <https://interfax.az/view/802084/az>

71 <https://www.bbc.com/azeri/azerbaijan-52638420>

72 <https://www.amerikaninsesi.org/a/cəzaçəkmə-müəssisələrində-18-məhkum-koronavirusa-yoluxub-/5497588.html>

73 <https://gozetc.az/ombudsman-huquq-mudafiəçisinin-tofiq-yaqublunun-isi-ilə-bağli-sorgusuna-məhəl-qoymur/>

74 <https://yenisabah.az/agir-cinayet-toretmeyen-məhkumlar-serti-ceza-ile-azadliga-buraxilmalidir>

75 <https://az.trend.az/azerbaijan/society/3219315.html>; Presidential order available at <http://e-qanun.az/framework/44847>

76 <https://video.azertag.az/video/92599>

77 <https://apa.az/az/hadise/Pandemiya-dovrund-1000-nfrdk-mhkum-vaxtindan-vvl-srti-azadliga-buraxilib-595390>

extend such policy to a wider group of prisoners in light of the overcrowding problem in prisons in Azerbaijan. According to the report of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), published in 2018, many of the detention facilities and prisons are overcrowded and poorly ventilated.⁷⁸ Human rights groups further express their concern that such measures are not sufficient as many activists and political opposition members have been detained during the pandemic period with no consideration of health risks in deciding on the preventive measure. In July 2020, a group of civil society representatives appealed to the President requesting for the expansion of the categories of convicts to be released under pardon in light of the pandemic related situation.⁷⁹

ELDERLY PEOPLE

As part of the special quarantine regime, the Government prohibited people over the age of 65 from leaving their homes. The Government announced that those who live alone would be provided with food and medicine, in line with the Law on Social Services. The Ministry of Labor and Social Protection of Population reported that to access such services, citizens over the age of 65 and living alone must register by calling the Call Center 142 of the Ministry, following which the necessary services will be provided to them.⁸⁰ Various voluntary campaigns have been organised to assist elderly people in these circumstances, both by the public institutions and citizen initiatives. According to the state official statistics, nearly 300.000 Azerbaijanis are between 65-69 years old and 420.000 are of age 70 and above.⁸¹

ETHNIC MINORITY GROUPS

Yevlakh district around 265km west from capital Baku, widely populated by Roma people, has been placed under a special quarantine regime due to high rate of COVID-19 cases, which led to severe restrictions of movement of the residents.⁸² On 19 April 2020, a group of Romani residents protesting against such severe restrictions and the authorities' failure to provide them with financial support clashed with the police forces present at the scene.⁸³ As a result, the Yevlakh District Prosecutor's Office launched a criminal case under Articles 221 (hooliganism) and 315 (resistance to or use of force against a government official) of the Criminal Code and arrested 20 people. No further information is available on the case of the detainees, and if they have been provided with legal assistance and granted other fair trial rights.

78 <https://rm.coe.int/16808c5e46>

79 <https://smdtaz.org/wp-content/uploads/2020/07/Petition.pdf>

80 <https://its.gov.az/bloq/65-yasdan-yuxari-sexslere-evlerinde-sosial-meiset-xidmetleri-gosterilecek>

81 <https://www.stat.gov.az/source/demography/>

82 <https://apa.az/en/accidents-incidents-news/Entrance-and-exit-to-%22Gypsies-estates%22-of-Azerbaijan%27s-Yevlakh-restricted-321162>

83 <https://www.bbc.com/azeri/azerbaijan-52754551>

Recommendations to the government of Azerbaijan

- Ensure full transparency and publicity on the pandemic situation in the country and the measures taken by the authorities.
- Ensure that human rights are respected in the pandemic context and that restrictions taken are strictly proportional and necessary, in line with the international human rights standards.
- Stop using administrative detention as a sanction against those found in violation of the quarantine regime for health safety purposes.
- Release all those detained and imprisoned for their political views or criticism during the quarantine regime and put an end to such retaliatory practice.
- Ensure that the pandemic relating legislation envisaging administrative and criminal liability is not applied in an arbitrary and punitive manner.
- Effectively investigate police actions where force was used against residents.
- Release more prisoners to avoid overcrowding and ensure safe conditions, and provide those remaining in detention facilities and prisons with a possibility to keep safe social distancing and with the necessary protective material, such as soap and masks.
- Enhance rapid response to complaints from domestic violence victims and ensure their physical protection and psychological well-being.
- Ensure that medical professionals are equipped with the necessary protective gear so that they can carry out their work safely.
- Ensure full transparency and publicity of data on citizens in need of social benefits relating to the pandemic from the state to ensure that financial support is allocated on a fair and equal basis.
- Consider annulling or reducing 18% VAT tax for e-commerce and other digital and tech-oriented businesses and startup companies, including social enterprises.