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Azerbaijan: Fair Trial Concerns in Cases associated with the 2005 Parliamentary Elections

On 9 May 2006 Azerbaijan was elected to the new United Nations Human Rights Council (UNHRC). As a member of the Council, Azerbaijan is obliged to uphold the highest standards in the promotion and protection of human rights, as stipulated in the General Assembly resolution establishing the Council. As part of its bid for election to the UNHRC, Azerbaijan undertook a number of voluntary pledges on human rights standards, including 'actions to improve promotion and protection of human rights domestically', as well as at the international level.

Amnesty International welcomes these stated commitments, but is also concerned that there may be a significant political context to the arrest and prosecution of numerous individuals detained before and after the 2005 parliamentary elections in Azerbaijan. Described by the Organization for Security and Cooperation in Europe (OSCE) as failing to 'meet a number of OSCE commitments and other international standards for democratic elections', the 6 November 2005 parliamentary elections were preceded and followed by dozens of arrests of individuals associated with various opposition parties.

Amnesty International is concerned about several cases in which there have been numerous allegations of torture or other ill-treatment, violations of international fair trial standards and health concerns with regard to some of the accused. Amnesty International notes widespread perceptions among the defendants' lawyers, Azerbaijani human rights organizations and other analysts that the circumstances of the arrest and prosecution of people in the context of the 2005 parliamentary elections suggest that the Azerbaijani government may be pursuing aims of discrediting and removing political opposition rather than criminal justice.

Amnesty International has written to the President, Ministers of Justice and National Security, Prosecutor General and Ombudsman of Azerbaijan, raising concerns related to the arrest, prosecution and detention of former Minister for Economic Development Farhad Aliyev; Ruslan Bashirli, Said Nuri and Ramin Tagiyev of the 'Yeni Fikir' ('New Thinking') youth movement affiliated to the oppositional Popular Front of Azerbaijan party; deputy chairman of the oppositional Democratic Party of Azerbaijan Natiq Efendiyev; and local Azerbaijan National Democratic Party director and electoral commission staff member Gadir Musayev. Concerns raised by Amnesty International included alleged shortcomings in medical care in the case of Farhad Aliyev, allegations of torture or other ill-treatment in the cases of Ruslan Bashirli and Natiq Efendiyev, the closed nature of court proceedings in the 'Yeni Fikir' trial and allegations of the planting of incriminating evidence in the case of Gadir Musayev. Amnesty International has also received information about the existence of other less well documented cases, such as those of activists Yunus Farajov and Sabir Bakhshaliev, arrested in November 2005 on charges of organizing mass disturbances and conspiring to overthrow the government, about whose current circumstances of detention little is known.

The right to a fair trial and the right to freedom from torture and cruel, inhuman and degrading treatment are fundamental human rights and Amnesty International calls on states to respect these rights in all cases without discrimination. Amnesty International believes that the concerns raised in these cases are indicative of wider problems in the criminal justice system in Azerbaijan relating to the independence of the judiciary, access to effective legal counsel and the use of torture or other ill-treatment to extract confessions. In raising our concerns with the Azerbaijani authorities in the context of cases related to the 2005 parliamentary elections, we hope to advance respect and fulfilment of human rights and international fair trial standards for all in the Azerbaijani criminal justice system.

In the case of Farhad Aliyev, Azerbaijani human rights organizations have called for the accused to be transferred to hospital to ensure that he receives adequate medical treatment. The head of Cardiology at the Ministry of Health has confirmed that Farhad Aliyev suffers from stenocardia (a form of angina) and a poor blood supply (ischemia), and he is alleged to have suffered a number of hypertensive strokes since his arrest and detention in the investigation-isolation unit of the Ministry of National Security. Amnesty International is concerned that little investigation activity has been initiated since Farhad Aliyev's arrest, suggesting a prolonged detention with possibly serious effects on his health if he is not accorded appropriate medical care, in a civil hospital if necessary.

Amnesty International shares the concerns raised by human rights organizations in Azerbaijan regarding allegations of torture in the cases of Ruslan Bashirli and Natiq Efendiyev, both held at the Organized Crime Unit of the Ministry of Internal Affairs, where Azerbaijani human rights organizations have previously documented cases of torture. In both cases the accused were transferred to hospital amid allegations that they had sustained injury through torture or other ill-treatment. Amnesty International is also concerned that despite the domestic legal requirement that defendants accused under Article 278 of the Azerbaijani Criminal Code ('actions aimed at seizing or retaining power by force') be tried by jury, no jury has been appointed in this case.

In the case of Gadir Musayev, Azerbaijani human rights organizations believe that incriminating evidence in the form of narcotics was planted on the defendant's person in order to secure a conviction. Gadir Musayev's case was the second in five months to be based on a conviction of possession of narcotics. Gadir Musayev was sentenced to seven years' imprisonment at the Court of Grave Crimes for dealing in narcotics; Azerbaijani human rights organizations believe his only 'crime' was to refuse to sign election result protocols he believed to be fraudulent.

Azerbaijani human rights organizations, as well as external observers, have noted the 'chilling' effect on freedoms of expression, association and assembly in Azerbaijan of the arrests and detentions following both the October 2003 presidential election and the 2005 parliamentary election. This effect lends credence to the claim that in pursuing these cases the Azerbaijani government is seeking to marginalize opposition rather than implement criminal justice. Irrespective of whether or not the various charges mentioned above are politically motivated, Amnesty International urges the Azerbaijani authorities to ensure that those detained in the context of the 2005 parliamentary elections receive fair trials, to provide full access to appropriate medical care for those who need it, to investigate fully all allegations of torture or other ill-treatment and ensure reparations for victims, to investigate allegations of the planting of evidence and release individuals where such allegations are found to be correct, and to create an environment appropriate to the functioning of an independent judiciary. Only by demonstrating the political will to take such substantive steps to comply with its international human rights obligations can Azerbaijan lend credibility to its membership of the newly elected United Nations Human Rights Council.

