



Public Association for
Assistance to Free Economy

Property Rights in Azerbaijan: Restrictions and Challenges



Policy Brief



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This policy brief provides first-hand information regarding the increasingly alarming property rights situation in Azerbaijan. The brief presents the general situation and main concerns in relation to violations of property and housing rights, as a result of which thousands of Azerbaijani citizens are suffering. Furthermore, it presents recommendations to the international community on how they can help prevent further forced evictions and demolitions resulting from the state-sponsored urbanization programs.

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1. Executive Summary

The Constitution of the Republic of Azerbaijan, in addition to international conventions to which Azerbaijan is a signatory, guarantee property and housing rights in Azerbaijan. The reality, however, is somewhat different: today, forced evictions of residents, demolitions and unlawful expropriations constitute the most widespread human rights violation in the country.¹

In 2006, the government of Azerbaijan launched a major urban renewal initiative, mostly in the capital Baku. Funded by state oil revenues, this project has seen the construction of parks, roads and new residential buildings. The result has been the eviction of hundreds of families and the demolition of houses without fair compensations being paid to owners. The country's hosting of massive international events such as the Eurovision Song Contest in 2012 and the upcoming European Olympic Games in 2015 have acted as further triggers for this construction boom, resulting in high numbers of property rights violations. In 2009-2011 only, 3930 houses were affected by the government's urbanization policies.

This trend is likely to continue. Baku will host the first European Olympic Games in 2015, and the construction of a new 65000-seat Olympic Stadium along with other facilities are already under way. Thousands of residents living in the area of these sites face forced evictions and the illegal demolition of their properties.

These violations are generating increasing international concern. The forced evictions and demolitions have been condemned by several international human rights organizations,² including the Council of Europe,³ the European Union⁴ and the United Nations bodies⁵, as well

¹ The Ombudsman's Office of Azerbaijan received 12,470 complaints from individuals in 2012, and 12,680 complaints in 2011. The top three issues were property rights (18%), rights (13%), and social guarantees (8%).

² <http://www.article19.org/resources.php/resource/3588/en/azerbaijan:-council-of-europe-must-uphold-its-human-rights-credentials#sthash.IEJKD8I.dpuf>

³ <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstraneImage=2343454&SecMode=1&DocId=2050674&Usage=2>

⁴ http://ec.europa.eu/world/enp/docs/2013_enp_pack/2013_progress_report_azerbaijan_en.pdf

⁵ http://www.un.org/apps/news/story.asp?NewsID=39303&Cr=Azerbaijan&Cr1#.UrQ3q_QW16g

as the US State Department.⁶ The increasing number of cases pending before the European Court for Human Rights (ECtHR) relating to property demolitions and expropriations in Azerbaijan clearly indicates that property rights is a serious human rights concern in the country.⁷

Azerbaijan is neglecting its own Constitutional guarantees, in addition to international treaties such as the European Convention for Human Rights and the International Covenant on Economic, Social and Cultural Rights. There is, therefore, an urgent need for a stronger stance by the international community in reminding Azerbaijan of its obligations towards its own citizens in protecting their property rights.

This policy brief provides first-hand information regarding the increasingly alarming property rights situation in Azerbaijan. The brief presents the general situation and main concerns in relation to violations of property and housing rights, as a result of which thousands of Azerbaijani citizens are suffering. Furthermore, it presents recommendations to the international community on how they can help prevent further forced evictions and demolitions resulting from the state-sponsored urbanization programs.

The information in the current policy brief summarizes the findings of legal analyses, thematic reports, research studies and court litigations on the protection of property rights led by the Public Association for Assistance to Free Economy (PAAFE) since 2009.

⁶ http://photos.state.gov/libraries/azerbaijan/749085/hajiyevsx/hr_report2012.pdf

⁷ <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstraneImage=2343454&SecMode=1&DocId=2050674&Usage=2>

2. Background information

With the increase of infrastructure and urbanization projects fueled by major oil revenues, the number of property rights violations of Azerbaijani citizens has consequently grown and remains one of the most concerning human rights issues in the country.

Azerbaijani legislation allows the government to expropriate property in limited cases only, such as: a) for the construction of highway and communications infrastructure; b) for the protection of state borders; c) for the construction of defence and security premises; d) construction of extractive facilities. But in reality, the expropriations and demolition of property are generally justified as contributing to the “beautification” of the city. National law provides that a court order is required to expropriate property in Azerbaijan. Azerbaijan’s judiciary, however, is heavily dependent on the executive power, which often leads to a complete failure of legal remedies to counter rights violations. A number of international reports have highlighted instances of corruption in the court system and the fact that the country lacks an independent judicial system.⁸ The realization of these “beautification” projects are signed or otherwise endorsed by the President of Azerbaijan, and alleged state “necessity” often trumps the property rights of individuals.

Supported by the data provided below, this policy brief aims to illustrate the nature and scope of property rights violations, and their implications for individuals over the period of 2009-2013 and onwards.

During 2009-2012, thousands of houses, buildings, as well as privately owned business premises were demolished following intervention by governmental authorities in several areas of Baku. The following areas of the city, which were monitored by PAAFE, underwent illegal demolitions and forced evictions during this period:

- a) surrounding areas of Nobel Avenue to extend the avenue;*
- b) H. Aliyev avenue and Hasanoghly street;*

⁸ <http://www.business-anti-corruption.com/country-profiles/europe-central-asia/azerbaijan/>

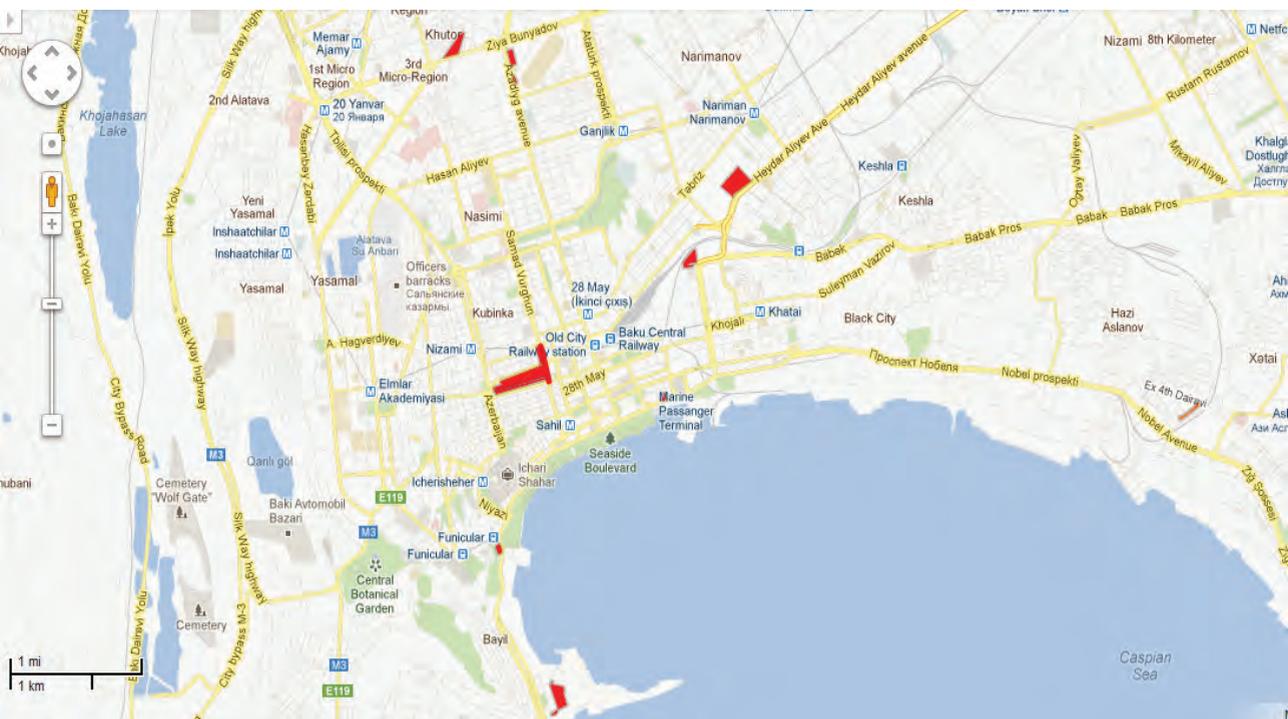
- c) *Beshmertebe area to the palace named after H. Aliyev for the construction of the “Winter Park”;*
- d) *the surrounding streets of the Flag Square, which were subject to widespread demolitions as part of preparations for the Eurovision Song Contest (held in Baku in 2012);*
- e) *residential areas around the crossroads of Azadlig and Ziya Bunyadov avenues;*
- f) *Neftchiler avenue in the area opposite Baku Sea Port;*
- g) *residential area behind Baku Chief Police Office, where a park was built;*
- h) *the territory of Khutor, where a residential property for government use was built;*
- i) *Ramstore Circle, where work was done to extend roads;*
- j) *Buzovna-Bilgah highway, where reconstruction work was done.*

**Demolitions in residential areas monitored
by PAAFE in 2009-2011**

Areas	Number of apartments demolished
Khutor	510
Around H.Aliyev Center	244
Beshmertebe – H.Aliyev palace	2524
Flag Square	281
Neftchiler avenue	88
Azadliq avenue	235
Ramstore Circle	31
Zagulba settlement	17
Total	3930

In all of the above-mentioned cases, the property owners received a maximum of 1500 AZN (approximately 1300 EUR) in compensation. The majority declared this to be disproportionate to the actual market value, given the central locations of their properties. As a result of the inadequate compensation system, evictees are forced to move to the outskirts of the city, as they cannot afford to buy property in the more central areas around where they used to live.

Map of demolitions in residential areas monitored by PAAFE in 2009-2011



Under national law, the government is required to purchase any property it expropriates at market value and pay an additional 20 per cent of market value as compensation to the owners. In practice, however, this does not happen. Neither national law nor administrative policies provides adequate protections for the rights of citizens in Baku. There are no effective domestic mechanisms for legal protection; nor any case law to support this provision. Moreover, there is no effective mechanism for formalizing unregistered properties, and no fair legal framework to deal with state expropriations of officially non-registered property.⁹ The 2012 government initiative to address the issue has not yet yielded any results.

In 2010, the Urban Planning and Construction Code and the Housing Code were adopted to regulate the legal issues around construction and

⁹ In Azerbaijan, many property owners do not possess legal documentation. This is primarily due to the lack of institutional capacity across the well-established cadaster system, a national register of real-estate ownership and demarcation. This has led to widespread conflicts internal to the process, as well as corruption in state agencies responsible for the registration of immovable property and lands.

planning. Unfortunately, both laws became highly complex complicated and very controversial regulations, whereby authorities can purchase private property with no guarantees for fair compensation for the owners, under grounds that are difficult to challenge and dispute. Therefore, forced evictions continue to occur in breach these laws. In general, government agencies (including the State Oil Company of the Republic of Azerbaijan (SOCAR), central executive powers, state-supported constructions companies.) implement infrastructure projects without any consideration of the rights of property owners, particularly those that lack official registration documents.

3. Recent violations of property rights

The violations of property rights of Azerbaijani citizens continued at full speed throughout 2013. Following the boom that started with the preparations for the Eurovision Song Contest in 2012, the scope of demolitions has only increased. In Baku alone, a number of residential areas currently face forced evictions and demolitions as a result of recently issued plans in preparation for the first European Olympic Games, and further in regard to the City Master Plan. The legal status of the latter remains unclear; while the previous City Master Plan expired in 2005, the new one has not yet been formally approved.

The cases presented below illustrate the range and scope of property rights violations, ranging from forced evictions to demolitions across the whole country.

3.1. Papanin/Khutor area:

Road junction and Metro station projects

Over the past five years, the old residential areas of Papanin and Khutor of Baku have been demolished in order to build new government residencies, including the presidential residence, and infrastructure facilities such as a metro station. All affected homeowners were offered 1500 AZN per square meter for their homes. The majority of people contest this compensation, as they cannot afford purchasing adequate housing in that area for the amount they have been offered.

Demolitions and evictions are continuing across this area. The demolitions were originally begun under the banner of road junction and highway construction purposes, carried out by the state commercial entity Azeryolservis (under the Ministry of Transport) in the summer of 2012. The legally required Cabinet of Ministers decision stating that the property can be compulsorily purchased for state needs was not provided. On 16 December 2012, after the notification was received, the whole building was demolished in the presence of city officials. The owners' cases are under review by Baku Administrative-Economic Court No. 1.

Papanin area



On 1 August 2013, twelve houses were bulldozed in the area of Khutor as a part of a project to expand a local highway in Baku. Homeowners have complained that they have not received 1500 AZN per square meter for the demolished houses, which is the amount that the authorities told the media would be provided. The affected homeowners claim they have only received 760-1200 AZN per square meter. Dozens more homes have been demolished because of road extensions in the area.

3.2. Black city and NZS areas, Baku White City project

The Baku White City project is being implemented under the Decree of the President of the Republic of Azerbaijan on approval of the “Plan of comprehensive measures for improving the ecology in the Republic of Azerbaijan in 2006-2010”. It aims to redevelop the area historically known as the Black City and NZS areas, currently home to around 1000 families who now face forced eviction.

Old houses are being demolished in the area and new luxury resort (“White City”) will be built along the coast. Research reveals that evictions from

White City project



this area have no established legal basis. Owners, as a rule, are offered 1500 AZN per square meter for their homes.

Current domestic legislation does not allow for the compulsory purchase of property and forced evictions for commercial purposes. Those affected were not notified or involved in a consultation process in advance of evictions. At present, construction and demolition work is ongoing.

3.3. Boyukshor lake area, Olympic Stadium

As Baku will be the host of the first-ever European Olympic Games in 2015, the construction of a new 65,000-seat Olympic Stadium and other Olympic facilities is under way. Residents in surrounding areas already face forced evictions and the demolition of their homes. To date, 600 residents have already been forcibly evicted from their homes, giving rise to protests against the unfair compensation being offered. Reportedly, within the scope of this project, the area around the Boyuk Shor Lake will be cleaned up. Other settlements around the Baku Olympic

The construction of the Olympic Stadium



Stadium and future complexes with parks, a golf club, and other facilities will also be built. Focusing exclusively on the privilege of hosting this prestigious international event, the Azerbaijani government is failing to fulfil its obligation to respect and protect property rights, in violation of international human rights norms.

3.4. Sovetski area, ten thousands apartments

“Sovetski” is located in the central part of Baku, in the Yasamal district. The area is home mainly to poor inhabitants residing in small houses that often lack basic communal facilities. Although no concrete official numbers of population living in the area are available, officials estimate at least 10.000 inhabitants.

In January 2014, people were informed about an order issued by the Executive Power of Baku City on December 12 2013, intending to build a new park and to further “beautify” the area. This order stated that the “Sovetski” area would be completely demolished and all residents evicted

Sovetski area in Baku



from March 2014 onwards. All property owners in the area were offered a maximum of 1500 AZN per square meter for their property. The evictions have not yet been carried out, as there has been no official decision by the Cabinet of Ministers on the compulsory purchase of property.

On February 16 2014, following this announcement, local residents protested against the terms of the order, claiming that the compensation for the houses to be demolished is not equal to market value as required by law.¹⁰

In the wake of increasing demands by residents and further protests, the government declared that houses would be purchased on a voluntarily basis only. Residents, however, remain seriously concerned that they will be forced to sell their houses, which is what happened in other areas of the city where houses and utility lines were damaged as a result of demolitions of neighbouring houses. According to the Ministry of Finance, more than 100 homeowners have already sold their houses to the government.

¹⁰ <http://www.azadliq.org/content/article/25265964.html>

The inhabitants who took part in the protests against the initial compensation offer have already faced pressure from the authorities. They have been summoned to the police department, and some have faced administrative detention of up to 30 days.

3.5. Bayil area, Mikayil Useynov street 14

This area underwent several massive demolitions after the expansion of Baku Boulevard, the enlargement of Baku State Flag Square and the construction of Baku Crystal Hall built for the Eurovision Song Contest 2012.

Now, further demolitions are underway. In November 2013, the Executive Power of Baku City issued a decree ordering residents of building No. 14 in the street of Mikayil Useynov in Sebail district to leave urgently, due to its “emergency condition”, as identified by the Ministry of Emergency Situations. The homeowners of 72 apartments have been offered 1500 AZN per square meter for their houses. They all contest the amount of compensation offered, fearing that the real purpose of the eviction is to

Mikayil Useynov street 14



build a new hotel in the area. The owners of 32 apartments have already applied to Baku Administrative - Economic Court No. 1 challenging the legality of the urgent eviction orders.

3.6. Ganja city, development of Nizami street

Ganja is the second largest city in Azerbaijan. New urban projects such as the enlargement of roads, construction of new buildings and other infrastructure facilities increased throughout 2013. This trend rapidly escalated when Ganja was announced the European Youth Capital 2016 in November 2013. Currently, construction works are underway in several parts of the city, mainly in Veterans and Ganbar Huseynli streets, located around “Ganja Bazaar” and Nizami street.

Furthermore, several historical monuments of particular cultural value were demolished by local authorities during the urban renewal process. The most notable of these was the Javad Khan Chancellery building, built in the eighteenth century; it was bulldozed by local authorities. The historic building was located on Mirza Abbaszadeh street 68.¹¹

Nizami street in Ganja city, 2013



¹¹ <http://www.azadliq.org/content/article/24547401.html>

In addition, hundreds of houses around Nizami street were totally or partially demolished by local authorities to make way for the enlargement of the road. However, all these demolitions were carried out in the absence of due diligence; there were no official orders or decisions to purchase those private houses in order to expand the road.

Rovhsan Aghamirov lives in Ganja with his family of five. His house was partially demolished, and he has received no compensation. All of his yard and a major part of the house were demolished under the order of the Ganja Executive Power, to allow for enlargement Nizami Street. The destruction was carried out despite his pending application before the court on the legality of the construction work and the violation of his property rights. Aghamirov has an official registration certificate confirming his property rights. His house was demolished in the presence of police (who are in attendance in case property owners refuse to leave their property). Most of Aghamirov's possessions were damaged. When he received the notification about the demolition, he asked the court for a temporary protection measure, but his complaint was dismissed by Ganja Administrative-Economic Court. As a consequence, the yard and major parts of his house were demolished by a bulldozer, with participation of the police. It has been over a year since he has been fighting to get his case reviewed at the court, which has dismissed his claims on various grounds, thought to be acting under the pressure of the local government.

3.7. Gusar district Shahdagh Tourism Complex

Shahdagh Winter Tourism Complex is one of the biggest tourism projects in Azerbaijan, covering more than 2045 hectares. The project is scheduled for completion over four stages, within 8-10 years. The work is being carried out by local and foreign companies.

The Shahdagh tourism Complex was built on the territory of the Kuzun village of Gusar region. Many local residents lost their homes and land; harvesting had been their main source of incomes and so this was especially damaging. There were 84 landowners in the area whose lands were forcibly purchased without proper compensation. They were offered 0,25 AZN for each square meter of the land (which amounts to 2500 AZN for 1 hectare). However, in this area the value of a hectare of a land is

Shahdagh Winter Tourism Complex



estimated at 100000 AZN. All the local residents refused to accept the compensation offered, and submitted complaints to the courts. Two years have gone by, but no effective remedies have been provided.

3.8. Guba district Airport project

The media has reported that bulldozers are working in the three villages of the northern Guba district to prepare for the construction of a new international airport. The new airport will cover riverside and garden areas. The villages of Dabudova, Hajigayib and Armakqishlaq will all be affected by the construction area. Reportedly, landowners have been offered 0.8 AZN per square meter for land without trees, and 1.5 AZN per square meter of garden area. Landowners have complained that the compensation does not reflect the real market price, nor what they earn from cultivating their gardens, approximately 15 000 AZN annually.

This large-scale project is financed by the government. It includes the construction of an international airport in Guba city, which will cover around 600 hectares of land. This would result in numerous evictions

The village of Dabudova



across densely populated areas.¹² The Vice President of the Azerbaijani state airline AZAL, Etibar Huseynov, has also stated that geological studies of the territory designated for the new airport - the seventh in the country - will begin soon.¹³

3.9. Anticipated cases

In addition to the cases listed above, other areas currently face the initial stages of forced evictions, whereby the authorities are preparing to clear the areas in order to build new public buildings and parks. Here are a few of examples:

- *A building scheduled for demolition on 60 Heydar Aliyev avenue collapsed on January 25 2014. Two Baku residents died on the way to the hospital as a result.*

¹² <http://bizimyol.info/?xeber=21801>

¹³ <http://www.azernews.az/azerbaijan/54826.html>

Demolition on 60 Heydar Aliyev avenue



- *Enlargement plans for the “Winter Park”:* According to officials, the enlargement plans for Winter Park require the demolition of buildings located along Huseyn Javid and Mirzaga Aliyev avenues. Parks, playgrounds and recreational areas will be built in their place.
- *Residential areas from Fuzuli street to Nizami Metro Station and the Kubinka area will be cleared in order to build new public buildings and parks.*
- *Residents of the “Boyukshor” have recently been evicted and its neighboring areas are also soon to be emptied.*
- *According to officials, houses located on both sides of the Airport highway will be demolished due to further plans for urban regeneration.*
- *The expansion of the Sabunchu and Zabrat road is underway. An area of 7-12 meters on the right side of the road is expected to be cleared in order to widen the road.*

- *There are more than 22 000 lawsuits currently pending in the courts brought against homeowners by SOCAR. SOCAR claims that it has the right to evict owners without any compensation. The courts have upheld the majority of the claims and the number of such cases is increasing. During Soviet times, SOCAR was given allocated multiple areas for the purpose of oil exploitation. In the 1990s, the country faced significant waves of internally displaced people from Nagorno Karabakh. Furthermore, there are thousands of houses, built at least 50 years ago across Sulutepe, Balakhani, NZS, Garadagh, Zabrat, Ramana and other residential areas where local authorities sold property to citizens and provided them with basic utility lines such as gas, electricity, water and phone lines.*

4. Conclusion

Fuelled by its huge oil revenues, the Azerbaijani government allocates nearly 30-35 percent of the annual state budget to infrastructure projects, including the construction of new buildings, and preparations for hosting international events. It constructs new public facilities by demolishing the old ones. Currently, almost all areas of the city are under construction.

The areas of demolition continue to spread as the country commits to host international sporting and cultural events, such as the first European Olympic Games 2015 and the Formula One Grand Prix in 2016, amongst others.

The ongoing expropriation and demolition of property both in central Baku and its outskirts clearly violates both the Azerbaijani law and Azerbaijan's international human rights commitments. Demolitions and evictions require legal justification in line with current law. Evictions are therefore carried out in an arbitrary manner. Citizens in affected areas have no effective remedies in regard to obtaining fair compensation or adequate housing. The government's approach towards compensation is unfair as homeowners are unable to purchase housing of the same standard as their previously owned – and now demolished - properties.

5. Implications and Recommendations

Ways Forward: Prioritizing housing and property rights in various bilateral and multilateral dialogues

In addition to its national laws, the expropriation and demolition of properties violates Azerbaijan's obligations under the European Convention on Human Rights, which explicitly protects against unlawful expropriation of property. According to the jurisprudence of the ECtHR, any deprivation of property, including by expropriation, must comply with the principle of lawfulness, be in the public interest, and pursue a legitimate aim in a proportionate manner. The ECtHR has also held that failing to pay compensation reasonably related to the value of the property is an excessive interference with an individual's rights.

The International Covenant for Economic, Social, and Cultural Rights provides an international framework for recognizing and protecting individual and communal housing rights. This covenant obliges signatories to refrain from participating in forced evictions, to prosecute those responsible for such actions, and to provide legal protection to secure such claims.

In addition, the Olympic Charter requires that the Olympic Games are held to a standard that upholds human dignity. It also provides that the Games must be free of discriminatory practices.¹⁴

Starting in 2010, the property rights situation in Azerbaijan has been a focus for democratic countries and international human rights organisations. The massive violations sparked many international reactions, including from the Council of Europe, the European Union, the United Nations and many international non-governmental organizations¹⁵. There were dozens of statements and reports expressing increasing concern at the situation.

¹⁴ Rolnick, "Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-discrimination in This Context." (page 13)

¹⁵ See footnotes 3-7

Civil society is concerned that the ongoing, widespread involuntary displacement of many settlements and communities is being conducted in an accountability vacuum. The Government fails to demonstrate any political will to properly address this issue. In that regard, PAAFE has developed its recommendations as a means of attracting further international attention to Azerbaijan's poor records on property and housing rights, in order to push the Azerbaijani government to properly implement its relevant international obligations. It is believed that an open and public call addressed to the Government of Azerbaijan may effectively influence the government's approaches to the expropriation processes in order to ensure fair and transparent expropriation processes, fair compensation for owners and effective implementation of government's international obligations. This is particularly relevant on the eve of Azerbaijani Chairmanship of the Committee of Ministers of the Council of Europe (to be taken over in May 2014).

We also see the upcoming European Olympic Games as a key opportunity for the international community to call upon the government to reinforce its international obligations with regard to basic human rights, including housing and property rights. The government takes its international image much more seriously than its national human rights obligations.

The international community should take the following actions to urge the Azerbaijani government to stop illegal forced evictions, respect housing and property rights and to provide a favorable environment for civil society to work in the field of property rights in Azerbaijan:

- *The Council of Europe should urge the Azerbaijani government to bring its national laws and practices in line with international human rights standards, including the case law of ECtHR; all demolitions and expropriations must have a legal basis, and fair compensation must be provided to owners;*
- *The international community should call upon the government of Azerbaijan, openly and publicly, as well as during any bilateral dialogues, to ensure a fair and transparent expropriation and a lawful compensation process for homeowners who lose their homes;¹⁶*

¹⁶ <http://www.hrw.org/node/105270/section/11>

- *The Council of Europe and particularly the Committee of Ministers should adopt a firm resolution addressing the failure of Azerbaijan to protect property rights of individuals. The Council of Europe should furthermore call upon the Azerbaijani authorities to end the illegal demolitions of houses and expropriation of property on the eve of the Chairmanship of the Azerbaijani government at the Committee of Ministers starting in May 2014;*
- *The United Nations should call upon the government of Azerbaijan to issue an invitation for an official visit by the United Nations Special Rapporteur on the rights to adequate housing, and implement the recommendations made by the Committee on Economic, Social and Cultural Rights with regard to Article 11 of the Convention in May 2012;*
- *The European Union should include the issue of property rights in its bilateral dialogue with Azerbaijan, in the economic, energy and democratization contexts, and give more focus to the issue of property rights in its Eastern Partnership policy. Respect for human rights, including property rights, should be made a condition for all other cooperation between the European Union and Azerbaijan;*
- *The European Olympic Committee should call upon Azerbaijan to ensure respect for property rights in preparation for the upcoming European Olympic Games in Baku in 2015, and to comply with the principles established in the Olympic Charter as conditions for its hosting rights. Moreover, the Olympic Charter establishes the promotion and exercise of sport as a human right; other human rights, such as property rights, should not be sacrificed.*

Contact details for additional information

For more information, please contact the Public Association for Assistance to Free Economy and visit us at www.propertyrights.az and www.freeeconomy.az

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This policy brief has prepared under the project
“Property Rights Inviolable!”

*Financed by Open Society Institute
Assistance Foundation (Budapest)*

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