

Property Rights in Azerbaijan from illegal expropriation to forced eviction

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I. SUMMARY

Since 2009, Baku significantly changed its face as a result of huge infrastructure projects implemented or otherwise supported by the government of Azerbaijan. Reports produced by [local](#) and [international organizations](#)¹ and institutions have shown that most of such beautification projects had led to gross violations of property rights in the form of forced evictions of residents and illegal demolition of property without any fair compensation provided to its owners. Such projects have now also expanded to the regions of Azerbaijan. Many victims of forced evictions and house demolitions are not satisfied with the compensation for their demolished houses or seized lands, which they consider to be unfair, and they are often subjected to degrading treatment during the eviction process.

Victims of such violations are deprived of effective judicial review over such actions of the local authorities. As many of such projects are carried out on the basis of the presidential orders, victims find it impossible to find justice in domestic courts, which are known as loyal to the executive. Lack of clarity over the documentation on the property ownership feeds into this complex issue.

2015 have however seen a few developments, some of which may provide for some space for clarification on the situation, depending on its implementation in practice. The Parliament adopted a number of amendments to relevant laws providing, among others, for an increase of property taxes, simplifying registration of immovable property without legal documents and increasing oversight to illegal construction by determining regulations of dismantle work of illegal construction. The President adopted an order simplifying property registration by determining a required list of documents for such registration. In light of the above, there is a hope that the government would be more open to consider policy recommendations related to stronger protection of property rights.

Furthermore, in many expropriation cases lack of transparency and accountability allowed local officials to carry out “dirty negotiations” on the size of compensation and violent realisation of dismantle work during evictions. In this connection, investigations of past huge

¹ Research Paper: Property Rights in Azerbaijan: Restrictions and Challenges 2013. PAAFE;

The [Annual Report 2014](#) of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan about ensuring and protection of freedoms and human rights;

[Media report](#) on the Quarterly Plenum meeting of the Supreme Court of the Republic of Azerbaijan. 9 February, 2015;

“[They Took Everything from Me](#)” Forced Evictions, Unlawful Expropriations, and House Demolitions in Azerbaijan’s Capital. Human Rights Watch Report. 2012;

Freedom House reports on Azerbaijan in [2014](#) and [2015](#);

Report of the UN Working Group on the issue of human rights and transnational corporations and other business enterprises.

forced evictions and related recommendations on increasing transparency and accountability during expropriation processes may be considered as a cost-effective approach by the government.

In the background of declining economic situation in the form of significant decrease of state budget due to substantial drops of oil prices, which in turn will reduce the funds allocated for infrastructure projects, the government may be interested to hear recommendations on how to improve regulations and policies on property rights where current situation puts hundreds thousands of owners in a very fragile situation.

II. INTRODUCTION AND METHODOLOGY

The increase of infrastructure and urbanisation projects fueled by major oil revenues has led to numerous violations of property rights of Azerbaijani citizens in the last several years. It resulted in property expropriation for alleged state needs, house demolitions and forced evictions and remains one of the most alarming human rights issues in the country.

This report aims to provide an in-depth update on the legal and policy developments in 2014-2015, in light of both the preparation for major international events such as the European Games held in June 2015, which led to construction of massive sport facilities, and decrease of global oil prices which immensely affected the economic situation in Azerbaijan. The report further refers to cases in and around the capital Baku to illustrate the situation. The examples include cases related to expropriation of property for state needs and demolitions of constructions deemed illegal due to absence of adequate documentation of property constructions.

It then provides information about anticipated demolition and eviction plans seen as a part of the government's urbanization plans in the coming years. Finally, the report provides recommendations to the Azerbaijan authorities and the international organisations, such as the Council of Europe, the European Union and the United Nations, on how to reduce the ongoing violent practice of government in the property and housing rights sector in Azerbaijan.

The report was compiled by an independent human rights consultant Ramute Remezaite and an economic analyst Zohrab Ismayil, based on the information provided by property rights lawyers, in media publications, reports of local NGOs and international organisations and statements of national authorities.

III. ABUSIVE IMPLEMENTATION OF LAWS REGULATING EXPROPERATION

In the last decade, the government of Azerbaijan adopted several laws and approved state programs regulating relations on property and housing rights, including the Law on Land Reforms², Civil Code³ and Land Code⁴. Since 2010, two new codes are adopted: the Housing Code⁵ and Town-Planning & Building Code⁶.

According to the Constitution⁷ of the Republic of Azerbaijan, the government has a legitimate right to seize private property for state needs and fair market value well in advance under circumstances defined in the law. Other than that, property is intact and is protected by the state. Until the 2009 amendments, the Constitution merely provided that the property can be expropriated for 'state and public needs' without any clear definition of what it entails. In 2009, 'public needs' was removed as a legal ground for expropriation and a list of specific 'state' was established.

The definition of state needs is defined in Article 157.9 of the Civil Code⁸:

- *Construction of roads and other communication lines of state importance (main oil and gas pipes, sewerage lines, high voltage electric lines and hydraulic facilities)*
- *Provision of ensuring protection of state boundary in borderland*
- *Construction of units which are important in terms of defensive and safety*
- *Construction of mining industry units of state importance.*

Along that, Articles 13, 29 and 43 of the Constitution⁹ affirm the inviolability of the right to property, and the prohibition of alienation of property without a court decision. According to the Law on Acquisition of Lands for States Needs and the Civil Code, only the Cabinet of Ministers has an authority to issue a decision on expropriation, which has to be approved by a court. According to the

² The Law on Land Reforms, № 155-IQ dated on 16 July, 1996.

³ Civil Code of the Republic of Azerbaijan adopted 28 December 1999.

⁴ Land Code of the Republic of Azerbaijan, № 695-IQ, dated on 25 June, 1999.

⁵ Housing Code of the Republic of Azerbaijan № 845-IIIQ adopted on 30 June 2009

⁶ Town-Planning & Building Code of Azerbaijan, № 392-IVQ adopted on 29 June 2012. Became effective on 1 January, 2013.

⁷ Constitution of the Republic of Azerbaijan, Article 29. Right to property: IV. No one may be deprived of his property without a court decision. The outright confiscation of property shall be prohibited. The expropriation of property for the needs of the state may be permitted only on condition of fair compensation in advance.

⁸ Civil Code of the Republic of Azerbaijan adopted 28 December 1999.

⁹ Constitution of Azerbaijan. 1995.

Law on Acquisition of Land¹⁰, when a government expropriates property, compensation should be timely, adequate and effective. It establishes a procedure of acquiring the lands for state needs, calculation of compensation, payment of such compensation and other relations between the parties relating to land acquisition.

The implementation of the laws in practice is however very different. It is a widespread practice that the city and district executive powers issuing a decision related to the development of infrastructure subsequently evict people from their own lands and houses. An example to such practice would be a decree No. 501 of 12 December 2013 by the Baku Executive Power stipulating the plans to evict so-called "Sovetski" area in central Baku and to build new park area instead. The Baku Executive Power however does not have an authority to adopt such decisions and evict people from their houses on its basis.

Numerous reported and investigated cases clearly demonstrate that state officials and wealthy private businesses rarely obey the limitations on expropriation set by the domestic legislation. In practice, the often government expropriates property through various illegal and non-transparent ways by involving third parties to the process. Most of such expropriations are being carried out by decisions of heads of local city and district executive powers despite the fact that the national legislation does not directly provide for the authorities to forcibly purchase and expropriate property. Owners are often deprived of a possibility to use or sell property or otherwise heavily encumber its use, thus reducing its economic value. In many cases, authorities attain to negotiations with a certain number of owners in the area whereas other owners, often including those who refuse to leave their lands and houses, remain prevented of any consultations. The authorities often cut off communal services to houses slated for demolition, making them uninhabitable and compelling residents to leave. Homes are then demolished, sometimes with residents' possessions inside.¹¹ In that way, the authorities exercising its regulatory and administrative powers make living in such areas very difficult aimed to pressure owners to come to an "agreement" with authorities on purchasing property for the price offered by the authorities.

Lack of approved urban plans and information on city planning strongly feeds to the problem. Many cities do not have any city master plans, which leads to scattered and uncoordinated city (infrastructure) planning where many owners have already suffered from such spontaneous city planning projects. Furthermore, city officials usually do not publish their plans in advance. People usually do not participate in the decision-making processes of such planning that immensely influence their life. In most cases, owners received such information after the beginning of the projects. It puts owners in a very fragile situation where they do not have enough time to prepare to

¹⁰ Article 22, of the Law on Acquisition of Lands, 20 April 2010

¹¹ MAY 6, 2013. Azerbaijan: Stop Forced Evictions, Illegal Demolitions/ Winter Garden Party No Celebration for Many Baku Residents. Human Rights Watch.

effectively defend their rights or safely take their belongings. Some cases showed that it was also impossible to get access to city master plans or infrastructure designing projects during court hearings, which made it obvious that such plans did not exist.

Recently, the Supreme Court of Azerbaijan published statistics on its cases dealt with in 2014. It shows that only the number of property rights and administrative dispute cases has increased during that period.¹² According to the Ombudsman Office, it received 2103 complaints related to property rights in 2015. Most of the complaints were related to house demolitions without court decisions, compulsory purchase of property due to state needs, unfair compensations, among others.¹³ Forced evictions of residents, demolitions and unlawful expropriations constitute the most widespread human rights violation in the country despite the clearly established norms of protection both in the domestic laws and international treaties ratified by Azerbaijan.¹⁴

Such violations have caused increasing international concern. Forced evictions and demolitions have been condemned by several international human rights organizations, including the Council of Europe¹⁵ and the US Department¹⁶.

In 2015, the European Court of Human Rights adopted two landmark judgments finding violations of property rights resulting from demolition of property and unfair compensation, in violation with the domestic laws. In January 2015, the European Court of Human Rights (ECtHR) delivered a judgment *Akhverdiyev v Azerbaijan* finding the violation of Article 1 of Protocol No.1 to the Convention where it concluded that the interference in the present case was not carried out in compliance with “conditions provided for by law” and therefore the applicant was deprived of his possessions arbitrarily and forced to accept unlawful compensation that was determined in an arbitrary manner.¹⁷ In October 2015, the European Court of Human Rights (ECtHR) adopted a groundbreaking judgment *Khalikova v Azerbaijan* finding the forced eviction of a property owner and demolition of her apartment resulting from the beautification projects in violation to a right to property enshrined in Article 1 of Protocol 1 of the European Convention of Human Rights¹⁸. It found Azerbaijan violating the Convention, as the expropriation of the applicant’s property was not carried out in compliance with the domestic law.

¹² <http://az.trend.az/azerbaijan/society/2362288.html>

¹³ <http://az.apa.az/news/374336>

¹⁴The 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%).

¹⁵ Observations by Nils Muižnieks, Council of Europe Commissioner for Human Rights, on the human rights situation in Azerbaijan: an update on freedom of expression, freedom of association, freedom of assembly, and the right to property. 23 April 2014.

¹⁶<http://www.state.gov/documents/organization/236712.pdf>

¹⁷ [http://hudoc.echr.coe.int/eng#{"itemid":\["001-150772"\]](http://hudoc.echr.coe.int/eng#{)

¹⁸ *Khalilova vs Azerbaijan*, Appl. No. 42883/11, 22 October 2015

3.1. Compensation

Article 29 of the Constitution guarantees that no one will be dispossessed of their property without their consent or a court decision and that alienation of private property for state needs will be allowed after a payment of a fair compensation to an owner only. Furthermore, Articles 55, 56 and 58 of the Law on "[Acquisition of Lands for State Needs](#)"¹⁹ establish that compulsory land purchases are to be based on market rather than fixed prices. It stipulates mechanisms and methods used to determine market value of such property.

The compensation for the land expropriation must be calculated on the basis of the market price provided that such price is not less than the cadastral or normative price for a respective land, established by the Cabinet of Ministers (Article 96.5 of the Land Code)²⁰. The basic price will be calculated as an average indicator of each three deals with real estate in a region with the highest cost indicated during the notarial registration. If owners do not agree with the suggested compensation, the expropriation commission must apply to a local notarial body and request for the most highest deal on the property sale during the last three months and determine average price of these three sale agreement.

In practice, however, the compensation is not being calculated on the basis of the procedures determined in the law. It is very common to offer 1500 AZN per m². as a price for expropriated property, also mentioned in the speech of the President of Azerbaijan.²¹ After that speech, the authorities started referring to this amount during the negotiations with owners when assessing the market value of the property. In many other cases, owners living in central Baku or areas around it are offered completely non-adequate prices such as 600-800 AZN per m².²²

¹⁹ Law about "[Acquisition of Lands for State Needs](#)" adopted by Parliament on 20 April 2010. № 987-IIIQ

²⁰ Resolution N158 on Establishment of New Normative Prices for Land in Azerbaijan

²¹ <http://anspress.com/index.php?a=2&lng=az&cid=14&nid=147412>

²² According to local advocates two elderly Azerbaijani citizens Abdullayeva Abugunesh and Abdullayev Semed who owned a house in the so-called "Papanin" area near to center of Baku. They were forced to leave their house because of a construction of a new metro station in the area of their house. They were offered three different prices for various parts of their house. Some other residents in the area received 1500 AZN per sq.m. local advocates reported that this decision was given by local representatives of the state agency who were entitled to deal with this construction project.

IV. AMENDMENTS TO LAWS ON PROPERTY REGISTRATION AND CONSTRUCTION

One of the main reasons for a high number of illegal constructions and houses with improper documentation is very complicated and burdensome procedures to acquire a permission for construction and registration of houses built before Azerbaijan's independence in 1990s. Due to such complexity, people often prefer start building houses after a verbal permission was given. Therefore, there are many cases where owners are allowed by the city or district executive powers to build a property but it was impossible to get relevant ownership documents as those houses are built in areas where constructions are prohibited.

During the reporting period of this publication, the government of Azerbaijan has remarkably tightened the rules of the state control over construction of houses and dismantling works of illegal constructions. New presidential order on the carrying out of dismantling work on illegal constructions is aimed to increase control over construction works for the purpose of controlling illegal construction and ensuring security standards in the constructions.

New changes to the Town-Planning & Building Code²³ of 28 April 2015 set out new reduced time limit for the information processing on the house construction permission. Currently, the time limit for considering an application on construction permit is reduced to one month (from three months).

Furthermore, two new presidential orders²⁴ have simplified the legalisation of illegal and undocumented houses and lands and clarified some complicated and uncertain procedures which made it impossible to legalise houses and lands in the past.

A list of documents for obtaining legal documentation for the property acquired or established before the law on the property registration

In 13 January 2015, the Presidential order on "the list of documents required for confirming acquisition of property rights acquired or established before the law on state registration of real property" entered into force. New order simplifies property registration procedures in a number of

²³ Town-Planning & Building Code of Azerbaijan, № 392-IVQ adopted on 29 June 2012 and entered into force on 1 January 2013.

²⁴ I Presidential Order on the list of documents required to obtain legal documentation to the property acquired or established until law on the property registration" 13 January, 2015; II Presidential Order on the adoption of a new charter of the State Committee on the Property Issues.

problematic areas and establishes a clear and concrete list of documents for property registration, which has not been determined by law until the specific order.

The following positive impact is expected if the new order will be applied in a proper and transparent manner:

- *It will improve the situation of hundreds of thousands of owners throughout the country willing to obtain legal documents for their property as the law now defines concrete steps and documents required by the law;*
- *It solved one of the most challenging issues, mostly faced during the compulsory purchase of private property for the purpose of state needs. It now stipulates that in the case of any differences discovered between the factual areas of the property and its legal documents, the factual area shall be applied;*
- *It brings a clear solution to owners who acquired property until 1948 by notarised contracts or court decisions;*
- *It solved problems of thousands of owners who acquired their lands by decisions of City (district) Councils of people's Deputies adopted in 1991-1995 years. It was a soviet structure of the city and district governance system in Azerbaijan until the Constitution of Azerbaijan determined the structure of administrative units in 1995. Councils were responsible for the allocation of lands, granting of rights, permissions for construction works, etc.*

4.1. A single center on property registration

On 4 May 2015, the President has signed an [order](#) to approve a new charter of the State Committee on the Property Issues, which assigns new functions and responsibilities to the State Committee on Property Issues²⁵. According to the new charter, state land cadaster, land management, land market management and state controlling over land use is assigned to the State Committee on Property Issues.

According to the new charter, new rules on the property registration and management apply to the principles of management of one window register procedure on the property rights issues. With the new order, people will be able to apply to one state agency only in order to register their property.

²⁵ Order of the President of the Republic of Azerbaijan dated on 4 May, 2015, on the amendments of Presidential Order No.116, dated 24 June, 2009 on the "measures to improve the functioning of the State Property Committee of The Republic of Azerbaijan" and "Ensuring the activities of the State Committee on Property Issues".

New procedure is expected to reduce time and increase efficiency and transparency in the property registration.²⁶

4.2. Reduced time limit for construction

New legal amendments to the Town-Planning & Building Code of 28 April 2015 have reduced the time limit for consideration of owners' house construction project documents pending before city or district executive powers. Owners will be able to start construction of houses if local executive power will not respond to their appeals within one month of the date of submission. Previously, it took at least three months for owners to receive responses to their requests for construction permissions. It used to take up to a year in cases where at least two shortcomings were identified in the submitted documents. Such lengthy periods created serious concerns over corruption cases.

4.3. Concerns and Challenges Not Addressed by The Order

Although it is believed that the Presidential Order on the list of documents for obtaining legal documents to the property acquired or established before the law on the property registration has set out more concrete procedures for some categories of owners with undocumented property, a few unsolved problems and concerns that need to be addressed remain. For instance, it is without doubt one of the most socially pressing needs to solve the problems of people who obtained permissions for lands or house construction from the local municipalities but could not acquire full documentation of lands and remained in an uncertain situation. Such uncertainty is sourcing from the weak competence and leadership of municipalities in the government machinery. New law covers the property obtained before 2004. Municipalities have been established in 1999 in Azerbaijan and they have been allowed to sell and allocate lands to people since 2001, which continued until recent years. The new law however stipulates that only those municipality decisions that were adopted in 2001-2004 serve as a legal ground for property registration but does not cover the decisions made after 2004. Furthermore, there are many people who obtained lands from district and city executive powers after 1995 and still cannot obtain relevant documents for registration of their property. It is believed that this situation helps the authorities to manipulate the cases of the compulsory purchase by offering a small amount of compensation due to undocumented property.

Moreover, the Presidential order simplifying the documentation of illegal houses does not encompass houses built after 2004 whereas it is seen that most houses without proper documents are built after this date. After 2004, when oil revenues hugely increased, income of population remarkably increased as well. As a result of that, many houses have been built around Baku. Those owners are under the

²⁶http://azertag.az/xeber/Mulkiyyet_huquqlarinin_tenzimlenmesinde_vahid_merkezden_idarechilik_prinsipinin_tetbigin_baslanac_ag-858301

greta risk of forced eviction as the order does not cover that period. The order does not address the land areas that were sold by municipalities during 1999-2004 either

4.4. Construction and dismantling works by executive authorities

On 25 May 2015, the President signed an order on [“Dismantling of building facilities”](#) that allows the Ministry of Emergency Situations to stop illegal construction work and carry out dismantling activities over such illegal constructions. The Law defines two types of illegal construction situations: incomplete and complete constructions. It is expected that the new order will stop such improperly managed situations in the construction area.

At the same time, it creates a concern over the issue of corruption and illegal demands on the construction permits unless accountability is applied in this respect. Requesting for permissions is reportedly the most corrupted area that citizens face. This law allows relevant authorities to stop constructions and carry out dismantling works by their own decisions. For example, the Law establishes specific and wide discretionary powers for officials, such as a right to launch dismantling work if side walls or roof facilities of the construction is built up, state authorities shall apply to the court in order to carry out dismantle work.²⁷

²⁷ Article 4.1 of the presidential order about [“Dismantling of building facilities”](#) dated on 25 May, 2015

V. NEW PHASE OF DEMOLITIONS AND FORCED EVICTIONS

Since January 2015, the scale of evictions and house demolitions in residential areas have gradually reduced as a major part of the state-backed urbanization projects have been carried out ahead of the preparations for the European Games, held in June 2015. Evictions and house demolitions were mostly carried out in Baku, and the cases described below are aimed to illustrate the scale and the nature of the violations.

5.1. “Sovetski” area

With the decree No 501 of 12 December 2013, the Executive Power of the Yasamal district of Baku confirmed its plans to demolish 10 500 residential and non-residential buildings in Sovetski area. In February 2014, the Government has reportedly allocated 180 million AZN for evictions of Sovetski area in the state’s 2015 budget²⁸.



Sovetski. Author Aziz Karimov

²⁸ <http://www.azadliq.org/content/article/26839622.html>

In October 2014, the representative of the Government [met with the residents of the Sovetski area and announced that the demolitions were not mandatory](#) and those houses that would not be sold would be kept.

In May 2015 the head of the Baku City Executive Power announced about a huge three-stage plan in Baku with the intention to develop parks and other green areas, which includes the "Sovetski" residential area as the first area to be demolished²⁹. Other areas include residential areas around the Nizami Metro Station, Istiglaliyyet Street and the Tezepir Mosque, and the Beshmertebe area.

A few months later, on 18 November 2015, the Cabinet of Ministers adopted a decision No 358 on compulsory purchase of private property for state needs in the Sovetski area. The Head of the Executive Power of the Yasamal district explained that it was decided to do so as it was not possible to conclude purchase agreements with those residents who requested high compensation for their property³⁰. The authorities were able to agree on the purchase of 2553 houses and 2320 houses have already been demolished upon completion of payment of compensations. 1093 property owners refused to sign purchase agreements under offered conditions. It was explained in the decision of the Cabinet of Ministers that the compulsory purchase is to be carried out for the purpose of construction of roads and communication lines as state needs in the area.³¹

5.2. Binagadi Oil Company's court litigations

On 19 February 2015, the representative of the State Oil Company of Azerbaijan (SOCAR), reported to the media that the local authorities in the Binagadi district requested for eviction of 9392 houses in the area.³² To date, 4172 court decisions have been issued allowing demolitions. Reportedly, SOCAR officials plan to request for permission to demolish additional 10 000 houses in the same area. SOCAR claims its ownership to the lands arguing that those areas were illegally sold or given to individuals by local municipalities and the city's executive power. SOCAR has also claimed its ownership in the Sabail and Sabunchu districts and the courts have reportedly issued 2 000 and 4500 decisions related to demolitions in those two areas respectively.. Official requests were also submitted in relation to 444 houses in Khatai district and 179 houses in Nizami district and 1500 decisions have already been made in relation to 1500 houses in Khazar and Garadag districts. SOCAR officials claimed that around 35 000 houses should be demolished in all the areas.³³

²⁹ <http://news.lent.az/news/205111>

³⁰ <http://az.apa.az/news/404660>

³¹ <http://www.cabmin.gov.az/?/az/pressreliz/view/1763/>

³² http://maide.az/bak%C4%B1da-2-min-evin-s%C3%B6k%C3%BCnt%C3%BCm%C3%BC%C9%99mmas%C4%B1sakin%C9%99r-t%C9%99la%C5%9F-i%C3%A7%C9%99risind%C9%99-q%C3%B6zl%C9%99yir-reportaj_h456214.html

³³ <http://bizimvol.info/news/47036.html>

5.3. Case of land owner Yashar Salimov

Yashar Salimov holds the ownership right to a land sized 200 m², in the Settlement of Lokbatan, Garadah district. Although he has a legal document confirming registration of his property rights in the purchase agreement of 7 June 2011, he is not given a permission to build a house there by the local authorities claiming that the land belongs to SOCAR. Y. Salimov filed a complaint with the Baku Administrative-Economic Court No. 1 aiming to solve the conflict referring to his right to property guaranteed both in the domestic law and the European Convention of Human Rights, after SOCAR has failed to respond to his official letters and inquiries. In December 2013 the first hearing has been held but no SOCAR representative has appeared before the court.

In February 2015, Baku Administrative-Economic Court issued a decision about the appointment of expertise related to land measures and land registry information, including the case of Y. Salimov.. At the time of the writing of this report, the court has been waiting for an expert examination opinion from the Baku regional Service for Registration of Real Property. Given such lengthy delays in the case, M. Salimov filed a complaint against the judge of the respective court with the Judicial-Legal Council.

5.4. House demolitions in Ganja

Rovshan Aghmirov and his 4 family members live in Ganja, the second largest city in Azerbaijan. In June 2013, their house was demolished for the purposes of the construction of a road under the order of the Ganja Executive Power with the presence of representatives of the Executive Power and police officers. Ahead of the demolition, in April 2013, R.Aghamirov applied to Ganja Administrative Economic court requesting for a temporary protective measure against the demolition of his house. His house however has been demolished while his complaint has been pending before the court.

The house was demolished for the purpose of enlargement of a road from the center of Ganja to its airport, allegedly in accordance to the general plan of Ganja. There is however no publicly available information about the plan or any decisions to demolish property within the framework of any infrastructure projects.

The Ganja Administrative Economic Court has not requested for any official grounds for the demolition of a private property from the executive power either. The Court stated that it was not legally justified to have a claim against two governmental institutions at the same time and dismissed the case, which was further dismissed by the Ganja Appeal Court. The Supreme Court however upheld the appeal and ordered the Ganja Administrative Economic Court to review the case. The court held a hearing in December 2015 and requested the executive power to provide its comments

on the claim. No representative of the executive power however appeared in the court. At the time of writing of this report, the case was still pending before the court.

5.5. Construction of “Water Sports Palace”

20th Area is an administrative unit of Sabail district, located in the south of Baku.³⁴ This area has immensely changed in the last years due to numerous infrastructure projects, including the State Flag Square, enlarged Baku Boulevard, recently completed Baku Water Palace and other administrative buildings.



Water Sports Palace. Author Aziz Kariomov

Residents of the "20th area" claim that they were notified in writing about the upcoming evictions by local authorities that would begin after the European Games that were held in Baku in June 2015³⁵. The residents were notified that the demolitions would be carried out for the purposes of the beautification and infrastructure projects, including the enlargement of Baku Boulevard. To date, 60 houses located around the Chess Palace in the area were evicted and their owners provided with the compensation. Currently, the preparations are being carried out for the dismantling works in the

³⁴http://azertag.az/xeber/Sebail_rayonunun_Bayil_20_ci_yasayis_sahesi_oz_gorkemini_busbutun_deyisecekdir-50951

³⁵ <http://news.day.az/society/535101.html>

nearby streets of Arif Ismayilov, Salyan Dongesi 2, Yuzbashin Murselov, Ibrahim Memmedov, Lutfin Babayev, Shahlar Allahverdiyev, Aydin Memmedov and other streets.³⁶

5.6. Case of IDPs from the Karabakh region

In 2012, in the framework of preparations for the 1st European Games that were held in Baku, it was planned to build a "Water Sports Palace" in the 20th area where many IDPs have been settled. The "Water Sports Palace" project is carried out by Korean Company, Secure Co.LTD. This construction project encompassed land areas of 6 ha where hundreds of families owned houses with the permission of the local municipality and the Sabail Executive Power.

Intensive demolitions and forced evictions due to construction of "Water Sports Palace" have been started since the beginning of 2014. People have mostly complained about unfair compensation offered by the authorities, which made it impossible for them to purchase new houses of a similar value as their deprived property.

Two IDPs residing in the area, Giymat Safarova and Sevil Guliyeva, lived there in their houses with their families after they have been allowed to build them with the permission of the municipality. After the houses have been built, the authorities however failed to provide them adequate documentation confirming their ownership rights. They were given a registration document indicating that houses were considered as illegally constructed.. Nevertheless, the owners paid land and house taxes on the annual basis.

According to the law, owners could not have been evicted without a court decision and a fair compensation. The IDP families however have been forced to leave their houses by police backed force in April 2014. Before the demolition, they were verbally informed by the local authorities and police and asked to leave their houses and land for the cleaning of the territory for construction purposes.

The IDP families refused to leave their houses and applied to the Administrative Court for interim measures in order to guarantee that they are not evicted without a court decision. While their application was pending before the court, their houses were demolished by bulldozers brought by Sabail Executive Power with the support of police forces. They have not been given any opportunity to take their households. They were forcibly deprived from their own houses and offered to move to a new house by the State Committee on IDP issues as a temporary relocation for IDPs.

³⁶ <http://news.day.az/society/535101.html>

G. Safarova and S. Guliyeva complained about the actions of Sabail Executive Power before the Baku Administrative-Economic Court No.1 and asked for a fair compensation for their demolished houses and for non-peculiar damages. They also claimed that they were discriminated before other IDP families in similar situations who were provided with adequate compensation. On 12 May 2015, after several court hearings, Baku Administrative Economic Court No 1 issued a decision partly rejecting claims of non-pecuniary damages but securing compensation for demolition and eviction in the amount of market price of demolished houses.

The Sabail district Executive Power appealed the decision and the Baku Appeal Court upheld the complaint. The cassation appeal is pending before the Supreme Court at the time of writing of this report.

5.7. Residents of a dormitory of the ANSA

Azerbaijan National Science Academy (ANSA) has been providing its employees with residence in its dormitory for many years. In 2010, it decided to demolish an old dormitory and build new ones. The residents were promised premises in new buildings once they are built and signed agreements with ANSA and the private construction company. As the ANSA chair died during the constructions, a newly appointed chair ordered the company to not provide residents with new accommodation. The employees feared to complain against such actions risking to lose their jobs.



A dormitory of the ANSA among new buildings. Author: Aziz Karimov

ANSA employee and the team leader of the dormitory residents Ravan Baghirov complained to the court referring to a contract between ANSA and the residents securing a place in a new accommodation. Articles 10, 28 and 48 of Housing Code secure the housing rights to residents in dormitories given by the public institutions as a part of the social security scheme and they cannot be evicted from their houses unless they are not provided with an alternative.

In the background of such uncertain situation and dangerous situation due to the construction area Ravan Baghirov decided to bring other residents together and defend their rights before court. In May 2014, 15 residents appealed to the Yasamal court and were soon threatened to stop the court litigation. In August 2014, Ravan Baghirov was arrested under bogus charges of drug possession. As a consequence of this arrest, other team members (applicants) feared to continue the case in Yasamal court. As a result of this, Yasamal court has issued a decision on leaving a petition without consideration. ANSA team leader Ravan Baghirov has been released in December 2014.

In August of 2015, Ravan Baghirov sent a complaint to the Baku Appeal Court requesting to repeal decision of the Yasamal district court and to reopen the proceedings. The court however dismissed the appeal and the cassation is currently pending before the Supreme Court.

5.8. Plans for new demolitions around railways in Keshla area



Residences around railways in Keshla. Author: Aziz Kariov

On 11 May 2015, head of the State Company "Azerbaijan Railways" stated that to date about 70 000 illegally built houses were demolished and adequate compensation provided to owners³⁷. He further mentioned 5000 other houses built in areas along railways that have to be demolished for security purposes and a proposal to the government has been prepared.³⁸

A so-called "Shankhay" settlement, established in 1950s-1960s and located in the Keshla area in the Nizami district reportedly is in the railways protection zone. "Azerbaijan Railways" stated that it has already applied to the government about the compulsory purchase of 1000 houses in the area³⁹. On 15 September 2015, the Spokesman of "Azerbaijan Railways" said to [BBC News](#) that there were 2840 illegal houses located in the railways protection zones, including 2302 residential buildings.

³⁷ Azerbaijani Press Agency, www.apa.az

³⁸ <http://www.azadliq.info/xeberler-menu/311-son-xbrlr/66272-cavid-qurbanovdan-soekuentue-anonsu.html>

³⁹ <http://www.anspress.com/index.php?a=2&lng=az&nid=172046>

VI. RECOMMENDATIONS

5.1. To the Government of Azerbaijan:

- Expropriation laws must be properly applied, transparent and accountable methods of implementation of the law and procedures should be ensured in practice so that the expropriations without legal grounds are stopped;
- In doing so, it is necessary to involve independent lawyers and civil society organizations specialising in this field and their views, suggestions and expertise should be considered;
- Take the recommendations of the UN Committee on the Economic, Social and Cultural Rights into account:
 - *Adopt a law forbidding forced evictions;*
 - *Halt all expropriations that do not fully comply with the established international human rights standards;*
 - *Guarantee the right to appeal in domestic courts in expropriation cases and to provide effective legal remedies, adequate compensation and guarantees of adequate alternative housing;*
 - *Ensure that any relocation of homes necessary for city renewal is carried out with prior consultations among affected households, with their informed consent and with full respect to the safety and dignity of people following an adequate and transparent procedure.*
- To effectively implement the ECtHR judgments *Khalilova v Azerbaijan* and *Akhverdiyev v Azerbaijan* and take all necessary legal and policy measures to avoid similar violations in the future; to cooperate with the Committee of Ministers on the effective and timely implementation of the judgment to secure full compliance with the Convention norms;
- Adopt a new comprehensive law package to complete the registration of all undocumented property in Azerbaijan as it significantly will help government itself in the forms of increased revenues, provision of well-coordinated public services and better registration and population tracking;

5.2. To Council of Europe

- Adopt resolutions on illegal expropriations, forced evictions and violations of housing rights (PACE)
- Prioritize property rights cases at the European Court of Human Rights so that a strong case law is set;
- Supervise the implementation of the existing ECtHR judgments on property rights against Azerbaijan (CoM and other CoE bodies)

5.2. To the United Nations:

- Supervise the implementation of the UPR UN CESCR recommendations and request interim reports from the government;
- For the UN Special Rapporteur on a right to housing to closely monitor the situation of property rights