



**Permanent Mission
of the Republic of Azerbaijan
to the UN Office and other
International Organizations
GENEVA**

Ref: 0439/12/24/40

The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights, and in response to the Joint Communication Ref.: AL AZE 4/2024 of 17 October 2024 sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the independence of judges and lawyers, has the honor to transmit herewith the information prepared by the respective agencies and institutions of the Republic of Azerbaijan.

The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 10 December 2024



Enclosure: 3 pages

**Office of the United Nations
High Commissioner for Human Rights
GENEVA**

Ms Irene Khan
Special Rapporteur on the promotion and protection of
the right to freedom of opinion and expression

Ms Gina Romero
Special Rapporteur on the rights to
freedom of assembly and association

Ms Margaret Satterthwaite
Special Rapporteur on the independence of
judges and lawyers

The authorities of the Republic of Azerbaijan acknowledge receipt of the Joint Communication dated 17 October 2024 (reference: AL AZE 4/2024), concerning the alleged retaliatory arrest, detention and prosecution of Mr Tofiq Yagublu.

It is unfortunate that the allegations outlined in the Joint Communication offer a skewed depiction of the ongoing criminal investigations regarding T.Yagublu, initiated on the basis of credible suspicions of violation of specific provisions of the Criminal Code of the Republic of Azerbaijan. In this context, as articulated in previous responses to various communications from UN special mandate holders, the authorities maintain that no individual is subject to arbitrary targeting or prosecution due to their professional activities in Azerbaijan. It is important to recall that every individual, irrespective of their position within the society, is accountable for their actions under domestic law. This is fundamental to the rule of law and is upheld through due process, thereby safeguarding the right to a fair trial.

In light of this, while firmly rejecting the allegations presented in the Joint Communication, the authorities wish to provide the relevant information, along with their observations pertaining to the case. Additionally, information received from the Ombudsman has been incorporated into this response.

In conclusion, Azerbaijan reaffirms its unwavering commitment to honouring its international commitments as enshrined in a range of human rights treaties and conventions. Concurrently, Azerbaijan highlights the necessity of safeguarding the international human rights mechanisms from any potential misapplication or misuse, ensuring they serve their intended purpose of promoting and protecting human rights effectively.

▪ ***The factual and legal basis of the criminal case initiated against Tofiq Rashid oghlu Yagublu***

Tofiq Yagublu, citizen of the Republic of Azerbaijan, was found guilty of a previously committed less serious crime under Article 221.3 (hooliganism) of the Criminal Code of the Republic of Azerbaijan by the verdict of the Nizami District Courts, dated 3 September 2020 and sentenced to 4 years and 3 months in prison. By the decision of the Baku Court of Appeal, dated 15 July 2021, the sentence of 2 years, 11 months and 7 days of imprisonment, which was definitively upheld, was conditionally replaced with a probation period of 2 years and 6 months.

However, during his probation period, that is, in December 2023, he caused damage in large scale and committed crimes of fraud, falsification of an official document with the purpose of use, and use of false documents by arranging a criminal contact with his acquaintance [REDACTED] and others.

In specific terms, Tofiq Yagublu gained the trust and confidence of [REDACTED] who intended to go to the Federal Republic of Germany to live and work through legal means, via his previous cooperation with [REDACTED] by falsely promising that he would arrange for a residence permit and citizenship through his close contacts abroad. Consequently, agreeing upon the matter, he received 25,000 euros and 10,000 manats – a total of 55,827.5 manats in cash from the latter.

Although [REDACTED] has not been brought to criminal responsibility, no investigation has been conducted and there was no criminal prosecution against him, Tofiq Yagublu and others issued him false summons to the investigative body for questioning in order to create the impression that he was being persecuted by law-enforcement bodies, also prepared fake certificate of being a member of the “Democracy for Azerbaijan” (AND) organization which functions abroad and sent it to [REDACTED] through [REDACTED]. Based on these facts, criminal case was initiated on 11 December 2023 under articles 178.3.2 (fraud committed by causing damage in large scale), 320.1 (forgery of an official document) and 320.2 (use of obviously counterfeit documents) and T.Yagublu was accused under the criminal case in question. On 30 May 2024, the criminal case was sent to Baku Court of Grave Crimes and is currently under consideration of the court.

No additional charges have been brought against Tofiq Yagublu. In general, opinions expressed about bringing Tofiq Yagublu to criminal justice for freedom of expression and opinion stem from the attempts of his supporters and relatives to involve international organizations in the issue and benefit from their support.

However, in Azerbaijan, as in all legal states, individuals are treated equally under the law. Regardless of their positions, beliefs, affiliations with political parties, or memberships in public associations, individuals are held accountable solely for illegal actions, and this accountability is enforced in accordance with established legal procedures and due process.

Therefore, Tofiq Yagublu was brought to justice not because of his socio-political activities and political views, but in accordance with reliable evidences, which include testimonies of victims, witnesses and the accused person – [REDACTED] results of confrontations, inspection, search, seizure and other investigative actions, expert opinions.

Due to the nature of the committed act and the degree of public danger, presence of material and procedural grounds for the selection of preventive detention measures, taking into account the possibility of obstructing the normal course of preliminary investigation or trial by hiding or falsifying materials important for criminal prosecution, re-committing the crime or creating danger to society, failing to appear at the summons by the body that carries out the criminal

process without valid reason, Narimanov District Court decided to place Tofiq Yagublu under preventive detention. The investigative body has not received any information about Tofiq Yagublu's Facebook posts criticizing the government before committing the last crime. The fact that the crime was committed by a group of people who conspired in advance completely excludes the possibility of arrest being related with his posts.

Tofiq Yagublu was granted the right to defence from the moment of his arrest, and had confidential meetings with his lawyer of choice – [REDACTED] without limitation in number and duration. In the later period of the investigation, his other lawyer – [REDACTED] was admitted to the criminal proceedings as a defence attorney at his request. During the preliminary investigation, there was no complaint or information from his close relatives and defenders about the violation of T.Yagublu's right to be provided with a lawyer.

▪ ***Information on the detention conditions of Tofiq Rashid oghlu Yagublu***

When T.Yagublu was admitted to the detention center on 15.12.2023, provided with material living conditions (along with another person being kept with him), corresponding to the norms of the living accommodation defined by the legislation, the total area of which is 20 m² for 4 people, as well as 16 m² walking area kept open for unrestricted use every day from 09:30 to 17:30. During his detention T. Yagublu was not subjected to pressure, torture, inhuman or degrading treatment, his rights were not violated, and the conditions of detention were provided in accordance with the legislation. No disciplinary or incentive measures were applied. In accordance with the requirements of the law "On ensuring the rights and freedoms of persons detained in prisons" dated May 22, 2012, T.Yagublu spoke with his close relatives on the phone more than 80 times twice a week for 15 minutes, met with family members, including close relatives more than 40 times and received care packages. It was declared to him that he has the right to send his complaints and suggestions through the management of the detention center, no restrictions have been placed on his correspondence. T. Yagublu's rights are protected by 3 lawyers (lawyers [REDACTED]), whom he was given the opportunity to meet with more than 50 times in confidential conditions and without restrictions.

▪ ***Independent supervision of the case by the Commissioner for Human Rights (Ombudsman)***

As it is known, the Commissioner for Human Rights implements the functions of the national preventive mechanism as set forth in the Optional Protocol to the Convention against Torture (OPCAT). In order to prevent torture and other cruel, inhuman or degrading treatment or punishment the Ombudsman and her National Preventive Group (NPG) conducted monitoring visits to places where persons cannot leave at their own free will on a regular basis or when it deems necessary.

After the detention of T. Yagublu, he was received by the NPG in the Baku Pre-Trial Detention Center, where he is being held according to the court decision. The conditions of detention and treatment, and the documents pertaining to the detained person were monitored on the spot. T. Yagublu was interviewed by the members of National Preventive Group in a confidential manner. During the meeting, he did not complain about his detention conditions and treatment. Furthermore, it should be noted that since the detention of T.Yagublu in December 2023, until today, the Ombudsman has not received any application in any form from him, his lawyers, or family members.