

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 24/7, 24/6, 25/18, and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged **arbitrary detention and ill-treatment of Ms. Leyla Yunus, a leading Azerbaijani human rights defender, who has been held in pre-trial custody since 30 July 2014.**

Ms. Leyla Yunus is one of Azerbaijan's leading human rights defenders and is being held in pre-trial custody since 30 July 2014, under, inter alia, treason charges. Ms. Yunus was the subject of previous communications dated 24 August 2011 (AZE 2/2011); 5 March 2012 (AZE 1/2012); 9 May 2014 (AZE 3/2014); and 12 August 2014 (AZE 4/2014). We respectfully acknowledge your Excellency's Government's response to AZE 2/2011, dated 8 September 2011, and AZE 4/2014, dated 14 October 2014, however, we regret that to date no response has been received to the two other communications. We would like to take this opportunity to communicate to your Excellency's Government new allegations we have received.

According to the information received:

During her detention, Ms. Yunus has on several occasions been subjected to physical violence and other instances of humiliation by prison officers and by her cell-mate.

Ms. Yunus' health and well-being have deteriorated significantly while in detention. She suffers from severe diabetes and in addition to facing difficulties securing appropriate food to maintain her required diet, she has been denied adequate medical treatment. The Azerbaijani authorities have reportedly dismissed various claims, by her lawyers, that she is ill, and claimed that Ms. Yunus' is well enough to remain in detention.

On 26 January, Ms. Yunus was examined by a doctor, who reportedly documented that her blood tests indicated the beginning of liver decay. However, the medical report that she was shown by the prison officials, allegedly signed by the same doctor, states that Ms. Yunus is well enough to remain in detention.

Reportedly, there are reasons for the decision of the Azerbaijani authorities to detain and prosecute Ms. Yunus which are directly linked to her human rights work. Within recent months the Azerbaijani authorities have arrested several other leaders of Azerbaijan's human rights movement.

Moreover, the Azerbaijani penitentiary system is marked by inadequate records on treatment of detainees and a general lack of transparency, which impedes the documentation and, in turn, the prevention, of torture and ill-treatment. Furthermore, in autumn 2014, the United Nations' Subcommittee on the Prevention of Torture had to suspend its visit to Azerbaijan due to the fact that it was prevented from visiting several places where people are detained and was barred from completing its work at other sites¹.

Serious concerns are expressed at the alleged arbitrary detention, detention conditions and ill-treatment of Ms. Yunus, which have caused her health to deteriorate. Grave concern is expressed at allegations indicating lack of adequate medical treatment while in detention. Moreover, grave concerns are expressed at the alleged lack of transparency in relation to documentation of torture, which risks contributing to its perpetuation.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

The above allegations appear to be in contravention of Ms. Yunus' right not to be deprived arbitrarily of her liberty as set forth in article 9 of the Universal Declaration of Human Rights (UDHR) and article 9 of the International Covenant on Civil and Political Rights (ICCPR).

¹ Please refer to press statement "Prevention of Torture: UN human rights body suspends Azerbaijan visit citing official obstruction", <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15047&LangID=E#sthash.LUFU3eM3.dpuf>

We would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in article 1 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Azerbaijan acceded on 16 August 1996.

Regarding the conditions of detention, the Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to inhuman and degrading treatment. In this context, we would like to draw the attention of your Excellency's Government to the Standard Minimum Rules for the Treatment of Prisoners (adopted by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977). We would also like to draw your attention to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the General Assembly on 9 December 1988 (adopted by General Assembly resolution 43/173 of 9 December 1988).

Moreover, we would like to remind your Excellency's Government that countries have an obligation to take effective measures to prevent prisoner-on-prisoner violence, as codified, *inter alia*, E/CN.4/2003/68, para. 26 (j).

Regarding the deterioration of the health status of Ms. Yunus while in detention, we would like to refer your Excellency's Government to General Comment 14 of the Committee on Economic, Social and Cultural Rights, ratified by Azerbaijan in August 1992, which indicates that States are under the obligation to respect the right to health by, *inter alia*, refraining from denying or limiting equal access for all persons, including prisoners or detainees to preventive, curative and palliative health services. (GC 14, Para.34).

We would also like to refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2 and 12.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.

2. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please provide information on the legal procedure and grounds invoked for the arrest and detention of Ms. Yunus, and explain how these measures are compatible with the international human rights obligations of Azerbaijan.
4. Please provide information regarding the inadequate access to medical care by Ms. Yunus, including the reported absence of medical attention to her diabetic condition.
5. Please kindly indicate what measures have been taken to ensure that human rights defenders in Azerbaijan are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort, including arbitrary detention and ill-treatment.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the safety of Ms. Yunus as well as the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

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