

NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates 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; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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.

REFERENCE: UA Housing (2000-9) G/SO 214 (67-17) G/SO 214 (107-9) G/SO 214 (53-24)
AZE 3/2012

4 May 2012

Excellency,

We have the honour to address you in our capacity as 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; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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 General Assembly resolution 60/251 and to Human Rights Council resolutions 15/8, 16/4, 16/5, and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the reported attack against journalists Mr. **Idrak Abbasov**, reporter of the newspaper *Zerkalo* and a founding member of the Institute of Reporters' Freedom and Safety (IRFS); Ms. **Gunay Musayeva**, journalist of the daily *Yeni Musavat*; and Mr. **Adalat Abbasov**, brother of Mr. Idrak Abbasov.

Mr. Idrak Abbasov was the subject of the previous communication sent to your Excellency's Government on 17 October 2005 by the Special Rapporteur on the promotion and protection of the right to freedom of expression and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (E/CN.4/2006/55/Add.1, para 26) concerning the reported attack by the police against him and other journalists. We regret that to date no reply to this communication has been transmitted by your Excellency's Government.

According to the information received:

On 18 April 2012, Mr. Idrak Abbasov, a local journalist, was attacked and beaten by security guards of the State Oil Company of the Azerbaijan Republic (SOCAR) while he was filming the confrontation between the residents of the settlement of Sulutepe on the outskirts of Baku and the security staff of SOCAR, who were reportedly illegally demolishing homes of the residents in the area.

Mr. Idrak Abbasov, Ms. Gunay Musayeva and Mr. Adalat Abbasov arrived at the site of the confrontation when the SOCAR security staff were allegedly attacking residents of Sulutepe settlement who were attempting to prevent the demolitions. It is reported that when the journalists, who were wearing labels identifying them as journalists, tried to film the incident, a group of SOCAR security staff confiscated their cameras and repeatedly beat up Mr. Idrak Abbasov for several minutes until he lost consciousness. As a consequence of the physical assault, he was reportedly taken to the hospital unconscious with serious head and body traumas.

According to the information received, the same men attacked his brother, Mr. Adalat Abbasov, when he tried to protect Mr. Idrak Abbasov, and Ms. Gunay Musayeva, a journalist of the daily Yeni Musavat, who was also filming the demolition and tried to help Mr. Idrak Abbasov. Reportedly, the police and the security personnel of the company did not allow them and local residents to protect Mr. Idrak Abbasov. It is reported that three other journalists - Ms. Esmira Javadova, from Radio Liberty, Mr. Elnur Mammadov from the IRFS and Mr. Qalib Hasanov from the IRFS, who arrived to the demolition site to report on the attacks, were all forced to flee by the security staff of the company while the police watched.

It is reported that the recent attack on Mr. Idrak Abbasov is a continuation of the ongoing pressure and harassment against him on the part of the employees of SOCAR. According to the information received, on 9 September 2011, after he investigated the activities of SOCAR, the company security staff severely attacked his parents and brother after which they were hospitalized, and bulldozers were sent by the company to demolish his family house.

Concern is expressed that the physical assault committed by the security service staff of SOCAR against Mr. Idrak Abbasov and the continued harassment against him, his family members and other independent journalists may be directly related to their legitimate exercise of their right to freedom of expression. Concern is also expressed regarding the physical and psychological security and integrity of the subjects of this urgent appeal in the light of the recent attacks against Mr. Idrak Abbasov, his family members and fellow journalists.

It is reported that these incidents of physical attack and harassment are indicative of an increasingly restrictive environment for independent journalists operating in Azerbaijan.

Without in any way implying any conclusion as to the facts of the case, we would like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the International Covenant on Civil and Political Rights, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

We deem it appropriate to make reference to paragraph 3 of the Human Rights Council Resolution 12/16, which states that it is deeply concerned that "violations of the right to freedom of opinion and expression continue to occur, often with impunity, including extrajudicial killings, arbitrary detention, torture, intimidation, persecution and harassment, threats and acts of violence and of discrimination, including gender based violence and discrimination, increased abuse of legal provisions on defamation and criminal libel as well as on surveillance, search and seizure, and censorship, against persons who exercise, seek to promote or defend these rights, including journalists, writers and other media workers, Internet users and human rights defenders", as well as to its paragraph 5 which calls upon States to "ensure that victims of violations of the right to freedom of expression have an effective remedy, to investigate effectively threats and acts of violence, including terrorist acts, against journalists, including in situations of armed conflict, and to bring to justice those responsible to combat impunity".

We should like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the cases of the persons named above. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

In this context, we would like to draw the attention of your Excellency's Government to paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment."

We would also like to refer your Excellency's Government to the fundamental principles set forth in 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, and in particular articles 1 and 2 which state that “everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels” and that “each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.”

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 6, point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;

- article 6, points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters; and

- article 12, paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

Regarding the allegations received indicating that the perpetrators of the violations reported are non-State actors, we would like to call to the attention of your Excellency's Government the Human Rights Council Resolution A/HRC/RES/13/13 of 15 April of 2010, which recognizes "the immediate need to put an end to and take concrete steps to prevent threats, harassment, violence, including gender-based violence, and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms for all" as well as to adopt the necessary measures to prevent such acts. In this Resolution the Human Rights Council also "urges States to promote a safe and enabling environment in which human rights defenders can operate free from hindrance and insecurity."

Furthermore, the Special Rapporteur on the situation of human rights defenders, in her report to the General Assembly A/65/223 of 4 August 2010, stated that "the responsibility of non-State actors to respect the rights of human rights defenders does not relieve the State of its obligations under human rights law to respect, protect and fulfill human rights, including those of human rights defenders. (...)." The Special Rapporteur argued that the State's obligation to protect "first, involves ensuring that defenders do not suffer from violations of their rights by non-State actors. Failure to protect could, in particular circumstances, engage the State's responsibility. Secondly, States should provide defenders victims of human rights violations with an effective remedy. To that end, all violations of the rights of defenders should be investigated promptly and impartially and perpetrators prosecuted. Fighting impunity for violations committed against defenders is crucial in order to enable defenders to work in a safe and conducive environment."

With regards to the role of media and human rights defender in monitoring demonstrations, we would like to refer to the Guidelines on Freedom of Peaceful Assembly of the Office for Democratic Institutions and Human Rights (ODHIR) of the Organization for Security and Cooperation in Europe (OSCE), available at www.osce.org/odhr/item_11_23835.html, and to the 2007 report to the General Assembly (of the Special Representative of the Secretary-General on the situation of human rights defenders) (A/62/225, paras. 91 and 93) that underline how "monitoring of assemblies can provide an impartial and objective account of what takes place, including a factual record of the conduct of both participants and law enforcement officials. [...] The very presence of human rights monitors during demonstrations can deter human rights violations. It is therefore important to allow human rights defenders to operate freely in the context of freedom of assembly. [...] Journalists as well have an important role to play in providing independent coverage of demonstrations and protests. [...] The media must therefore have access to assemblies and the policing operations mounted to facilitate them."

Furthermore, we are particularly concerned that these alleged attacks may impede the work of Mr. Idrak Abbasov, Ms. Gunay Musayeva, Mr. Adalat Abbasov and other journalists in the advocacy and promotion of the right to adequate housing.

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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 persons in compliance with the above international instruments.

Moreover, 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. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the summary of the case accurate?
2. Has a complaint been lodged?
3. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. In the event that the alleged perpetrators are identified, please provide the full details of any prosecutions which have been undertaken; Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
5. Please indicate whether compensation has been provided to the victims or the families of the victims.
6. Please indicate what measures have been taken to ensure independent journalists, civil society and activists, can operate in an enabling environment and can carry out their legitimate activities without fear of harassment, stigmatization or criminalization of any kind.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

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

Raquel Rolnik

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

Frank La Rue

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

Margaret Sekaggya

Special Rapporteur on the situation of human rights defenders

Juan E. Méndez

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment