

**NATIONS UNIES**  
**HAUT COMMISSARIAT DES NATIONS UNIES**  
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**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 the rights to freedom of peaceful assembly and of association**  
**and the Special Rapporteur on the situation of human rights defenders**

REFERENCE: AL Assembly & Association (2010-1) G/SO 214 (107-9)  
AZE 2/2014

6 May 2014

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 24/5 and 25/18.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the situation of Mr. **Anar Mammadli** and Mr. **Bashir Suleymanli**, respectively Chairman and Executive Director of the Azerbaijani Election Monitoring and Democracy Studies Centre (EMDSC). EMDSC is a non-governmental organization which works on election monitoring and more largely on the promotion and protection of the right to participate in the conduct of public affairs. Similarly, we have also received information about the situation of Mr. **Elnur Mammadov**, President of the Volunteers of International Cooperation Public Union (VIC). VIC was the partner of EMDSC in an election monitoring project in relation to the 2013 presidential elections. Both organizations denounced alleged widespread irregularities around the presidential elections of 9 October 2013.

On 28 and 30 October 2013, the Office of the Prosecutor General called for questioning Messrs Mammadli and Suleymanli. This was reportedly due to heightened scrutiny vis-à-vis any organization receiving large amount of grants from foreign sources. On 31 October 2013, law enforcement officials reportedly searched the EMDSC's premises and confiscated computers, print materials, and programme and financial documents.

Messrs Mammadli and Suleymanli were the subject of an allegation letter sent on 26 November 2013 by the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the situation of human rights defenders. We regret that no response from your Excellency's Government to the concerns raised in the said letter have been received to this day.

According to the new information received:

On 16 December 2013, Messrs Mammadli, Suleymanli and Mammadov were interrogated by the Prosecutor's Office on suspicion of conducting "business activity by an organized without registration". They were informed of the charges brought against them under articles 179.3.2 (assignment or waste – punished by imprisonment up to twelve years with confiscation of property or without it), 192.2.2 (illegal business – punished by restriction of freedom up to three years or imprisonment up to five years), 213.1 (evasion from payment of taxes – punished by a penalty of up to 2,000 AZN (2,550.05 USD) and corrective works for up to one year), 308.2 (abusing official powers – punished by imprisonment up to seven years and deprivation of the right to hold certain posts or to engage in certain activities up to three years) and 313 (service forgery – punished by a penalty up to 1,000 AZN, or public works up to 240 hours, or corrective works up to two years, or imprisonment up to two years with deprivation of the right to hold certain posts or to engage in certain activities up to two years or without it) of the Criminal Code of the Republic of Azerbaijan.

On the same day, the Nasimi District Court ordered the pre-trial detention of Mr. Mammadli reportedly to prevent him from fleeing the country due to his frequent travel and contacts abroad, influencing other witnesses, and continuing to engage in illegal enterprise. However, the Prosecutor's Office did not provide any evidence to support these claims, nor did the Court request it to do so. Mr. Mammadli was reportedly not allowed to call his lawyer and was assigned a lawyer appointed by the Court. Messrs Suleymanli and Mammadov were prohibited from leaving the country.

On 6 March 2014, the Nasimi District Court further extended the Mr. Mammadli's detention period for three months.

On 21 April 2014, a preliminary hearing on the case of Messrs Mammadli, Suleymanli and Mammadov took place. Mr. Mammadli's lawyers asked that their client be not put in a cell inside the courtroom, and granted bail or put under house arrest. They further asked that the proceedings be filmed. The judge only agreed on allowing Mr. Mammadli to sit next to his lawyers during the trial.

Subsequent hearings were held on 28 April and 5 May 2014. The trial continued at the time of drafting the present letter.

Serious concerns are expressed that the charges brought against Messrs Mammadli, Suleymanli and Mammadov may be linked to their legitimate human rights activities, in the exercise of their rights to freedom of association and expression.

In connection to the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter where applicable

international human rights instruments and standards relating to this information are outlined.

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:

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 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.
3. Please indicate the legal basis of the charges brought against Messrs Mammadli, Suleymanli and Mammadov. Please indicate how these comply with international human rights norms and standards governing freedom of association.
4. Please kindly indicate what measures have been taken to ensure that human rights defenders 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.

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

However, given the seriousness and urgency of the allegations, we would like to inform your Excellency's Government that we might consider issuing a press release on the issues contained herein before the end of the sixty-day response period.

While waiting for your response, 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.

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

Maina Kiai

Special Rapporteur on the rights to freedom of peaceful assembly and  
of association

Margaret Sekaggya  
Special Rapporteur on the situation of human rights defenders

**Reference to international law**  
**Annex**

In connection to the above concerns, we would like to refer to article 22 of the International Covenant on Civil and Political Rights which guarantees the right to freedom of association.

We would like to further refer to Human Rights Council resolution 24/5, and in particular operative paragraph 2 that “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely... including in the context of elections...”.

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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration, and in particular to article 12, paragraphs 2 and 3, of the Declaration provides that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone 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.

Finally, we would like to refer to Human Rights Council Resolution 22/6, which explicitly indicates that domestic law and administrative provisions, and their application, should facilitate the work of human rights defenders, including by avoiding their criminalization or stigmatization, or by imposing any impediments, obstructions or restrictions to their work. States should take concrete steps to prevent and stop the use of legislation to hinder or unduly limit the ability of human rights defenders to exercise their work, including by reviewing and, where necessary, amending relevant legislation and its implementation in order to ensure compliance with international human rights law.