

Mandates of the Working Group on Arbitrary Detention; 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; 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 the independence of judges and lawyers

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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 promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; 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 the independence of judges and lawyers pursuant to Human Rights Council resolutions 24/7, 25/2, 24/5, 24/6, 25/18, and 26/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged arbitrary deprivation of liberty and sentencing of human rights defenders **Ms. Leyla Yunus** and **Mr. Arif Yunusov** as a result of their legitimate human rights work.

Ms. Leyla Yunus is Director of the Azerbaijani Institute of Peace and Democracy (IPD), which is a member of the South Caucasus Network of Human Rights Defenders. Ms. Yunus is a Chevalier of the French National Order of the Legion of Honour and a member of the General Assembly of the World Organisation against Torture (OMCT). **Mr. Arif Yunusov**, the spouse of Ms. Leyla Yunus, is a Chief of IPD's department of conflictology, and Head of Conflict Studies in the IPD. The couple are known for their work promoting human rights in Azerbaijan, especially concerning reconciliation between Azerbaijan and Armenia over Nagorno-Karabakh and a peaceful resolution of the conflict in the region.

Ms. Yunus and Mr. Yunusov have been held in pre-trial custody, respectively, since 30 July 2015 and 6 August 2014. Ms. Yunus and Mr. Yunusov reported ill-treatment during this period. Both have suffered from the serious deterioration of their health, allegedly as a result of the conditions of their detention, which have reportedly included inadequate access to doctors and necessary medical care.

Ms. Leyla Yunus was the subject of previous communications sent to your Excellency's Government dated 24 August 2011, case no. AZE 2/2011, see A/HRC/19/44; 5 March 2012, case no. AZE 1/2012, see A/HRC/20/30; 9 May 2014, case no. AZE 3/2014, see A/HRC/27/72; 12 August 2014, case no. AZE 4/2014, see A/HRC/28/85; and 13 February 2015, case no. AZE 1/2015, see A/HRC/29/50. Mr. Arif Yunusov was also the subject of communications AZE 3/2014 and AZE 4/2014. We respectfully acknowledge your Excellency's Government's response to the communication 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 other communications sent. We would like to take this opportunity to communicate to your Excellency's Government new allegations we have received.

According to the information received:

On 15 July 2015, a pre-trial hearing was held at the Baku Grave Crimes Court concerning the case of Ms. Leyla Yunus and Mr. Arif Yunusov. Ms. Yunus and Mr. Yunusov have been accused of multiple offences, including large scale fraud, fake manufacturing or selling of official documents, large scale tax evasion and illegal business with extraction of income in large size, under articles 178.3.2, 320.1, 320.2, 213.2.2, and 192.2.1 of the Criminal Code of the Republic of Azerbaijan.

On 27 July 2015, the trial of Ms. Yunus and Mr. Yunusov began at the Baku Grave Crimes Court. They both pleaded not guilty to all accusations made against them. The trial was held in a small courtroom, limiting access of independent observers.

During proceedings in the trial on 28 July 2015, Ms. Yunus was accused by the case prosecutor, in the alleged absence of any evidence, of receiving a grant of 700,000 AZN (approx. 665,870 USD) and transferring only 76,000 AZN (approx. 72,294 USD) to the non-governmental organization to whom the grant was tied.

Prior to the resumption of trial proceedings on 3 August 2015, Azerbaijani authorities reportedly restricted access to the courtroom for international independent observers, and refused to admit any members of the international

press into the courtroom. Shortly after the commencement of the hearing, Mr. Yunusov lost consciousness as a result of high arterial pressure, and the hearing was adjourned to 4 August 2015.

On 6 August 2015, Mr. Yunusov again lost consciousness during the trial hearing. As a result, a doctor was called for and a 30-minute recess was granted. The proceedings then resumed, despite a doctor not having been able to arrive and attend to Mr. Yunusov. Following the hearing, the lawyers representing Ms. Yunus and Mr. Yunusov requested 10-day preparation time in advance of the upcoming hearing. However, this request was rejected.

On 10 August 2015, the trial resumed, and further restrictions were reported to have been imposed on the admittance of international independent observers in the courtroom. Allegedly, only three embassy representatives and one independent observer were admitted, without an interpreter. The hearing was interrupted after 15 minutes following complaints from Ms. Yunus over the alleged misinterpretation of her testimony by the court interpreters. The trial was adjourned to 13 August 2015. Both Ms. Yunus and Mr. Yunusov were reported as appearing very ill during proceedings and Mr. Yunusov was accompanied by a doctor throughout the hearing.

On 13 August 2015, Ms. Yunus and Mr. Yunusov were sentenced to 8 years and six months' imprisonment and 7 years' imprisonment respectively, on charges of fraud, illegal entrepreneurship and tax evasion. In addition to the sentences, the court requested confiscation of their property and bank accounts, and their subsequent transfer to state budget.

Ms. Yunus and Mr. Yunusov will allegedly be facing another trial at a future date concerning charges of treason which remain pending against them.

Grave concern is expressed at the conviction and sentencing of Ms. Yunus and Mr. Yunusov, as it is believed that this is a direct response to their peaceful and legitimate human rights work. Further concern is expressed at the deterioration of the health of Ms. Yunus and Mr. Yunusov in the course of the trial proceedings against them, and the alleged lack of due diligence of Azerbaijani authorities in responding to this. The alleged restricted access to the hearings for independent observers and press, as well as allegations of lack of respect for the principle of equality of arms, also gives rise to serious concern over the fairness of the trial.

Without expressing at this stage an opinion on the facts of the case and on whether the deprivation of liberty of Ms. Yunus and Mr. Yunusov is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and to fair proceedings

before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR) and articles 9 and 14 of International Covenant on Civil and Political Rights (ICCPR) that the Republic of Azerbaijan ratified on 13 August 1992.

Furthermore, we would like to refer to the articles 19 and 22 of the ICCPR, which guarantee the rights to freedom of opinion and expression and to freedom of association, respectively. In particular, we wish to remind your Excellency's Government that any restrictions to the exercise of the right to freedom of expression, in accordance with article 19 (3) of the ICCPR, must be provided by law and necessary and proportionate. The conviction and sentencing of Ms. Yunus and Mr. Yunusov appear to be contrary to human rights law as they are not proportionate to the activities they are designed to sanction.

Moreover, we would like to draw your Government's attention to the principles enunciated by Human Rights Council resolution 24/5, and in particular operative paragraph 2, which "reminds States of their obligation to respect and fully protect the [right] of all individuals to... associate freely... including human rights defenders... seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of [this right is] in accordance with their obligations under international human rights law".

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, 6 and 12.

Regarding the deterioration of the health status of Ms. and Mr. Yunus while in detention, we would like to refer your Excellency's Government to article 12 of the International Covenant on Economic, Social and Cultural Rights, ratified by Azerbaijan in August 1992 and to paragraph 34 of the General Comment 14 of the relevant Committee, 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.

Finally, the above mentioned allegations appear to be in contravention of the right to a fair and public hearing, as well as the principle of equality of arms, as enshrined, inter alia, in article 14 of the International Covenant on Civil and Political Rights, the Basic Principles on the Independence of the Judiciary.

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 persons 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:

Questions:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide detailed information concerning the legal grounds for the conviction and sentencing of Ms. Yunus and Mr. Yunusov and explain how these measures are compatible with international norms and standards as stated, inter alia, in the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights.
3. Please explain why access to the hearings in the trial of Ms. Yunus and Mr. Yunusov were restricted. In particular, please explain how the restriction measures complied with your Government's obligation under article 14 of the International Covenant on Civil and Political Rights.
4. Please provide information concerning any steps that have been taken by your Excellency's Government to ensure that Ms. Yunus and Mr. Yunusov receive access to adequate medical care while in detention.
5. Please 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 intimidation and harassment of any sort.
6. Please indicate what measures have been, or will be, taken to ensure that the rights to freedom of association and freedom of opinion and expression are respected in the country.

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 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.

Finally, it is our intention to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. The press release will indicate that we have been in contact with your Excellency's Government to clarify the issue/s in question.

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

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freedom of opinion and expression

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