

Mandates of 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 extrajudicial, summary or arbitrary executions

REFERENCE: AL
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31 August 2015

Excellency,

We have the honour to address you in our capacities as 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; and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolutions 25/2 and 24/5.

In this connection, we would like to bring to your attention information we have received concerning **the attack on the Azerbaijani journalist Rasim Aliyev after allegedly criticizing a footballer on social media.**

Mr. Rasim Aliyev was a freelance journalist and Chairperson of the Institute for Reporters' Freedom and Safety (IRFS), Azerbaijan's leading media freedom organization.

According to the information received:

On 9 August 2015, a freelance journalist, Mr. Rasim Aliyev died in a hospital in Baku, a day after reportedly being severely beaten by six men.

On 3 August 2015, Mr. Aliyev reportedly posted a comment on Facebook criticizing the behaviour of an Azerbaijani football player at a match in Cyprus. This football player had allegedly waved a Turkish flag during a Europa League match and appeared to make an obscene gesture at a Greek journalist. On 8 August 2015, Mr. Aliyev was allegedly invited by the player's relatives to meet and resolve the incident. However, in a video interview from his hospital bed after the assault, Mr. Aliyev claimed that six unknown assailants beat him when he arrived at the meeting place. He died of his injuries the next day in hospital, several hours after giving his interview.

It is reported that Mr. Aliyev had faced many forms of intimidation in his work with IRFS, including being beaten by police in a 2013 incident that was captured

in a photograph and later widely circulated. The attack on 8 August 2015 against Mr. Aliyev took place exactly one year from the date when Azerbaijani authorities forcibly closed the IRFS and its founder and Chairman, Mr. Emin Huseynov, was forced into hiding to ensure his own safety.

Prior to the above-mentioned Facebook post and, in the three weeks leading up to his death, Mr. Aliyev had reportedly been receiving continuous threats and intimidation via social media. On 25 July 2015, Mr. Aliyev publicized one of the threats he received and filed a complaint with police, who reportedly failed to take any action. He had also been allegedly attacked by police officers at various demonstrations in recent years.

The President of Azerbaijan, Mr. Ilham Aliyev, stated that he was “seriously concerned” by the incident, calling it a “threat to freedom of speech”, and promised to “personally oversee” the investigation. The above-mentioned footballer is reportedly among six people arrested in connection with the journalist’s death and has also been suspended from his club while the matter is being investigated.

While we do not wish to prejudge the accuracy of these allegations, we express grave concern that the killing of Mr. Aliyev may be related to his work as a journalist and the exercise of his legitimate right to freedom of expression and opinion.

In connection with the above alleged facts and concerns, we would like to draw the attention of your Excellency’s Government to the Reference to International Law Annex attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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/or comment(s) you may have on the above-mentioned allegations.
2. Are the facts summarized above accurate?
3. Please provide detailed information on any investigation or inquiry into the death of Mr. Aliyev, specifying how the authorities’ actions are compatible with international human rights norms and standards.
4. In the event that alleged perpetrator(s) have been identified, please provide full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on this/these perpetrator(s)?

5. Please indicate what measures have been taken to ensure that journalists and civil society members at large are able to carry out their legitimate work in a safe and enabling environment without fear or threats of intimidation and harassment of any sort.

We would appreciate receiving a response within 60 days.

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

We would like to appeal your Excellency's Government to take all necessary measures to guarantee the right to freedom of expression and opinion in Azerbaijan by doing the utmost to protect the physical safety of journalists operating in the country. The legitimate exercise of the right to freedom of expression and opinion is of central importance in the effective functioning of a democracy.

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

David Kaye

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

Maina Kiai

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

Christof Heyns

Special Rapporteur on extrajudicial, summary or arbitrary executions

Annex
Reference to international human rights law

In connection with the above alleged facts and concerns, we would like to refer your Excellency's Government to the rights to life, liberty and security, freedom of opinion and expression and freedom of association as set forth in articles 3, 19 and 20 of the Universal Declaration of Human Rights and articles 6 (1), 19 and 22 of the ICCPR, ratified by the Republic of Azerbaijan on 13 August 1992.

In addition, in paragraph 23 of its General Comment No. 34, the Human Rights Committee urges that States parties should protect against attacks aimed at silencing those exercising their right to freedom of expression. The Committee has recognized that journalists are frequently subjected to threats, intimidation and attacks and has stated "[a]ll such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims, or, in the case of killings, their representatives, be in receipt of appropriate forms of redress."

We would also like to take this opportunity to refer your Excellency's Government to paragraphs 50–59 of the report of the former Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression concerning his visit to Azerbaijan in April 2007 (A/HRC/7/14/Add.3), where he expressed concern at the acts of violence, either perpetrated by Azerbaijani law enforcement or by unknown persons, against journalists and other media workers. He noted that this "worrying sequence of aggressions against media professionals and the lack of efficient and impartial investigations into them had a chilling effect on the freedom of expression in the country." He further noted that the resulting climate of impunity was reinforced by the fact that, "in most cases, no one was ultimately brought to justice for these crimes."

The former Special Rapporteur urged the authorities in Azerbaijan to "regard action against impunity of crimes targeting media professionals and opinion makers as one of the main priorities of democratic evolution." He also called upon the judiciary to ensure "impartial, comprehensive investigations and judgements when law enforcement agencies appear to be involved in crimes against the exercise of freedom of expression and good governance" in addition to providing immediate remedies, including financial compensation, for all media professionals and opinion makers who are victims of violence (paras. 73–74).

These allegations may also constitute violations of the rights to life and security and not to be arbitrarily deprived of life, as set forth in articles Article 3 of the UDHR and 6 (1) of ICCPR, as well as violations of the obligations of States to provide, through judicial or other means, effective protection of individuals and groups who may be subject to extra-legal, arbitrary or summary executions, including those who receive death threats, and to take measures to appropriately investigate and punish such acts in accordance with Principles 4, 9 and 18 of the Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions. A failure to investigate

and bring perpetrators of such violations to justice could in and of itself give rise to a separate breach of the ICCPR.

In addition, in its General Comment No. 31, the Human Rights Committee notes the responsibility of State parties to exercise due diligence to prevent, punish, investigate and bring perpetrators to justice or redress the harm caused by non- state actors (CCPR/C/21/Rev.1/Add.13, paras. 8 and 18).