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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

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 the situation of human rights defenders

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Excellency,

We have the honour to address you in our capacity 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 the situation of human rights defenders pursuant to Human Rights Council resolutions 19/6, 16/4, 15/21, and 16/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the reported detention and charges against photo-journalist, blogger and human rights activist, Mr. **Mehman Huseynov**.

Mr. Mehman Huseynov is a correspondent and photo-journalist, who works for the Institute for Reporters' Freedom and Safety (IRFS) and the independent Azerbaijani Turan Information Agency, and is also a video blogger and human rights activist. In March 2011, Mr. Huseynov was reportedly arrested and interrogated in relation to his Facebook activity while working as a cameraman for Amnesty International. In May 2012, he participated in a campaign called "Sing for Democracy", launched as a human rights campaign ahead of the 2012 Eurovision Song Contest to draw the attention of the international community to human rights issues in Azerbaijan. His photographs of violent dispersals of the peaceful protest by police have been disseminated widely by the international media and through social networks.

According to the information received:

On 5 June 2012, Mr. Mehman Huseynov received an official notice from the Sabail District Police Office, which summoned him to the police station on 9 June

2012 but did not specify the reasons for calling in and grounds for which he had been suspected or accused.

On 12 June 2012, Mr. Huseynov went to the police station upon his arrival in Baku after participating abroad in a seminar on photojournalism. It is reported that he was first interrogated as a witness on a criminal case related to a protest organized by opposition activists in Baku on 21 May 2012 on the eve of the 2012 Eurovision Song Contest. According to the information received, he was subsequently interrogated for another two hours as a suspect of the case and charged with “hooliganism” under Article 222.1 of the Criminal Code of Azerbaijan for assaulting and insulting the police while filming the above-mentioned protest.

It is reported that on 21 May 2012, the police acted violently against protestors and journalists, and deliberately smashed photo and video cameras of Mr. Huseynov and his colleagues from IFSR while they were taking photographs of the protest and filming the events.

Reportedly, Mr. Huseynov was released on bail after one day in detention on 13 June 2012, as the court did not approve the prosecutor's request to extend his detention. However, the court changed the initial charges to a more severe clause of “hooliganism committed with resistance to representative of the authority”, under Article 222.2 of the Criminal Code of Azerbaijan, which puts him at risk of being sentenced for up to five years imprisonment.

Concern is expressed that the detention and charges against Mr. Mehman Huseynov and the continued harassment against him may be directly related to his work as a journalist and for exercising his legitimate right to freedom of opinion and expression. Concern is also expressed regarding the physical and psychological security and integrity of Mr. Huseynov. Further concern is expressed that this case is indicative of an increasingly restrictive environment for independent journalists, human rights defenders and civil society activists working in Azerbaijan.

While we do not wish to prejudge the accuracy of these allegations, we would like to refer 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 (ICCPR), 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 also wish to reiterate the principle enunciated in Human Rights Council resolution 12/16 which calls on States, while noting that the exercise of the right to freedom of opinion and expression carries with it special duties and responsibilities, to refrain from imposing restrictions which are not consistent with paragraph 3 of article 19 of the ICCPR, including on (i) discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; engaging

in election campaigns, peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

Moreover, in addition the allegations of excessive use of force by the police against peaceful protesters on 21 May 2012, we wish to stress that the monitoring of assemblies is essential to allow impartial and objective accounts of the conduct of assemblies. They can provide a factual description of the conduct of participants and law enforcement officials. Therefore, we reiterate that access to impartial and objective information is a valuable contribution to the effective enjoyment of the right to peaceful assembly (A/HRC/20/27).

We would further 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.

With regard to the role of media and human rights defenders 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 <http://www.osce.org/odihr/66042> 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.

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 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 the legal justification for the alleged charges to be imposed on Mr Mehman Huseynov, and please indicate how this complies with the standards developed under international law, including the right to freedom of opinion and expression.
6. Please indicate what measures have been taken to ensure independent journalists, human rights defenders and civil society 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.

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 person 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.

Frank La Rue
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

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders