

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 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 5/2013

26 November 2013

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 16/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning **the targeting of the Azerbaijani Election Monitoring and Democracy Studies Centre (EMDSC) in the aftermath of the recent presidential elections of 9 October 2013**. 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.

According to the information received:

On 28 and 30 October 2013, the Major Crimes Investigation Department of the Office of the Prosecutor General called for questioning Mr. Anar Mammadli, Chairperson of EMDS, and Mr. Bashir Suleymanli, Executive Director of EMDSC, purportedly because any organisation receiving large amount of grants from foreign sources is subject to scrutiny. Messrs Mammadli and Suleymanli were interrogated in particular on their election monitoring work in relation to the recent presidential elections.

On 31 October 2013, the EMDSC's premises were searched by law enforcement officials who reportedly confiscated two computers, print materials, press releases, reports, and programme and financial documents.

Concerns are expressed that the interrogation of Messrs Mammadli and Suleymanli, as well as the search of EMDSC's premises, and the subsequent confiscation of IT equipment and documents may be linked to the legitimate human rights activities of EMDSC and its members in the exercise of the right to freedom of association.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

We would like to refer your Excellency's Government to article 22 of the International Covenant on Civil and Political Rights, which provides that "[e]veryone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests".

We would like to further refer to Human Rights Council resolution 21/16, and in particular operative paragraph 1 that "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law."

Regarding the allegations that the scrutiny of the mentioned organization is directly linked to its work in defence and promotion of human rights, we would 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 8, paragraph 1, which stipulates that everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs.
- article 13 which stipulates that everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express

purpose of promoting and protecting human rights and fundamental freedom, through peaceful means, in accordance with article 3 of the declaration.

In connection to article 13 of the Declaration, Resolution 22/6 also calls upon States to ensure “(a) that reporting requirements placed on individuals, groups and organs of society do not inhibit functional autonomy”; and (b) “that they do not discriminatorily impose restrictions on potential sources of funding aimed at supporting the work of human rights defenders in accordance with the Declaration (...), other than those ordinarily laid down for any other activity unrelated to human rights within the country to ensure transparency and accountability, and that no law should criminalize or delegitimize activities in defence of human rights on account of the origin of funding thereto”. (A/HRC/RES/22/6, OPs 8 and 9)

Moreover, since 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 cooperation and your observations on the following matters:

1. Are the facts alleged in the summary of the case accurate?
2. Please indicate the legal basis of the interrogation of Messrs Mammadli and Suleymanli, as well as the search of EMDSC’s premises, and the subsequent confiscation of IT equipment and documents. Please further indicate how such measures are compatible with the aforementioned international human rights norms and standards.

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.

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