

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the rights to freedom of peaceful assembly and of association

REFERENCE:
AL AZE 4/2017

8 November 2017

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 situation of human rights defenders; and Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolutions 34/18, 34/5 and 32/32.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the travel ban against Ms. Khadija Ismailova.

Ms. **Khadija Ismailova** is an investigative journalist and human rights defender who has written a number of investigative reports on corruption and reported extensively on the situation of political prisoners in Azerbaijan and advocated for their release. She has worked at the Azadliq Radiosu, a branch of Radio Free Europe/Radio Liberty in Azerbaijan. Following her criticism of the authorities, she was arrested on 5 December 2014 and was in September 2015 sentenced to seven and a half years in prison.

She previously received the Gerd Bucerius Free Press of Eastern Europe Award in May 2013; the Global Shining Light Award in October 2013; the Courage of Journalism Award from International Women's Media Foundation in October 2012. She has been invited to speak at a seminar for Right Livelihood Award Laureates on 1 December 2017, and receive her Award in Stockholm on the same day. She has also been invited to a felicitation and debate event by the Graduate Institute of Geneva on 6 December 2017.

Concerns at the arrest and conviction of Ms. Ismailova were raised in two previous communications sent by various Special Rapporteurs on 29 May 2015 (AZE 2/2015) and on 1 February 2013 (AZE 2/2013). We thank your Excellency's Government for the replies of 11 September 2015 and 23 April 2013, but remain concerned at the situation of Ms. Ismailova.

According to the information received:

On 25 May 2016, Ms. Ismailova was released following a decision by the Supreme Court to commute her sentence into a three and a half year suspended term. The Ministry of Justice nevertheless imposed travel restrictions on Ms. Ismailova for a period of five years. Under the terms of her probation, Ismailova is required to reside in Baku and is forbidden from traveling abroad

for five years without official permission. Her attempts to lift the travel ban for attending international events have been rejected by local courts on three separate occasions: on 28 June 2016; on 15 August 2016 and most recently on 22 September 2017. The basis for denying lifting of the travel is reportedly that Ms. Ismailova does not have a family of her own and does not own property, which is contended to make her less likely to return to Azerbaijan to serve the remainder of her probationary term.

On 17 October 2017, Ms. Ismailova's fourth legal challenge against her travel ban, to teach in the Stockholm School of Economics in Riga, Latvia, in November and December was rejected by the Binagadi District Court who heard and decided the case. The Court ruled that there was a risk that she would not return to the country, and thus would not meet the terms of her 5 year probation.

We express concern at the travel ban imposed on Ms. Ismailova, which has the effect of preventing her from travelling abroad to speak about human rights issues, and which thereby stifles the right to freedom of expression. We express additional concern that the grounds upon which the travel ban is imposed are discriminatory and thus incompatible with international human rights standards.

Without prejudice about the above allegations, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee Ms. Ismailova's right to freedom of movement and freedom of expression, in accordance with article 19 of the ICCPR.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** 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 therefore 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. Please provide information about how the travel ban imposed upon Ms. Ismailova is compatible with Azerbaijan's obligations under international human rights law.
3. Please provide information about how the grounds for rejecting Ms. Ismailova's challenge against her travel ban is compatible with international human rights standards.

We would appreciate receiving a response within 60 days.

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(s) responsible for 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.

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

Michel Forst
Special Rapporteur on the situation of human rights defenders

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

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to article 19 of the International Covenant on Civil and Political Rights (ICCPR), acceded by Azerbaijan on 13 August 1992, which provides that "everyone shall have the right to hold opinions without interference" as well as 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 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, 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 and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 6 (a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- article 12, paragraphs 2 and 3, which provides that the State shall take all necessary measures to ensure the protection 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.