

**Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression**

Ref.: AL AZE 1/2024  
(Please use this reference in your reply)

16 May 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Working Group on Arbitrary Detention and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, pursuant to Human Rights Council resolutions 52/4, 51/8 and 52/9.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged arbitrary detention and criminalization of human rights defenders Mr. Ulvi Hasanli, Ms. Sevinj Abbasova, Ms. Nargiz Absalamova, Mr. Hafiz Babali, and Ms. Elnara Gasimova, reportedly in connection with their legitimate human rights work against corruption and the exercise of the freedom of expression.**

Mr. **Ulvi Hasanli** is a human rights defender and journalist. He has been the director of Abzas Media, an online media outlet dedicated to human rights issues and investigating corruption in Azerbaijan, since co-founding it in 2016.

Ms. **Sevinj Abbasova** is a woman human rights defender and journalist known under the pseudonym Sevinj Vagifgizi. She has been serving as the editor-in-chief of Abzas Media since 2022 and has previously covered human rights and social issues in Azerbaijan for other media outlets.

Ms. **Nargiz Absalamova** and Ms. **Elnara Gasimova** are women human rights defenders and journalists at Abzas Media.

Mr. **Hafiz Babali** is a human rights defender and freelance investigative journalist who writes about corruption. He has published some investigations in Abzas Media.

According to the information received:

On 20 November 2023, at around 4.30 a.m., plainclothes police officers arrested Mr. Ulvi Hasanli on his way to Baku Airport and took him to the Baku City Police Department. They reportedly had a warrant for his arrest. During the arrest, he was punched in the eye. His whereabouts reportedly remained unknown until 11 am. At the Baku City Police Department, he was interrogated, primarily in relation to investigations into alleged corruption by state authorities. During the interrogation, he was punched and kicked. His lawyer filed a complaint regarding his ill-treatment, but it yielded no outcome.

On the same day, the police searched his home and reportedly seized a computer, cell phone, iWatch, and hard drive. The decision of the Binagadi District Court in Baku authorizing the search was allegedly unjustified, yet

reportedly, the Baku Court of Appeal dismissed the appeal. The police also searched the office of his media outlet, reportedly seizing a microphone and hard drive, as well as EUR 40 000 in cash, which had allegedly been planted in the hallway. It is unclear whether they had a warrant. After the search, the police changed the locks to the office, denying the media outlet's staff access to it.

On 21 November 2023, at 1.30 a.m., law enforcement officers arrested Ms. Sevinj Abbasova at Baku Airport upon her return from a work trip abroad. It is unclear whether they had a warrant. She was reportedly assaulted during the interrogation. On the same day, the police searched her home. It is unclear whether they had a warrant.

On 21 November 2023, the Khatai District Court in Baku placed Mr. Ulvi Hasanli and Ms. Sevinj Abbasova in pre-trial detention for four months. On 27 November 2023, Mr. Hasanli's and Ms. Abbasova's detention was upheld by the Baku Court of Appeal. On 14 March 2024, the Khatai District Court reportedly extended their detention by three months.

On 25-26 November 2023, reports in Azerbaijani state and pro-government media used materials allegedly leaked from authorities' investigation to accuse the media outlet's staff of illegally bringing undeclared grants from foreign donor organizations into the country.

In a statement no. 678/23, titled "Press information on the summoning of the US and German temporary charge d'affaires in our country, the French ambassador to the Ministry of Foreign Affairs," Azerbaijan's Ministry of Foreign Affairs condemned the alleged illegal funding of the media outlet by the embassies of the United States, Germany, and France, as well as organizations registered in these countries. According to the unofficial translation of the statement provided to us, it specified that "financing of the local media subject by natural or legal persons of foreign countries, as well as by state institutions of foreign countries, is not allowed" and "grant agreements are required to be state registered in accordance with the relevant procedure." The embassies of the mentioned countries in Azerbaijan reportedly rejected the accusations.

On 30 November 2023, at approximately 3 p.m., Ms. Nargiz Absalamova was arrested in Baku. Reportedly, there was a warrant for her arrest. Ms. Absalamova reportedly could not contact her family, and her whereabouts remained unknown until the next morning. Her lawyer allegedly joined her defense on 1 December 2023. Before that, she was reportedly represented by a state-appointed lawyer. On 1 December 2023, the Khatai District Court placed her in pre-trial detention for three months. On 9 December, the Baku Court of Appeal allegedly upheld the detention. On 24 February 2024, the Khatai District Court allegedly extended her detention term for another three months until 29 May 2024. On 1 March 2024, the Baku Court of Appeal allegedly upheld the extension.

On 13 December 2023, police arrested Mr. Hafiz Babali at a railway station in Baku. It is unclear whether they had a warrant. On the same day, they searched his home in Sumgayit and seized his computer, cell phone, and some

documents. There was reportedly a warrant for the search. On 14 December 2023, he was placed in pre-trial detention for three months. On 20 December 2023, the Baku Court of Appeal upheld the detention. On 7 March 2024, the Khatai District Court extended his detention for another three months until 13 June 2024. On 15 March 2024, the Baku Court of Appeal upheld the extension.

On 13 January 2024, Ms. Elnara Gasimova was arrested. Reportedly, there was a warrant for her arrest. On 15 January 2024, the Khatai District Court placed her in pre-trial detention for two and a half months. On 19 January 2024, the Baku Court of Appeal upheld the detention. On 7 March 2024, the Khatai District Court extended her detention for another three months until 13 June 2024. The Baku Court of Appeal upheld the extension.

Mr. Hasanli, Ms. Abbasova, Ms. Absalamova, Mr. Babali, and Ms. Gasimova were all initially arrested as suspects, and within 24 hours, formally accused of smuggling money by a group of persons by prior conspiracy under article 206.3.2 of the Criminal Code of Azerbaijan. The punishment under this article ranges from five to eight years' imprisonment. All human rights defenders have reportedly denied the accusations. Their criminal case is allegedly a retaliation for their media outlet's anti-corruption investigations and human rights reporting.

From their arrests until 19 February 2024, Mr. Hasanli, Ms. Abbasova, Ms. Absalamova, and Ms. Gasimova had restrictions placed on their meetings and phone calls with their families.

On 11 December 2023, it was reported that officers at Baku Pretrial Detention Center No. 1 threatened Mr. Ulvi Hasanli that if he did not cease complaining about the violations of his rights, he would "suffer" and be transferred to a cell with "homosexuals."

The detention center administration prohibits phone calls of Mr. Hasanli, Ms. Abbasova, Ms. Absalamova, and Ms. Gasimova with their lawyers. The court complaint filed in this issue was dismissed. Additionally, on 1 February 2024, officers at Baku Pretrial Detention Center No. 1 inspected the notes of Ms. Elnara Gasimova's lawyer after her meeting with the client. On 1 March 2024, the penitentiary service officers did not allow Ms. Nargiz Absalamova to communicate with her lawyer in the courtroom and discuss the position before the hearing.

Finally, authorities have frozen the bank accounts of Mr. Ulvi Hasanli, Ms. Sevinj Abbasova, Mr. Hafiz Babali, Mr. Ulvi Hasanli's wife, sister, and mother, as well as Ms. Sevinj Abbasova's mother, barring them from accessing their salaries, pensions, and other financial assets. There are reportedly no legal grounds for freezing the assets of family members, as they are not suspects in legal proceedings, and there are no questions regarding the legitimacy of their funds.

While we do not wish to prejudge the accuracy of these allegations, we would like to express our utmost concern at the criminalization of the human rights defenders mentioned above, allegedly for their legitimate human rights work against

corruption and the exercise of the freedom of expression. We are alarmed about their alleged arbitrary arrests and detentions, as well as the alleged home and office searches and seizure of electronic devices and documents that could potentially contain information on journalistic sources. We express particular concern about the chilling message the harassment and alleged arbitrary arrests and detentions send to all those wishing to express critical views, possibly leading to self-censorship.

We are also gravely concerned about the alleged ill-treatment of Mr. Hasanli and Ms. Abbasova, as well as the allegations that Mr. Hasanli and Ms. Absalamova were subjected to enforced disappearance in the initial stages of their deprivation of liberty. We are concerned about the alleged restrictions on some human rights defenders' ability to meet or communicate with their families, which appear to be intended to further increase pressure on them. We are also concerned about the alleged unlawful freezing of bank accounts belonging to the family members of Mr. Hasanli and Ms. Abbasova.

In relation to legal representation, we are concerned about the allegedly limited access most human rights defenders have to lawyers, as well as the reported incident where detention center officers examined confidential notes belonging to Ms. Elnara Gasimova's lawyer.

Finally, we are concerned about the alleged smear campaign, which appears to be aimed at discrediting human rights defenders' anticorruption work.

We note with concern that all this might have a chilling effect on human rights defenders and journalists in Azerbaijan, especially those working against corruption, discouraging them from exercising their rights.

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 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 the factual and legal basis for the arrests, detention and charging of Mr. Ulvi Hasanli, Ms. Sevinj Abbasova, Ms. Nargiz Absalamova, Mr. Hafiz Babali, and Ms. Elnara Gasimova and explain how these actions comply with Azerbaijan's obligations under international human rights law.
3. Please explain what measures have been taken by your Excellency's Government to ensure that Mr. Ulvi Hasanli, Ms. Sevinj Abbasova, Ms. Nargiz Absalamova, Mr. Hafiz Babali, and Ms. Elnara Gasimova have unrestricted and confidential communication with their lawyers.

4. Please provide information on whether any investigation was launched into the alleged enforced disappearance of Mr. Ulvi Hasanli and Ms. Nargiz Absalamova, as well as the alleged ill-treatment reportedly suffered by Mr. Ulvi Hasanli and Ms. Sevinj Abbasova. If no investigation was opened, please explain why.
5. Please provide information about the factual and legal basis for seizing documents and electronic devices from human rights defenders' homes and office and explain what measures have been taken by your Excellency's Government to protect the confidentiality of information about their journalistic sources.
6. Please indicate what measures have been taken to ensure that human rights defenders and journalists in Azerbaijan, including those working against corruption, can exercise their right to freedom of expression and carry out their legitimate work freely and in a safe and enabling environment without acts of intimidation and harassment.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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.

Further, we would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

We may 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. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

Ganna Yudkivska  
Vice-Chair on communications of the Working Group on Arbitrary Detention

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

## Annex

### Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the following human rights standards.

We would like to refer your Excellency's Government to article 19 of the International Covenant on Civil and Political Rights ("ICCPR"), acceded to by Azerbaijan on 13 August 1992.

Article 19 requires the States parties to guarantee the right to freedom of expression, including the right to seek, receive, and impart information and ideas of all kinds. As interpreted by the Human Rights Committee in General comment No. 34 (CCPR/C/GC/34), such information and ideas include, *inter alia*, political discourse, commentary on public affairs, discussion of human rights, and journalism (paragraph 11). Free press and other media should be able to comment on public issues without censorship or restraint and to inform public opinion, and the public has a corresponding right to receive media output (paragraph 13). States parties should recognize and respect that element of the right of freedom of expression that embraces the limited journalistic privilege not to disclose information sources (paragraph 45).

We would like to remind your Excellency's Government that any restrictions to the right to freedom of expression must meet the criteria established by international human rights standards, such as article 19(3) of the ICCPR. Under these standards, restrictions must be provided for by law and conform to the strict tests of necessity and proportionality. Article 19(3) may never be invoked to justify the muzzling of any advocacy of democratic tenets and human rights (paragraph 23). Nor, under any circumstance, can an attack on a person, because of the exercise of their freedom of opinion or expression, including such forms of attack as arbitrary arrest and torture, be compatible with article 19(Id.). It is the States parties' duty to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression (Id.). All such attacks should be vigorously investigated in a timely fashion, the perpetrators be prosecuted, and the victims receive appropriate forms of redress (Id.). The Human Rights Committee also explicitly noted that the penalization of a media outlet or journalist solely for being critical of the government or the political social system espoused by the government can never be considered to be a necessary restriction of freedom of expression (paragraph 42).

We wish to reiterate the principle enunciated in Human Rights Council resolution 12/16 (A/HRC/RES/12/16). The Resolution calls upon all States to refrain from imposing restrictions that are not consistent with article 19(3), *inter alia*, on reporting on human rights, government activities, and corruption in government (paragraph 5(p)(i)).

We would furthermore like to refer your Excellency's Government to article 9 of the ICCPR, which guarantees everyone the right to liberty and security of person.

Article 9 prohibits arbitrary arrest and detention. As interpreted by the Human Rights Committee in General comment No. 35 (CCPR/C/GC/35), the notion of “arbitrariness” is not to be equated with “against the law” but must be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability, and due process of law, as well as elements of reasonableness, necessity, and proportionality (paragraph 12). According to the same General Comment (paragraph 17) and the jurisprudence of the Working Group on Arbitrary Detention, arrest or detention of an individual as punishment for the legitimate exercise of the rights guaranteed by the ICCPR, including freedom of opinion and expression, is arbitrary.

The right to security of person, also guaranteed by article 9, protects individuals against intentional infliction of bodily or mental injury, regardless of whether the victim is detained or non-detained (paragraph 9). The Human Rights Committee clarified that States parties must take both measures to prevent future injury and retrospective measures, such as enforcement of criminal laws, in response to past injury (Id.). States parties must respond appropriately to patterns of violence against categories of victims such as intimidation of human rights defenders and journalists (Id.). They should also prevent and redress unjustifiable use of force in law enforcement (Id.).

We would also like to refer your Excellency’s Government to the absolute and non-derogable prohibition of torture and other cruel, inhuman, or degrading treatment or punishment, as enshrined in article 7 of the ICCPR and articles 2 and 16 of the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (“CAT”), acceded to by Azerbaijan on 16 August 1996. Article 12 and 16 of the CAT further require the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that such act has been committed.

With regard to the alleged enforced disappearance, according to the General comment No. 35 (CCPR/C/GC/35), paragraph 17, General comment No. 36 (CCPR/C/GC/36), paragraphs 57-58, as well as the jurisprudence of the Working Group on Arbitrary Detention, these would amount to violations of article 6 (right to life), article 7 (prohibition of torture or cruel, inhuman or degrading treatment or punishment), Article 9 (liberty and security of person), and article 16 (right to recognition as a person before the law) of the ICCPR, read alone and in conjunction with article 2(3). Equally, the right not to be subjected to an enforced disappearance is of a non-derogable nature and the prohibition of this crime has attained the status of *jus cogens*. The Human Rights Committee stressed in General comment No. 36 (CCPR/C/GC/36) that States parties must take adequate measures to prevent the enforced disappearance of individuals (paragraph 58). States parties should also ensure that the enforced disappearance of persons is punished with appropriate criminal sanctions and introduce prompt and effective procedures to investigate cases of disappearances thoroughly, by independent and impartial bodies (Id.). They should bring to justice the perpetrators of such acts and omissions and ensure that victims of enforced disappearance and their relatives are informed about the outcome of the investigation and are provided with full reparation (Id.).

We would like to remind your Excellency’s Government that Azerbaijan signed the Convention for the Protection of All Persons from Enforced Disappearance on 6 February 2007, even though it has not ratified it yet. However, according to

article 12 and 18 of the Vienna Convention on the Law of Treaties, acceded to by Azerbaijan on 11 January 2018, signing an international treaty creates an obligation to refrain, in good faith, from acts that would defeat the object and the purpose of the treaty.

We would also like to refer your Excellency's Government to article 17 of the ICCPR, which guarantees that no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home, or correspondence, or unlawful attacks on his honor and reputation. As emphasized by the Human Rights Committee in General comment No. 16 (CCPR/C/GC/16), the expression "arbitrary interference" can extend to interference provided for under the law and even interference provided for by law should be in accordance with the provisions, aims, and objectives of the ICCPR and should be, in any event, reasonable in the particular circumstances (paragraph 4).

We also wish to bring to the attention of your Excellency's Government article 14 of the ICCPR, which enshrines the right to a fair trial. Article 14(3) of the ICCPR guarantees the right of any individual charged with a criminal offense to have adequate time and facilities for the preparation of their defense and to communicate with counsel of their own choosing. As clarified by the Human Rights Committee in General comment No. 32 (CCPR/C/GC/32), the right to communicate with counsel requires that the accused is granted prompt access to counsel (paragraph 34). Counsel should be able to meet their clients in private and to communicate with the accused in conditions that fully respect the confidentiality of their communications (Id.). Furthermore, lawyers should be able to advise and to represent persons charged with a criminal offense in accordance with generally recognized professional ethics without restrictions, influence, pressure, or undue interference from any quarter (Id.).

We would like to remind your Excellency's Government of article 10 of the ICCPR, which requires that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. In this regard, we would like to refer your Excellency's Government to the UN Standard Minimum Rules for the Treatment of Prisoners adopted by the General Assembly on 17 December 2015 (the Mandela Rules). We wish to draw your Excellency's Government's particular attention to rules 58, 61, and 120 regarding communication with family and lawyers.

We would also like to refer your Excellency's Government to the UN Basic Principles on the Role of Lawyers, adopted on 7 September 1990 by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana (Cuba). Principles 1, 2, 8, in particular, contain Member States' obligations to ensure prompt and effective access to lawyers. Moreover, principle 16 requires governments to ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment, or improper interference. According to principle 22, Governments shall recognize and respect that all communications and consultations between lawyers and their clients within their professional relationship are confidential.

Furthermore, 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, adopted on 9 December 1998 (also known as the UN Declaration on Human Rights Defenders). Articles 1 and 2 of

the Declaration state that everyone has the right to promote and 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.

Likewise, 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)-(c), which provides for the right to know, seek, obtain, receive, and hold information about all human rights and fundamental freedoms; to freely 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 to draw public attention to those matters.
- Article 9(1), which establishes that in the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights, everyone has the right to benefit from an effective remedy and to be protected in the event of the violation of those rights.
- Article 12(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 their legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities, and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, and acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

Finally, we would like to refer your Excellency's Government to the recent report (A/HRC/49/49) of the Special Rapporteur on the situation of human rights defenders, in which she stressed that protection frameworks applicable to human rights defenders should apply to human rights defenders working against corruption.