

**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 independence of judges and lawyers**

Ref.: AL AZE 4/2024  
(Please use this reference in your reply)

17 October 2024

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 the independence of judges and lawyers, pursuant to Human Rights Council resolutions 52/9, 50/17 and 53/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged arrest, detention and prosecution on fraud and counterfeiting charges of Mr. Tofiq Yagublu, an Azerbaijani prominent political opposition figure, activist and former journalist. Reports indicate that these charges may have been brought in retaliation for Mr. Yagublu's outspoken criticism of the Government, and thus for the exercise of his right to freedom of expression.**

Concerns regarding Mr. Yagublu were previously raised in a communication dated on 17 October 2005 (AL AZE 4/2005) by the Special Rapporteur on the right to freedom of opinion and expression and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. Concerns at the targeting of political opponents, human rights defenders and activists in Azerbaijan have been raised by Special procedures mandate holders, including on 13 October 2023 ([AL AZE 3/2023](#)); 1 May 2024 ([AL AZE 1/2024](#)) and on 4 June 2024 ([AL AZE 2/2024](#)). Many were detained on charges widely considered spurious, often involving allegations of financial crimes.

We thank your Excellency's Government for the responses provided to AL AZE 3/2023, AL AZE 1/2024, and AL AZE 2/2024 on dates [8 December 2023](#), [15 July 2024](#) and [14 August 2024](#), while we respectfully encourage you to provide a response to communication AL AZE 4/2005. Despite these responses, we remain concerned that the issues raised in that communication have not been fully addressed, as we continue to receive information indicating that similar allegations to the ones raised in the said communications keep taking place, and we are concerned that the same patterns highlighted in previous communications to your Excellency's Government persist, including the targeting of opposition figures, human rights defenders and activists for their work.

Mr. **Tofiq Yagublu** is the former leader and current member of the opposition political party "Musavat Party" and a senior member of the National Council of Democratic Forces. He has faced criminal and administrative prosecutions on multiple occasions, in apparent connection with his recurrent criticism of the Government.

According to the information received:

*Background: repeated criminal and administrative prosecutions of Mr. Yagublu*

In 1998, Mr. Yagublu was arrested for participating in an unauthorized protest. He was criminally charged with disobeying the police, and given a two-year prison sentence, that was finally suspended.

In April 2011, Mr. Yagublu was arrested when he joined a peaceful demonstration demanding democratic reform and free and fair elections and was thereafter convicted of failing to stop participating in an unauthorized demonstration.

In May 2012, Mr. Yagublu was arrested twice on two consecutive days in the vicinity of organized demonstrations and sentenced to administrative fines, despite reportedly not participating in those demonstrations.

In January 2013, while reporting on riots in Ismayilli for Yeni Musavat, Mr. Yagublu was arrested for charges related to organizing a riot. After over a year of pre-trial detention, Mr. Yagublu was convicted and sentenced to five years of imprisonment. He was released in March 2016 due to a presidential pardon.

In October 2019, Mr. Yagublu was arrested while attending a reportedly peaceful protest rally and was sentenced to one month of administrative imprisonment. During his arrest, Mr. Yagublu was reportedly subjected to physical ill-treatment by the police and forced to make a public apology.

In March 2020, Mr. Yagublu was convicted and sentenced to four years and three months of imprisonment. Following a hunger strike, he was placed on house arrest on account of his declining health on 18 September 2020 and released on parole in July 2021.

In December 2021, Mr. Yagublu was detained at a peaceful protest in support of an imprisoned opposition activist.

In December 2022, Mr. Yagublu was arrested for protesting the imprisonment of another activist, convicted of administrative offenses, and sentenced to 30 days' imprisonment.

In 2016, 2020 and 2021, in three different cases brought by Mr. Yagublu and others against the Government, the European Court of Human Rights has concluded that the Government violated Mr. Yagublu's rights under the European Convention of Human Rights.

*Latest arrest and pre-trial detention on fraud and counterfeiting charges*

On 10 December 2023, Mr. Yagublu wrote on Facebook that "there is no free election environment and opportunity in the country," calling for a boycott of the upcoming election and to let President Ilham Aliyev "play and dance by himself." On 12 December 2023, he wrote again that President Aliyev "did not

create an opportunity for us, he took it away from us!”

On 14 December 2023, Mr. Yagublu was arrested as he was exiting a train in Baku. Two State security officers dressed in plainclothes took Mr. Yagublu to an office within the train station, seized his phone, and detained him there for approximately an hour or two before taking him to the local police station. At the police station, Mr. Yagublu was informed that he had been arrested for an alleged plot to provide fake documents to an individual to help him seek asylum in another country, in exchange for a large amount of cash. The same day, approximately 20 State security officers searched Mr. Yagublu’s home and claimed to have found Euros, U.S. Dollars and Azerbaijani Manat in his bed. Mr. Yagublu’s relatives or legal representatives were reportedly prevented from observing the officers during their search of her home.

On 15 December 2023, the court ordered that Mr. Yagublu be subject to four months of pre-trial detention, set to expire on 15 April 2024. Mr. Yagublu was unable to confer with his counsel prior and during the hearing. Further, he was forced to sit in a glass cage to prevent him from having private conversations with his counsel, thus having his right to a defence notably restricted.

On 21 December 2023, Mr. Yagublu’s counsel appealed this decision to the Baku Court of Appeals. The court rejected the appeal.

On 9 January 2024, Mr. Yagublu’s counsel petitioned for Mr. Yagublu’s pre-trial detention to be substituted with house arrest. This petition was summarily denied, and the court reportedly gave no specific reasons as to why Mr. Yagublu’s continued detention was necessary, concluding that Mr. Yagublu was likely to abscond, commit another crime, or interfere with the investigation.

On 17 January 2024, Mr. Yagublu’s counsel appealed the decision denying house arrest to the Baku Court of Appeals. The court rejected the appeal.

On 6 April 2024, the Narimonov District Court extended Mr. Yagublu’s pre-trial detention for another two months because of the need to “wait [...] for the result of the examination,” referring to the criminal investigation. Mr. Yagublu was again confined in a glass cage at this hearing, and his request to not be confined in the cage was again denied.

On 15 April 2024, Mr. Yagublu’s counsel appealed the decision extending his detention to the Baku Court of Appeals. The court rejected the appeal.

On 14 June 2024, Mr. Yagublu’s trial commenced. Mr. Yagublu continued to be confined to a glass cage during the first hearing day of his trial and the subsequent hearing on 21 June 2024.

In the indictment, the authorities charged Mr. Yagublu with fraud and counterfeiting an official document. Mr. Yagublu was accused of having conspired with another individual to receive payment from the alleged victim, with the promise of providing the latter with a visa to Germany. According to the indictment, the reported victim was told that Mr. Yagublu had the necessary connections abroad to accomplish this task and could arrange the

necessary papers, including forging two documents, for a sum of 25,000 Euros and 10,000 Azerbaijani Manat. The victim was reportedly alarmed when by the unlawful character of the reported transaction and denounced it to the police.

Mr. Yagublu has always denied the allegations, stating that they were made in retaliation for his political activism and that he was not acquainted with the alleged victim or his alleged accomplice.

Reportedly, the indictment provides no evidence of any correspondence between Mr. Yagublu and his alleged accomplice apart from some screenshots of video footage taken at three demonstrations in which they were both in attendance, which do not show any interactions between them.

As of the date of this letter, Mr. Yagublu remains in pre-trial detention.

While we do not wish to prejudge the accuracy of these allegations, we would like to express our serious concern in relation to the arrest and the pre-trial detention of Mr. Tofiq Yagublu and his prosecution, which appear to be directly linked to his human rights work, political activism and the exercise of his rights to freedom of expression and of peaceful assembly, including his criticism of the Government, particularly considering the prior pattern of legal harassment against Mr. Yagublu in response to such criticism. We also express concern with regards to the alleged breaches of due process and fair trial standards, including the restrictions to Mr. Yagublu's right to a defence, the alleged lack of basis for the imposition of pre-trial detention and the absence of evidence in the indictment proving the contact between Mr. Yagublu and his alleged co-conspirator. We express particular concern in relation to the repeated extension of his pre-trial detention and the apparently unjustified delays in the proceedings.

In connection with the above alleged facts and concerns, we would like to remind your Excellency's Government of its obligations to safeguard the right to liberty and security, the right to a fair trial, the right to freedom of opinion and expression and the independence of judges and lawyers enshrined in various international human rights instruments, including the International Covenant on Civil and Political Rights, acceded to by Azerbaijan on 13 August 1992. The above-mentioned allegations, if proved substantiated, could constitute breaches of articles 9, 14 and 19 of the ICCPR.

Moreover, we are gravely concerned about the resemblance of the allegations against Mr. Yagublu to cases recently brought to the attention of the Government, concerning criminal cases brought against other Government critics, including journalists, human rights defenders, activists and opposition figures, as communicated in AL AZE 3/2023, AL AZE 1/2024 and AL AZE 2/2024.

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 concerning the factual and legal basis for Mr. Yagublu's arrest, detention and judicial prosecution and indicate how this is compliant with international human rights norms and standards. Please indicate the steps taken to review and ensure that his detention and criminal charges brought against him are not related in any way with Mr. Yagublu's s Facebook posts and videos criticizing the Government in the days leading up to his arrest.
3. Please provide information concerning the basis for Mr. Yagublu's ongoing detention and how this is compliant with international human rights norms and standards.
4. Please indicate the measures that have been adopted to ensure that Mr. Yagublu is able to confidentially communicate with his counsel during the court appearances and his detention. Please indicate the measures taken to ensure that Mr. Yagublu is subjected to a fair trial in accordance with international standards.
5. Please indicate which evidence supports the allegation that Mr. Yagublu forged the alleged documents, was working with his alleged co-conspirator and in communication with the alleged victim.
6. Please indicate how this case differs from prior instances where the ECtHR concluded that Mr. Yagublu's prosecution had violated his rights due to insufficient evidence or non-compliance with fair trial guarantees.
7. Please indicate the measures taken to ensure that Azerbaijani citizens can exercise their right to freedom of expression, including criticizing the authorities, their policies or decisions, in enabling conditions of safety and free from fear of reprisals.

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.

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

Irene Khan

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

Gina Romero

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

Margaret Satterthwaite

Special Rapporteur on the independence of judges and lawyers

## 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 articles 9, 14, 19 and 21 and 221 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by Azerbaijan on 13 August 1992, which guarantee the rights to liberty and security of the person, not to be subjected to arbitrary arrest or detention, to be promptly informed of the reasons for the arrest and of any charges against him or her, to be brought promptly before a judge, to a fair trial within a reasonable time, as well as to freedom of expression and opinion, association and peaceful assembly respectively.

We would like to recall article 14(1) of the ICCPR, which sets out a general guarantee of equality before courts and tribunals and the right of every person to a fair and public hearing by a competent, independent and impartial tribunal established by law. In addition, article 14 of the ICCPR provides a set of contain procedural guarantees that must be made available to persons charged with a criminal offence, including the right of accused persons to have access to, and communicate with, a counsel of their own choosing. In its general comment No. 32 (2007), the Human Rights Committee explained that the right to communicate with counsel enshrined in article 14(3)(b) requires that the accused is granted prompt access to counsel. 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. He should also be able "to advise and to represent persons charged with a criminal offence in accordance with generally recognized professional ethics without restrictions, influence, pressure or undue interference from any quarter" (CCPR/C/GC/32, para. 34).

Article 19 of the ICCPR guarantees the right to freedom of opinion and the right to freedom of expression, which includes the right "to seek, receive and impart information and ideas of all kinds, either orally, in writing or in print, in the form of art, or through any other media". This right applies online as well as offline and includes not only the exchange of information that is favorable, but also that which may criticize, shock, or offend.

In its general comment No. 34, the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of expression, including "political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse," subject only to admissible restrictions as well as the prohibition of propaganda for hatred and incitement to hatred, violence and discrimination (CCPR/C/GC/34, para. 11).

The Human Rights Committee further asserts that there is a duty of States to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression (para. 23). Recognizing how journalists and persons who engage in the gathering and analysis of information on the human rights situation and who publish human rights-related reports, including judges and lawyers, are frequently subjected to threats, intimidation and attacks because of their activities, the Committee stresses that "all 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” (para. 23).

The UN Human Rights Committee has specifically held that “detention as punishment for the legitimate exercise of the rights as guaranteed by the [ICCPR] is arbitrary, including freedom of opinion and expression.”

We also wish to call Your Excellency’s attention to Human Rights Council resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms.

Any restriction on the right to freedom of expression must be compatible with the requirements set out in article 19(3) ICCPR. Under these requirements, restrictions must (i) be provided by law; (ii) pursue one of the legitimate aims for restriction, which are the respect of the rights or reputations of others and the protection of national security or of public order (*ordre public*), or of public health or morals; and (iii) be necessary and proportionate for those objectives. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant, proving “in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat” (CCPR/C/GC/34, para. 35). The Human Rights Committee recalled that the relation between right and restriction and between norm and exception must not be reversed.

Article 20(2) ICCPR prescribes that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law. Yet, this prohibition, that may entail restrictions of free expression, has a high threshold as it requires the fulfilment of three components: a) advocacy of hatred; b) advocacy which constitutes incitement and c) incitement likely to result in discrimination, hostility or violence (A/67/357, para. 43).

Article 21 of the ICCPR guarantees the right to peaceful assembly. This article also states that “no restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. Moreover, we refer to Human Rights Council resolution 24/5 of 2013 which reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, as well as to ensure that any restrictions on these are in accordance with their obligations under international human rights law.

The Human Rights Committee has confirmed that article 21 ‘protects peaceful assemblies wherever they take place: outdoors, indoors and online; in public and private spaces; or a combination thereof. Such assemblies may take many forms, including demonstrations, protests, meetings, processions, rallies, sit-ins, candlelit vigils and flash mobs’ (CCPR/C/GC/37, para. 6). Restrictions on peaceful assemblies must not be used, explicitly or implicitly, to stifle expression of political opposition to a government, challenges to authority, including calls for democratic changes of government, the constitution or the political system, or the pursuit of self-

determination. (CCPR/C/MDG/CO/4, para. 51). They should not be used to prohibit insults to the honour and reputation of officials or State organs” (CCPR/C/GC/37, para. 49).

Article 22 of the ICCPR protects the right to freedom of association, including civil society associations and political parties. The right to freedom of peaceful assembly and of association are pertinent to the democratic process, both during the election period and between elections. These rights are essential components of democracy since they empower women, men and youth to “express their political opinions, engage in literary and artistic pursuits and other cultural, economic and social activities, engage in religious observances or other beliefs, form and join trade unions and cooperatives, and elect leaders to represent their interests and hold them accountable” (A/HRC/RES/15/21; A/68/299, para. 5).