



Ongoing judicial harassment against Ms. Leyla Yunus

New information

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Judicial harassment

Azerbaijan

January 26, 2009

The Observatory for the Protection of Human Rights Defenders, a joint programme of the World Organisation Against Torture (OMCT) and the International Federation for Human Rights (FIDH), has received new information and requests your urgent intervention in the following situation in Azerbaijan.

New information:

The Observatory has been informed by reliable sources about the ongoing judicial harassment against Ms. **Leyla Yunus**, Director of the Institute for Peace and Democracy in Azerbaijan, for slanderous statements causing “moral damage” and “attacking honour and dignity” of the police and of the Interior Minister.

According to the information received, on January 26, 2009, at 10.00 a.m., the preliminary hearing in the lawsuit lodged by Interior Minister Ramil Usubov against Ms. Leyla Yunus continued in the Nasimi District Court of Baku, under the chairmanship of Judge Shahin Abdullayev, who read the decision about transferring the lawsuit of Minister Interior Usubov against Ms. Leyla Yunus to the Jasamal District Court of Baku. As of issuing this urgent appeal, no information could be obtained as to whether a date was set for the next hearing.

During the previous hearing on January 23, 2009, the Judge Shahin Abdullayev of the Nasimi District Court infringed the right to a public hearing in the course of the preparatory trial on the suit of Interior Minister Ramil Usubov against Ms. Leyla Yunus. Indeed, the judge and then officials of the court demanded for 50 minutes that the attendees abandon the court room stating the lack of seats for all wishing to observe the trial. A small room of the Nasimi District Court was half filled with police officers in citizens' clothes. As a result, out of 60-70 people (mass media, NGOs and international observers) who had come to the trial, no more than 20 ones were able to sit down in the room. This violates Article 6.1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, to which the Republic of Azerbaijan is a party, which provides that “[i]n the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and

public hearing within a reasonable time by an independent and impartial tribunal established by law”. The trial then lasted for at most 10 minutes and the judge stated that the next hearing was to be held on January 26 at 10.00 a.m.

The Observatory expresses its deepest concern over the complaint brought by the Interior Minister against Ms. Yunus, and believes that this only aims at sanctioning her activities of denunciation of unfair trials and abuses committed by police officers and other officials pertaining to the Interior Ministry.

The Observatory is all the more concerned that the accusations were filed by Mr. Usubov against Ms. Yunus two days after the judge finally called Mr. Huseynov to appear, and fears that such accusations might be aimed at influencing the decision of the judge regarding Mr. Huseynov's involvement in the case of the two girls kidnapped in 2005.

The Observatory points out that in the run-up to the elections at the United Nations Human Rights Council in 2006, Azerbaijan had declared that “protection and promotion of human rights [were] a priority of its internal and foreign policy agenda” and “that the rule of law, democracy and protection and promotion of human rights and main freedoms [were] key pillars for the national development”^[1].

The Observatory further calls upon the Commissioner for Human Rights of the Council of Europe (CoE) to act in accordance with OP 4 of the CoE Declaration on Human Rights Defenders^[2] so that the rights of Ms. Yunus be effectively guaranteed, and to urge the Republic of Azerbaijan to comply with its duties under the terms of the Declaration and to abide by Article 10 of the European Convention on Human Rights regarding freedom of expression.

The Observatory also urges the European Commission Delegation as well as European Union (EU) Member-States embassies in Azerbaijan to urge the authorities of Azerbaijan to comply with the relevant international norms and standards, to report on all breaches of human rights standards, and to attend the next hearing on Ms. Yunus' case, in line with the EU Guidelines on Human Rights Defenders.

Background information:

On December 13, 2008, Interior Minister Ramil Usubov accused Ms. Leyla Yunus of slander causing “moral damage” and “attacking honour and dignity” of the police and himself. Ms. Yunus' trial before the Nasiminsk Court in Baku, initially scheduled on January 13, 2009, will now take place on January 23 at 3.00 p.m.

The accusations filed by Mr. Usubov on December 13, 2008 were made on the basis of an interview given by Ms. Yunus to the Day.az online news provider on December 3, 2008, in which she pointed out that in the framework of the ongoing trial against Mr. Tavakul Ismailov, one of the alleged kidnappers of two girls in 2005, the latter declared that he had handed over the girls to the head of a local police department, Mr. Mamedmusa Huseynov, for human trafficking purposes, and further asserted that he was tortured while in detention. In the interview, Ms. Yunus denounced the fact that the persons accused by Mr. Ismailov were not called to appear in court by the judge, and asserted more generally

that “in most cases the courts in Azerbaijan are issuing illegal and unwarranted decisions in relation to the protection of human rights and fundamental freedoms”.

In the said interview, Ms. Yunus added that she had followed a prior case of kidnapping, in which several officials of the Interior Ministry had been found guilty and sentenced to firm imprisonment, and compared the practices of the Azerbaijani police to those of Mexico and Nigeria.

Mr. Usubov claims 100,000 AZN (about 94,088 Euros) in compensation for moral damages, for violation of Articles 4, 149 and 150 of the Civil Procedural Code of the Azerbaijani Republic, the Articles 23.4 and 23.6 of the Civil Code and Article 44 of the Law of the Azerbaijani Republic on “Mass Media Sources”.

Actions requested:

Please write to the authorities in Azerbaijan, urging them to:

0. Guarantee in all circumstances the physical and psychological integrity of Ms. Leyla Yunus;
0. Put an end to any kind of judicial and other forms of harassment against Ms. Leyla Yunus as well as against all human rights defenders in Azerbaijan;
0. Conform with the provisions of the UN Declaration on Human Rights Defenders, adopted by the General Assembly of the United Nations on December 9, 1998, especially its Article 1, which states that “everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels”, its Article 6.b, which provides that “everyone has the right, individually and in association with others [...] freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms”, as well as its Article 12.2, which provides that the State shall “take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, 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 his or her rights”;
0. Ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments ratified by Azerbaijan.

Addresses:

- Mr. Ilham Aliyev, President of the Republic of Azerbaijan, Office of the President of the Republic of Azerbaijan, 19 Istiqlaliyyat St., Baku AZ1066, Azerbaijan, Fax: +994 12 492 06 25, +994 412 92 28 68, E-mail: office@apparat.gov.az, president@gov.az, root@lider.baku.az
- Prosecutor's Office, 7 Nigar Rafibeyli St., Baku, Azerbaijan, Fax: +994 12 492 06 82, +994 12 492 26 63, E-mail: prosec@azeri.com
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- Minister of Internal Affairs of the Azerbaijani Republic, Lt.-Gen. Ramil Usubov, Fax: + 994 12 492 45 90
- Permanent Mission of Azerbaijan, Rue de Lausanne 67, CH-1202, Genève, Suisse, e-mail : az.mission.unog@iprolink.ch, fax: +4122 901 18 44
- Minister of Justice in Azerbaijan, Prospekt Stroitelej, 1 Baku Azerbaijan, e-mail: contact@justice.gov.az, Tel (99412) 430 01 16, Fax (99412) 430 09 81
- Azerbaijani Embassy in Brussels, Avenue Moliere, 464, 1050 Brussels, Belgium, Tel: +32 2 345 26 60, Fax: +32 2 345 91 85

Please also write to the diplomatic mission or embassy of Azerbaijan in your respective country as well as to the EU diplomatic missions or embassies in Azerbaijan.

Geneva - Paris, January 26, 2009

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

The Observatory, a FIDH and OMCT venture, is dedicated to the protection of Human Rights Defenders and aims to offer them concrete support in their time of need. The Observatory was the winner of the 1998 Human Rights Prize of the French Republic.

To contact the Observatory, call the emergency line:

E-mail: Appeals@fidh-omct.org

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[1] See <http://www.un.org/ga/60/elect/hrc/azerbaijan.pdf>.

[2] See Declaration of the Committee of Ministers of the Council of Europe for enhanced protection of human rights defenders, adopted on February 6, 2008.