



Permanent Representatives to the Council of Europe
Council of Europe
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15 September 2017

Support ECHR article 46.4 infringement proceedings against Azerbaijan in the case of Ilgar Mammadov

Permanent Representatives to the Council of Europe,

The Norwegian Helsinki Committee welcomes efforts by Torbjorn Jagland, the Secretary General of the Council of Europe (COE) to ensure the release of the Azerbaijani political activist and prisoner of conscience Ilgar Mammadov. Jagland initiated an inquiry in 2015 under his special powers granted by Article 52 of the European Convention on Human Rights (ECHR). Recently he called on the member states of the Council of Europe to support an “infringement procedure” against Azerbaijan under ECHR Article 46.4.

With this letter, we ask you to support the initiative of the Secretary General. The Committee of Ministers, and indeed the Council of Europe as such, will face serious questions to its credibility if it fails to act in the case. The Norwegian Helsinki Committee urges you to support the Secretary General’s call and initiate an ECHR Article 46.4 procedure.

Mammadov is serving his fifth year in prison on trumped up charges of inciting mass violence. He was arrested in February 2013 after traveling to the northern Azerbaijani city of Ismayili to observe and report on riots. He was sentenced to seven years in prison.

The Azerbaijani authorities have refused Mammadov’s release despite a 2014 ruling by the European Court of Human Rights (ECtHR), which concluded that his arrest and prosecution violated the ECHR. The ruling held that there had been no evidence of him having committed a crime. The purpose of his detention had rather been to silence or punish him for criticising the government.¹

¹ Ilgar Mammadov v. Azerbaijan (Application No. 15172/13), 22 May 2014, available at <http://hudoc.echr.coe.int/eng?i=001-144124>

Following the Court's binding judgment; the Committee of Ministers has continuously demanded Mammadov's release. Instead, Azerbaijan refuses his release, disregarding a binding judgement by the ECtHR and its ECHR obligations.²

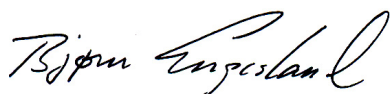
In December 2016, the Committee of Ministers reiterated that it is not acceptable that "an individual remains deprived of his liberty on the basis of proceedings carried out in violation of the Convention in order to punish him for having criticised the government and that, in consequence, the continuing arbitrary detention of Ilgar Mammadov constitutes a flagrant breach of the obligations under Article 46, paragraph 1 of the Convention", which obliges the country to "abide by the final judgment of the Court".

The Committee affirmed its determination to ensure the release of Mammadov by considering using all the means at the disposal of the Council of Europe, including under Article 46.4 of the ECHR.

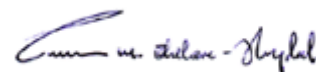
Mammadov's case is not unique, as Azerbaijani authorities have arbitrarily imprisoned many others for political reasons. In the case of the human rights defender, Rasul Jafarov, the ECtHR equally found a violation of ECHR Article 18 in conjunction with Article 5. The court held that he was deprived of his liberty because of his activities in the area of human rights.³ Rasul Jafarov was released; however, the criminal convictions against him have not been quashed.

Azerbaijani and international human rights organizations have documented systemic abuse of the criminal justice system by the Azerbaijani authorities to silence critics and opponents. The ECHR ruling in Mammadov's case is therefore important not only for restoring justice in the Mammadov case. It also points to the need for Azerbaijan to initiate comprehensive reforms in order to *de-politicise* its criminal justice system and abide with fundamental obligations as a party to the ECHR.

Sincerely yours,



Bjørn Engesland
Secretary General



Gunnar M. Ekelove-Slydal
Deputy Secretary General

²Decision of the Committee of Ministers DH-DD(2016)1296: 1273rd meeting, 6-8 December 2016:

https://search.coe.int/cm/pages/result_details.aspx?objectid=09000016806c4554

³Rasul Jafarov v. Azerbaijan, (application no. 69981/14), 17 March 2016, available at

<http://hudoc.echr.coe.int/eng?i=001-161416>