



Azerbaijan: Time for Justice for Ilgar Mammadov

The Council of Europe's Legitimacy at Stake over Azerbaijan's Persistent Non-compliance with European Court Judgment

22 May 2017

Today three years have passed since the European Court of Human Rights (ECtHR) delivered its judgment on the case of political prisoner Ilgar Mammadov, concluding that the Azerbaijani authorities had detained him to punish him for his criticism of the government. In spite of this ruling, and repeated calls for his release by Council of Europe bodies in follow-up to the ruling, the Azerbaijani authorities have persistently refused to execute the decision of the Court and free Ilgar Mammadov. In view of this, we, members of the Civic Solidarity Platform and the Sports for Rights Coalition call on the Committee of Ministers of the Council of Europe to refer the case back to the ECtHR on the grounds of non-execution of the judgment. This is crucial to ensure justice for this wrongly imprisoned government critic, who has already spent more than four years behind bars, as well as to safeguard the legitimacy of the Council of Europe as the guardian of human rights and the rule of law in the region.

Ilgar Mammadov, chair of the political opposition REAL party, was a well-known opponent of the regime when he was arbitrarily detained in February 2013. He attempted to stand in the 2013 presidential elections, gathering the required 40 000 signatures in support of his candidacy, which, the Central Election Commission ruled as invalid.¹ He was also outspoken in his criticism of the policies of the authorities on his blog and in the media. Ilgar Mammadov was detained after monitoring and reporting on street protests in the town of Ismayilli in January 2013, which resulted in clashes with the police. He did not participate in these protests, but travelled to the region after they took place to observe developments and revealed the role of individuals with ties to the authorities in initiating the clashes. In spite of the lack of evidence Ilgar Mammadov was accused of instigating the Ismayilli clashes and on 17 March 2014, he was sentenced to seven years in prison on trumped-up charges of “organizing mass riots” and using “violence against police officers”. His sentence was upheld on appeal.

In a judgment issued on 22 May 2014, the ECtHR found that Ilgar Mammadov’s arrest and detention violated numerous provisions of the European Convention on Human Rights, including articles 5.1, 5.4 and 6.2 on the right to liberty and security, the right to judicial review of one’s detention and the principle of presumption of innocence, as well as article 18 that limits the applicability of restrictions on rights. The Court concluded that Ilgar Mammadov had been detained without any evidence to reasonably suspect him of having committed a crime and that the actual purpose of his detention was to silence and punish him for criticizing the government and publishing information it was trying to hide.²

In its follow-up to the ECtHR's ruling, the Committee of Ministers of the Council of Europe -- the body responsible for supervising the execution of ECtHR judgements -- has repeatedly called on the Azerbaijani authorities to release Ilgar Mammadov. The Committee has examined this case as a matter of priority in its review of the execution of ECtHR judgments by Council of Europe member states and adopted a number of decisions and interim resolutions on it.³

Other Council of Europe bodies, including the organization's Secretary General, its Human Rights Commissioner and the President of its Parliamentary Assembly have also repeatedly called for Ilgar Mammadov to be released. However, the Azerbaijani authorities have flagrantly ignored these calls and refused to implement the ECtHR's judgment and release Mammadov.

In view of the continued failure of the Azerbaijani authorities to implement the ECtHR's decision on Ilgar Mammadov's case, the Council of Europe's Secretary General Thorbjørn Jagland launched an official inquiry into Azerbaijan's implementation of the European Convention on Human Rights in December 2015.⁴ Under article 52 of the Convention, the Secretary General may initiate an inquiry into how the domestic law of member states ensures the effective implementation of the Convention. This was the first time that Secretary General Jagland had taken such a measure and his initiative was welcome and important.

However, in November 2016, Azerbaijan's Supreme Court nevertheless rejected an appeal submitted by Ilgar Mammadov on the basis of the ECtHR ruling and upheld his seven-year prison sentence. Thus, Ilgar Mammadov remains behind bars for no other reason than speaking out critically about those in power. This continued defiance by the Azerbaijani authorities leads us to conclude that further action is urgently required.

Therefore, we call on the Committee of Ministers to refer the case back to the ECtHR under article 46.1 of the European Convention on Human Rights, which obliges the parties to the Convention to abide by the final judgment of the Court in any case to which they are parties. The Convention authorizes the Committee to take action to this end. Article 46.4 states: "If the Committee of Ministers considers that a High Contracting Party refuses to abide by a final judgment in a case to which it is a party, it may, after serving formal notice on that Party and by decision adopted by a majority vote of two-thirds of the representatives entitled to sit on the committee, refer to the Court the question whether that Party has failed to fulfil its obligation under paragraph 1."

Ilgar Mammadov v. Azerbaijan has become a test case of the legitimacy of the Council of Europe. When commenting on the Supreme Court's failure to uphold Azerbaijan's obligation to execute the ECtHR judgment last year, Secretary General Jagland stated: "Azerbaijan's flagrant disrespect of the European Convention on Human Rights undermines the entire scope of our cooperation" [and] "affects the 46 Member States of the Council of Europe who have a collective responsibility for the implementation of the Convention".⁵

By resorting to the ultimate mechanism for addressing non-compliance of judgments set out by the European Convention on Human Rights, the Committee of Ministers can take resolute action to safeguard the Council of Europe's integrity and ensure that the Azerbaijani authorities finally abide by their obligations under the Convention, implement the ECtHR ruling and free Ilgar Mammadov.

Signed by the following members of the Civic Solidarity Platform and the Sport for Rights Coalition:

1. Association of Ukrainian Human Rights Monitors on Law Enforcement (UMDPL, Ukraine)
2. Barys Zvozkau Belarusian Human Rights House
3. Bir Duino-Kyrgyzstan
4. Bulgarian Helsinki Committee
5. Center for Civil Liberties (Ukraine)
6. Center for Participation and Development (Georgia)
7. Center for Regional Strategic Studies (Azerbaijan)
8. Center for the Development of Democracy and Human Rights (Russia)
9. Civil Rights Defenders (Sweden)
10. Committee Against Torture (Russia)
11. Crude Accountability (USA)
12. Fair Trials (UK)
13. International Federation for Human Rights (FIDH, France)
14. Freedom Files (Poland)
15. Freedom House (USA)
16. Freedom Now (USA)
17. Helsinki Foundation for Human Rights (Poland)
18. Human Rights Center of Azerbaijan
19. Human Rights Club (Azerbaijan)
20. Human Rights Monitoring Institute (Lithuania)
21. Humanrights.ch (Switzerland)
22. IDP Women Association "Consent" (Georgia)
23. Index on Censorship (UK)
24. Institute for Reporters Freedom and Safety (Azerbaijan)
25. Institute Respublica (Ukraine)
26. International Partnership for Human Rights (IPHR, Belgium)
27. Kazakhstan International Bureau for Human Rights and the Rule of Law
28. Kosova Rehabilitation Centre for Torture Victims
29. Libereco - Partnership for Human Rights (Germany)
30. Moscow Helsinki Group (Russia)
31. Netherlands Helsinki Committee
32. Norwegian Helsinki Committee
33. Notabene (Tajikistan)
34. PEN America (USA)
35. PEN International
36. Promo LEX Association (Moldova)
37. Public Alternative (Ukraine)
38. Public Association "Dignity" (Kazakhstan)
39. Public Verdict Foundation (Russia)
40. Swedish OSCE Network: signed in personal capacity by Olof Kleberg and Anki Wetterhall
41. Truth Hounds (Ukraine)
42. Ukrainian Helsinki Human Rights Union
43. Women of the Don (Russia)
44. World Organisation Against Torture (OMCT) (Switzerland)

¹ In several rulings against Azerbaijan, the ECtHR has found that the practices of the Central Election Commission with respect to the validation of signatures violate Article 3 of Protocol No. 1 to the European Convention on Human Rights, which protects the right to free elections.

² The judgment is available at: <http://hudoc.echr.coe.int/eng?i=001-144124>

³ The most recent decision on this case adopted by the Committee of Ministers is available at: <https://rm.coe.int/16806c4554>

⁴ See press release at: https://www.coe.int/en/web/secretary-general/news/-/asset_publisher/EYIBJNjXtA5U/content/secretary-general-launches-inquiry-into-respect-for-human-rights-in-azerbaijan/16695?inheritRedirect=false&redirect=http%3A%2F%2Fwww.coe.int%2Fen%2Fweb%2Fsecretary-general%2Fnews%3Fp_id%3D101_INSTANCE_EYIBJNjXtA5U%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-4%26p_p_col_count%3D1

⁵ His statement is available at: <https://www.coe.int/en/web/portal/-/azerbaijan-statement-by-secretary-general-jagland-on-the-decision-of-the-supreme-court-today-rejecting-the-appeal-by-ilgar-mammadov>