

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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Azerbaijan: Ruling by the European Court of Human Rights on non-compliance with its previous judgment sets an important precedent

Amnesty International welcomes the 29 May decision by the Grand Chamber of the European Court of Human Rights (the Court) that Azerbaijan had failed to fulfil its obligation to comply with the Court's 2014 ruling in the case of opposition leader Ilgar Mammadov. This judgment underscores that Azerbaijan must end prosecution and incarceration of government opponents and human rights defenders under trumped-up charges, and ensure release, acquittal and reparation for all victims of such violations.

The decision is a part of the infringement proceedings initiated by the Committee of Ministers of the Council of Europe against Azerbaijan in 2017. The infringement proceedings were introduced due to Azerbaijan's refusal to respect the 2014 judgment of the Court, by failing to promptly and unconditionally release a prominent Azerbaijani opposition leader and prisoner of conscience, Ilgar Mammadov.

In today's decision, the Court stressed that the Azerbaijani authorities kept Ilgar Mammadov behind bars for four more years since its 2014 ruling. The Court's 2014 ruling found that Azerbaijan had violated the rights of Ilgar Mammadov and that the actual purpose of his arrest had been to punish him for criticising the government. The Court also emphasised that, when eventually released in 2018, Ilgar Mammadov was not released unconditionally. Importantly, the Court found that the limited and belated steps taken by Azerbaijan to implement its first judgment "did not permit the Court to conclude that Azerbaijan had acted in 'good faith' in a manner compatible with the 'conclusions and spirit' of the judgment, or in a way which had provided practical and effective protection for the Convention rights found to have been violated".

Ilgar Mammadov's case is the first time that infringement proceedings have been initiated by the Committee of Ministers under Article 46.4 of the European Convention on Human Rights, and the first time that the Court ruled on a failure by a Council of Europe member state to implement its binding judgment. Today's decision is a momentous precedent not only for protecting human rights in Azerbaijan, but also for strengthening human rights and ensuring accountability for their violation in the larger Council of Europe region.

Amnesty International urges the Committee of Ministers of the Council of Europe to call

on Azerbaijan to urgently implement the judgment of the Court by: ensuring that Ilgar Mammadov has access to effective and prompt legal remedies, including for the purpose of his acquittal in fair trial proceedings, and is able to fully exercise all his human rights; and providing Ilgar Mammadov with adequate reparation and rehabilitation for the suffering incurred, including but not limited to, financial compensation and effective guarantees of non-repetition.

Background

Ilgar Mammadov, the leader of the opposition group Real, was arrested in February 2013 after he, together with his colleague, journalist Tofiq Yagublu, travelled to the northern Azerbaijani city of Ismayili on 23- 24 January 2013, to observe demonstrations and riots that were taking place there at the time.

In March 2014, the Shaki Court of Grave Crimes in Azerbaijan found the two men guilty of inciting mass violence and sentenced Ilgar Mammadov to seven years and Tofiq Yagublu to five years in prison. Amnesty International recognised Ilgar Mammadov and Tofiq Yagublu as prisoners of conscience, since they were deprived of liberty solely for the peaceful exercise of their human rights.

On 22 May 2014, the ECHR ruled that Azerbaijan violated the rights of Ilgar Mammadov under articles 5.1 and 5.4 (right to liberty), 6.2 (presumption of innocence) and 18 (limitation on use of restrictions on rights) of the European Convention on Human Rights.¹ On 5 November 2015, the Court issued a separate ruling in the case of Tofiq Yagublu also finding a violation of Article 5.² Tofiq Yagublu was released in March 2016 under a presidential pardon order.

On 13 September 2017, the Secretary General of the Council of Europe called on member states to support an article 46.4 ECHR infringement procedure against Azerbaijan. On 25 October 2017, the Committee of Ministers adopted an interim resolution, giving Azerbaijan formal notice of the Committee's intention to bring the question of whether Azerbaijan has failed to fulfil its obligation to "abide by the final judgment of the Court" before the ECHR.

On 16 November 2017, the European Court of Human Rights passed another judgment on the case of Ilgar Mammadov. This time the Court found a violation of the right to a fair trial during Ilgar Mammadov's court proceedings in Azerbaijan.³

On 7 December 2017, the Committee of Ministers of the Council of Europe launched infringement proceedings against Azerbaijan. It was the first time in the Council of

¹ Ilgar Mammadov v. Azerbaijan (Application No. 15172/13)

² Yagublu v. Azerbaijan (application no. 31709/13)

³ Ilgar Mammadov v. Azerbaijan (no. 2) (application no. 919/15)

Europe's history that the organization has used this procedure.

In August 2018, a court in Azerbaijani released Ilgar Mammadov after five years behind bars and handed him a two-year suspended sentence with a travel ban. In March 2019, the Supreme Court of Azerbaijan found Ilgar Mammadov had served his time in full and set aside the probation order and other conditions on his release.