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Meeting: 1411th meeting (September 2021) (DH)

Communication from the applicant (07/06/2021) in the cases of Khadija Ismayilova v. Azerbaijan (No. 2) (Mammadli group) and Khadija Ismayilova v. Azerbaijan (Applications No. 30778/15, 65286/13).

Information made available under Rule 9.1 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1411^e réunion (septembre 2021) (DH)

Communication du requérant (07/06/2021) relative aux affaires Khadija Ismayilova c. Azerbaïdjan (n° 2) (groupe Mammadli) et Khadija Ismayilova c. Azerbaïdjan (requêtes n° 30778/15, 65286/13) **[anglais uniquement]**

Informations mises à disposition en vertu de la Règle 9.1 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.



DGI

07 JUIN 2021

SERVICE DE L'EXECUTION
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To:

Directorate General of Human Rights and Rule of Law
Department for the Execution of Judgments of the ECHR
F-67075 Strasbourg Cedex
France

Sent by email
3 June 2021

Submissions pursuant to Rule 9(1) of the Committee of Ministers' Rules for the Supervision of the Execution of Judgments in relation to Khadija Ismayilova

Dear Sir/Madam,

I represent the applicant, Ms Ismayilova, in *Khadija Ismayilova v Azerbaijan*¹ and *Khadija Ismayilova v Azerbaijan (No. 2)*.² The Court published its decision in the first mentioned case on 10 January 2019 and in the second mentioned case on 27 February 2020.

I also represent Ms Ismayilova in two further applications currently pending before the Court: application no. 71556/16 (filed 22 November 2016) and application no. 8410/20 (filed 7 February 2020), the relevant details of which are set out below.

Despite the Court's clear vindication of her rights in *Khadija Ismayilova v Azerbaijan (No. 2)*, Ms Ismayilova continues to be subject to serious persecution as a result of her work as a journalist. Azerbaijan has refused to annul her conviction on the baseless charges of tax evasion and illegal entrepreneurship. In fact, authorities have used that conviction to subject Ms Ismayilova to further financial persecution. The government's communication of 25 May 2021 merely affirms this state of affairs.

I. Bank freezes; alleged tax debt; application no. 8410/20 currently pending before the Court

In its communication of 25 May 2021, the government of Azerbaijan states that the orders freezing Ms Ismayilova's bank accounts have been lifted, following the payment of a debt which Ms Ismayilova allegedly owed.

That debt is the subject of application no. 8410/20, currently pending before the Court. It arose through civil enforcement proceedings initiated against Ms Ismayilova as a result of her

¹ 65286/13, 57270/14 (10 January 2019).

² 30778/15 (27 February 2020).

conviction for tax evasion and illegal entrepreneurship. Ms Ismayilova was ultimately ordered to pay AZM 45,145.63 as an outstanding tax liability, plus accruing interest.³ Her personal bank accounts with Kapital Bank, Azerigasbank and the International Bank of Azerbaijan were frozen as security.⁴

In *Khadija Ismayilova v Azerbaijan (No. 2)*, the Court held that there was no reasonable suspicion to support her arrest in connection with those proceedings, in violation of Article 5. Further, it held that Ms Ismayilova's arrest and pre-trial detention was "driven by improper reasons and that the actual purpose of the impugned measures was to silence and to punish the applicant for her journalistic activities", in violation of Article 18 in conjunction with Article 5.⁵

Despite that judgment, the government of Azerbaijan has continued to pursue and enforce the tax liability allegedly owed by Ms Ismayilova as a result of her conviction. By its own admission, it has now deducted that liability (plus interest) from her accounts. This merely illustrates her ongoing persecution at the hands of the authorities. Ms Ismayilova has not only been subjected to lengthy civil enforcement proceedings and unjustified asset freezes. Azerbaijan has now also enforced a significant debt obligation against her that is without foundation and directly contrary to the Court's judgment of 27 February 2020.

II. Travel ban

By its communication dated 25 May 2021, the government of Azerbaijan states that the travel ban imposed on Ms Ismayilova has been lifted, after the five-year probationary period expired on 25 May 2021.

Ms Ismayilova was subject to a five-year travel restriction following her conditional release from prison on 25 May 2016. Despite its expiration, Ms Ismayilova has not been provided with full reparation for the violations found by the Court, which would put her in the position in which she was before her arrest. During the preceding five years, Ms Ismayilova has been unable to travel abroad to seek medical treatment or for work. Her conviction remains in place. As outlined above, that conviction gave rise to civil enforcement proceedings. Ms Ismayilova has now had to pay a significant debt and been unable to access her personal bank accounts for well over two years.

³ The Baku City Local Revenues Department of the Ministry of Taxes filed a claim against Ms Ismayilova on 8 November 2017, seeking to enforce her conviction for tax evasion and illegal entrepreneurship upheld by the Supreme Court on 25 May 2016. On 21 December 2018, the Baku Administrative Court held Ms Ismayilova liable to pay AZM 45,145.63 in outstanding taxes. Ms Ismayilova appealed that order first to the Baku Court of Appeal and subsequently to the Supreme Court. The Supreme Court upheld the liability on 7 August 2019.

⁴ Those orders were granted on 7 November 2017, 28 November 2018 and 4 December 2018 respectively.

⁵ At 119; in addition, the Court also held that there was a violation of Articles 5(4) and 6(2).



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The Court's judgment of 27 February 2020 makes it clear that her conviction was based on procedural errors or shortcomings of such gravity that serious doubt is cast on the legitimacy of her conviction.

III. Just satisfaction

In both of its judgments, the Court has ordered Azerbaijan to pay Ms Ismayilova's damages and expenses:

- In *Khadija Ismayilova v Azerbaijan*, the Court ordered the government to pay EUR 15,000, plus any chargeable tax, in respect of non-pecuniary damage, and EUR 1,750, plus any chargeable tax, in respect of costs and expenses. That judgment became final on 10 April 2019 such that payment was due by 10 July 2019.
- In *Khadija Ismayilova v Azerbaijan (No. 2)*, the Court ordered the government to pay EUR 20,000, plus any chargeable tax, in respect of non-pecuniary damage, and EUR 5,000, plus any chargeable tax, in respect of costs and expenses. The Court's judgment became final on 27 May 2020 such that payment was due by 27 August 2020.

Ms Ismayilova is only aware of having received a single payment of EUR 9,000. All other monies remain outstanding. As such, the government is still required to pay the remaining sums due, together with interest.

I remain at the Department's disposal should any additional information be required.

Yours faithfully,

A handwritten signature in black ink, appearing to read "P. Hughes".

Padraig Hughes
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