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Meeting: 1419th meeting (December 2021) (DH)

Communication from an NGO (International Partnership for Human Rights) (28/10/2021) in the cases of MURADOVA, MAMMADOV (JALALOGLU) and MIKAYIL MAMMADOV v. Azerbaijan (Applications No. 22684/05, 34445/04, 4762/05).

Information made available under Rule 9.2 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 : 1419^e réunion (décembre 2021) (DH)

Communication d'une ONG (International Partnership for Human Rights) (28/10/2021) relative aux affaires MURADOVA, MAMMADOV (JALALOGLU) et MIKAYIL MAMMADOV c. Azerbaïdjan (requêtes n° 22684/05, 34445/04, 4762/05) **[anglais uniquement]**.

Informations mises à disposition en vertu de la Règle 9.2 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

**Submission by International Partnership for Human Rights
pursuant to Rule 9(2) of the Committee of Ministers' Rules
for the Supervision of the Execution of Judgments**

in

**the Muradova, Mammadov (Jalaloglu) and Mikayil
Mammadov groups v. Azerbaijan**

To:

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From:

International Partnership for Human Rights (IPHR)
Rue Belliard 205
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28 October, 2021

International Partnership for Human Rights (IPHR) wishes to present Rule 9(2) submission to the Committee of Ministers of the Council of Europe in respect of the implementation of judgments in the *Muradova, Mammadov (Jalaloglu) and Mikayil Mammadov groups v. Azerbaijan*.

Please, find enclosed the submission. Should you require additional information about the provided submission, please, do not hesitate to contact us.

Sincerely,

Simon Papuashvili
Programme Director
International Partnership for Human Rights

ბ. მამუაშვილი

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I. Introduction

These submissions by the International Partnership for Human Rights (IPHR) are made in response to the Government's Updated Information provided to the Committee of Ministers (CM) on 31 August 2020. The Government's submissions focus on the recent and projected legislative amendments relating to prevention of ill-treatment and torture by law enforcement agents, and to improvement of investigations into such allegations. It also reports on the implementation of recommendations of the European Committee for the Prevention of Torture (CPT) in Azerbaijan.

The IPHR submissions provide an assessment of the Government's reported measures taken so far, with a particular focus on legislative amendments, limited access to victims in cases of ill-treatment and torture, and information on such allegations, and the failure to effectively investigate and prosecute those responsible. It provides latest examples of cases of reported ill-treatment and torture by victims, including in politically or otherwise sensitive cases in the country.

IPHR invites the CM to read these submissions together with IPHR's earlier submissions of 21 April 2020 made in this group of cases.

II. Legislative amendments and its implementation in practice

In its Updated Information, the Government reports on a number of proposed and/or adopted legislative amendments relating to prevention of ill-treatment and torture, and investigations of such cases (see the first section of the Government's updated information). IPHR submits its specific comments on the following reported issues:

A. PROPOSED AND ADOPTED AMENDMENTS RELATING TO INVESTIGATION OF AND ACCOUNTABILITY FOR ILL-TREATMENT AND TORTURE INCIDENTS

In its Updated Information, the Government reports on a number of proposed amendments to the Criminal Procedure Code (CPC) aimed to increase the responsibility of law enforcement agencies. It includes some significant changes to the CPC with regard to investigation of ill-treatment and torture allegations, such as the immediate opening of a criminal case upon receipt of an application regarding use of ill-treatment and torture, and the conduct of investigation by a higher prosecutor who does not exercise procedural control over the criminal case. Such amendments would also establish the authorities' burden of proof of such complaints. Further to the proposed amendments, the Updated Information refers to a number of already existing provisions establishing fundamental principles relating to prohibition of ill-treatment and torture, such the prohibition of use of ill-treatment or torture during the criminal proceedings (Article 15 of the CPC) or the prohibition to use information obtained through use of violence, intimidation, deception, ill-treatment and torture as evidence (Article 125 of CPC).

Although all the mentioned provisions refer to fundamental principles relating to prohibition of ill-treatment and torture, it is not clear how they relate to the issue of increased responsibility of law enforcement agencies as one of the most acute issues relating to ill-treatment and torture in Azerbaijan. Furthermore, none of the proposed amendments have been published or otherwise available to the public to date, as a result of which no public oversight is possible. No public consultations have been held with the civil society or independent experts on such significant structural problems of high public

interest, as the widespread practice of ill-treatment and torture by law enforcement agents. This is representative of the commonly exercised practice by the Azerbaijani authorities to exclude the public from the legislative processes, usually run in closed circles of the Government structures.

Further to the need for adequate legal framework, being highly concerned of the endemic nature of ill-treatment and torture by police as a deeply systemic structural issue, IPHR reiterates the importance of ensuring full and effective implementation of the respective laws in practice. IPHR considers the systemic failure to uphold the domestic laws in ill-treatment and torture cases to be the principal factor to such instances becoming 'endemic', as described by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in 2018.¹ We therefore call upon the CM to prioritise this matter in reviewing the Government's efforts in this group of cases, along the ongoing legislative reforms.

B. ALTERNATIVE FORENSIC EXAMINATIONS IN CRIMINAL CASES

IPHR reiterates its submissions of 21 April 2020 where it urged the Government of Azerbaijan to ensure that alternative forensic examinations are available in criminal cases, independently from state appointed forensic examinations initiated by an investigator (see Section IV). IPHR noted that the Law on Forensic Examination Activity of 1999 was amended on 29 November 2019, establishing that alternative forensic examinations are allowed in administrative, civil and administrative offence cases, but not in criminal cases.² According to Article 21 of the Law, independently commissioned forensic examinations are allowed in cases provided for in the Civil Procedure, Administrative Procedure and Administrative Offenses Codes of the Republic of Azerbaijan. Article 21.3 further provides the suspect, accused or their defense counsel, or civil defendant shall have the right to formally apply to forensic departments for the provision of forensic examinations if criminal prosecution is conducted in the form of a private prosecution, which is possible in a very limited types of cases,³ without making any explicit references to independent forensic examinations. Furthermore, as noted in IPHR's earlier submission, this Law is in contradiction with the Criminal Procedure Code establishing the right of a suspect or an accused person to alternative forensic examination (Article 268 of the CPC).

The Government's Updated Information does not refer to these provisions and the existing collusion, implicitly or explicitly. It only refers, in general terms, to 'significant changes' to the legislation 'aimed at improving the mechanisms for conducting a forensic examination', without indicating in sufficient detail how such amendments relate to alternative forensic examinations. Furthermore, the Presidential Decree 'On Deepening of the Reforms in the Judicial-Legal System' of April 3, 2019 that the Government refers to in the Updated Information concern civil cases, cases on administrative offenses, and economic and administrative disputes in which alternative forensic examinations and expert opinions would be allowed (Article 3.8).⁴ It does not make any reference to criminal cases, excluding this possibility in ill-treatment and torture cases.

1 <https://www.coe.int/en/web/cpt/-/azerbaijan-torture-impunity-and-corruption-highlighted-in-new-anti-torture-committee-publications>

2 Article 21.3 of the Law On Forensic Activity of the Republic of Azerbaijan Available (in Azerbaijani) at: <http://e-qanun.az/framework/91> <http://www.e-qanun.az/framework/91>

3 Article 147. Slander; Article 148. Insult; Article 165. Infringement of author's or adjacent rights; Article 166. Infringement of voting and patent rights.

4 The Presidential Decree "On Deepening of the Reforms in the Judicial-Legal System" of April 3, 2019, available (in Azerbaijani) at: <http://www.e-qanun.az/framework/41813>

IPHR reiterates the importance of ensuring access to alternative forensic examinations and expert opinions in criminal cases, particularly those relating to ill-treatment and torture allegations, and urges the Government of Azerbaijan to amend the Law on Forensic Examination Activity Law accordingly. It is fundamental to create a mechanism for such examinations to be conducted by independent expert associations, not subordinated to the state authorities.

III. Access to victims of ill-treatment and torture in custody, and to information on their cases

Access to victims alleging ill-treatment and torture in custody and full disclosure of information about such allegations and investigations are fundamental to ensuring public scrutiny of the authorities' actions to effectively respond to such serious allegations. IPHR submits that such access must be significantly improved as a way to solving the endemic practice of ill-treatment and torture in custody.

A. MONITORING BODIES

Independent monitoring groups, such as non-governmental organisations, specializing in monitoring of closed institutions and documentation of ill-treatment and torture complaints, have no access to detention facilities and prisons in Azerbaijan. The information published by the authorities on such cases, particularly on their investigatory actions, is not available to the domestic civil society, or the broader public, and is only accessible through such limited sources as the Government's sporadic reports in response to calls from the international and regional bodies, such as the Committee of Ministers in this group of cases, or the CPT.

In its submission, the Government refers to the Public Committee under the Ministry of Justice, the National Prevention Mechanism (NPM) under the auspices of the Ombudsman and the Red Cross as groups that have unhindered access to penitentiary institutions. IPHR recalls its earlier concerns expressed over the lack of effectiveness and independence of the NPM and the Ombudsman Office in its submission of 21 April 2020 (see Section IV(d)). IPHR submits that its effectiveness is further questioned by the fact that the Azerbaijani Ombudsman Office was downgraded from A to B status by the the Sub-committee on Accreditation of the Global Alliance of National Human Rights Institutions of the UN in May 2018, with the view that the Obmudsman Office had insufficiently addressed credible allegations of human rights violations committed by the Azerbaijani authorities.⁵ The sub-Committee referred to the following as the basis for its decision, among other serious concerns:

'The 2015 Concluding Observations of the Committee against Torture in which it expressed concern that the HRCA, in its role as NPM, "has not been effective in addressing the main problematic issues related to the prevention of torture and human rights violations in places of deprivation of liberty", as well as the Human Rights Committee in its 2016 Concluding Observations noted that it "is concerned about the mechanism's effectiveness in preventing torture and ill-treatment and other violations in places of deprivation of liberty."⁶

Concerns over the ineffectiveness of the mechanism to address ill-treatment and torture allegations further rise from the Ombudsman's very limited efforts put into pursuing such complaints received from citizens. For example, as seen from the 2020 annual report on the protection of human rights in

5 <https://ganhri.org/wp-content/uploads/2019/11/SCA-Report-May-2018-Eng.pdf>

6 <https://ganhri.org/wp-content/uploads/2019/11/SCA-Report-May-2018-Eng.pdf>

Azerbaijan, in addressing the citizens' complaints relating to ill-treatment and torture allegations, the Ombudsman merely refers to the authorities' blank denial of such instances alleging that cases have not been confirmed, without providing any information on any actions taken to investigate such allegation in its own initiative.⁷ According to the Constitutional Law on Human Rights Commissioner (Ombudsman), when investigating the circumstances indicated in human rights complaints, the Ombudsman shall have the rights to receive written explanations from state officials, to allocate fact-finding tasks to relevant state bodies and to commission relevant government bodies and organizations with the task of preparing an expert opinion, among others.⁸ No such information about any proactive actions taken by the Ombudsman to investigate complaints of ill-treatment and torture from individuals in custody is provided.

As to the Public Committee under the Ministry of Justice, concerns over its lack of independence stems from the fact that it operates under the Ministry of Justice and its members are appointed by the Election Commission and approved by the Board of the Ministry of Justice.⁹ The Election Commission is headed by a Ministry of Justice representative appointed by the Minister of Justice.¹⁰ Furthermore, the Public Committee operates with zero transparency as no information about its activities is available to the public, and its website is not accessible on the Internet. In its only report from 2011 that can be found via Webarchive, where, the Public Committee notes in a brief paragraph dedicated to ill-treatment and torture issues that no cases of torture have been established.¹¹

B. ACCESS TO OFFICIAL DATA ON ILL-TREATMENT AND TORTURE ALLEGATIONS IN PENITENTIARY INSTITUTIONS

As the public has very limited access to official information on complaints of ill-treatment and torture, as well as on the investigation and any outcomes, and no independent domestic groups have access to closed institutions, it is of utmost importance to ensure that such information is available for public scrutiny. In its Updated Information, as one of the rare publicly available official reports on this matter, the Government fails to provide comprehensive information on its obligation to effectively investigate.

For example, in its Updated Information to the CM, the Government provides that the investigation conducted by the Ministry of Justice into 18 cases of alleged torture and other ill-treatment in 2018, 16 in 2019 and 5 in the first six months of 2020 were not confirmed (p. 5). No further details are, however, provided on such cases as to the circumstances of the cases, the measures taken to investigate the allegations and the reasoning for the conclusions that the claims were not confirmed.

7 <https://ombudsman.az/az/view/pages/59/>, Annual report 2020, pages 13 and 17 (see e.g. cases Nos. 20992-30; 20679-20; 18014-20; 7962-20)

8 The Constitutional Law on Human Rights Commissioner (Ombudsman) of the Republic of Azerbaijan, available (in Azerbaijani) at: <http://e-qanun.az/framework/1407>, Article 12

9 <https://www.justice.gov.az/categories/196>;

Decision No. 7-N of the Board of the Ministry of Justice of the Republic of Azerbaijan dated December 29, 2011, Article 3.2 <http://penitensiar.justice.gov.az/news/334-pen.html>

10 Article 3.3 of the Rules on Public Participation in Correction of Prisoners and Public Oversight of Penitentiary Institutions approved by the Decision No. 7-N of the Board of the Ministry of Justice dated December 29, 2011.

Available (in Azerbaijani) at <http://penitensiar.justice.gov.az/news/334-pen.html>

11 <http://web.archive.org/web/20190214200325/http://publiccommittee-az.org/wp-content/uploads/2016/04/iK-yekun-hesabat2011-son.pdf>

The Government has also reported on two criminal cases in which investigations into torture by law enforcement agents were conducted in 2018-2020 and the law enforcement officers were found guilty under charges of torture (p. 6). In the first case, the Government fails to provide if the convicted officer received any sentence and what the final decision of the last instance court in this case was. In the second case, the accused officer was found guilty, however, no sentence was imposed due to expiration of statutory limitations. With punishment being a fundamental part of the effective prosecution and accountability for such serious crimes as torture, the outcome of these proceedings raises questions.

The Government also claimed that in 2019-2020 the number of cases investigated on the basis of information or complaints received in connection with torture, and cruel, inhuman or degrading treatment or punishment that is not considered torture decreased on average by more than 45%. No further information was provided as to how it arrived to such numbers and what led to such a significant decrease. Given that only in 2018, the CPT described the situation in Azerbaijan 'systemic and endemic', it is fundamental that the Government discloses full information about the latest situation, and substantiate it with detailed evidence.

C. LAWYERS' ACCESS TO THEIR CLIENTS

Further to our earlier submissions of 21 April 2020 on the problem of access to a lawyer, IPHR submits that lawyers who are not members of the Azerbaijani Bar Association, i.e. licensed to practice in Azerbaijan, are not provided access to their clients in custody with regard to their applications before the regional and international judicial bodies despite the Government's submission of it being otherwise. In its Updated Information, the Government asserts that 'non-advocate representatives of the applicants before the European Court are allowed to visit detainees who have lodged or intend to lodge an application with the European Court in line with its case-law' (p. 3). It refers to Article 81.7 of the Code on Execution of Punishments, which provides that 'detainees have the right to meet with persons other than advocates who are entitled to provide them with legal assistance'. The Government also notes that a lawyer shall have access to his/her clients in detention upon presentation of a document confirming his/her identity and power of attorney to the penitentiary institution.

Article 81.7 of the Code on Execution of Punishments, referred to by the Government, however, provides such a right to prisoners, not detainees.¹² Detainees are not granted such a right by law, i.e. to meet lawyers who are non-members of the Azerbaijani Bar Association. In other words, detainees are not provided to get access to non-bar member lawyers.

In practice, penitentiary institutions require to see advocate orders from lawyers upon their arrival to the institution as a permit allowing access to their clients, and such orders are available to Bar members only. For example, on 24 May 2021, the disbarred human rights lawyer Khalid Bagirov received a rejection letter from the Penitentiary Service of the Ministry of Justice on the basis that he failed to provide his power of attorney (Annex 1). Lawyers who are not members of the Bar are therefore often prevented from accessing their clients in prison and their clients are deprived of their right to a lawyer of their choice.

¹² Article 81.7 of the Code of Execution of Punishments: 81.7. Upon the application of the convicts themselves, their close relatives or their legal representatives, the convicts shall be provided with a meeting with lawyers, as well as with other persons entitled to provide such assistance.

Further to this, lawyers who are not members of the Bar are treated by prison officials as non-lawyer visitors and are therefore subjected to inspections upon their arrival. According to the Code of Execution of Punishments¹³ and Decision of the Ministry of Justice on “Internal Disciplinary Rules of Penitentiary Institutions” dated on March 24, 2004,¹⁴ a meeting with ‘other persons’ is carried out in presence of a representative of the penitentiary administration. In such meetings, prisoners are not allowed to exchange any documents, notes or any other written material, which are essential during meetings with lawyers. The Internal Disciplinary Rules (Article 132) further provide that the head of the penitentiary institution can allow such a meeting only if the prisoner agrees to have his/her belongings inspected if there is a ground to believe that a convict or a visitor will hand over items that are prohibited.¹⁵ In practice, therefore, lawyers who are not members of the Bar, unlike Bar members, cannot enjoy their lawyer-client privilege upon arrival to visit their clients as they and their belongings, including case related documents, are searched by the officials.

In its decision on this group of cases adopted at its DH meeting on 1-3 September 2020, the CM recalled that under the Court’s case-law the contracting States must ensure that non-advocate representatives are allowed to visit detainees who have lodged or intend to lodge an application with the Court under the same conditions as advocates. It also invited the Azerbaijani authorities to provide information on the measures taken to ensure that domestic law and practice are fully and effectively in line with the Court’s case law.

IV. New cases of ill-treatment and torture by law enforcement agents

In the enclosed Annexes 2 and 3, IPHR provides information on a number of new cases of ill-treatment and torture by law enforcement agents in police stations and pre-trial detention centres, documented by Azerbaijani civil society members and journalists. Annex 2 provides a comprehensive summary on the Terter case relating to ill-treatment, torture and death of dozens of Azerbaijani servicemen, who were all accused of cooperation with the intelligence and security services of Armenia, during their detention in 2017. Annex 3 lists other cases of ill-treatment and torture in 2020-2021.

13 Article 81.8 of the Code of Execution of Punishments: The number and duration of meetings with convicts established by Article 81.7 of this Code shall not be limited and shall be carried out in compliance with the Internal Disciplinary Rules of penitentiary institutions. Such meetings shall not be included in the number of meetings specified in this Code.

14 Article 126 of the Decision of the Ministry of Justice on ‘Internal Disciplinary Rules of Penitentiary Institutions’ dated on March 24, 2004: ‘126. Prisoners are given a short meeting (four hours) with relatives and other persons in the presence of a representative of the prison administration. The administration of the penitentiary institution shall create conditions for meetings with other persons who may have a positive effect on the convicts. ...’

Article 137: ‘137. Prisoners or persons who come to the meeting by them during the meeting are not allowed to be given any documents, schemes, notes, etc. During a short meeting, the conversation is conducted in the language chosen by the participants. If representatives of the penitentiary administration do not know the language of the conversation, an interpreter may be invited. It is forbidden to hire other prisoners as interpreters.’

15 Article 132: ‘if there are sufficient grounds to believe that the visitor will hand over to the convict items or property prohibited for detention in the penitentiary institution or take any items, property or writings from the convict, the head of the penitentiary institution announce to the visitor that the meeting will be provided if he/she agrees to inspect the belongings of him/her before and after the meeting’.

V. Recommendations

We request the Committee of Ministers to call upon the Government of Azerbaijan to take the following measures:

- To publicize all projected amendments aimed to combat torture and other forms of ill-treatment and to conduct public consultations with independent experts and civil society representatives;
- To ensure that the domestic law explicitly allows for alternative forensic examination in all criminal cases, including cases of ill-treatment and torture, as a guarantee of full confidentiality in documenting traces of such treatment;
- To create a mechanism allowing independent non-governmental organisations and human rights defenders specialising in monitoring pre-trial detention centers, prisons and other closed institutions to access such institutions for monitoring purposes;
- To establish in the domestic legislation a requirement to law enforcement agencies to provide regular detailed reports on complaints regarding to torture and other forms of ill-treatment, investigation and prosecution of those responsible, as a measure to combat such practice and increase accountability;
- To amend the legislation to grant non-Bar member lawyers unimpeded access to both detainees and prisoners who have lodged or intend to lodge an application with the Court under the same conditions as advocates.

Annex 1 Response from the penitentiary services to Khalid Bagirov



AZƏRBAYCAN RESPUBLİKASI ƏDLİYYƏ NAZİRLİYİ
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№1714 - 9161
Koll-32

Bakı şəhəri, Tbilisi prospekti 76
vətəndaş Bağirov Xalid Zakir oğluna

Hörmətli Xalid Bağirov,

Penitensiar xidmətə ünvanladığınız 04.05.2021-ci il tarixli müraciətə baxılmışdır.

Bildirilir ki, Azərbaycan Respublikasının Cəzaların İcrası Məcəlləsinin 81.9-cu maddəsinin tələblərinə uyğun olaraq hüquqi yardım göstərmək hüququna malik olan şəxs səlahiyyətini təsdiq edən sənədi, habelə müvafiq orderi təqdim etdikdə ona cəzaçəkmə müəssisəsində müvafiq şərait yaradılır.

Hörmətlə,

Əməliyyat-rejim idarəsinin rəisi

Mirsaleh Seyidov

Annex 2. Terter case

According to a statement issued by law enforcement agencies on May 7, 2017, the actions of servicemen who cooperated with the intelligence and security services of Armenia, which was/is at war with Azerbaijan, were exposed, and they were prosecuted. The statement said that the Military Prosecutor's Office of the Republic of Azerbaijan launched a criminal case on May 3, 2017, under Article 274 (treason) of the Criminal Code on treason and other criminal acts.¹⁶

At a later stage, no official information was released about the incident or the course or outcome of the criminal case. Since the end of 2018, persons who claimed to have been illegally detained and interrogated and subjected to torture and ill-treatment during the interrogations, as well as family members of military personnel killed during the interrogation, have begun talking about the incident on social media platforms. Information spread in the press and social networks that as a result of the criminal case, dozens of servicemen were arrested on charges of treason and sentenced to long-term imprisonment. The flow of information intensified in 2019-2020, and parents of several servicemen who were believed to have been tortured to death and arrested gathered in Baku several times to protest in public. As a result, the case was named as the "Tartar case" by the press, social media, and the human rights community. Since February-March 2021, the servicemen, who were tortured in May 2017, have been sharing information about the incident on their personal YouTube and various online television channels.

The Baku Human Rights Club Public Union has started investigating this case and providing legal assistance to those who applied to them since February 2021. From that date until October 20, 2021, the number of people who applied for legal assistance exceeded 100. During this time, they have studied dozens of court verdicts, indictments, expert opinions, and other documents, conducted interviews with victims of torture and their families, and carried out brief legal analyses. As a result, Baku Human Rights Club came to the following conclusions on the case and collected relevant statistics:

1. In May-June 2017, hundreds of servicemen of **at least 3 military units** (drafted soldiers, military personnel serving active military service based on a contract and officers) were illegally detained from **15 days to 2 months** on charges of treason. They were subjected to severe torture and ill-treatment to be interrogated illegally and to be forced to testify against themselves or other military personnel during the interrogation. As a result, **at least 10** of those servicemen were killed.
2. At least **7 civilians** were subjected to the same acts. A small number of them were released, while others were unjustifiably sentenced to 1-2 years in prison under Article 234.1 (illegal use of drugs) of the Criminal Code, not under charges of treason. They were released after serving their sentences. No murdered person was identified among the civilians.
3. **116 servicemen** who were tortured, including **8 servicemen** who were killed were recognized as victims by the Military Prosecutor's Office in 2018, and **16 servicemen** suspected of torturing them were prosecuted. According to four verdicts of the Tartar Military Court,¹⁷ one of the servicemen was fined and the other 15 were sentenced to imprisonment from 3,6 years to 10 years. At least three of the imprisoned servicemen are currently serving their sentences, while others have been released either due to the expiration of their sentences or by a court decision. The case was sent by the Supreme Court to the Ganja Court of Appeal in March 2021 to aggravate the sentences of two servicemen, and the case is currently being considered.

16 <https://genprosecutor.gov.az/az/post/1752>

17 Judgment No. 1(098)-187/2018 dated 28.12.2018; Judgment No. 1(098)-7/2019 dated 31.01.2019; Judgment No. 1(098)-9/2019 dated 13.03.2019; Judgment No. 1(098)-6/2020 dated 29.01.2020

4. However, **at least 60 people** (this is the number of people who have applied to Baku Human Rights Club for legal assistance) have not been identified as victims, and none of the petitions submitted by them since February 2021 has been granted. Through the petitions, they requested that these individuals be identified as victims and that the perpetrators be identified and prosecuted.
5. The main problem in the cases of victims is that the criminal acts against them have not been fully, comprehensively, and objectively investigated. There are three specific problems – (1) the crime of unlawful deprivation of liberty against them has not been prosecuted at all; (2) the facts of torture against them were prosecuted under Article 133 (to cause torment) of the Criminal Code, not under Article 293 (torture, cruel, inhuman or degrading treatment or punishment not considered torture); (3) although the actual killing of 8 servicemen was confirmed, it was not prosecuted under Article 120 (intentional homicide) of the Criminal Code. The main problem that arose during the trial was that the accused were given extremely light sentences that were not adequate to the charges against them.
6. As part of this case, **25 servicemen** were found guilty under Article 274 and sentenced to imprisonment from 7 years to 20 years. The detention of these individuals at the time of the torture makes it possible that they were also tortured, each of whom stated during the trial that they had been severely tortured. The cases of 11 of these 25 people were sent to the European Court of Human Rights in March-April 2021. The analysis of the cases shows that these servicemen were prosecuted without credible evidence.
7. At least **21 recognized victims** of the case applied to Baku Nasimi district Court demanding from the Ministry of Finance of payment of compensation for pecuniary and non-pecuniary damage. No decisions have been issued yet.

Annex 3. Cases of ill-treatment and torture and the authorities' failure to investigate in 2020-2021

1. On 04 August 2021, independent journalist Ulviyya Guliyeva who attended a feminist rally in front of the administrative building of the Khazar district Police Department was detained and reported that she has been subjected to physical violence and insults by police officers in the police station where she was held. In response to her complaint requesting to investigate it, the police concluded that 'the fact that you were insulted and beaten has not been confirmed' without any further information on any investigatory steps taken to examine the complaint. Two days later, on 6 August 2021, she submitted a request to access video footage of the cameras at the police station, which was refused on the ground that the video footage is not longer available as the footage was deleted and is only kept for one month.¹⁸
2. Fakhraddin Abbasov, a prominent Talysh activist who lived in exile in Moscow was extradited to Baku on February 28, 2019 and was convicted under the charges of Article 281.2 (public incitement against the state) and Article 283.1 (incitement to national, racial hatred and hostility, humiliation of national dignity) and Article 274 (treason) of the Criminal Code on 14 February 2020.¹⁹ On 9 November 2020, he died in Gobustan Prison under suspicious circumstances. In the evening on November 9, 2020 the Public Council of Talysh of Azerbaijan (PCTA) disseminated information that Abbasov committed suicide in Gobustan prison.²⁰ Before his death, on 13 October 2020, Fakhraddin Abbasov published a statement in which he warned that his life was in danger and noted that 'after I was transferred to the Gobustan prison, representatives from the investigating authority came to 'talk to me''.²¹ He noted that he was told that the officers would create 'unbearable conditions' for him to 'pushed to commit suicide'. He added: 'And even if I will not commit suicide, they would make it look like I did it!'.²² On 13 November 2020, the Penitentiary Service provided a dubious explanation that Fakhraddin Abbasov attempted suicide because of the successful counter-offensive operations of Azerbaijani Army and the liberation of Shusha city.²³
3. On January 18, 2021, Ilkin Rustamzadeh, an activist previously detained at the prison No.13 reported that one of the detainees in Prison No. 13 has died as a result of torture. According to him, a prisoner from the city of Ganja suffering from severe diabetes was beaten to death by prison staff. Rustemzade stated that after the prisoners expressed their protest following this case, special forces were sent to the facility where numerous prisoners were ill-treated.²⁴ State officials denied it and stated that the prisoner died of heart failure.²⁵
4. Rufat Safarov, executive director of the human rights organization Defence Line, reported to the Azerbaijan Service of BBC News that they had received information that at least 10 prisoners had injured themselves and cut their veins on 25 April 2021 as a way to protest ill-treatment of

18 <https://jam-news.net/az/bakida-etiraz-aksiyasinin-istirakcilari-polis-idarəsində-doyulub/>

19 <http://femida.az/az/news/128197/fexreddin-abbasova-hokm-oxundu-16-il>

20 <https://www.turan.az/ext/news/2020/11/free/Social/en/129733.htm>

21 http://www.tolishstan.com/news/sos_m_ni_fikir_l_rimd_n_l_c_km_y_c_yim_t_qdird_fiziki_m_hv_ed_c_kl_r_v_bunu_ozun_q_sd_kimi_q_l_m_ver_c_kl_r/2020-10-13-1467

22 <https://oc-media.org/prominent-talysh-activist-dies-in-prison-in-azerbaijan/>

23 <https://apa.az/en/xeber/hadise-xeberler/PX-Fxrddin-Abbasov-Susanin-isgaldan-azad-olunmasindan-drin-psixoloji-sarsinti-kecirrk-intihar-edib-615103>

24 RFE / RL: The mysterious death of a prisoner. January 18, 2020 - <https://www.azadliq.org/a/31050920.html>

25 Interview of the head of the Penitentiary Service of the Ministry of Justice. 16 January 2021 - <https://525.az/news/160222-qetle-yetirildi-iddia-edilen-mehkumun-olum-sebebi>

prisoners, corruption and other problems such as putting prisoners into punishment cells, high prices at prison market and other issues in Prison No. 6. Safarov reported that they have been able to identify four of the detainees: Ravan Aliyev, Nihad Majidli, Jeyhun Sultanov and Shamkhal Shirinov.²⁶ Officials denied the report and stated that no detainee was being subjected to ill-treatment.²⁷

5. On 16 April 2020, two members of the opposition Popular Front Party who were detained on quarantine violation charges have reportedly been tortured while in detention.²⁸ The party issued a statement²⁹ that Niyameddin Ahmadov, the bodyguard of party leader Ali Karimli, was taken from his cell to an unknown location on 28 April where he was tortured for 12 hours to extract a confession. Later on May 18, Ahmadov was charged with the financing of terrorism (Article 214-1 of the Criminal Code) and sentenced to 4 months of pre-trial custody.³⁰ No further information on any investigation into torture allegations is available.
6. In its quarterly report of April - June 2020, the independent non-governmental organization, the Election Monitoring and Democracy Studies Centers (EMDS), noted that that in comparison with the first quarter (11), the number of reported cases of torture or cruel, inhuman or degrading treatment or punishment in penitentiary institutions increased almost threefold, from 11 to 37.³¹

26 What is happening in Prison # 6? – CLAIM - <http://mediatv.az/sosial/77562-6-sayli-cezacekme-muessisesinde-ne-bas-verir-dda.html>

27 The condition of about 10 prisoners who attempted to commit suicide is “serious.” April 26, 2021 - <https://www.bbc.com/azeri/azerbaijan-56885819>

28 Detained opposition activists ‘tortured’ in Azerbaijan, 30 April 2020, available (in English) at: <https://oc-media.org/detained-opposition-activists-tortured-in-azerbaijan/>

29 Statement of the Popular Front Party of Azerbaijan, April 29, 2020, available (in Azerbaijani) at: <https://www.facebook.com/axcp1995/posts/3756930477713500>

30 The Quarterly Fact-Sheet On The Situation Of Human Rights In Azerbaijan, April – June 2020, available (in English) at: <https://smdtaz.org/wp-content/uploads/2020/11/07.07.2020.pdf>

31 “In most of the cases, the members of PFPA were reportedly beaten, tortured in police stations and detention facilities. According to information from relatives and other open sources, PFPA members Niyamaddin Ahmadov, Arif Babayev and member of Muslim Unity Movement Hikmat Aghayev faced torture and degrading treatment in different facilities to extract a confession. PFPA member Babak Hasanov and MUM member Abbas Huseynov faced degrading and inhumane treatment in detention facilities for protesting the dire conditions in prisons, especially, during the pandemic.” Report available (in English) at: <https://smdtaz.org/wp-content/uploads/2020/11/07.07.2020.pdf>