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Meeting: 1362nd meeting (December 2019) (DH)

Communication from the applicant (04/11/2019) in the cases of ILGAR MAMMADOV and Ilgar Mammadov (No. 2) v. Azerbaijan (Applications No. 15172/13, 919/15)

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 : 1362^e réunion (décembre 2019) (DH)

Communication du requérant (04/11/2019) relative aux affaires ILGAR MAMMADOV et Ilgar Mammadov (No. 2) c. Azerbaïdjan (requêtes n° 15172/13, 919/15) (**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.

De: Fuad Aghayev <fuad.agayev61@gmail.com>
Envoyé: lundi 4 novembre 2019 14:47
À:
Objet: Execution of the judgments in the cases of Ilgar MAMMADOV v. Azerbaijan
(applications nos. 15172/13 and 919/15)



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Subject: *Execution of the judgments in the cases of Ilgar MAMMADOV v. Azerbaijan (application no. 15172/13) and Ilgar MAMMADOV v. Azerbaijan (2) (application no. 919/15)*

The applicant's representative: Fuad Aghayev

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04 November 2019

*of the Rules of the Committee of Ministers for the supervision of the
execution of judgments and of the terms of friendly settlements*

Dear Madam/Sir,

The applicant would like to inform you of certain factual developments relevant to the judgments of the European Court of Human Rights in respect of Application Nos. 15172/13 and 919/15, which have not resulted in their execution.

I. Reiterating the facts and issues of the previous submission

The applicant reiterates all points of his 08 August 2019 Rule 9.1 submission to the CM 1355th Meeting, except the point about just satisfaction: on 30 October 2019 the Government paid EUR3,000 to the applicant as the first installment of the total EUR10,000 just satisfaction awarded to him by the “Ilgar Mammadov No.2” judgment of the ECHR (final since 5 March 2018). Yet, there is no clarity as to when the full amount and accrued interest will be paid.

II. The attempted manipulation with deadlines

Whereas the Grand Chamber’s 29 May 2019 judgment on the unprecedented infringement procedure has been in effect immediately, it took more than 3 months of the authorities to initiate a domestic procedure required for its execution: only on 12 September 2019 the authorities sent the Grand Chamber’s judgment to the Supreme Court for re-consideration under Articles 455 and 456 of the Code of Criminal Procedure (CCrP).

According to those provisions of the CCrP, within three months after receiving an ECHR judgment the Plenum of the Supreme Court has to conduct a hearing on the Court’s findings and issue a relevant decision. Hence, the sending date^[1], leave almost no chance to our expectation that the new judgment based on results of the lengthy infringement procedure will be delivered any time before the 1362nd Human Rights meeting of the Ministers' Deputies to be held on 3-5 December 2019.

One should recall here that the infringement procedure itself lasted for 1,5 years, and non-compliance preceding it lasted for 3 years – all costing the applicant 5,5 years of suffering in prison and deprivation of election rights since 2013 to present day.^[2]

III. The attempted manipulation with composition of the applicant’s case

In its 20 September 2019 submission to the CM 1355th, the Government attempted to exclude “Ilgar Mammadov No.2” (application no 919/15) case from the Ilgar Mammadov Group of Cases, although the “Consolidated indicative list of cases for the 1355th meeting (September 2019) (DH) adopted at the 1348th meeting” did include it as part of the Group – just like all previous lists of the CoM DH meetings (see “Violation” column): https://search.coe.int/cm/pages/result_details.aspx?objectid=090000168094c72d

IV. Request for resumption of previously existing examination practice

In order to resolutely discourage any further time-buying manipulations by the authorities willing to deprive the Grand Chamber judgment of its non-theoretical value, the applicant requests the CM to resume examination of his case at each Regular and Human Rights meeting of the Committee – just like it has been the case between June 2016 and April 2019.

Faithfully yours,

Fuad Aghayev

^[1] As indicated by the authorities in their last minute 20 September 2019 submission to the 1355th Meeting of the CM.

^[2] The CM is kindly invited to take note of the fact that after long years of politically motivated exclusion, the applicant wants to participate in the November 2019 parliamentary elections as a candidate. The authorities’ actions maintain uncertainty about this prospect, thus discriminating him in violation of the spirit of the CoE Venice Commission Code of Good Practice in Electoral Matters (2002) which says: “The fundamental elements of electoral law [...] should not be open to amendment less than one year before an election.” Explanatory documents of the Venice Commission in this regard suggest that rules of the game should remain stable and known to all participants during the year preceding the vote. Thus the authorities, in addition to manipulating both the local and CM procedures, act against the spirit of the CoE key electoral recommendation.