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Date: 23/11/2021

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Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

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

Communication from the authorities (23/11/2021) concerning the case of Rashad Hasanov and Others v. Azerbaijan (Application No. 48653/13) (Mammadli group).

Information made available under Rule 8.2a 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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Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

Réunion : 1419^e réunion (décembre 2021) (DH)

Communication des autorités (23/11/2021) relative à l'affaire Rashad Hasanov et autres c. Azerbaïdjan (requête n° 48653/13) (groupe Mammadli) **[anglais uniquement]**.

Informations mises à disposition en vertu de la Règle 8.2a des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.



**İNSAN HÜQUQLARI ÜZRƏ AVROPA MƏHKƏMƏSİ YANINDA
AZƏRBAYCAN RESPUBLİKASININ SƏLAHİYYƏTLİ NÜMAYƏNDƏSİ**

AGENT OF THE REPUBLIC OF AZERBAIJAN BEFORE THE EUROPEAN COURT OF HUMAN RIGHTS

AGENT DE LA REPUBLIQUE D'AZERBAÏDJAN AUPRES DE LA COUR EUROPEENNE DES DROITS DE L'HOMME

Prezident Sarayı, Bakı Az-1066, İstiqlaliyyət küçəsi, 19

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E-TRANSMISSION ONLY

no. 8/2-2896

22 November 2021

Subject: Mammadli group v. Azerbaijan (case of *Rashad Hasanov and others*, application no. 48653/13 and 3 others, see list appended)

Dear Madame,

It is my pleasure to inform and update you on further developments in the execution of the Court's judgments in the above group of cases.

On 19 November 2021 the Plenum of the Supreme Court of the Republic of Azerbaijan examined the cases of Rashad Hasanov, Zaur Gurbanli, Uzeyir Mammadli and Rashadat Akhundov with due regard to the Court's judgment of 7 June 2018 in the case of *Rashad Hasanov and others v. Azerbaijan*.

In this connection, please find enclosed the Action Report concerning the above cases.

Yours faithfully,

Çingiz Əsgərov

Enc.

Mammadli group (application no. 47145/14 and others)

Application	Case	Judgment of	Final on
48653/13	Rashad HASANOV	07/06/2018	07/09/2018
52464/13	Zaur GURBANLI		
65597/13	Uzeyir MAMMADLI		
70019/13	Rashadat AKHUNDOV		

On 19 November 2021 the Plenum of the Supreme Court of the Republic of Azerbaijan (“the Plenum”) examined the cases of Rashad Hasanov, Zaur Gurbanli, Uzeyir Mammadli and Rashadat Akhundov, in accordance with Article 455.0.2 of the Code of Criminal Procedure of the Republic of Azerbaijan (“CCP”), which provides that finding, by the European Court of Human Rights, of the violation, during the criminal proceedings before the courts of the Republic of Azerbaijan, of the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms shall constitute the ground for re-examination of the judicial acts on new facts connected with violation of rights and freedoms (see translation the operational part of decisions in Annex)*.

Article 459.0.3 of the CCP establishes the Plenum’s competence to quash the decisions of the courts of lower instances and to deliver a new decision.

Having regard to the Court’s judgment of 7 June 2018 concerning the proceedings in the case of Rashad Hasanov and others v. Azerbaijan and the conclusions thereof, the Plenum decided **to quash the convictions** of Rashad Hasanov, Zaur Gurbanli, Uzeyir Mammadli and Rashadat Akhundov.

The Plenum also held that the proceedings in criminal cases concerning the convictions of Rashad Hasanov, Zaur Gurbanli, Uzeyir Mammadli and Rashadat Akhundov must be discontinued since their guilt have not been proven, in accordance with Article 39.2 of the CCP.

It should be noted that Article 39.3 of the CCP provides that, in the circumstances provided for in Article 39.2 of the CC, the criminal proceedings shall be considered as discontinued on **grounds of acquittal**.

The Plenum also awarded the applicants the amounts claimed in **compensation** for non-pecuniary damages.

In these circumstances and with due regard to the Government’s earlier submissions concerning the individual and general measures adopted, the Government considers that it finalized the execution procedure concerning the cases of Rashad Hasanov, Zaur Gurbanli, Uzeyir Mammadli and Rashadat Akhundov.

* Full text of the Plenum’s decisions will be submitted at a later stage, upon their publication.

Unofficial translation

On behalf of the Republic of Azerbaijan
The Plenum of the Supreme Court of the Republic of Azerbaijan
Decision [extract]

19 November 2021

Baku

The Plenum of the Supreme Court of the Republic of Azerbaijan,

chaired by Ramiz Rzayev, President of the Supreme Court,

with participation of

judge Ilkin Rajabov, rapporteur,

Nuranə Nərimanova, secretary of session,

Orkhan Isayev, Chief of the Division of Defense of Public Prosecution in the Court of Cassation and Analytics of the Department for the Defence of Public Prosecution of the Prosecutor General's Office of the Republic of Azerbaijan, Chief Justice Counselor,

Having examined the judicial acts on new facts related to the violation of rights and freedoms, as clarified in the Judgment of the European Court of Human Rights in the case of *Rashad Hasanov and others v. Azerbaijan*, dated 7 June 2018 concerning the violation of the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms during the proceedings concerning the conviction of Zaur Gurbanli, Rashadat Akhundov, Uzeyir Mammadli and Rashad Hasanov and under Articles 28,220.1 and 228.3 of the Criminal Code of the Republic of Azerbaijan,

Holds:

that the Decisions of the Chamber for Criminal Cases of the Supreme Court of the Republic of Azerbaijan concerning the conviction of Z.A.Qurbanlı, R.F.Axundov, Ü.M.Məmmədli və R.Z.Həsənov under Articles 28,220.1 and 228.3 of the Criminal Code of the Republic of Azerbaijan ("CC"), dated 2 June 2015 and 15 October 2015, and the relevant Decision of the Chamber for Criminal Cases of the Baku Court of Appeal, dated 16 December 2014, and the Judgment of the Baku Court on Grave Crimes, dated 6 May 2014 shall be quashed;

that the criminal proceedings concerning the conviction of Z.A.Qurbanlı, R.F.Axundov, Ü.M.Məmmədli and R.Z.Həsənov under Articles 28,220.1 and 228.3 of the Criminal Code of the Republic of Azerbaijan shall be discontinued for failure to prove a guilt, i.e. on the ground provided in Article 39.2 of the Criminal Code of the Republic of Azerbaijan;

that, having regard to unlawful arrest and imprisonment of Z.A.Qurbanlı from 1 April 2013 to 30 December 2014, he shall be awarded 28,300 Azerbaijani manats [14,800 Euros] in compensation of non-pecuniary damage;

that, having regard to unlawful arrest and imprisonment of R.F.Axundov from 30 March 2013 to 17 March 2016, he shall be awarded 66,700 Azerbaijani manats [39,000 Euros] in compensation of non-pecuniary damage;

that, having regard to unlawful arrest and imprisonment of Ü.M.Məmmədli from 30 March 2013 to 30 December 2014, he shall be awarded 28,300 Azerbaijani manats [14,800 Euros] in compensation of non-pecuniary damage;

that, having regard to unlawful arrest and imprisonment of R.Z.Həsənov from 14 March 2013 to 17 March 2016, he shall be awarded 66,700 Azerbaijani manats [39,000 Euros] in compensation of non-pecuniary damage;

that the right of Z.A.Qurbanlı, R.F.Axundov, Ü.M.Məmmədli and R.Z.Həsənov to lodge application with the court within the civil proceedings for inclusion of the term of arrest and imprisonment in the employment term and related compensation for pecuniary damage shall be explained.

This Decision shall be forwarded for execution to the Ministry of Finance of the Republic of Azerbaijan.

Ramiz Rzayev

Chairman of the Supreme Court