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

Communication from the applicant (25/11/2021) in the case of Rashad Hasanov (Zaur Gurbanli) v. Azerbaijan (Application No. 48653/13) (Mammadli group).

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

Communication du requérant (25/11/2021) relative à l'affaire Rashad Hasanov (Zaur Gurbanli) c. Azerbaïdjan (requête n° 48653/13) (groupe Mammadli) **[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.

25 Nov, 2021

DGI

25 NOV. 2021

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

DGI - Directorate General of Human Rights and Rule of Law

Department for the Execution of Judgments of the ECHR

F-67075 Strasbourg Cedex

FRANCE

Case of Rashad Hasanov and others v. Azerbaijan (48653/13)

**Submission under Rule 9.1 of the Committee of Ministers' Rules
Regarding individual measures for the applicant Zaur Gurbanli**

This Rule 9.1 submission concerns the individual measures required in the case *Rashad Hasanov and others v. Azerbaijan*, hereby making a submission pursuant to Rule 9 (1) of the Committee of Ministers' Rules for the Supervision of the Execution of Judgments. I.
Case summary

On 07 June 2018, the European Court of Human Rights rendered its' decision in my case (within the judgment *Rashad Hasanov and others*), which became final three months later, on 7 September 2018. In the judgement, the Court found the violation of the Articles 5.1, 5.3 and 18 and awarded me compensation: 3000 EUR for cost and expenses and 20 000 EUR for non-pecuniary damage.

II. New developments concerning implementation

According to the latest [submission](#) from authorities 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*.

The Plenum decided to quash the conviction of Zaur Gurbanli and held that the proceedings in the criminal case concerning the conviction of Zaur Gurbanli must be discontinued since his guilt has not been proven, in accordance with Article 39.2 of the CCP. The Plenum also awarded the applicant the amount claimed in compensation for non-pecuniary damages. Having regard to the unlawful arrest and imprisonment of Z.A. Gurbanli from 01 April 2013 to 30 December 2014, it was decided that he shall be awarded 28.300 Azerbaijani manats (14.800 Euros) in compensation of non-pecuniary damage. The Plenum 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.

Until the present time, we only received a call from the Secretary of the Supreme Court regarding this decision. We have not received the official decision, nor the notification of the

removal of our convictions from the state registry. Furthermore, the compensation awarded by the Supreme Court is not yet paid.

III. Individual Measures

Considering the information mentioned above, I am kindly requesting the Committee of Ministers to call on the Government to provide me (and the co-applicants) with the official decision of the Supreme Court as soon as possible, inform me on the calculation formula used by the Supreme Court to determine the compensation in my case, and to analyse whether this compensation was awarded in a discriminatory manner.

In its latest submission, the authorities noted that the Plenum also awarded the applicants the amounts claimed in compensation for nonpecuniary damages.

However, this is not accurate. In fact, the Supreme Court did not consider my petition for non-pecuniary damages in the amount of 70.602 AZN (37.000 EUR) and also did not follow existing calculation formulas used for similar cases.

My calculation of the compensation I should have been awarded was solely based on the decisions of Supreme Court on cases of Ilgar Mammadov and Rasul Jafarov which were adopted on 23 April 2020, as the Committee of Ministers referred to these precedent decisions when calling for further individual measures for the other applicants in the same group. In these initial acquittals, the Supreme Court had decided that the Government is to pay Ilgar Mammadov and Rasul Jafarov the amount of AZN 234 000 (EUR 126 000) and AZN 57 400 (EUR 31 000) respectively, in respect of non-pecuniary damage as compensation for their unlawful arrests. Ilgar Mammadov was imprisoned for 66 months (February 2013-August 2018) and Rasul Jafarov was imprisoned for 18 months (August 2014-March 2016). Thus, Ilgar Mammadov was compensated 3 545 AZN and Rasul Jafarov was compensated 3 178 AZN for each month of their illegal detention. These amounts are on average 3 362 manats or 1977,65 Euros according to [the exchange rate on April 23](#), 2020. According to the existing practice of the decision of the Plenum of the Supreme Court of the Republic of Azerbaijan dated on April 23, 2020, nonpecuniary damages should be calculated in this way: 21 months (imprisonment period from 01 April 2013 to 30 December 2014) x 3,362 manats = 70.602 manats (37.000 EUR, according to the [average exchange rate in November](#),2021).

In addition to the abovementioned facts, in the latest communication of the authorities, the euro-manat exchange rate is indicated as arbitrary and incorrect in Rashadat Akhundov's and Rashad Hasanov's cases compensation decision - 66,700 Azerbaijani manats (39,000 Euros) which is 1.71- in comparison with the compensation of Uzeyir Mammadli and Zaur Gurbanli 28,300 Azerbaijani manats (14,800 Euros) which is 1.91.

These facts prove that Supreme Court is not able to provide fair grounds for the calculation of compensation and their approach to the full and effective implementation of these cases is not serious. Authorities are failing to maintain justice on a fair basis and to allocate predetermined

amount of compensation for the 4 applicants through baseless calculation methods which cause obvious discrimination for the applicants in our case.

IV. Conclusion and recommendations

I am requesting the Committee of Ministers to call upon the Government, with urgency, to ensure the following:

1. Publication of the recent decision of the Plenum of the Supreme Court
2. Removal of the convictions from the state registry
3. Payment of compensation in full, in-line with previous decisions of Supreme Court on cases of Ilgar Mammadov and Rasul Jafarov, without discrimination.

I kindly request the Committee of Ministers to maintain intense scrutiny on the implementation process of this judgment, to refuse to close the case, to keep it under enhanced supervision, and to keep it on the agenda of each CM/DH meeting, until the above steps have been taken.

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

Sincerely,

Zaur Gurbanli

A handwritten signature in black ink, appearing to be 'Zaur Gurbanli', written in a cursive style.