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Contact: Ireneusz Kondak  
Tel: 03.90.21.59.86

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Meeting: 1514<sup>th</sup> meeting (December 2024) (DH)

Communication from the applicants (21/11/2024) concerning the cases of Gurbanov and Mammadov and HILAL MAMMADOV v. Azerbaijan (Applications No. 20605/13, 81553/12) (Mammadov (Jalaloglu) 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 : 1514<sup>e</sup> réunion (décembre 2024) (DH)

Communication des requérants (21/11/2024) relative aux affaires Gurbanov et Mammadov et HILAL MAMMADOV c. Azerbaïdjan (requêtes n° 20605/13, 81553/12) (groupe Mammadov (Jalaloglu)) **[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.

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



22 November 2024

**Rule 9.1 Submission in accordance with the Rules of the Committee of Ministers  
regarding individual measures in**

**Hilal Mamamdov v. Azerbaijan (81553/12)**

**Mammad Gurbanov and Nadir Mammadov v. Azerbaijan (20605/13)**

***Muradova/Mammadov (Jalaloglu)/Mikayil Mammadov groups***

**1. Introduction**

This Rule 9.1 submission concerns the individual measures required for applicant Hilal Mammadov(81553/12), also for applicants Mammad Gurbanov and Nadir Mammadov (20605/13) being submitted pursuant to Rule 9 (1) of the Committee of Ministers' Rules for the Supervision of the Execution of Judgments.

**2. Cases summary**

These groups of cases concern mainly the lack of effective investigations into the deaths of the applicants' next of kin or their ill-treatment allegedly imputable to law enforcement officers (of the Ministry of Internal Affairs ("MIA") and the Ministry of National Security ("MNS")) from 2003 to 2012 or to private persons (procedural violations of Articles 2 and 3).

In the *Hilal Mammadov* case, the Court found that it was established that the applicant had been ill-treated by police officers while in custody and that his allegations of ill-treatment had not been effectively investigated. The fact that the applicant received bodily injuries while in custody was established by forensic medical examinations on 3 June 2012 and 24 August 2012. A day after his arrest, the expert who conducted the examination indicated that the bodily injuries could have been caused during circumstances stated by the applicant. The second expert noted that the injuries were caused by contact of the applicant's body with the angular protruding parts of the vehicle.

The Court stated that it was necessary to examine not only the applicant's body, but also the vehicle in question; however, the experts were unable to do the latter. Neither the investigative authorities nor the national courts provided any explanations on this issue, which led the Court to find that the

State failed to discharge its burden of proof and to provide reasonable explanations to refute the applicant's version of events. No reasons were presented to justify the use of force to detain the applicant.

In connection with the effectiveness of the criminal investigation into the ill-treatment of the applicant, the Court notes numerous shortcomings in the criminal investigation. Firstly, the investigation was not expeditious. Even though the applicant immediately filed a complaint of ill-treatment with the investigator of the Nizami District Police Department on the day of his arrest and was promptly examined by an expert the next day, who identified bodily injuries on him, the investigative authorities did not begin a criminal investigation until at least 31 July 2012. In the meantime, the applicant's complaint was transferred first to the Nizami District Prosecutor's Office and then to the Prosecutor General's Office. The only action taken by the investigative authorities was to interrogate the applicant at the Nizami district prosecutor's office on 29 June 2012. This delay could not be attributed to the applicant.

Secondly, the domestic authorities failed to take all measures reasonably available to them to secure evidence of the applicant's alleged ill-treatment. Although the parties did not dispute the fact that the applicant was detained by six or seven police officers, the investigative authorities questioned only four police officers involved in the applicant's arrest. The Court further noted that the police officers' statements were identical in wording. Moreover, despite the obvious contradiction between the testimony of the police officers and the testimony of the applicant, no confrontation between the applicant and the police officers was arranged. Although *Hilal Mamamdo* expressly asked the domestic courts to hear the police officers involved in his arrest and the experts who questioned him, the domestic courts' decisions did not address this point. No explanation was provided for these investigative failures.

Thirdly, the applicant was not informed about the progress of the investigation and on the decisions taken within the framework of the criminal investigation. He was not provided with copies of the forensic medical examination reports, receiving them only during the proceedings in the Nasimini District Court. He learned about the existence of the decision of the Deputy Prosecutor General dated 27 August 2012 to refuse to initiate criminal proceedings only during the proceedings in the Nasimini District Court.

In the *Mammad Gurbanov and Nadir Mammadov* case, the Court found that the applicants' allegations of ill-treatment had not been effectively investigated. The Court considers that although the applicants' complaints made before the domestic authorities contained enough specific information – the identity of the alleged perpetrators, the date, the place and the nature of the ill-treatment – and were supported by sufficient evidence – photos, witness statements and media reports – to constitute an “arguable claim” in respect of which those authorities were under an obligation to conduct an effective investigation, no criminal inquiry has been carried out in the instant case into the applicants' allegations of ill-treatment.

Furthermore, the Court notes that, as there was no criminal inquiry in respect of the applicants' allegations of ill-treatment, the prosecutor did not hear evidence from the applicants, the alleged perpetrators of the ill-treatment, other customs and police officers, the applicants' witnesses I.N. and E.A., or any other possible witness. Moreover, the prosecutor refused to order a medical examination of the first applicant despite the lawyer's explicit requests. No explanation was given by the Government as to the domestic authorities' failure to conduct an investigation in that respect.

### **3. Individual measures**

The government submitted an [Action Plan of 13 October 2023](#), which demonstrates that in none of the 36 cases pending implementation in this group (concerning 40 applicants), have the perpetrators been identified and sentenced. Some formal steps have been taken in several cases, where proceedings were suspended or the case was sent for re-examination to the Military Prosecutor's Office, or the victim's family were given access to the case file. However, the applicant finds it extremely concerning that most applicants have made statements to the prosecuting authorities that they no longer wish to pursue their cases, while for another set of applicants the investigation materials were destroyed.

We confirm that all the applicants represented by me received the compensation provided for by the decisions of the Court.

We confirm that all the applicants I represent have received the compensation provided for by the Court's decisions.

As for the re-investigation of the violation of Hilal Mamedov's rights under Article 3 of the Convention, we reiterate our position presented to the Committee on 6 April 2024. We inform you that there are no updates on this matter.

As for the case of M. Gurbanov and N. Mamedov, we have not received any news about the commencement of any investigations.

### **4. Conclusions and recommendation**

Given the information set out above, there is a high risk that the passivity of the authorities – taken together with the steps to hinder the re-opening the investigations - will lead to the application of the statute of limitations, as it often happens in such cases. The applicant kindly asks the Committee of Ministers to:

Call on the Azerbaijani authorities

- to take measures to quash the decision of the General Prosecutor's Office to refuse to initiate a criminal case dated 27 August 2012 and effectively re-investigate the applicant's alleged ill-treatment in case of Hilal Mammadov;

- and also finally begin investigations into the appeals of Mammad Gurbanov and Nadir Mammadov.

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

Sincerely,

**K. Baghirov**

