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Date: 02/11/2016

**DH-DD(2016)1126-rev**

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: 1273 meeting (6-8 December 2016) (DH)

Communication from the applicant's representative (13/10/2016) in the case of Ilgar Mammadov against Azerbaijan (Application No. 15172/13)

**The courtesy translation of the cassation complaint, done by the Secretariat, is attached to this communication.**

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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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 : 1273 réunion (6-8 décembre 2016) (DH)

Communication du représentant du requérant (13/10/2016) dans l'affaire Ilgar Mammadov contre Azerbaïdjan (Requête n° 15172/13) **[anglais uniquement]**

**La traduction de courtoisie du recours de cassation, faite par le Secrétariat, est jointe à cette communication.**

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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DH-DD(2016)1126-rev : Rule 9.1 applicant's representative in Ilgar Mammadov v. Azerbaijan.  
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**GENEVIEVE MAYER**  
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**Subject:** *Execution of the judgment in the case of Ilgar MAMMADOV v. Azerbaijan (application no. 15172/13) the applicant's representative Fuad Aghayev*

Sent: Email

Dear Madam,

I would like to inform you that, up to now, the Government have not executed the ECHR judgment. Mr Mammadov hasn't been released yet. The Supreme Court has appointed the hearing concerning the applicant's cassation complaint on 18 November 2016.

I am attaching the cassation complaint against the judgment of the appellate court.

Kind regards,

Fuad Aghayev

**THE CRIMINAL COLLEGIUM (BOARD) OF THE  
SUPREME COURT OF THE REPUBLIC OF AZERBAIJAN**

**1193th block, Yusif Safarov Street 14, Baku**

By Agayev Fuad Arif oglu, a lawyer at the Legal Consultation office No. 13 of Baku city, Member of the Collegium of Advocates (Bar Association) of the Republic of Azerbaijan, defence counsel for Mammadov Ilgar Eldar oglu accused under Articles 220.1 and 315.2 of the Criminal Code of the Republic of Azerbaijan (Tel.: (050) 3491150)

**CASSATION APPEAL**

***against decision No. 1(107)-31/2016 of 29 April 2016  
of the Criminal Board of the Shaki Court of Appeal and  
the judgment of the Shaki Serious Crimes Court of 17 March  
2014 issued in respect of the criminal case against Mammadov  
İlgar Eldar oglu and Yaqublu Tofiq Rashid oglu accused  
under Articles 220.1 and 315.2 of the Criminal Code of the  
Republic of Azerbaijan***

1. The Shaki Serious Crimes Court, in its judgment of 17 March 2014 issued in the above-mentioned case, found my client Ilgar Mammadov guilty of the crimes coming under Articles 220.1 and 315.2 of the Criminal Code of the Republic of Azerbaijan (CC), and sentenced him to 6 (six) years' imprisonment under Article 220.1 and 4 (four) years' imprisonment under Article 315.2 of the CC of the Republic of Azerbaijan and eventually to 7 (seven) years' imprisonment through partial addition of sentences. An appeal was dismissed, and the judgment was upheld in the part pertaining to I.E.Mammadov under decision No. 1(107)-90/2014 of 24 September 2016 of the Criminal Board of the Shaki Court of Appeal. The cassation appeals of I.Mammadov and T.Yaqublu were partially allowed with the decision of 13 October 2015 of the Criminal Board of the Supreme Court, and the decision of the Criminal Board of the Shaki Court of Appeal of 24 September 2016 was quashed in the part pertaining to them, and it was decided to initiate a new appellate review in the same part of the criminal case. The appeals of the defence were dismissed once again under decision No. 1(107)-31/2016 of 29 April 2016 of the Criminal Board of the Shaki Court of Appeal, and the judgment of the Shaki Serious Crimes Court of 17 March 2014 was upheld in the part pertaining to I. Mammadov and T.Yaqublu.
2. Since the judgment of the Shaki Serious Crimes Court of 17 March 2014 and decision No. 1(107)-31/2016 of 29 April 2016 of the Criminal Board of the Shaki Court of Appeal are totally biased, illegal and unjust in the part relating to Ilgar Mammadov, they must be quashed for the following reasons, and that part of the criminal proceedings must be terminated:
  - 2.1. If the lower courts had wished to conduct a fair trial and give a final decision in an unbiased and independent manner, Ilgar Eldar oğlu Mammadov clearly would have been

acquitted based on the facts determined during the trial. Unfortunately, given the manner in which the court hearings were conducted, with multiple and blatant violations of the adversarial principle and the principle of equality of arms in favour of the prosecution, and often deprivation of the right and even opportunity for the defence to object to the illegal actions of the chairing judge (especially in the first instance court), our expectations that the final decisions would be lawful, at least in relation to Ilgar Mammadov, were reduced to zero.

2.2. My client, Ilgar Eldar oglu Mammadov, is found guilty of the crimes coming under Articles 220.1 and 315.2 of the Criminal Code of the Republic of Azerbaijan. Indeed it is still not clear what he has been charged with, as the statement of charges is expressed in a language unknown to the defence; it has not been clear since the preliminary investigation stage what are the charges against him.

2.3. Article 12 of the Constitution of the Republic of Azerbaijan states:

**1. Ensuring the rights and liberties of a person and a citizen, and decent living conditions for the citizens of the Republic of Azerbaijan is the highest objective of the State.**

**2. The rights and liberties of a person and citizen listed in the present Constitution are implemented in accordance with the international treaties to which the Republic of Azerbaijan is one of the parties.**

2.4. This means that, when reviewing criminal cases, the Azerbaijani courts should also follow the requirements of Article 6§1, as well as §3 (a) and (b) of the Convention for the Protection of Human Rights and Fundamental Freedoms:

6(1). In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

6(3). Everyone charged with a criminal offence has the following minimum rights:

- a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the charge against him;
- b) to have adequate time and facilities for the preparation of his defence...

In addition the courts also had to give due consideration to Ilgar Mammadov's right to liberty and security and the prohibition of discrimination (Articles 5 and 14 of the above-mentioned Convention).

2.5. Paragraph 1 of Article 63 of the Constitution of the Republic of Azerbaijan entitled "Presumption of Innocence" states: "Everyone is entitled to the presumption of innocence. Anyone who is accused of a crime shall be considered innocent until his guilt has been proved legally and if no verdict of a law court has been brought into force."

In the present case the conduct of the prosecution, during the criminal investigation, and of the courts of lower instance, during the trial, is a striking example of the declarative approach to this constitutional provision. In fact, throughout the proceedings the presumption of guilt and not of innocence has been applied. However, despite this the defence has unambiguously proved the innocence of I. Mammadov.

2.6. In fact, long before the trial, I. Mammadov had been found guilty. Even long before the events in Ismayilli. His speeches on various issues of socio-political life in Azerbaijan, in particular, his comparison of the government's attitude to Parliament with that of kings to their zoo, angered many people; some deputies even collected signatures in support of his

arrest, calling for him to be "sued". But this activity was suddenly stopped; apparently, the initiators explained that the method was not "effective". However, their plans for the isolation of I. Mammadov from society remained in force. For this purpose, any fabricated pretext was needed. And such an "excuse" was found – a visit by I. Mammadov on 24 January 2013 to Ismayilli to study the causes of the events, as a political figure, cost him a great deal.

- 2.7. According to a joint press statement issued by the Prosecutor General's Office of the Republic of Azerbaijan and the Ministry of Internal Affairs on 29 January 2013 Ilgar Mammadov and Tofiq Yaqublu went to Ismayilli and ***"made appeals to local residents aimed at social and political destabilisation, such as calls to resist the police, not to obey officials and to block roads"***. So, back then, i.e. in 2013, Mammadov was actually sentenced. The gross violation at this level of the presumption of innocence meant that he as well as T. Yaqublu would be arrested, prosecuted and sentenced at any cost. The Shaki Serious, Crimes Court chaired by Rashid Huseynov, then the Criminal Board of the Court of Appeal, confirmed our pessimistic projections.
- 2.8. The preliminary and court investigations in this case are characterised by the fact that they took as a basis the prosecution's version, the only version, which is not substantiated and on the contrary totally refutes the material in the case file and the evidence, and failed to check the validity of that same version, while ignoring the version of the defence.
- 2.9. It is no coincidence that the lower courts rejected the motions of the defence, apart from a few. The motions on audio and video recording of the proceedings, release from arrest, withdrawal of inadmissible evidence, presentation of new evidence (billings pertaining to the cell phones of the defendants, including those of Tofiq Yaqublu and Mirkazim Abdullayev, who according to the prosecution's version were in collusion with Mr Mammadov), termination of the status of persons who did not suffer but were recognised as victims, etc., were rejected although they should clearly have been allowed. And that is not all or "This is a drop in the ocean!" Even the statement of charges written in a form incompatible with the norms of the Azerbaijani language was not explained!

No matter how unreasonable, despite the groundless prohibition of video and audio recording of the proceedings in the first instance court, the defence was not allowed to study the records (minutes) of the court proceedings which lasted five months (and that should make hundreds of pages). The same court even did not allow us to make copies of some of the case materials, of several video recordings which were related to our case, but on the contrary prevented us from doing so. It even prohibited us to take written notes using a laptop or tablet, and for this reason we had to take handwritten notes regarding the evidence examined during the trial, which constituted a gross violation of the defence rights. The motions of the defence concerning audio and video recording of the court proceedings, the release of I. Mammadov, withdrawal of inadmissible evidence, and termination of the status of victims were also rejected by the appellate instance court (v. 43, c/p 19, 68, 70, v. 44, c/p 18 – 20, 57 - 58). Here as well it can be seen that there was a violation of at least Article 5, paragraph 1 and item "b" of paragraph 3 of Article 6 of above-mentioned Convention in respect of I. Mammadov, and also Articles 14 and 18.

- 2.10. Under Article 44.1 of the Code of Criminal Procedure of the Republic of Azerbaijan a court shall determine a defendant's guilt on the basis of all the evidence examined during the trial and only that evidence. Articles 349.3 and 349.4 of the same Code state that the court judgment shall be considered lawful if it fulfils the requirements of the Constitution

of the Republic of Azerbaijan, the Code and the criminal and other legislation of the Republic of Azerbaijan.

- 2.11. Under Article 349.5 of the above-mentioned Code a court judgment shall be considered well-founded only in the following cases: (349.5.1.) if the conclusions at which the court arrives are based only on the evidence examined during the court's investigation of the case; (349.5.2.) if this evidence is sufficient to assess the charge; (349.5.3.) if the facts established by the court are consistent with the evidence investigated.
- 2.12. The public prosecutor's observations were almost entirely based on the results of the preliminary investigation; he mainly referred to the evidence obtained during the pre-trial stage: questioning and other records, and in very rare cases added that this evidence was also validated during the court investigation. The same method was applied by the court, whose purpose is to conduct a fair trial! The reason for this was very simple – the vast majority of the evidence obtained during the investigation, and often obtained in violation of the law, was not confirmed during the trial, and, therefore, the court chaired by Rashid Huseynov disregarded the facts established during the trial, lasting five months, in order to sentence Ilgar Mamedov at any cost.
- 2.13. The public prosecutor, while making his statement before the Court of Appeal, in general avoided expressing any specific opinions regarding the evidence examined during the court investigation and merely called for the judgment of the lower court to be left unchanged. Following this, the court board, in complete denial of the evidence and dismissing our appeal, left the decision of the lower court instance unchanged in respect of I. Mammadov.
3. Despite the difficulties, let us try to translate into Azerbaijani the charges brought against I. Mammadov under the decision of 14 September 2013 to charge him with the criminal offences (v. 15, c/p 157-159).
  - 3.1. It appears from the statement of charges that I. Mammadov, using the unrest that broke out on 23 January, sought to spread that unrest and to give it a ***continuous character so as to inflame artificial tension and to violate social and political stability in the country, and that I. Mammadov, a resident of Baku, arrived in Ismayilli on 24 January 2013.*** It is true that I. Mammadov is a resident of Baku – however where is it said that residents of Baku cannot leave the Absheron Peninsula? Was it really prohibited by law for I. Mammadov to go to Ismayilli on 23 January 2013? Is Article 2 of Protocol 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms (freedom of movement) not relevant to I. Mammadov? As regards his intention to spread the unrest and give it a continuous character in order to create artificial tension and to violate social and political stability in the country, here the prosecution is trying to present its wishes as a truth. I see no need to say more about this part of the charges.
  - 3.2. It is further stated in the statement of charges that ***starting from 4.00 p.m. I. Mammadov together with T. Yaqublu and with the active participation of others gathered in the square near the administrative building of the Regional Education Department located on Nariman Narimanov Street opposite the administrative building of the District Executive Authority and took advantage of the possible feelings of residents Ismayilli Elshan Samad oglu, Abdullayev Mirkazim Mirazim oglu and others, bringing them to voice unlawful demands in a public place.*** We will come back to what is mentioned here, when we examine the evidence. Let me show here, as a theory, that, first, Ilgar

Mammadov did not make any unlawful demands, he just held calm discussions for 10 to 15 minutes in front of the Regional Education Department. What is meant by “possible feelings”? An explanation was not provided. Additionally, about which “feelings” can we be talking when E. Ismayilli and M. Abdullayev were not even present there at that time? It should also be noted that the Regional Education Department of Ismayilli is not located at Narimanov Street.

- 3.3. ***A mass movement of people into the area in front of the building of the Ismayilli District Executive Authority, hindering the movement of traffic and pedestrians, and disobeying lawful demands to disperse, made by Government officials seeking to stop their illegal behaviour...*** Who entered into the area in front of the building of the Ismayilli District Executive Authority? Ilgar Mammadov? Or others? It is not clear. I will discuss this in more detail below.
- 3.4. ***There were organised mass disorders with continuous acts such as resisting uniformed police officers protecting public order by committing violent acts posing a danger to life and health, using various objects, disrupting the normal functioning of the Ismayilli District Executive Authority, State enterprises, bodies and organisations, as well as public-catering, commercial and public-service facilities, by refusing to leave, for a long period of time, the areas where the acts seriously breaching public order were being committed, and stopping the movement of public transportation, by blocking the central avenue and Narimanov Street.*** Who resisted the police officers? Even according to the most “valid” prosecution evidence it was not Ilgar Mammadov or Tofiq Yaqublu. Then who was it? Virtual persons? Who disrupted the normal functioning of the bodies and organisations? It is clear from video materials we have viewed that the staff of the Ismayilli Police Department were dealing with the situation. Who stopped the public transport traffic? I shall address this in more detail below.
- 3.5. ***Having been able to avoid prevention of his actions, Ilgar Mammadov at around 5.00 p.m. on the same day in the town of Ismayilli, acting as an active participant within a crowd, marched in mass with a group of persons consisting of Ismayilli Elshan Samad oglu, Abdullayev Mirkazim Mirazim oglu and others in the direction of the administrative building of Ismayilli District Executive Authority and threw stones at police officers who were preventing [this march] in accordance with legal requirements and perpetrated violence posing a danger to the life and health of the Police Unit Commander of a platoon of the Post-Patrol Police Department -Khalafov Bakir Xatir oglu, police officers -Azizov Faraj Yusif oglu, Ahmadov Rashad Shakir oglu, Fakhtiyev Yunis Xamis oglu, Soltanzada Valeh Taleh oglu, Mirzayev Vusal Adilshah oglu.*** Firstly, at 5.00 p.m. Ilgar Mammadov had already left Ismayilli. Secondly, as mentioned above, neither E. Ismayilli, nor M. Abdullayev were in Ismayilli at that time. Thirdly, in respect of throwing stones, none of the police officers mentioned above were injured. So, which violence posing a danger to life and health is concerned here? And again that is not all or “This is a drop in the ocean!”. I will come back to this in more detail below!
- 3.6. The statement of charges was not harmonised with the provisions of criminal law, and this was done intentionally in order to complicate the work of the defence. Let us analyse the law. Article 220.1 of the Criminal Code envisages liability for the following actions:

***“Organisation of or participation in mass disorder accompanied by violence, plunder, arson, destruction of property, use of fire-arms, explosive substances or devices, or with armed resistance to public officers”***

In order to be found guilty under this article the person should be either the organiser of or a participant in mass disorder, and moreover such disorder should be accompanied by 1) violence, 2) plunder, 3) arson, 4) destruction of property, 5) use of fire-arms, explosive substances or devices, 6) armed resistance to public officers.

Logically, there must be a combination of mass disorder and at least one of the six circumstances listed. In other words, for the offence to be characterised under the article in question, there must be mass disorder and it must be accompanied by at least one of these circumstances.

Before charging anyone under this article it must first be determined whether the mass disorder, in general, took place or not? Mass disorder means violation of public order (peace and safety of the population) and security by a mass of people, during which the activity of government bodies is paralysed. We can unambiguously state here that at the time when Ilgar Mammadov was in Ismayilli there was not any mass disorder and not even any actions that grossly violated public order (actions coming under Article 233 of the Criminal Code).

- 3.7. The interesting thing is that Ilgar Mammadov together with Tofiq Yaqublou are charged with organising mass disorder which did not occur. In other words they planned and prepared the mass disorder, created groups to commit unlawful actions and distributed the roles and responsibilities among the participants. I.Mammadov had to implement all this planning and share out the roles and responsibilities during the single hour he was in Ismayilli (and he was in the centre for approximately 15 minutes). Moreover, he had to do so in an unfamiliar place and with unknown persons. This is not even possible theoretically. If we also add that the participants in the “mass disorder” do not exist, i.e. they are virtual, we can conclude that the “mass disorder” on the square in front of the Education Department is also virtual, a product of the imagination of the prosecution and the court. What can be deduced from this? If the mass disorder did not occur, then the action provided for in Article 220.1 of the Criminal Code was not perpetrated!

And that is not all? [or “This is a drop in the ocean!”] Not only did the mass disorder not take place, but in general there are also no other elements constituting objective evidence of the crime coming under Article 220.1!!! Was there plunder? No, there was not, no buildings, vehicles or other property were destroyed or stolen. Even the charges say nothing about this. Was arson committed? No, there is also nothing about that. Were any properties destroyed? Absolutely not! Was there any resistance to the public officers? No! Were there any violations? No!!!

- 3.8. In a nutshell, Ilgar Mammadov did not commit any criminal act, nor even any administrative offence, while he was in Ismayilli. This also relates to the charge brought under Article 315.2 of the Criminal Code. Further to that article a person is liable *for the use of violence against, or violent resistance to, a public officer in connection with the exercise of the latter's official duties, or use against the close relatives of such a public officer of violence which poses [Translator's note: the Criminal Code says “does not pose”] a danger to their life and health.*

- 3.9. Disregarding everything else, even if we accept the statement of charges fabricated by the prosecution and the court, what kind of use of violence posing danger to life and health can we be talking about? After all, even according to judicial practice and theory in Azerbaijan, such violence means deliberately causing serious, less serious or minor harm



to the health of a victim. How convincing is the claim that six persons were hit by stones, but they did not receive any injuries, did not write any report, and did not even go to see the doctor? And no one except them says they were hit by the stones and received an injury. Even if one believes that they are as strong as a Robocop Cyborg, how convincing is it that none of them received any injury? These six persons were questioned by the investigation group for the first time on 24 to 27 June 2013 and at the same time were recognised as victims. How it is possible that on the night and morning of 24 January there were in total seven persons who were recognised as victims? From the beginning of the preliminary investigation the relevant research was done in this regard and all their injuries were confirmed by forensic examinations, but the “hue-and-cry” of the police officers “hit by stones” on the 24th at about 4.00-5.00 p.m. was heard only five months after the event? And I have not yet said that, even according to the charges, neither I. Mammadov nor T. Yaqublu used violence against anyone. Even according to the charges, the personality of those who “used violence” is not clear. The reason for such gaps and contradictions is very simple – there were no such actions. If there had been then the perpetrators should also exist, so as to let it be known whether someone encouraged them to use violence or not!

4. Let us move on to the evidence examined during the court investigation. As opposed to the prosecution and the court, we will be guided by the law and will refer only to the evidence examined during the court investigation. I will start from the video-recording materials and telephone billings. Why? Because, even the ancient Romans used to say that *facta sunt potentiora verbis*. In other words, facts are stronger than words! Here this means those facts which exist regardless of the will of a certain person and are confirmed by non-personal evidence.

4.1. Upon showing the video taken from the "Objective TV" website, which was not officially documented from the procedural point of view, the prosecution said cheerfully, look, here's a stone that was thrown, and after a while the video shows Ilgar Mamedov – so, the clashes occurred at the time when he was in Ismayilli. The defence brought to the attention of the court that, first of all, this film was a montage [or was edited] and the footage of clashes between the population and the police, and even the Riot Police Regiment, shown here are events that happened in the early hours of January 24th. We even stated that it is obvious from the directions of the shadows of the buildings, objects and people present on the spot that the incident occurred in the morning. Fortunately, there was no need to appoint an expert on this subject, because it is clear from the response to the defence's inquiry, as set out in the notes of 14 February 2014 (v.44, c/p 55), in the form of a letter from the chairman of the public association “The Institute for Reporters’ Freedom and Safety” (IRFS), which placed the abovementioned video on its website (obyektiv.tv), that the footage of the clashes is related to the first half of the day, but the footage of I. Mammadov and T. Yaqublu is related to the second half of the day. Upon watching the original video file of the unedited recordings made in the second half of the day of 24 January, which lasts 12 minutes 23 seconds and was enclosed with the letter received from IRFS, we saw that numerous police buses and trucks were moving in the direction of the administrative building of the Executive Authority passing near the education department through M.F. Akhunov Street in Ismayilli, and during this time that street was under the total control of the police, first and foremost the Riot Police Regiment. Immediately after this, one can see that Ilgar Mammadov, Natiq Jafarov and Nijat Malikov are talking quietly on the edge of the sidewalk right opposite the entrance of the education department, facing in the direction of the Executive Authority building, and Natiq Jafarov’s car, of "KIA" brand with state vehicle registration plate 90-DB-877, is parked nearby, but there is no one else around. N. Malikov, dressed in the special journalist's

yellow clothing with the “Press” badge, announces that additional police forces just arrived, while the people are a little further away. After that, one can see Tofiq Yagublu talking to Ramin Deko, who is in special journalist's clothing, and two other persons; there is complete silence, the surroundings are under the control of the police who have built a cordon. Then the video shows that T. Yaqublu is standing alone, it is quiet. Then we see how the police take him away, placing him in a car with state vehicle registration plate 90-AR-830. This is followed by an interview of N. Alakparov, the former head of the Ismayilli District Executive Authority, which lasts approximately 7 minutes. In this interview the journalists inform him that according to the residents there will be a rally in the evening, the preparations are going on, they ask him for his thoughts on preventing the rally, N.Alakparov responds that in his opinion such an incident should not occur, he works closely with the population. The former head of the Executive Authority also says that he is unaware to whom the “Chirag” Hotel belongs (v. 44, c/p 55).

**This video material alone is sufficient to secure an acquittal for at least four of the defendants. Why? Firstly because it can be seen that it was quiet during the period when Ilgar Mammadov and Tofiq Yagublu were in Ismayilli. Ilgar Mammadov was talking to the journalists standing right opposite the Education Department, Tofiq Yagublu was also talking calmly with the journalists, there was no unrest or noise from the population. Secondly, M.F.Akhundov Street was closed by police cordons, and that prevented any entry from N.Narimanov Street. Thirdly, the interview with N. Alakparov, the former head of the Executive Authority, at 4.30 p.m. in front of the steps of the administrative building of the Ismayilli District Executive Authority itself, as well as the question asked regarding the population's preparations for the evening rally and his response to it, eliminate the occurrence of any unrest during the time when I. Mammadov and T.Yaqublu were in Ismayilli!!! N.Alakparov states that he does not believe any rally will be held during the evening, and that he is in touch with the people. The fact that T.Yagublu was detained a few minutes before the interview and his removal to the Police Department shows that he could in no way have been with I. Mammadov after about 4.15-4.20 p.m..**

**And that is not all? [or “This is a drop in the ocean!”]**

- 4.2. As can also be seen from the video material of 24 January (v.44, c/p 55, notes on the records) provided by the editorial office of "Yeni Musavat" newspaper to the defence counsel of T. Yagublu, the situation was quiet during his presence in Ismayilli, no collision had taken place. The court adopted a unique decision in respect of that material, deciding to include it in the case file but not to use it as evidence! No need for comment!
- 4.3. One more video was shown during the trial. It consisted of shots take by a Unibank video camera in Ismayilli on 24 January 2013 (v.17, c/p 84-86, v. 43, c/p 212-213, notes on the records). This camera shows the part of M.F. Akhundov Street, heading in the direction of the Department of Education, including the building of the "Shirvan" shopping centre. Therefore, if at 4.00-5.00 p.m. on 24 January 2013 the crowd had gone from the hospital towards the buildings of the Department of Education and the Executive Authority, it would certainly have been caught on camera. So if the conclusion drawn by the court were true, the movement and advance of the crowd would have to have been caught by the camera. But that was not the case! Since the camera's recordings show the hour and minutes, it was noted that there was no tension, and no march by a crowd or even a group of people at 4.00-5.00 p.m..

**Interestingly, regarding this video the appellate court states on page 69 of its decision: “Although in that video recording it was relatively quiet at about 4.00-5.00 p.m. in the street in question ( M.F.Akhundov street), but that street was not the only street leading to the centre (Executive Authority). In addition, it cannot be ruled out that people went one by one in the direction of the building of the Executive Authority and gathered there, or went from other directions to the centre”. It appears from this, that the court paid no attention to the evidence examined during the court hearings, nor to the statement of charges, since, according to both, the crowd throwing stones marched in the direction of the building of the Executive Authority via Hospital Road through M.F.Akhundov Street and gathered in N.Narimanov Street!!!**

**What does this show? It shows that the prosecution and the courts, when speaking of the occurrence of mass disorder on 24 January 2013 at about 4.00-5.00 p.m. near the Education Department building were, to put it mildly, far from the truth. Such an event did not occur, the charge is a fiction, the disorder is virtual! But the lower courts did not even hesitate to misrepresent the facts in order to accept the fictitious charge.**

4.4.The defence also provided other evidence. This included a letter from radio “Azadliq” issued in response to the defence counsel's inquiry and a CD. As can be seen from the letter of 24 January 2013 the developments in Ismayilli were discussed in a live broadcast during the "Ishdan sonra" programme from 5:05 p.m. to 6.00 p.m. and I. Mammadov, joining the live broadcast, was live for about 4 minutes starting from the 43rd minute of the programme. As can be seen from the videotape, I. Mammadov joined the live broadcast via phone and shared his views on the situation in Ismayilli. Before that T. Yaqublu gave a live broadcast and spoke about what had happened to him in Ismayilli, including his detention at the Police Department for approximately 40 minutes.

**Below, I will analyse the testimonies of Ilgar Mammadov and the persons who were near him and we will see how exactly these testimonies complement this evidence!**

4.5. Let us now move on to the data (v.15, c/p 116 - 118) <sup>1</sup> obtained from the detailed invoice (billing) showing the incoming and outgoing calls on Ilgar Mammadov's mobile phone with the number 0553600583. It is clear from the call made to the phone of I. Mammadov at 3.39 p.m. that, at that time, he was in Diyali village of Ismayilli district, i.e. in the coverage area of the department located 6.38 km as a crow flies from the town. At 3.46 p.m. he received another call, and by that time he was already in Ismayilli. It can be seen from the billing data<sup>2</sup> that at 4.58 p.m. I. Mammadov made a call to phone number 0554070786 - this time his phone was in the coverage area of the department located in Talistan village of Ismayilli region. At 5.46 p.m. a call was made to I. Mammadov's mobile phone from the phone number 012 4367740 belonging to radio “Azadliq” and he was on live broadcast for 226 seconds. This information corresponds fully to the letter and the video materials provided by radio “Azadliq” and one corroborates the other.

4.6.For mysterious reasons the locations of the telephone departments concerned by the incoming and outgoing calls made to/from the mobile phone of I. Mammadov at 5.46

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<sup>1</sup> v. 15, c/p 88.

<sup>2</sup> v. 15, c/p 89.

p.m., 5.48 p.m., 5.49 p.m. and 5.51 p.m. were not stated in the inspection records of the investigative group. However, it is obvious that Ilgar Mammadov was not already in the town of Ismayilli at that time, since during his presence in Ismayilli his phone was in the coverage area of the department located at 30 Javanshir Street, Ismayilli. After 4.58 p.m. he was outside the coverage area of that department, i.e. away from the centre of Ismayilli. **The court decision (p. 64) reads as if the phone of Ilgar Mammadov was registered at 4.58 p.m. by the antenna located at 30 Javanshir Street, Ismayilli. This is a very serious mistake, since the phone of Ilgar Mammadov was then in the coverage area of the antenna located in Talystan village of Ismayilli region, and the phone in the coverage area of the antenna located at 30 Javanshir Street belonged to the man who spoke to the phone of Ilgar Mammadov!!!**

**This evidence, along with the evidence to which we referred earlier, as well as the testimony of Ilgar Mammadov, corroborate each other. Please note that there is no personal evidence, i.e. testimonies, or evidence which can be changed by the defence, but that this is evidence reflecting the objective facts of 24 January 2013.**

4.7. As is clear from the information provided by the newspaper "Yeni Musavat" and the news agencies Faktxabar and Dayarlar at 5.02 p.m., 5.18 p.m. and 5.19 p.m. on 24 January 2013, Tofiq Yaqublu had already been released by that time, having been detained for 40 minutes at the Police Department. **It follows from this, once again, that Tofiq Yaqublu was arrested a very short time after his arrival in Ismayilli, since he was detained and taken to the Police Department at around 4.15 p.m.-4.25 p.m. and was kept there until 5.00 p.m..**

4.8. As is clear from the billings (v.16, c/p 217 - 228) concerning Tofiq Yaqublu's phone number 055 6231216, he was in the town of Ismayilli at 4.06 on 24 January 2014, and at about 5.17 p.m. he had already left. He was in the coverage area of the departments located in the villages Agbulag and Tirjan near Ismayilli before he received a call at 5.40 p.m. relating to the live broadcast by radio "Azadlig". **This once again proves the groundlessness of the charge, and fully corresponds to the testimonies of Ilgar Mammadov and Tofiq Yaqublu. The courts of lower instance, as well as the appellate court, rejected the motions requesting detailed invoices of other phone numbers belonging to Tofiq Yaqublu, in order to lessen the refutation of the charge (v. 43, c/p 81).**

5. During the entire proceedings we informed the prosecution and the court that none of the news agencies, TV stations and radio companies, the mass media covering the Ismayilli events, which were attended by numerous journalists, passed on any information regarding any collisions at the time when Ilgar Mammadov was in the town of Ismayilli; as is clear from the TV and video materials provided to the investigative group there were no clashes in Ismayilli between 3.35 p.m. and 5.00 p.m., and not even until 8.00 p.m. In this regard, the defence submitted a motion requesting viewing of the news for that day on the Internet websites of the pro-government news agencies APA and TREND (the first of which has a particularly broad network of reporters and had opportunities enough). However, this motion was also rejected by the courts.

6. Now let us move on to the testimonies.

6.1. Mammadov Ilgar Eldar oglu, in his evidence given to the courts of the first and appellate instances (v. 43, c/p 35 – 39, 88, notes on the records), stated that on 24 January 2013 he left for Ismayilli together with Natiq Jafarli, Executive Secretary of the Board of the REAL Movement, arrived in Ismayilli region at about 3.30 p.m. and reached the central square of the town of Ismayilli some minutes before 4.00 p.m. Before they arrived there they stopped the car several times to ask the way and also inquired about what had happened on 23 January. Then they arrived at the central square of the town by car, stopped the car and began talking to a group of reporters, including Nijat Samadoglu, a woman-reporter, the anchor-woman of the 250 Plus programme of Azadlig Radio, and others. At this time Ilgar Mammadov was caught on video. The reporters said that, although all was quiet, the atmosphere of tension in the town had not abated and new scuffles might occur. When Ilgar Mammadov, Natig Jafarli and Nijat Samadoglu got into the car to go to one of the tea-houses, Tofiq Yaqublu, with whom Ilgar Mammadov had never communicated before, passed by them. After a brief encounter Tofiq Yaqublu went on his way. After that Rufat, Natig and Nijat got into the car and, without being confronted by the police, arrived at the tea-house located about 500 metres away, drank tea and after sitting there about 30 minutes decided to go back to Baku. However, Nijat said that he had left some of his belongings with the reporter Idrak Abbasov and had to get them back. They drove up to Unibank a long way round, Idrak Abbasov gave Nijat his belongings and after that they continued on their way to Baku. Afterwards, Rufat, Natig and Nijat had a meal in the Bado Restaurant located on Baku Highway in Ismayilli. When they arrived there, dusk was falling. While they were eating, a call was made to Ilgar Mammadov from Azadlig Radio and he gave his observations and assessments in a live broadcast. After they finished their meal, they returned to Baku.

I. Mammadov stated that the government had quite different motives for arresting him, since, on 28 January, he was the first to publish in his blog, citing documents posted on official websites of the Ministry of Taxation and the Ministry of Culture and Tourism, that the hotel burned down in Ismayilli belonged to the nephew of the Head of the District Executive Authority, namely to the son of Fuzuli Alakbarov, the Minister of Labour and Social Protection of the Population. He subsequently published photos and records posted by the owner of the hotel Vugar Alakbarov on his Facebook profile a year earlier, where this person wrote that he owned that hotel. Within an hour, the documents taken from the ministry websites and the profile of V. Alakbarov were deleted. But the information had already been made public.

In his testimony before the Appellate Court, I. Mammadov also stated that the first instance court deliberately misinterpreted the items he posted on his Facebook profile and live journal, and presented what he had heard as what he had seen, as well as interpreting the meaning of the records out of their context, in accordance with the charges but in contrast to logic. He also stated that the European Court of Human Rights in its decision (Ilgar Mammadov vs. Azerbaijan, Application no. 15172/13, judgment of 22 May 2014, paragraph 12, 13; final as of 13 October 2014) concerning his case presented his records, on the social networks, without distortion and these were the evidence that revealed the real aggressors of the Ismayilli events.

**Ilgar Mammadov's evidence was the same as that contained in the video materials, detailed phone billings, newspaper materials referred to above, as well as in the summary of the evidence below, given by T.Yagublu, N.Jafarov, N.Malikov, M.Karimli, R.Jabrayilzade, Idrak Abbasov, G.Mukhtarov, E.Mammadaliyev and many others, corroborating each other.**

6.2. Yaqublu Tofiq Rashid oglu stated that, in order to obtain information on the events in Ismayilli, on 24 January 2013 at about 12.00 – 01.00 p.m. he left Baku for Ismayilli together with Azadlig Newspaper reporter Galandar Mukhtarli, Mehman Karimli and a cameraman in the latter's vehicle and arrived there at about 03.00 – 04.00 p.m. In the square in front of the office building of the Executive Authority he saw representatives of various press agencies; in general nobody met him in Ismayilli and he saw Ilgar Mammadov when he arrived at the square and greeted him, then he made visual observations concerning the situation, which had fully stabilised. Suddenly, two unknown men in plain cloths grabbed him by his hands, forced him into a vehicle and took him away to the Police Department, where Deputy Chief Shohrat Karimov and Chief Nizami Gojayeov, as well as an Interior Ministry employee, asked him to leave Ismayilli. Then he, Mehman Karimli and Galandar Mukhtarli got into the car in which they had arrived and left under escort by the Highway Police, which paid for petrol at a petrol station.

**Tofiq Yaqublu's evidence was the same as that to be found in the video materials, detailed phone billings, newspaper materials referred to above, as well as in the summary of the evidence below, given by Ilgar Mammadov, N.Jafarov, N.Malikov, M.Karimli, R.Jabrayilzade, Idrak Abbasov, G.Mukhtarov, E.Mammadaliyev and many others, corroborating each other.**

6.3. Witness Nijat Malikov (v.34, c/p 67 - 69) stated that, upon hearing of the scuffles in Ismayilli, he headed for Ismayilli together with Idrak Abbasov, an employee of Bizim Yol Newspaper, and arrived there on 24 January 2013 at 04.00 – 04.30 a.m. At 09.00 a.m. they saw a crowd in front of the Executive Authority building, the events developed in an undulating way, the scuffle occurred at 01.00 - 2.00 p.m., then it was quiet. At about 03.30 p.m. Ilgar Mammadov and Natig Jafarli arrived and began talking to him and other reporters, including Sevinj Vagifgizi, Ramin Deko, Idrak Abbasov, the Azadlig Radio reporters and others about the events. There was no tension during Ilgar Mammadov's presence. After 10 – 15 minutes he, Ilgar Mammadov and Natig Jafarli went to a tea-house and stayed there for 30 – 40 minutes before deciding to return to Baku. Nijat Malikov said he had to fetch his belongings which he had left with Idrak Abbasov. He went in N.Jafarli's car to the car parked near Unibank, where Idrak Abbasov was resting, then Nijat Malikov took his belongings and they left Ismayilli at about 05.00 p.m. En route they had a meal in the place called Bado located in Ismayilli, where Ilgar Mammadov received a call and gave an interview to Azadlig Radio. After the meal they continued on their way to Baku.

6.4. Witness Natig Jafarov (v.34, c/p 70 - 72) stated that on 24 January 2013 at about 04.00 p.m. he arrived with his own car in the town of Ismayilli together with Ilgar Mammadov. As they did not know the place, they found the building of the Executive Authority by asking the way. At the same time they asked the residents about the situation. Near the building of the Executive Authority they saw Ramin Deko, a reporter of Azadlig Newspaper, some reporters of Azadlig Radio, Idrak Abbasov, the reporter of Bizim Yol Newspaper and other reporters. They asked them what had happened and talked for about 15 – 20 minutes. They found out that there had been an incident during the night and in the morning near the building of the Executive Authority, but now things were quiet. Then they got into the car together with Ilgar Mammadov and Nijat Malikov, drove to a tea-house and drank tea there for about 20 - 25 minutes. Then they decided to return to Baku. As Nijat Malikov had left his bag

with Idrak Abbasov, who was resting in his car near Unibank, they went to see him. As Natig Jafarov did not know the town at all, he wanted to take the way they had come, but the way to the centre was closed and they had to use sideways. After Nijat Malikov had recovered his bag from Idrak Abbasov they left Ismayilli at about 05.00 p.m. In 15 – 25 minutes they arrived at the Bado Restaurant 20 -25 kilometres distant from the town and had a meal there. There Ilgar Mammadov received a call from Azadlig Radio and gave an interview. They left Bado for Baku at about 6.00 p.m. No clashes took place while they were in Ismayilli; Ilgar Mammadov was with him.

- 6.5. Ramin Jabrayilzade (Deko), a reporter of Azadlig Newspaper and a witness who was not questioned during the preliminary investigation (v.35, c/p 106 – 109), stated that he arrived in the town of Ismayilli as a journalist to cover the events which had taken place on 23 January 2013. On 24 January at 03.00 – 04.00 p.m. he saw that Ilgar Mammadov and Tofiq Yaqublu were also in the town near the central park. He talked to them for about 10 - 15 minutes. At that time it was quiet there. Then he saw Tofiq Yaqublu taken away by police officers. At about 04.00 - 05.00 p.m. he was among those who interviewed Nizami Alakbarov, the Head of the Executive Authority. The tension rose after Ilgar Mammadov and Tofiq Yaqublu had left and after darkness fell.
- 6.6. Elshan Mammadaliyev (Balakhansky), an employee of Yeni Musavat Newspaper and a witness who was not questioned during the preliminary investigation (v.35, c/p 109 – 111), stated that he arrived in the town of Ismayilli as instructed by his editors on 24 January 2013 in connection with the events that had taken place there. That day he saw Tofiq Yaqublu near the side of the park opposite the building of the Executive Authority. Suddenly, General Javanshir Mammadov of the Ministry of Internal Affairs gave instructions for the arrest of Tofiq Yaqublu. At this time there was no one on the spot and it was quiet. A few minutes later Nizami Alakbarov, the Head of the Executive Authority, was interviewed and E.Mammadaliyev was among those who interviewed him. If a clash had taken place at this time on the other side (in front of the Department of Education), E.Mammadaliyev who was interviewing in front of the building of the Executive Authority would definitely have seen it.
- 6.7. Galandar Mukhtarov, the reporter of Azadlig Newspaper and a witness (v.35, c/p 209 – 211), stated that he headed for the town of Ismayilli like the journalists Mehman Karimli and Tofiq Yaqublu and arrived there at about 04.00 p.m. They arrived near the Executive Authority building where the journalists had gathered. There was to be a press conference at that time with the Head of the Executive Authority. It was at this point that the police officers took Tofiq Yaqublu away. After a while he got a call saying that they were being forced to leave the region and they were waiting for him at the very place where they had got out of the car. He went there, got into the car and upon leaving the region, along with Tofiq Yaqublu, they were escorted by the State Traffic Police car. If Galandar Mukhtarov's activity in Ismayilli lasted 30 – 40 minutes, Tofiq Yaqublu was able to walk there freely for just 4 -5 minutes, as very little time passed between his arrival and his apprehension. Only a few minutes lapsed between Tofiq Yaqublu's apprehension and the interview. The Head of the Executive Authority was interviewed at about 04.30 p.m.
- 6.8. Idrak Abbasov, a reporter of Bizim Yol Newspaper and a witness who wasn't questioned during the preliminary investigation (v.36, c/p 184 – 189), stated that he headed for Ismayilli together with Nijat Malikov, the reporter of Zerkalo Newspaper during the night of 23rd – 24th January and arrived there at about 04.00 a.m. At that

moment the Chirag Hotel burst into flames and the cars in the yard of the Head of the Executive Authority were on fire. In the morning nothing happened that might be interesting for the press; at about 10.00 – 11.00 a.m. 30 to 35 men gathered near the bank branch, calling for the release of those being detained, and one colonel aggravated the situation by his behaviour. At that time water cannons and rubber bullets were used against the people. At about 02.00 p.m. a representative of the Executive Authority gave the journalists a paper setting out information on the situation. At about 04.00 p.m. Tofiq Yaqublu, and a little later Ilgar Mammadov, arrived. Ilgar Mammadov came together with Natig Javadli. He asked I.Abbasov and the other journalists about the situation. Then Ilgar Mammadov invited him to go and have some tea with them, but I.Abbasov remained behind saying that he was tired and was going to have a rest in his car. After a while N.Malikov called him and said that they were leaving and, when they arrived with their car, N.Malikov took his belongings and at about 05.00 p.m. Ilgar Mammadov, Natig Jafarli and Nijat Malikov left. There was no conflict or tension in the town of Ismayilli while Ilgar Mammadov was there.

- 6.9. The witness Karimli Mehman Bejan (v.35, c/p 40 – 42) stated that on 24 January 2013 he headed for Ismayilli in his car together with Tofiq Yaqublu, Galandar Mukhtarli and a cameraman and arrived in the town a little after 04.00 p.m., stopped the car near the District Executive Authority building and saw many journalists, including Ramin Deko, Javanshir, the reporter of Azadlig Radio, standing in the square. While preparing for the interview with the Head of the Executive Authority, he saw Tofiq Yaqublu being taken away by two men in civilian clothes who pushed him into a car. Afterwards, he went to the Police Department together with the above-mentioned reporter of Azadlig Radio and saw Tofiq Yaqublu talking to the police officers. Chief Police Officer Nizami Gojayev entered the room and advised them to leave the town. Then, the same group got into the car and left Ismayilli under police escort. Things were quiet in Ismayilli and no conflict or tension took place while Tofiq Yaqublu was there. The editors of Yeni Musavat Newspaper submitted to the court the video materials recorded by M.Karimli in Ismayilli via T.Yagublu's defence counsel.

**The evidence of N.Jafarov, N.Malikov, M.Karimli, R.Jabrayilzade, Idrak Abbasov, G.Mukhtarov and E.Mammadaliyev is the same as that contained in the video materials, detailed phone billings and newspaper materials referred to above, as well as the evidence of Ilgar Mammadov and Tofiq Yaqublu, and they corroborate each other.**

- 6.10. Elshan Ismayilli stated that in 2013 at about 04.00 – 05.00 p.m. he hadn't been to Ismayilli but to a village 38 kilometres distant from the town. On 2 - 3 February 2013 he was forced to give testimony against Ilgar Mammadov. But Elshan resolutely refused to do so. The fact that the attempts to take an affidavit against Ilgar Mammadov and Tofiq Yaqublu from the other persons accused failed does not mean that the others were not forced in the same way, and all the persons put under pressure were as strong as those behind bars, saving their honour, dignity and good names.
- 6.11. Rustamov Mirahmad Allahverdi (v.35, c/p 96 – 97), a resident of Hajihatamli village of Ismayilli region (located 38 km from the town, the road leading to the centre is in bad condition) stated that on 24 January 2013 he left for the town with 7 – 8 co-residents to take money out of the ATM. It was already dark and about 07.00 p.m. when they arrived in town.



- 6.12. The witnesses Garibov Rufat Garib (v.35, c/p 98 – 99), Khalilov Gurbat Mahammad (v.35, c/p 99 – 100), Ahmadov Irza Zinhar (v.35, c/p 101 – 102), Aliyev Shahin Khanlar (v.35, c/p 104 – 106), Ramazanov Ilham Kamil (v.35, c/p 102 – 104) and Aghayev Asif Aghasalim gave the same evidence, stating that they arrived on 24 January 2013 at about 6:30 – 8.00 p.m. when it was already dark, Elshan Ismayilli was in the car with them and it was impossible for them to be in the town of Ismayilli at that time.

**It is clear from the evidence of Ismayilli Elshan, Rustəmov Mirahmad Allahverdi, Garibov Rufat Garib, Khalilov Gurbat Mahammad, Ahmadov Irza Zinhar, Aliyev Shahin Khanlar, Ramazanov Ilham Kamil and Aghayev Asif Aghasalim that, on 24 January 2013 at about 4.00 – 5.00 p.m., Elshan Ismayilli had not been to the town of Ismayilli and even if there were a clash there at that time, he could not have taken part in it.**

- 6.13. The witness Shahid Hamidli Gadir Asgar stated that he was arrested on 24 January 2013 at about 11.00 a.m. – 12.00 p.m. and freed only at about 6.00 p.m. During that time no hustling took place and no crowd gathered near the Prosecutor's Office and the Department of Education.
- 6.14. Saftar Aghamaliyev stated that things were quiet on 24 January 2014 in the afternoon in the town of Ismayilli, the centre was completely under police control. He got to know Ilgar Mammadov and Tofiq Yaqublu only in the pre-trial detention centre (v. 31, c/p 78, v. 43, c/p 75).
- 6.15. Hasanov Anar Rasim stated that, on 24 January 2013, Akhundov Street had been blocked from Shirvan Shopping Centre (near Shabnam market) by the Riot Police Regiment, Narimanov Street was also blocked and no people had gone towards the square (v. 31, c/p 88).
- 6.16. According to the evidence given by Mohubaliyev Shukran, when new charges were raised against him after four months in detention in accordance with Article 220.1 of the Criminal Code, the investigator told him that any evidence he gave against Ilgar Mammadov and Tofiq Yaqublu could be in his favour (v.31, c/p 162).

**The evidence of G.Hamidli and A.Hasanov also rules out that any conflict took place on 24 January 2013 at about 04.00 – 05.00 p.m. in the town of Ismayilli in front of the Department of Education. And the evidence of E.Ismayilli and Sh.Mohubaliyev confirms that the investigation body did its best “to prove the guilt” of I.Mammadov and T.Yaqublu.**

- 6.17. Mirkazim Abdullayev stated that, on 24 January 2013 at about 09.00 – 10.00 a.m., he had been in the centre of the town of Ismayilli, then headed for Gabala and stayed in Vandam village from the afternoon until 10.00 p.m. The prosecutor made no attempt to check his alibi – the fact that he wasn't on the scene at the time of the alleged (in fact fabricated) crime. On the contrary, in order to prove his innocence M.Abdullayev repeatedly submitted written and oral motions requesting that account be taken of the detailed billings of his mobile phone. On what grounds did the prosecutor ask that these motions be rejected? After all, if M.Abdullayev's evidence relating to his alibi was false, his phone billing information could easily have refuted it – it would be clear that at the time of the events he was not in Vandam village but

in the centre of the town of Ismayilli and this might decisively strengthen the position of the prosecutors. Why were the public prosecutors against it? Because in fact the prosecutor's office had no doubt as to the genuineness of Mirkazim's evidence, it just did not want to further damage the investigation group's accusatory theories. Let us assume that we can turn a blind eye to the prosecutors' attempts to hinder an effective prosecution, since one of the duties of the prosecutor is to defend the charges proffered in the criminal case in court in accordance with Article 84.2.4 of the Code of Criminal Procedure of the Republic of Azerbaijan, this nevertheless does not justify their failure to deny illegal charges. So, for what reason did the court not allow this and many other motions? According to Articles 8.0.3 and 28.4.1 of the above-mentioned Code, one of the key functions of courts in criminal proceedings is to ensure that the parties to the criminal proceeding are able to examine thoroughly, fully and objectively all the circumstances relating to the prosecution!?

Is the presiding judge really unaware of Article 121.2 of the Code of Criminal Procedure? This article provides that applications and requests for any matters connected with the prosecution to be examined thoroughly, fully and objectively under the required legal procedure, and for the violated rights and legal interests of parties to criminal proceedings and of other participants in the proceedings to be restored, may not be rejected. I stress – may not be rejected!

Is the court really unaware that according to Article 325.5.1 of the same Code, when an application is made for the investigation of circumstances that may be of importance for the thorough, full and objective examination of any matters connected with a prosecution, it should be allowed? That is, such applications should unambiguously be allowed irrespective of the public prosecutors' attitude and the judges' opinion!!

**M.Abdullayev's evidence is the same as that of Ilgar Mammadov and they corroborate each other.**

- 6.18. Latifov Imran Vahid, known as the injured party, who was working as an investigator in Ismayilli Regional Police Department on 24 January stated that, though he spent all his working day in the department, at 04.00 – 05.00 p.m. he saw no clash or scuffle in front of the Department of Education (near the building where the Police Department was located that time). He also stated that Akhundov Street had been blocked from Shirvan Shopping Centre (near Shabnam market) by the Riot Police Regiment, Narimanov Street also was blocked and the people did not advance towards the square (v. 32, c/p 63).
- 6.19. Guliyev Mahammad Yagub, a member of the Accounting - Registration and Statistics Team of Ismayilli Regional Police Department, also stated that on 24 January 2013 at about 04.00 – 05.00 p.m. there were no clashes; they started after dusk fell at 08.00 p.m. On the same day Akhundov Street was blocked from Shirvan Shopping Centre (near Shabnam market) by the Riot Police Regiment, Narimanov Street was also blocked. No people advanced towards the square (v. 32, c/p 74).
- 6.20. Karimov Rauf Bakhtiyar who works as a Chief Inspector in the Personnel and Vocational Training Unit of Ismayilli Regional Police Department, stated in his evidence that after 03.00 p.m. he went to the hospital from Regional Police Department, had his wound stitched up and went back. When he arrived back, the

road was blocked from Akhundov Street to Narimanov Street by the Riot Police Regiment and no tensions were observed (v. 32, c/p 80-81).

**The evidence of I.Latifov, M.Guliyev and R.Karimov in the part relating to the events taking place on 24 January, is the same as that of Ilgar Mammadov and they corroborate each other.**

6.21. Aliyev Elmir Sahib, a Policeman of Special Unit of the Riot Police Regiment of the Ministry of Internal Affairs of the Republic of Azerbaijan stated in his evidence (v.33, c/p 66 – 67) that he was in the town of Ismayilli on 24 January 2013, at about 11.00 a.m. – 12.00 p.m., when a stone thrown by the crowd touched and injured him.

**E.Aliyev's evidence is the same as in the video materials and states that the clash between the police and the crowd took place on 24 January 2013 in the town of Ismayilli not at about 4.00 – 5.00 p.m., but at 11.00 a.m. – 12.00 p.m.**

7. Before moving on to the analysis of some of the testimonies I would like to reiterate that there has been a gross violation of Articles 6 and 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms as a result of the lack of objectiveness, impartiality and independence of the court, selective and different application of the law and discrimination.

7.1. Once the investigation team realised, more precisely at the end of June last year, that it was impossible to attribute the charges brought against Ilgar Mammadov and Tofiq Yaqublu to the actions stipulated in the Criminal Code and it was necessary to increase the number of people testifying against them as well as to recognise some of them as victims in order, on one side, to control each other, and, on the other side, hearing the testimonies to adjust them, since the respected participants in the proceedings are well aware that, in contrast to the persons having the status of the witness, whose presence in the courtroom before questioning is prohibited, victims have a right to monitor all the proceedings.

7.2. In this regard, I filed a motion with the court requesting that it cancel the participation in the criminal proceedings of the officers of the Post-Patrol Service of Ismayilli district Police Department Azizov Faraj Yusif oglu, Ahmadov Rashad Shakir oglu, Fahtiyev Younis Khamis oglu, Khalafov Bakir Khatir oglu, Soltanzadech Valeh Taleh oglu, and Mirzayev Vusal Adilshah oglu who, in the absence of any injuries received, were recognised illegally as victims and were questioned for the first time on 24-27 June 2013 by the "well-known" investigator Eldar Bayramov. Although it was no surprise that the court rejected my motion, which had to be unambiguously allowed, this once again proved the intentions of the judges to convict I.Mammadov at any cost.

8. Now let us proceed to the testimonies of the victims.

8.1. Akhmadov Rashad Shakir oglu (v.32, c/p 88, v 33, c/p 38 - 46) stated that at 4.00-5.00 p.m. on 24 January 2013 he saw Tofiq Yaqublu and Ilgar Mammadov in front of the Department of Education, "they were even caught on video camera". There were 60-70 metres between them. During the questioning conducted by the defence, it appeared that he did not know the personnel of the patrol service platoon where he served. When asked about his concrete whereabouts, he was prompted by the prosecutor F.Musayev, telling him that they were on the left. After this R.Ahmedov said that he and his other colleagues were at the side near the building of the Executive Authority.

The judge prohibited use of the official state map when I asked him to show his own and Ilgar Mammadov's and Tofiq Yaqublu's whereabouts. Later, the presiding judge withdrew my question asking him to specify his whereabouts and describe the objects located in front of the Department of Education. The respected participants in the proceedings possibly remember that, in this regard, I had to object for the second time to the composition of the court. The court, on one hand, considered the objection, supported unambiguously by the defence, groundless and, on the other hand, fined me 220 manat on the ground that it was fabricated and aimed at delaying the proceedings. This was therefore a decision aimed at hindering the defence of the defendants, a direction to the defence counsels to behave "cautiously", turning a blind eye to the illegal instructions of the presiding judge so that, henceforth, despite the sufficient grounds to object to the court on grounds of bias and the creation of unfavourable conditions, unlike the conditions created for the public prosecutors, no one objected. The reason was not that the defenders feared the judges, I consider there was not a coward among the defence counsels participating in the proceedings. The reason is that it made no sense to object, since in the best scenario, it would have been left without consideration or even would have resulted in another fine.

In response to the question of the defence, Rashad Akhmadov stated that he was in the park located in front of the Executive Authority building near the way (opposite direction from the traffic light, at a distance of 70 metres) leading from the Department of Education to the Prosecutor's Office. At that time besides the Post-Patrol Service there were also the officers of the Riot Police Regiment. Before being questioned in the Prosecutor's office, he knew about Ilgar Mammadov from the videotapes shown him in the operation department. R.Ahmadov could not answer the question how he could know that the man in the videotape was Ilgar Mammadov. He said that Ilgar Mammadov seemed very active in the video recording. It was found that there were no subtitles in that film, and he could not give any other explanation. R.Ahmedov stated that he did not submit any report about this incident, that he was not injured despite being hit by the stones, and that Ilgar Mammadov was at a distance of 10 metres from the Department of Education, and about 20-30 persons were gathered around him. Despite the fact that he did not say anything to anyone, five months after the event he was called to the Police Department to give testimony. An identification with Ilgar Mammadov and Tofiq Yaqublu was not conducted. He also saw Elshan Ismayilli and Mirkazim Abdullayev there. Elshan Ismayilli was with a group coming from the side of the "Shirvan" shopping centre; Ilgar Mammadov and Tofiq Yaqublu were a small distance from each other, and a considerable distance from both Elshan Ismayilli and Mirkazim Abdullayev.

**Is there any need for comments? This person's statements are contradicted by his own words, and, what is more important, by the testimonies of the persons mentioned above, video materials and other non-personal evidence. It is clear from them how "active" Ilgar Mammadov was in front of the video camera. In a nutshell, the facts conflict with the words.**

8.2. Yunus Fakhtiyev (v. 33, c/p 51 - 54) said that he knew almost all of the defendants. On 24 January 2013 he was assigned to the post near the Department of Education of Ismayilli region. There were cases of arson, blocking of the road, etc. at 9-10 a.m. in the daytime in M.F.Akhundov Street, but later it was quiet. At 4.00-5.00 p.m. some young people gathered around Tofiq Yaqublu and Ilgar Mammadov, whom he did not know beforehand and whose names he learned only later. They incited the young people to throw stones at the police and burn the building of the Executive Authority. Despite being hit by a stone, he was not injured. According to the testimony, Ilgar Mammadov and Tofiq Yaqublu

came to Mirza Fatali Akhundov Street from Narimanov Street. Elshan Ismayilli was not in contact with Ilgar Mammadov and Tofiq Yaqublu. The last two were in front of the door of the Department of Education. There were 7-8 metres distance between him and those who were throwing stones. In the prosecutor's office he was shown photos of Ilgar Mammadov and Tofiq Yaqublu and someone told him that one of them was Ilgar Mammadov. He did not submit any report regarding the incident and did not write anything down in this respect before 25 January 2013.

In response to the question of the defence concerning this testimony Elshan Ismayilli answered that Fakhtiev could not have seen him at 4.00-5.00 p.m., because at that time he was in the village of Hajitapali where he lived.

In this connection, Mirkazim Abdullayev stated that Fakhtiyev could not have seen him at 4.00-5.00 p.m., because at that time he was in the village of Vandam in Gabala region.

**Here also there is no particular need for comment. This person's words are contradicted by his own statements and, what is more important, by the testimonies of the persons mentioned above, video materials and other non-personal evidence.**

8.3. Khalafov Bakir Khatir oglu in his testimony (v.33, c/p 68 - 70, 84), given before the court recess, stated that as a unit commander in the Post-Patrol Service, on 24 January 2013 he replaced the commander of the platoon. At 10-11 a.m. he was in front of the Department of Education, the police regiment was behind them, and later the latter regiment moved forward. From 8 am to 8 pm, he led the Post-Patrol Service. The territory covered was Mirza Fatali Akhundov and Nariman Narimanov Streets, and Heydar Aliyev Museum. There were people in the area and he was hit on the leg with a stone. He saw Elshan Ismayilli and Mirkazim Abdullayev at approximately 11-12 a.m.. He saw Ilgar Mammadov and Tofiq Yaqublu only for 5-10 minutes, they stood at a distance of 15-20 metres from the crowd and there were 1-2 persons near each of them. After the court recess, he sharply changed his testimony (v.33, c/p 71 - 72), confirmed the testimonies given during the preliminary investigation and avoided the questions of the defence concerning a search done in the house where he lives regarding cannabis and a weapon found in the possession of his cousin Khalafov Javanshir Musannif oglu, and the police officers present in the courtroom as victims did not allow the questioning to continue, and despite to the fact that the defence had questions the judge let B.Khalafov go. The court also failed to consider the fact that B.Halafov stated even during the preliminary investigation that the crowd came from the hospital side, but Ilgar Mammadov was standing in front of the Department of Education, he also could not answer to the question on how Ilgar Mammadov could control the crowd which was coming towards him as well as several other questions.

**Is there any need for comment? The words of this person are contradicted by his own statements and, what is more important, by the testimonies of the persons mentioned above, video materials and other non-personal evidence.**

8.4. Mirzayev Vusal Adilshah oglu (v.33, c/p 81 - 83) stated that on 24 January 2013 the situation was tense all day, but in particular at 11-12 a.m., 4.00-5.00 p.m., and from 9.00 p.m. until the night. He saw Ilgar Mammadov and Tofiq Yaqublu, whom he knew later, at the intersection of Akhundov and Nariman Narimanov Streets. The people did not disperse. They gathered the youth around them, calling on them to throw stones at the police and to advance towards the Executive Authority building. The crowd had thrown

stones. There was a distance between Ilgar Mammadov and Tofiq Yaqublu. If Tofiq Yaqublu had been arrested he had to see it.

**Here also there is no particular need for comment. The words of this person are contradicted by his own statements and, what is more important, by the testimonies of the persons mentioned above, video materials and other non-personal evidence.**

8.5. Azizov Faraj Yusif oglu, who was recognised as a victim (v.33, c/p 98 - 103, v 44, c/p 55 - 56, notes on the records), during the judicial investigation recanted the second testimony he had signed during the preliminary investigation and stated that what was written there, including the part regarding Ilgar Mammadov and Tofiq Yaqubov, was a product of the investigator's imagination. He said that on 24 January 2014 he was at the Police Department all day and he did not know Ilgar Mammadov.

**Hereby, F. Azizov actually exposed the untruthfulness of the investigation and the officers of the Post-Patrol Service - Rashad Akhmadov, Younis Fakhtiyev, Bakir Khalafov, Vusal Mirzayev, who were working with him.**

8.6. Soltanzadeh Valeh Taleh oglu (v.33, c/p 72-76) said that he saw Tofiq Yaqublu and Ilgar Mammadov near the Department of Education at about 4.00-5.00 p.m. on 24 January 2013: one of them was near the traffic light, the other was 10-15 metres away. He did not hear what they were talking about. He considers that if they arrived after the incident of 23 January 2013 that meant their purpose was to stir things up. The crowd was shouting "Freedom" and "Resignation". After stones had been thrown the officers of the Riot Police Regiment went ahead.

However, Valeh Soltanzadeh was not completely sincere, he spoke differently from what he said during the investigation.

8.7. The Deputy Head of the Police Department of Ismayilli region in operational matters Karimov Shohrat Yolchu oglu (v.35, c/p 204 - 208), said that Tofiq Yaqublu was brought before him at about 5 p.m., and then released. On being questioned he said he asked Tofiq Yaqublu what he had to do in Ismayilli. Tofiq Yaqublu said in response to a question that he was offered a meal at the Department and then his car was fuelled for free at a petrol station with a view to his immediate departure from the town. Despite an objection by the defence, the chairman did not allow the full questioning of Shohrat Karimli and let him go. The questioning continued after Sh. Karimli visited the judges during the break, and he stated that Tofiq Yaqublu would not have been apprehended by the police if the TV had not filmed him.

8.8. The witness Aghayev Akif Azay oglu, a police inspector at the Regional Police Department (v.35, c/p 213 - 217), stated that on 24 January 2013 after approximately 4 p.m. he was on duty in the park between the building of the Executive Authority and the Department of Education. He saw a collision near the Department of Education. He saw two persons (Ilgar Mammadov and Tofiq Yaqublu) standing there and decided to report it to the Police Department. At this time, the chief of the Criminal Investigation Branch of the Police Department Nijat Valiyev asked two persons to come to the Police Department. After that things became calm. During that period, the Head of the Executive Authority was interviewed. Then we were told by the officers from the Riot Police Regiment and civilians that they called people for resoluteness. There was a distance of 70-80 metres between A. Aghayev and Ilgar Mammadov and Tofiq Yaqublu. There were more than 20 persons. In response to the question of the defence he stated that saw Ilgar Mammadov and Tofiq Yaqublu going with Nijat Valiyev.

8.9. The Chief of the Criminal Investigation Division of Ismayilli region Police Department Valiyev Nijat Ikram oglu (v.33, c/p 264 - 276), stated that on 24 January 2013 from 9 a.m. to 8 p.m., the crowd resisted the police. He was himself on duty at the park in Hospital Road and in the park in front of the Executive Authority and Regional Education Department. There were about 70-80-100 persons in front of the Education Department. He and the officers of the division Vahid Maharramov and Namig Aslanov were in plain clothes. There were no other police officers except approximately 15 police officers from the Riot Police Regiment. He saw Ilgar Mamedov with a camera around his neck, in a jacket with a hood and a bag, and Tofiq Yaqublu at about 5.00-7.00 p.m. whom he recognized from the day of the incident, as if they were inciting the crowd. There were no stones thrown, nobody got injured but there were appeals [slogans], no one violated public order except Ilgar Mammadov and Tofiq Yaqublu. He warned Tofiq Yaqublu, then drafted a report and submitted it to the chief of the Police Department, and later Tofiq Yaqublu was taken away to the police department in a police car.

**Here there is also no particular need for a comment. The words of this person are contradicted by his own statements and, what is more important, by the testimonies of the persons mentioned above, video materials and other non-personal evidence.**

8.10. The witness Vahid Maharramov, an officer in the Criminal Investigation Division of Ismayilli district Police Department, (v.35, c/p 58 - 62) stated that on 24 January 2013 between 5 and 6 p.m. he saw Ilgar Mamedov and Tofiq Yaqublu near the Regional Education Department, Ilgar Mammadov was some distance away from Tofiq Yaqublu. If they had come to Ismayilli, that meant they had done it with a purpose. As he has hearing problems he does not know what they were saying, he just assumes. Both were on the corner of the building of the Regional Education Department near the department of culture (in the completely opposite direction from the traffic light). After 6 p.m. there were clashes behind the Education Department and the journalists recorded them. Tofiq Yaqublu was detained and put into a car which was 30 metres away and was taken to the Police Department, N.Valiev signed the report in this respect. On the same day he also had V.Ibragimov taken from the store to the Police Department.

8.11. Budenko Ruslan Dmitrievich (v.35, c/p 56 - 58) stated that there were about 20 persons at 4.00-5.00 p.m. near "Zaminbank", about 15-20 metres from "Bolluqmarket". He saw Ilgar Mammadov and Tofiq Yaqublu there, but did not hear what they were talking about.

8.12. Witness, Rovshan Novruzov (c.34, i / v 73 - 77), unemployed and a resident of the village of Julian, located 33 km from the town of Ismayilli, in his free testimony stated that he knew only two of the defendants, Ilgar Mammadov and Tofiq Yaqubov, out of the 18 present in the court room. He stated that on 24 January 2013, while buying a cigarette in the village, he heard about the events that had happened in the night, it interested him, so he came alone by taxi to the place of the incident and observed the hotel "Chirag". At 3 p.m. he went to eat at his cousin's place, who lives in the village Ashagybash and leaving from there at about 5 p.m. went across the front of the hospital to a place near the Education Department. There was a police cordon ("police barrier") and 5-6 children. He saw young men walking in the direction from the hospital to the Department of Education and among them were Ilgar Mammadov and Tofiq Yaqubov. The last two incited the young men saying they should throw objects, not be afraid and capture the building of the Executive Authority.

In response to questions, the witness said that by children he meant dashing fellows of the age of 18-20 years old, they were throwing stones. However, apart from Ilgar Mammadov and Tofiq Yaqubov he did not know anyone. Tofiq Yaqubov was stopped by the police officers Nijat Valiyev and Vahid Maharramov near him. Answering the questions of the defence, he stated that the house of his cousin, which he left approximately at 5 p.m. is located a 15-minute drive from the centre of town. When Tofiq Yaqubov was detained he was taken to the Police Department, when he was released he was told that he would be a witness and would need to come when called. Two days later, he was called to the Police Department and then to the Prosecutor's office. Besides questioning, Rovshan Novruzov did not participate in any investigative actions and did not sign any document. At this time he was provided in the court with a protocol (v.1, c/p 16-24) of inspection of the place of the incident. The court was not willing to disclose the protocol for a long time, however, to avoid showing his biased attitude. He was forced to give details and shown a note described as bearing R.Novruzov's signature. It was widely known that Rovshan Novruzov participated as an attesting witness, the inspection at the "Chirag" hotel and in the house of Nizami Alakbarov held on 24 January 2013 from 10 a.m. to 4.10 p.m. The presiding judge, without clarifying the further questions raised, prevented further questioning of the witness by the defence, and let him go. I would add that Rovshan Novruzov could not explain from where he knew the names of Ilgar Mammadov and Tofiq Yaqublu and in general their identification had not been carried out.

The participation of Rovshan Novruzov in that investigative action is once again confirmed in the video attached to the protocol of inspection of the place of the incident, shown in the Court of Appeal (v.44, c/p 62).

**Here also there is no particular need for a comment. The words of this person are contradicted by his own statements, and, what is most important, by the testimonies of the persons mentioned above, video materials and other non-personal evidence.**

- 8.13. Witness Israfil Mehdiyev, who lives in the town of Ismayilli (v.33, c/p 77-81), stated that of the defendants he knows Tofiq Yaqublu and Ilgar Mammadov, Saftar Agamaliyev and Anar Hasanov and does not know the rest. He said that when it was daytime he heard that the hotel "Chirag" had been burnt and in the afternoon after lunch he went to the centre, to the Department of Education. He saw the police and the people gathered there. At about 5 p.m. he heard some noise and saw the crowd marching on the way from the hospital, shouting and throwing stones at police. There Ilgar Mammadov and Tofiq Yaqublu told them not be afraid, to throw stones, to burn the Executive Authority building. Three police officers whom he knew approached them and tried to calm things down. He himself was in the town of Ismayilli, near the Prosecutor's office, in front of the Education Department.

On being questioned by the defence, I.Mehdiyev stated that Ilgar Mammadov and Tofiq Yagublu were taken to the police office, he asked for their names from one of the activists – who said that Tofiq Yaqublu was a deputy of Isa Gambar, and the other an employee of Tofiq Yaqublu. Both of them stood near the Education Department; the police also stood there. The crowd threw stones at the police. Seeing him there, police officers called him to the Police Department, so he went first to the Department, and then to the Prosecutor's office and provided his testimony. He went to the pharmacy at 5-6 p.m.. The witness could not answer the defence's question as to how



Ilgar Mammadov and Tofiq Yaqublu, being near the Department of Education, could lead the stone throwing, whereas the people had thrown stones from the hospital side towards the Department of Education. It emerged his son worked in the burnt hotel, but during the incident he was not there. He also testified that police officers Vahid Maharramov and Namig Aslanov were in police uniform on 24 January and that, although Ilgar Mammadov and Tofiq Yaqublu did not use megaphones, he heard what they were saying at a fair distance despite the noise and throwing of the stones. When Nijat Malikov who was in the court room was asked a question regarding the witness statement, he stated that I.Mehtiyev was lying, there were no clashes when they were in the town and they left the town approximately at 5 p.m..

**Here there is also no particular need for comment. The words of this person are contradicted by his own statements and, what is most important, by the testimonies of the persons mentioned above, video materials and other non-personal evidence.**

9. As can be seen, during Ilgar Mammadov's visit to Ismayilli he was neither an organiser nor even a participant in any clashes. The clashes started before he came to Ismayilli (at about 11:30 a.m.- 1:30 p.m.), paused and continued somewhat later (after 8 p.m.). In a nutshell, Ilgar Mammadov has an alibi. I am not even saying that it is generally wrong to call the events of that day a mass disorder. The real reasons for the obviously unlawful criminal charges raised against Ilgar Mammadov were his criticism of the activities of the real initiators of the event, the former Head of the Executive Authority of the Ismayilli District, Nizami Alekperov, the former Minister of Labour and Social Protection of the Population, Fuzuli Alakbarov and their relatives, as well as the criticism of the government.
10. It is unreasonable to claim that Ilgar Mammadov has committed the act referred to. The investigation body was so biased against him that it did not pay attention to the issues of time and location in its decision to bring criminal proceedings. Accordingly, when I.Mammadov was in Ismayilli there were no mass disorder, the disturbances happened before he left Baku and continued after he returned to Baku. The court denied irrefutable facts, demonstrating its partiality and non-independence.
11. **Firstly, there is no evidence confirming the fact that Ilgar Mammadov committed the acts set out in the articles in question and there cannot be any. Quite the opposite, taking into account that the prosecution bodies are guided by presumption of guilt instead of the presumption of innocence, we i.e., Ilgar Mammadov and his defence counsels have proved his innocence. His intention to study and analyse the reasons for the incident in Ismayilli was simply linked to his political and public activities and in a democratic society conditions should be created for that, but he should not be held responsible for doing so.**

According to Article 41.5. of the Criminal Procedure Code of Republic of Azerbaijan if the court reveals circumstances which preclude criminal prosecution after the beginning of the court hearing, it shall stop the hearing and order an acquittal. According to Articles 42.1., 42.1.1.-42.1.4. of the same Code an accused person may be declared innocent of the offence and acquitted by the court when no criminal act has been committed, the act has no criminal content, there is no link with the offence committed and guilt is not proven.

According to Article 350.2. of the Code in any of the circumstances provided for in Article 42.1 the court shall pronounce an acquittal on the basis of the results of its examination of the case.

Unfortunately, the courts actually issued an absolutely illegal and groundless judgment, taking up the prosecutor's, especially the biased prosecutor's, standpoint.

Due to the biased, impartial and unilateral approach of the courts of lower instance several rights of Mammadov Ilgar Eldar oglu safeguarded by the Convention for the Protection of Human Rights and Fundamental Freedoms were violated, such as the right to a fair hearing by an independent and impartial tribunal, the right to a fair trial, the right to a defence, equality of arms and the adversarial principle, reasoned court judgments (Article 6), the right to an effective remedy (Article 13), the right to prohibition of discrimination (Article 14), the right for the restrictions permitted under this Convention to the said rights and freedoms not to be applied for any purpose other than those for which they have been prescribed (Article 18).

The judgment of the Shaki Serious Crimes Court of 17 March 2016 and decision No. 1(107)-90/2014 of 24 September 2016 of the Shaki Court of Appeal in the part relating to Mammadov Ilgar Eldar oglu should be quashed for gross violations of Articles 107-108, 308 and 309 of the Code regarding the objections and court composition (416.0.7.); for groundless refusal to investigate evidence submitted by a party to criminal proceedings which might be of particular importance to comprehensively, completely and impartially review the charges brought (416.0.1.); for the failure to investigate the evidence in accordance with the requirements of Articles 143-146 of the Code of Criminal Procedure (416.0.2.); since the court's judgment to convict and sentence or to acquit is formed from the inadmissible evidence (416.0.3.); the court has not met the requirements of Article 391.6. of this Code (416.0.4); the court passed the judgment without the presence of a corpus delicti (416.0.6.).

**Ilgar Mammadov considers that the participation of the defence counsels in the cassation proceedings is sufficient and therefore is not willing to participate personally in this cassation proceedings.**

**Further to the above-mentioned** and guided by Articles 92, 408-413 of the Code of Criminal Procedure of the Republic of Azerbaijan

**I request:**

1. To quash the judgment of the Shaki Serious Crimes Court of 17 March 2014 in the criminal cases charging Aghamaliyev Saftar Dadash oglu, Hasanov Anar Rasim oglu, Ibrahimov Vasif Adalat oglu, Aghamaliyev Gambar Dadash oglu, Muhubaliyev Shukran Fatulla oglu, Gurbanov Elshan Vologya oglu, Mustafayev Shakir Aghasaf oglu, Abbasov Jeyhun Tahir oglu, Jafarov Jafar Panah oglu, Mammadov Rashid Arziman oglu, Aghayev Dashgin Yashar oglu, Jabbarov Aydin Jabrayil oglu further to Articles 186.2.1., 186.2.2., 220.1., 315.2., Samadov Sakhavat Khasay oglu, Sharanov Khayal Sergey oglu further to Articles 180.2.1., 180.2.3., 180.2.5, 186.2.1., 186.2.2., 220.1., 315.2. of the Criminal Code of the Republic of Azerbaijan, Mammadov Ilgar Eldar oglu, Yagublu Tofiq Rashid oglu, Ismayilli Elshan Samad oglu, Abdullayev Mirkazim Mirazim oglu further to Articles 220.1. and 315.2. of the same Code and the decision of the Court Board on

- Criminal Cases of Shaki Court of Appeal of 24 September 2014 in the part relating to Mammadov Ilgar Eldar oglu. To stop proceedings in the case in the part relating to Mammadov Ilgar Eldar oglu. To release Mammadov Ilgar Eldar oglu from detention.
2. To quash the decision of the Shaki Serious Crimes Court of 13 January 2014 in the part concerning the fine imposed in relation to the objection submitted by the defence counsel Aghayev Fuad Arif oglu.
  3. To review the cassation appeal without the participation of Mammadov Ilgar Eldar oglu.

- Annexes:**
1. Copies of the cassation appeal (20 copies);
  2. Order of the defence counsel;
  3. Copy of the judgment of the Shaki Serious Crimes Court of 17 March 2014;
  4. Copy of the decision of the Criminal Board of the Shaki Court of Appeal of 24 September 2014;
  5. Copy of the decision of the Criminal Board of the Supreme Court of the Republic of Azerbaijan of 13 October 2015;
  6. Copy of the decision of the Shaki Serious Crimes Court No 1(107)–31/2016 of 29 April 2016.

\_\_\_\_\_ Fuad Aghayev

21 June 2016