

Azerbaijan

MAIN ISSUES BEFORE THE COMMITTEE OF MINISTERS - ONGOING SUPERVISION

➤ *Action of security forces and effective investigations*

Ineffective investigations into actions of security forces, notably to establish the extent of state agents' responsibility for the death of an internally displaced woman during an eviction operation, as well as into the **absence of due action by police and prosecutors to elucidate a killing**.

Mikayil Mammadov group
(4762/05)
Judgment final on 17/03/2010

Enhanced supervision
Status of execution

Ill-treatment and/or torture during arrest and police custody and ineffective investigations into allegations of such ill-treatment.

Mammadov (Jalaloglu) group
(34445/05)
Judgment final on 11/04/2007

Enhanced supervision
Status of execution

Disproportionate and unnecessary intervention by the police forces during demonstrations, excessive use of force and ill-treatment, notably against journalists; ineffective investigations (see also freedom of assembly below).

Muradova group (22684/05)
Judgment final on 02/07/2009

Enhanced supervision
Status of execution

➤ *Failure to enforce prison sentence*

Failure to continue to enforce prison sentence for crimes committed abroad after transfer to home country based on racially motivated reasons.

Makuchyan and Minasyan
(17247/13)
Judgment final on 12/10/2020

Enhanced supervision
Status of Execution

➤ *Expulsion/extradition*

Unsatisfactory evaluation of risks of torture and inhuman or degrading treatment in country requesting extradition; custody ordered on the basis of unclear and foreseeable legislation and without any possibility of judicial review of continued detention.

Garayev group (53688/08)
Judgment final on 10/09/2010

Standard supervision
Status of execution

➤ *Lawfulness of detention and related issues*

Unlawful and arbitrary arrest and detention on remand.

Gafgaz Mammadov (60259/11)
Judgment final on 14/03/2016

Enhanced supervision
Status of execution

MAIN ISSUES BEFORE THE COMMITTEE OF MINISTERS - ONGOING SUPERVISION

Pre-trial detention without judicial order or in the absence of reasonable suspicion of committing an offence, extension of pre-trial detention without relevant and sufficient reasons, failure of domestic courts to carry out a judicial review of the extension. Breach of the right to presumption of innocence. Violation of the right to protection of property due to the attachment of shares in the bank before formal charges with the criminal offenses.

Fahrad Aliyev (37138/06)
 Judgment final on 09/02/2011

Standard supervision
Status of Execution

Protection against abuse of power

Abuse of power through arbitrary engagement of criminal proceedings implying use of arrest and detention, notably to punish a political opponent for having criticised the government and a human rights defender for his human rights activities.

Mammadli (47145/14)
 Judgment final on 19/07/2018

Enhanced supervision
Status of execution

Fairness of judicial proceedings - Criminal proceedings

Unfair criminal proceedings notably on account of:

- family ties between judges, prosecution and investigative authorities participating in the trial;
- refusals to hear witnesses in the defendant's favour;
- ineffective legal assistance and absence of sufficient opportunities to prepare the defence;
- insufficient time, facilities and access to file to prepare the defence;
- absence of possibilities to challenge the credibility of important witnesses/experts;
- failure by the courts to address objections raised by the defence as to the authenticity of the evidence produced by the prosecutors and its use during the trial (notably allegations that drugs had been planted by the police).

Insanov (16133/08)
 Judgment final on 14/06/2013

Enhanced supervision
Status of execution

Huseyn and Others group
 (35485/05)
 Judgment final on 26/10/2011

Standard supervision
Status of execution

See also:
Layijov (22062/07)
 Judgment final on 10/07/2014

Jannatov (32132/07)
 Judgment final on 31/10/2014

(both in **Mammadov (Jalologlu)** group under enhanced supervision)

Double conviction for the same offense, one administrative and one criminal, both related to the same involvement in a demonstration.

Huseyn and Others group
 (35485/05)
 Judgment final on 26/10/2011

Standard supervision
Status of execution

Fairness of judicial proceedings – Civil proceedings

Unjustified refusal to hear detained persons in civil cases concerning conditions of detention and alleged lack of medical care.

Insanov (16133/08)
 Judgment final on 14/06/2013

MAIN ISSUES BEFORE THE COMMITTEE OF MINISTERS - ONGOING SUPERVISION

Enhanced supervision
Status of execution

► **Enforcement of domestic judicial decisions**

Non-enforcement of final judgments ordering the restoration of the right of use of plots of land.

Humbatov group (13652/06)
Judgment final on 03/03/2010

Enhanced supervision
Status of execution

Failure or delayed enforcement of final judgments ordering reinstatement and/or payment of certain sums.

Tarverdiyev group (33343/03)
Judgment final on 26/10/2007

Enhanced supervision
Status of execution

► **Respect for private life - Disbarment of lawyers**

Disbarment of lawyers in breach of their rights to respect for private life and absence of adequate procedural safeguards in disciplinary proceedings against them.

Namazov group (74354/13)
Judgment final on 30/05/2020

Enhanced supervision
Status of execution

► **Freedom of expression - Protection of journalists**

Harassment of an investigative journalist through threats, secret filming and dissemination of intimate videos in breach of her rights to respect for her private life and freedom of expression.

Khadija Ismayilova group
(65286/13)
Judgment final on 10/04/2019

Enhanced supervision
Status of execution

► **Freedom of expression - defamation**

Unjustified convictions and prison sentence as sanction for defamation, notably against journalists; also, arbitrary application of criminal law to limit freedom of expression.

Mahmudov and Agazade group
(35877/04)
Judgment final on 18/03/2009

Enhanced supervision
Status of execution

► **Freedom of assembly and association**

Unsatisfactory legislation regulating freedom of assembly not meeting the requirements of foreseeability and precision; **arbitrary interferences with the right to freedom of assembly:**

- abusive dispersal of peaceful demonstrations / public gatherings;
- unjustified arrest and administrative conviction of participants.

Gafgaz Mammadov (60259/11)
Judgment final on 14/03/2016

Enhanced supervision
Status of execution

Violation of the right to freedom of association on account of the authorities'

- unlawful de facto refusals to register non-governmental organisations ("the NGOs"),

Ramazanova and Others (44363/02)
Judgment final on 01/05/2007

Standard supervision
Status of execution

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- unlawful or unjustified and disproportionate decisions to dissolve the NGOs.

Unlawful freezing of the bank accounts, illegitimate imposition of travel ban and pursuing ulterior purpose for these restrictions. Failure to provide remedies to contest the interference with the right to property.

▶ **Electoral rights**

Arbitrary application of electoral legislation and absence of procedures affording adequate safeguards against arbitrariness:

- arbitrary rejection of complaints regarding irregularities or breaches of electoral law;
- arbitrary cancelation of registration of candidates;
- erroneous application of electoral law, etc.

Namat Aliyev group (18705/06)
 Judgment final on 08/07/2010

Enhanced supervision
Status of execution

▶ **Protection of home and property - displaced persons**

Impossibility for displaced persons to gain access, in the context of the Nagorno-Karabakh conflict, to their homes and properties and relatives' graves in the disputed area near Nagorno-Karabakh on the territory of Azerbaijan - lack of effective remedies.

Sargsyan (40167/06)
 Judgment final on 16/06/2015

Enhanced supervision
Status of execution

Non-enforcement of orders for the eviction of internally displaced persons unlawfully occupying houses or apartments.

Mirzayev group (50187/06)
 Judgment final on 03/03/2010

Enhanced supervision
Status of execution