



№ 340/15/N

The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other international organizations at Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights, and with reference to the Joint Communication from Special Procedures (*ref:AL AZE 2/2015; 29 May 2015*), has the honor to transmit herewith the information with regard to the cases of Mr. Intigam Aliyev, Mr. Rasul Jafarov, Ms. Khadija Ismayilova and Mr. Emin Huseynov.

The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other international organizations at Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Enclosure: 6 pages.



Geneva, 11 September 2015

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**Information concerning the joint communication from special procedures
AZE 2/2015 of 29 May 2015**

The case of Mr. Intigam Aliyev

Mr. Intigam Aliyev's detention and conviction

Mr Intigam Aliyev was arrested on 8 August 2015 on the suspicion of committing the offences considered grave crimes under national law. He was charged with illegal entrepreneurship, tax evasion and abuse of power. The charges against him were brought in the course of investigation of the criminal case instituted in connection with the facts of irregularities in the activity of a number of NGOs.

By the decision of the Nasimi District Court of 8 August 2014 Mr Aliyev was detained for three month.

By the judgement of the Baku Court on Grave Crimes delivered on 22 April 2015, Mr Intigam Aliyev was found guilty of large scale embezzlement, illegal entrepreneurship, tax evasion, abuse in office and forgery in office, and sentenced to 7.5 years' imprisonment. On 21 July 2015, Baku Court of Appeal upheld the judgement of the first instance court.

Mr Intigam Aliyev's state of health

On 9 August 2014, Mr Intigam Aliyev was admitted to the Baku Pre-trial Detention Facility of the Ministry of Justice.

During the medical examination upon admission to the penitentiary facility, Mr Intigam Aliyev did not submit any complaints concerning his state of health, and stated that he did not remember any illnesses he had suffered before. According to the results of the examination, Mr Intigam Aliyev's psycho-neurological status was satisfactory and physiological indicators were normal. Fluorography of the thoracic organs showed fibrotic shades in the upper parts of the lungs. Electrocardiography examination did not reveal any pathologic changes. No signs of injury were found on his body. As a result of the initial examination, Mr Intigam Aliyev's state of health was determined as satisfactory.

On 17 October 2014, Mr Intigam Aliyev complained of headache, insomnia and low-back pain. He was diagnosed with right-side lumbar is chialgia and received necessary ambulatory treatment.

On 25 October 2014, Mr Intigam Aliyev complained of serious pain in the right leg and temporal blackout. In this connection, he again underwent medical examination, in particular, ultrasound scanning, brain and axis magnetic resonance imaging, complete blood and urine tests, biochemical blood test and bacteriological sputum examination. He was also examined by a neuropathist and a neurosurgeon.

Ultrasound examination of abdominal zones showed enhancement of parenchymal echogenicity of the left kidney, small hydronephrosis and small concretion (5mm) in the renal collecting system. Small nodes were detected in the prostatic structure. General and biochemical indicators of the blood and urinal analysis were within the norm. Result of the bacteriological sputum examination was negative. In order to determine whether there was pathological process in the prostate, PSA (prostate specific antigen) in blood has been examined and the result was at 3 (whereas the norm is below 4).

Brain and axis magnetic resonance imaging did not reveal any pathology. Some mediolateral hernia (≈ 6 mm), anular protrusion (≈ 4 mm) have been established, while spondylololysthetis and destructive vertebral process (signs of oncological process) have not been revealed.

As the result of the examination, the Mr Intigam Aliyev was diagnosed with "general osteochondrosis, hernia nuclei pulposi in L₄-L₅ and L₅-S₁, hemangioma in L₃ and L₅. Neuropathist and neurosurgeon concluded that there was no need for surgical intervention with regard to pathology in axis, and appointed conservative treatment.

In December 2014, Mr Intigam Aliyev was examined by a neurologist who prescribed him with light antianxiety drugs, having regard to the signs of vegetative dystonia (insomnia and nervosism). Hewas also consulted by an ophthalmologist and a psychiatrist. Laboratory and instrumental examination did not reveal any pathology.

On 26 December 2014 Mr Intigam Aliyev stopped taking antianxiety drugs without having shown any grounds.

In February 2015, Mr Intigam Aliyev was additionally examined in the Neurosurgical Hospital by the country's leading doctors. During the examination, a number of cancer-specific markers have been taken from his blood, and ultrasound examination of internals was conducted. The results of the examination once again excluded the existence of oncological process.

Currently, Mr Intigam Aliyev's state of health is satisfactory. A calculus in the left kidney is calm and does not cause any discomfort. Hernia in axis do not suppress nerves or spinal cord and do not necessitate surgical intervention. There is no pathology in the peripheral nervous system.

The case of Mr. Rasul Jafarov

On 22 April 2014, the Office of the Prosecutor General of the Republic of Azerbaijan instituted criminal proceedings under Article 308.1 (abuse of power) and Article 313 (forgery in public office) of the Criminal Code of the Republic of Azerbaijan with respect to alleged irregularities in the activities of a number of non-governmental organisations and

branches and representations of foreign NGOs. The criminal proceedings were instituted following examination of the materials submitted by the Ministry of Justice of the Republic of Azerbaijan concerning the analysis of grant agreements between NGOs.

In particular, it was indicated in the Prosecutor General's decision that IREX, "Institute for Reporters' Freedom and Safety (RATI)" and "Turan" Information Agency have financed creation of the Internet television channels, contrary to the requirements of the Law On Mass Media forbidding financing of mass media by foreign donors.

It was also established that branches and representations of a number of foreign NGOs donated large amounts of money through unregistered grant agreements. According to the legislation of the Republic of Azerbaijan, all grant agreements should be registered with the Ministry of Justice.

A number of persons, including Mr Rasul Jafarov were questioned as witnesses within the above mentioned criminal proceedings.

On 31 July 2014, Mr Rasul Jafarov was questioned as witness. He testified that for some period of time (2007-2011) he was a member of RATI. He further confirmed that during his activities in RATI, "Human Rights Club" and "Association for Legal Protection and Awareness Raising" he received grants through agreements that were not registered with the Ministry of Justice.

On 2 August 2014, Mr Rasul Jafarov was charged under Articles 192.2.2 (illegal entrepreneurship), 213.1 (large-scale tax evasion) and 308.2 (abuse of power) of the Criminal Code.

The same day Mr Rasul Jafarov was arrested. His arrest was a restrictive measure applied in accordance with the requirements of the Code of Criminal Procedure based on the reasonable suspicions that Mr Rasul Jafarov committed the above-mentioned offences. These suspicions were based on the information and materials submitted by the Ministry of Justice. They were corroborated by Mr Rasul Jafarov's testimonies of 31 July 2014, which would of themselves be sufficient to justify his arrest under the national law.

The domestic courts which examined the issue of Mr Rasul Jafarov's arrest took account of the fact that while he was aware of the criminal proceedings being conducted against him, in particular arrest of the assets and search in his house, he attempted to abscond by trying to leave the country by train to Tbilisi on 29 July 2014.

By the judgement of the Baku Court on Grave Crimes delivered on 16 April 2015, Mr Rasul Jafarov was found guilty of large scale embezzlement, illegal entrepreneurship, tax evasion, abuse in office and forgery in office, and sentenced to 6.5 years' imprisonment. Following the judgement Mr Rasul Jafarov paid his tax debt. On 31 July 2015, the Baku Court of Appeal dismissed the charge of tax evasion and commuted his sentence to 6.3 years' imprisonment.

The case of Ms. Khadija Ismayilova

On 20 October 2014, Mr Tural Mustafayev, one of the former colleagues of Ms Khadija Ismayilova, attempted to commit suicide, but doctors saved his life. On 24 October 2014, the Prosecutor's Office of Sabail District of Baku instituted criminal proceedings due to the fact of alleged incitement to suicide.

Mr Mustafayev stated that his attempt to commit suicide was caused by pressure Ms Ismayilova inserted on him due to their break up.

Ms Ismayilova was arrested on 5 December 2014 for two month term on the suspicion of incitement to suicide.

On 27 January 2015, the term of Ms Ismayilova's arrest was prolonged till 24 March 2015. The court took into account the fact that the investigation of the criminal case continued, and that Ms Ismayilova, if released, could unlawfully influence persons participating in criminal proceedings.

On 24 February 2015, within the investigation of another criminal case, Ms Ismayilova was charged with large scale embezzlement, illegal entrepreneurship, tax evasion and abuse in office. The two criminal cases were merged, and on 6 March 2015 the term of Ms Ismayilova's arrest was prolonged till 24 May 2015. The court took into account the fact that Ms Ismayilova had well-established relations abroad and could abscond; the court further considered that Ms Ismayilova, if released, could unlawfully influence persons participating in criminal proceedings.

On 14 May 2015, the court once again prolonged the term of Ms Ismayilova's arrest till 24 August 2015.

On 9 August, 2015 the criminal case against Ms Ismayilova was submitted to the court for examination. By the judgement of Baku Court on Grave Crimes, delivered on 1 September 2015, the court found that Ms Ismayilova, being the head of Baku Bureau of Radio Free Europe / Radio Liberty, was responsible for large scale embezzlement in the amount of AZN 17,922 (about USD 17,000); receipt of profit in the amount of AZN 335,880 (about USD 320,500) through illegal entrepreneurship; tax evasion in the amount of AZN 44,145 (about USD 42,000); and for the abuse in office. Ms Ismayilova was acquitted on the count of incitement to suicide. She was sentenced to 7.6 years' imprisonment.

The case of Mr. Emin Huseynov

In August 2014 Mr Emin Huseynov was charged with illegal entrepreneurship, tax evasion and abuse in office. The charges against him were brought in the course of investigation of the criminal case instituted in connection with the facts of irregularities in the activity of a number of NGOs.

The investigative authority had reasonable suspicions that Mr Huseynov, who was the chairman of "Institute for Reporters' Freedom and Safety" (RATI) received large sums through grant agreements that were not registered with the Ministry of Justice. He was accused of obtaining profit in the amount exceeding AZN 1,350,000 (more than USD 1,288,000) through illegal entrepreneurship and tax evasion in the amount exceeding AZN 274,000 (more than USD 261,000).

Mr Huseynov absconded and hid in one of the foreign embassies in Baku. In July 2015 Mr Huseynov paid his tax debt. Currently, Mr Huseynov resides in one of the European countries.

The judgement of the European Court of Human Rights in the case of Mr Emin Huseynov

The judgement of the European Court of Human Rights in the case of Mr Emin Huseynov became final on 7 August 2015.

The European Court held that in the said case there were violations of Article 3, Article 5 § 1 and Article 11 of the Convention.

The European Court awarded Mr Huseynov EUR 15,000 as the just compensation in respect of non-pecuniary damage and EUR 5,000 as the just compensation in respect of costs and expenses. These sums should be paid within three months from the date on which the judgment becomes final.

The Government of the Republic of Azerbaijan will pay Mr Huseynov the sum awarded by the European Court of Human Rights within the time frame specified in the judgment of the European Court.

Further, the Government is intended to implement both individual and general measures in order to execute the European Court's judgement.