



№ 249 /13/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 High Commissioner for Human Rights and has the honour to transmit herewith the response received from the Ministry of Justice of the Republic of Azerbaijan regarding the communication Ref. Nr. AZE 1/2013 dated 18 January 2013.

The Permanent Mission hereby requests the Office to kindly share the enclosed information with the relevant Special Rapporteurs of the Human Rights Council.

The Permanent Mission is of the view that the attached response could also be shared with the Working Group on Arbitrary Detention concerning its communication Ref. Nr. G/SO 218/2 dated 9 August 2013.

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 High Commissioner for Human Rights, the assurances of its highest consideration.

Enclosure: 3 pages.



Geneva, 27 August 2013

THE OFFICE OF THE UN HIGH  
COMMISSIONER  
FOR HUMAN RIGHTS  
GENEVA

ANNEX

Concerning the communication of the Special Procedures of the Human Rights Council a comprehensive investigation was carried out, investigation files, information from Baku city, Nizami, Sabail and Nasimi district courts, as well as Baku Court on Grave Crimes, the decisions of Baku Court of Appeals were examined.

Mr. Hilal Mammadov was detained on 21.06.2012 under the suspicion of illegal drug possession and the next day he was sentenced to 3 month imprisonment by the decision of Nizami District Court dated 22.06.2012 under the article 234.4.3 of the Criminal Code (considerable drug possession for sale). The beginning of imprisonment was calculated from the date of 21.06.2012. The Baku Court of Appeals upheld the decision of the district court without change on 14.08.2012.

During the investigation, the considerable drug possession by Mr. Mammadov for sale, expenditure of financial resources received from the narcotic drugs for the publication of materials of anti-Azerbaijan content to the detriment of the territorial integrity and state security under the instruction and the close contact with the special service agencies of a foreign state, his speeches for the purpose of dividing the country and the disruption of internal stability were examined and as a result new charges were brought on 03.07.2012 under the Articles 274 (high treason), 283.2.2 (incitement to national, racial, social or religious hatred or hostility) and 234.4.3 (considerable drug possession for sale) of the Criminal Code and the investigation of the case was transferred to the Grave Crimes Investigation Department of the General Prosecutor's Office.

Taking into account of the ongoing investigation his imprisonment term was extended for 4 months until 21.01.2013 on the request of investigator by the decision of Nasimi District Court dated 15.09.2012. The Court of Appeals upheld the decision of the district court by its decision dated 20.09.2012. On 25.12.2012, the criminal case was transferred to the Baku Court on Grave Crimes for trial. Currently, the criminal case was appointed for the court consideration during the preparation meeting and it was decided to hold proceedings partially closed.

On the initial investigation Mr. Mammadov reported to have been subjected to the attack and physical violence by 6-7 persons in civilian clothes. The claims by Mr. Mammadov were legally assessed; these points were thoroughly studied in accordance with the relevant procedure in international documents and the law. During the investigation, the explanations of persons involved in and after his detention were received, the forensic medical and additional commission forensic medical examinations were carried out, and however, the collected materials refuted the allegations contained in the complaint by Mr. Mammadov. In that regard, starting the criminal case was rejected by the first deputy of the General Prosecutor on 27.08.2012 considering the non-existence of crime in the mentioned actions. Mr. Mammadov filed a complaint to the Sabail District Court and asked for the cancellation of the decision dated 27.08.2012. The appeal was regarded as

unsubstantiated by the decision of the court dated 08.11.2012. The Baku Court of Appeals agreed with this decision on 19.11.2012.

Concerning the request of the Special Rapporteurs on the observations with regard to the legal basis and compatibility of the court decisions with international human rights standards and principles, it should be noted that while the independent court adopts a decision, it is guided by the national legislation and also international legal norms, the competence on assessing or commenting on it belongs to the court of higher instance.

Concerning the motion by Mr. Mammadov requesting the audio- and video-taping of the court hearing and the one on the interrogation of the defendant outside of the court cage, it should be taken into account that these motions were rejected by the consultative decision at the judicial board.

With regard to the measures taken to ensure the physical and psychological integrity of Mr. Mammadov, it should be noted that this person entered the Investigation detention centre No.3 on 25.06.2012 and Baku Investigation detention centre on 13.07.2012. While entering these centres he was undergone initial medical examinations. Concerning the history of his health (anamnesis), he noted to be suffering from a disease of bronchial asthma, a document on his one-week-treatment in Sankt-Petersburg, Russia in November of 2004 was submitted, however other supporting documents on his disease, the results of the examination and the treatments were not available. At the same time, Mr. Mammadov keeps by himself "Astmopen" aerosol which is used at the time of paroxysms of bronchial asthma.

It should be noted that as a result of clinic, instrumental, as well as X-ray examinations of chest organs, a pathology requiring treatment was not found. During his term in the detention center, suffocation paroxysms or difficulty in breathing was not observed; there were no calls for emergency concerning his health.

On the request of the Special Rapporteurs, Mr. Mammadov was undergone medical examinations again in February this year. Ultrasound examination of his internal organs was carried out, heart activity was examined through electrocardiography and echo-electrocardiography, and his chest organs were X-rayed. Mr. Mammadov declined in a written form to submit laboratory analyses and did not explain its reason.

Mr. Mammadov was surveyed by the leading experts of the Republic Scientific-Research Institute of Lung Diseases and his was undergone spiogram examination to study his respiratory situation. Consequently, ventilation disorder by Mr. Mammadov was not registered, no pathology was found in bronchi and lungs. Mr. Mammadov again refused the repeated proposal to submit laboratory analyses.

Mr. Mammadov's health is now adequate, he comes freely to doctor calls, his complaints are only about sporadic coughs. The physiological indicators of organism and the results of instrumental examinations are at norm.

Concerning the ill-treatment Mr. Mammadov allegedly suffered by his cell mate, it should be noted that Mr. Mammadov was kept in the same cell with Mr. [REDACTED] from 31 July 2012 to 10 December 2012 and he noted not having been subjected to either physical or moral pressures by the inmates or employees during his term in a detention center both in an oral and written form. There were no calls for the employees of the detention center or medical staff on the conflict between these two persons, on Mr. Mammadov's beating by Mr. [REDACTED] or his being tortured or subjected to physical and psychological pressures. Also there are no any remarks in the medical documents concerning his injuries because of this. The court did not receive any motion by the defending side to study Mr. Mammadov's beating by his cell mate.

Regarding the issue of health of the cell mate of Mr. Mammadov that the Special Rapporteurs touched upon, it should be noted that he was undergone initial medical examinations while entering Baku Investigation detention center, no pathology was found in his mental sphere and he was qualified as "practically healthy". Also the Republic Psychiatric Hospital No. 1 informed that he was not registered as mentally ill. Mr. [REDACTED] called for the doctors on his convulsion paroxysms in the beginning of December 2012. In that respect, we kept under doctor's surveillance until 10.01.2013. However, no convulsion paroxysms were registered during this period. He is now serving his imprisonment term in jail No. 7, his health is adequate, any mental pathological symptoms and convulsion paroxysms by him are not observed.

Thus, on the basis of the above-mentioned, it was determined that no illegal actions were undertaken against the defendant H.Mammadov, there was not any danger against his life or health. Along with other offenders, his security and rights are ensured in accordance with the legislation. During his term in the Baku Investigation detention center, Mr. Mammadov met with his family members and relatives 3 times, got in a phone contact with them 21 times and received 25 packages that were sent to him.

Concerning the request of the Special Rapporteurs on the observations on the issue of measures with regard to the legitimate work by human rights defenders, we would like to note that extensive opportunities were created for the freely activity of human rights defenders in the Republic of Azerbaijan, their rights and freedoms are completely ensured, they are not subjected to threats, violence or criminal prosecution with regard to their work. The development of civil society as one of the main components of a democratic state is kept constantly on the focus, there is a stable system of partnership between state agencies and non-governmental organizations in our country. As an example, we could refer to the Public Committee that comprises well-known human rights defenders and carries out public control within the penitentiary system.

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