

## **Confirmation in appeal of the sentencing against Mr. Novruzali Mammadov to ten years in prison**

### **New information**

**AZE 001 / 0808 / OBS 139.2**

### **Sentencing / Arbitrary detention**

Azerbaijan

January 7, 2009

The Observatory for the Protection of Human Rights Defenders, a joint programme of the World Organisation Against Torture (OMCT) and the International Federation for Human Rights (FIDH), has received new information and requests your urgent intervention in the following situation in Azerbaijan.

### **New information:**

The Observatory has been informed by the Human Rights Center of Azerbaijan (HRCA) about the confirmation in appeal of the sentencing against Mr. **Novruzali Mammadov**, a fervent defender of the cultural rights of the Talysh people, an ethnic minority living in the south of Azerbaijan, Head of the Talysh Cultural Center, Editor-in-chief of the Tolishi Sado (Voice of the Talysh) newspaper, and Department Head of the Linguistics Institute of the Science Academy.

According to the information received, on December 26, 2008, the Baku Appeal Court confirmed the sentence of Mr. Novruzali Mammadov to ten years in prison<sup>[1]</sup> for high treason and inciting national, racial, and religious hatred (See background information). Mr. Mammadov's lawyer intends to appeal against this decision before the Supreme Court of the Azerbaijan Republic.

As of issuing this urgent appeal, Mr. Mammadov remained detained at the pre-trial prison, as he had not yet received a copy of the Baku Appeal Court decision. He should then be transferred from remand prison to an ordinary one.

The Observatory denounces this blatantly unfair decision, and recalls that the proceedings in this case were marred with a high number of irregularities (See background information).

The Observatory is all the more concerned with this decision that in the run-up to the elections at the United Nations Human Rights Council in 2006, Azerbaijan had declared that “protection and promotion of human rights [were] a priority of its internal and foreign policy agenda” and “that the rule of law, democracy and protection and promotion of human rights and main freedoms [were] key pillars for the national development”<sup>[2]</sup> .

Accordingly, the Observatory urges the authorities to “take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of his or her rights”, in conformity with Article 12.2 of the United Nations Declaration on Human Rights Defenders, adopted by the UN General Assembly on December, 9, 1998.

The Observatory further calls upon the Commissioner for Human Rights of the Council of Europe (CoE) to act in accordance with OP 4 of the CoE Declaration on Human Rights Defenders<sup>[3]</sup> so that the rights of Mr. Mammadov be effectively guaranteed, and to urge the Republic of Azerbaijan to comply with its duties under the terms of the Declaration.

The Observatory also urges the European Commission Delegation as well as European Union (EU) Member-States embassies in Azerbaijan to urge the authorities of Azerbaijan to comply with the relevant international norms and standards, to visit Mr. Mammadov in prison, to report on all breaches of human rights standards, and to attend upcoming hearings on his case, in line with the EU Guidelines on Human Rights Defenders.

### **Background information:**

On February 2, 2007, Mr. Novruzali Mammadov was called to the Ministry of Internal Affairs, where he was kept for several days without explanations, underwent beating and interrogated due to his participation at a scientific conference in Iran in 2004.

On February 3, 2007, Mr. Mammadov was released but detained again on the same day. The Yasamal District Court then sentenced him to 15 days of imprisonment (administrative punishment) for his “resistance to legal demands of police officers”, although Article 30 of the Administrative Code provides that citizens who are over 65 years old shall not be sentenced to administrative punishment such as custodial placement.

Mr. Novruzali Mammadov was subsequently detained at the Investigation Isolation Centre of the Ministry of Internal Affairs, where he allegedly underwent physical and psychological pressure for 15 days to force him to confess the acts of “espionage” in favour of Iran. Mr. Mammadov was not provided with an attorney during these 15 days and his relatives did know anything about his whereabouts.

On February 17, 2007, he was accused of high treason for espionage under Article 274 of the Criminal Code. He has been arbitrarily detained since then.

On June 24, 2008, the Grave Crime Court sentenced 66 year-old Mr. Novruzali Mammadov to ten years in prison for high treason (Article 274 of the Criminal Code the Azerbaijan Republic). The Court argued that Mr. Mammadov had collected “information necessary for the establishment of an administrative autonomy in the territories of Azerbaijan compactly populated by Talysh people”, and had spread a negative image of Azerbaijan abroad through appeals submitted to international organisations relating to “violations of the human rights of the Talysh people”.

During the trial, Mr. Mammadov pleaded not guilty, and informed the members of the Court of the physical and psychological torture he had been subjected to while in detention (including beating, food and water deprivation, night interrogation and threats to his family). However, these allegations of torture were all rejected by the Court. The verdict was reportedly announced in an empty room in absence of Mr. Mammadov's attorney, after a closed trial. It is believed he was falsely accused and sentenced because of his activity protecting the right of the Talysh ethnic minority.

Following the issuance of its June-24 decision, the Court clarified the sentencing for high-treason, on these terms:

- “appealing to international organizations due to violation of human rights of Talysh people in order to damage Azerbaijan's image” (such argument was presented neither during the investigation nor during the trial);
- “propaganda of the Talysh language, culture and art”;
- “passing necessary information to Iran” (neither the bill of particulars, nor the verdict, investigation and the court managed to prove that Mr. Mammadov passed information to Iran);
- “finding people in Azerbaijan who have necessary information for Iran and link them with special services of Iran” (this accusation was proved neither during investigation nor in court)”;
- “having taken the position of the chief-editor of the *Talishi Sedo* newspaper in 1998 to use the newspaper for anti-Azerbaijani activity and create an administrative autonomy in the future” (the newspaper was not published until 2001 and has never been meant to foster anti-Azerbaijani activities);
- “sending young Talysh people for getting religious education outside Azerbaijan (no facts and no name of Azerbaijani citizens who would have gone abroad on recommendation of Mr. Mammadov were provided during the investigation and the trial);
- “appealing to the management of the Public TV for opening a programme in Talysh language, and appealing to the Ministry of Justice for registering the Talysh Cultural Centre and the *Tolishi Sedo* newspaper” (this was groundlessly considered to be espionage in favour of Iran in the verdict);
- “cooperating with linguist colleagues from the USA, Canada, Britain, Germany, and research on the contemporary Talysh language by conducting social surveys, trips, etc.” (this purely scientific activity was also considered to be a criminal offence);
- “helping Talysh people to get a job within executive and legislative branches so that they use their connections for creating Talish administrative autonomy in future” (no specific fact or evidence was provided);
- “receipting of \$15.000 from Iran's special services in order to publish a newspaper” (this fact of money reception was not proved either).

The Observatory wishes to insist on the fact that these “clarifications” were issued without proofs, and are based exclusively on the self-confessions of a journalist of *Tolishi Sedo*, Mr. Elman Quliyev, who was also arrested and sentenced for six years in prison. The Observatory fears that these confessions were obtained through torture and ill-treatment.

The Observatory was further informed that while Mr. Mammadov was in prison, his family has undergone pressure from the Ministries of National Security and Internal Affairs<sup>[4]</sup>. Further pressure is being exerted against members of the “Committee for the Defence of Mr. Mammadov's Rights”.

In addition to the appeal mentioned above, Mr. Mammadov also appealed before the Supreme Court against the interim procedural decision of the Baku Appeal Court. As a result, the proceedings in the Appeal Court are now pending until the decision of the Supreme Court, which can take up to five months.

### **Actions requested:**

Please write to the authorities in Azerbaijan, urging them to:

0. Guarantee in all circumstances the physical and psychological integrity of Mr. Novruzali Mammadov;
0. Release Mr. Novruzali Mammadov immediately and unconditionally since his detention is arbitrary as it only aims at sanctioning his human rights activities;
0. Order a thorough and impartial investigation into the above-mentioned acts of torture and ill-treatment against Mr. Novruzali Mammadov and his relatives in order to identify all those responsible, bring them before a civil competent and impartial tribunal and apply to them the penal sanctions provided by the law;
0. Guarantee that adequate reparation is provided to Mr. Novruzali Mammadov;
0. Put an end to the harassment against all human rights defenders in Azerbaijan;
0. Conform with the provisions of the UN Declaration on Human Rights Defenders, adopted by the General Assembly of the United Nations on December 9, 1998, especially its Article 1, which states that “everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels”, and the above-mentioned Article 12.2;
0. Ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments ratified by Azerbaijan.

### **Addresses:**

- Mr. Ilham Aliyev, President of the Republic of Azerbaijan, Office of the President of the Republic of Azerbaijan, 19 Istiqlaliyyat St., Baku AZ1066, Azerbaijan, Fax: +994 12 492 06 25, +994 412 92 28 68, E-mail: office@apparat.gov.az, president@gov.az, root@lider.baku.az
- Prosecutor's Office, 7 Nigar Rafibeyli St., Baku, Azerbaijan, Fax: +994 12 492 06 82, +994 12 492 26 63, E-mail: prosec@azeri.com
- Minister of Internal Affairs of the Azerbaijani Republic, Lt.-Gen. Ramil Usubov, Fax: + 994 12 492 45 90
- Permanent Mission of Azerbaijan, Rue de Lausanne 67, CH-1202, Genève, Suisse, e-mail : az.mission.unog@iprolink.ch, fax: +4122 901 18 44
- Minister of Justice in Azerbaijan, Prospekt Stroitelej, 1 Baku Azerbaijan, e-mail: contact@justice.gov.az, Tel (99412) 430 01 16, Fax (99412) 430 09 81
- Azerbaijani Embassy in Brussels, Avenue Moliere, 464, 1050 Brussels, Belgium, Tel: +32 2 345 26 60, Fax: +32 2 345 91 85

Please also write to the diplomatic mission or embassy of Azerbaijan in your respective country as well as to the EU diplomatic missions or embassies in Azerbaijan.

---

Geneva - Paris, January 7, 2009

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

The Observatory, a FIDH and OMCT venture, is dedicated to the protection of Human Rights Defenders and aims to offer them concrete support in their time of need. The Observatory was the winner of the 1998 Human Rights Prize of the French Republic.

To contact the Observatory, call the emergency line:

**E-mail: Appeals@fidh-omct.org**

**Tel and fax FIDH + 33 (0) 1 43 55 20 11 / +33 1 43 55 18 80**

**Tel and fax OMCT + 41 (0) 22 809 49 39 / + 41 22 809 49 29**

---

[1] The hearing in appeal took place on December 24, 2008, and the sentence was issued on December 26.

[2] See <http://www.un.org/ga/60/elect/hrc/azerbaijan.pdf>.

[3] See Declaration of the Committee of Ministers of the Council of Europe for enhanced protection of human rights defenders, adopted on February 6, 2008.

[4] On October 30, 2007, his son, Mr. Emil Mammadov, who is mentally ill, was kidnapped by civil cloth individuals and severely beaten as he was heading to the MNS prison to submit a food parcel to his father. On July 16, 2008, Mr. Emil Mammadov was arrested by the police for “illegal use of drugs” (See OMCT Urgent Appeals Case AZE 210808 and Case AZE 210808.1, respectively issued on August 21 and October 13, 2008).

L'OMCT a son siège à Genève, en Suisse. Elle coordonne le réseau SOS-Torture composé de 282 organisations régionales et internationales dans 93 pays sur cinq continents.

Contact : [omct@omct.org](mailto:omct@omct.org)