



New infringement procedure used for first time over 2014 judgment against Azerbaijan on opposition politician Mammadov

The European Court of Human Rights (ECHR) is to examine whether Azerbaijan has refused to abide by the ECHR's judgment in the case of imprisoned opposition politician Ilgar Mammadov, the first use of a new infringement procedure.

The procedure was introduced into the European Convention on Human Rights in 2010 and allows the Committee of Ministers, which has the responsibility under the Convention for supervising the execution of the Court's judgments, to refer a question to the ECHR about whether a country has refused to abide by a final judgment.

The Committee decided on 5 December 2017 to launch the proceedings against Azerbaijan owing to the authorities' persistent refusal to ensure Mr Mammadov's unconditional release following the ECHR's 2014 finding of multiple violations of his rights. The ECHR received the formal request from the Committee on 11 December. The procedure will be before the ECHR's Grand Chamber.

Mr Mammadov, born in 1970, was arrested and placed in detention in 2013 following protests in the town of Ismayilli. He is currently serving a seven-year prison sentence following his conviction in 2014 of mass disorder and violence against public officials.

The ECHR found in 2014 that Mr Mammadov had been arrested and detained without any evidence to reasonably suspect him of having committed a criminal offence and concluding that the actual purpose of his detention had been to silence or punish him for criticising the Government. It found violations of Article 5 §§ 1 and 4 (right to liberty and security), Article 6 § 2 (right to the presumption of innocence), and Article 18 (limitation on use of restrictions on rights) of the European Convention.

The Committee of Ministers has launched the infringement proceedings under paragraph 4 of Article 46 (binding force and enforcement of judgments) of the Convention.

The Article allows the Committee to refer a question to the ECHR as to whether a country has failed to abide by an ECHR judgment. The Committee first has to serve formal notice on the country concerned, which it did in this case in October, and then adopt a referral decision by a two-thirds majority.

The ECHR will consider the question as a Grand Chamber, its highest judicial formation. The Committee of Ministers and the parties concerned will be able to submit written comments in accordance with a deadline set by the President of the Grand Chamber. The Grand Chamber might also decide to hold a hearing.

If the Grand Chamber finds a violation because Azerbaijan has failed to abide by the ECHR's judgment of 2014 in the case, it will refer the case back to the Committee of Ministers for consideration of the measures to be taken. A finding of no violation also leads to the case being referred back to the Committee of Ministers, which then closes its examination.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.