

The Unsolved Murder of Rasim Aliyev

**The independent investigation into the
murder of journalist Rasim Aliyev**



The Institute for Reporters' Freedom and Safety (IRFS)

August 2016



www.irfs.org

CONTENTS

ACKNOWLEDGEMENTS.....3

A TRIBUTE TO RASIM ALIYEV4

SUMMARY OF THE CASE6

CAST OF CHARACTERS.....7

INTRODUCTION.....10

IMPUNITY FOR VIOLENCE AGAINST JOURNALISTS.....12

THE MURDER.....14

AN INDEPENDENT INVESTIGATION INTO THE CARE AND TREATMENT RASIM ALIYEV RECEIVED AT CITY CLINICAL HOSPITAL #117

REACTIONS.....19

DUE PROCESS VIOLATIONS.....21

ARRISING ISSUES, COMMENTS AND ANALYSIS.....23

CONCLUSION29

ACKNOWLEDGEMENTS

This report is a publication of the Institute for Reporters' Freedom and Safety (IRFS). Bringing this report to fruition was a collaborative effort involving a group of independent experts, who wish to remain anonymous.

The report is based on research and analyses by a group of experts consisted of two lawyers, two journalists, one IT specialist, and three human rights and media experts (local and international). Their work in 2015-2016 represents the heart of the information presented in the following pages.

In preparing this report, IRFS consulted and analysed, inter alia, the case criminal materials; the expert opinions; the bill of indictment; the court testimonies; the video footage from the incident scene; interviews and media reports; as well as domestic and international legislation.

The expert group inspected the incident scene; they interviewed Rasim Aliyev's family, two lawyers litigating the case, and seven independent lawyers and experts. In addition, opinions were obtained from two independent doctors.

The report also draws on previous IRFS research in the fields of freedom of expression and assembly and association.

A TRIBUTE TO RASIM ALIYEV



Journalist and human rights defender, Rasim Aliyev. 10 March 2013, Photo: Fargana Novruzova © IRFS

He was a quiet hero, one of those people who were always there. When all these things were happening to IRFS, he stayed working for them. He was modest, honest and exceptionally brave.

-- Emin Milli, Director of Meydan TV

Rasim Aliyev was a journalist, human rights defender and chairman of the Institute for Reporters' Freedom and Safety (IRFS).

Rasim Aliyev was born on 16 August, 1984 and died just short of his 31st birthday. He was a graduate of the State Oil Academy. Rasim Aliyev lived with his elderly parents, but was engaged to be married and in the process of planning a wedding. In addition to his parents and fiancée, Rasim Aliyev is survived by one sister.

An outspoken reporter who often exposed human rights violations in his video reports, Rasim Aliyev was well-known within Azerbaijani civil society and media community, and his death is a real blow to those who knew and worked with him over the years.

Rasim Aliyev was born in 1984. He graduated from the Azerbaijan State Oil in 2006. Although he received a degree in petroleum engineering which could help him build a good career in the oil and gas sector, Rasim instead decided to work in the non-for-profit sector, and contribute to the protection of freedom of expression. In August 2006, he voluntarily joined the Institute for Reporters' Freedom

and Safety (IRFS), where he soon became part of IRFS' Management Board (from 2008 to 2014). During his time with IRFS, Rasim Aliyev worked in different roles: as a trial monitor, a media content monitoring and analysis expert, and a journalist and afterwards editor for IRFS' Objective TV.

Impunity for violence against journalist sends the message to society that killing a journalist will almost never have consequences for the perpetrators. But enhanced media coverage of the issue of impunity could help change this, and Rasim was part of IRFS' efforts to fight impunity in Azerbaijan. In 2012-2014, Rasim Aliyev was part of IRFS' research and investigation team that conducted alternative investigations into murders and attacks of journalists and media workers.

During his tenure with IRFS, Rasim also observed a number of high profile trials, including the trial of Belarusian human rights defender Ales Bialiatski and Azerbaijani bloggers Emin Milli and Adnan Hajizadeh.

During the presidential election in 2013, Rasim was busy traveling from one polling station to another throughout Azerbaijan to voter intimidation, multiple voting, ballot stuffing, and other serious irregularities.

On October 13, 2014, Rasim Aliyev was elected chairman of IRFS by the decision of the General Assembly, succeeding previous chairman Emin Huseynov.

Since IRFS was established in 2006, their staff and contractors faced tremendous pressure, culminating with the organisation's illegal closure and persecution of the founder, Emin Huseynov in August 2014. The attack on Rasim Aliyev on 8 August 2015 took place one year from the date authorities had raided and closed the office of IRFS and its online TV project, Obyektiv TV, which were forced to cease operations.

That same day, 8 August 2014, IRFS Director Emin Huseynov was forced into hiding, and was soon after granted refuge at the Swiss Embassy in Baku, where he remained for 10 months until he was finally allowed out of the country, but stripped of his Azerbaijani citizenship.

It was Rasim Aliyev, using his personal vehicle, who escorted Emin Huseynov out of the vicinity and to temporary safety while law enforcement raided IRFS' office in August 2014.

In October 2014, Rasim Aliyev was elected as IRFS' chairman, to replace Huseynov. The protocol for this election was sent to Azerbaijan's Ministry of Justice. Aliyev took it upon himself to lead IRFS through the organisation's most difficult time, when it was in effect paralysed by frantic pressure by the authorities.

Rasim Aliyev had reported receiving continuous threats and intimidation via social media networks for three weeks leading up to his death.

Despite of multiple instances of physical and psychological pressure by the police and special services throughout his period of activity, Rasim Aliyev did not step back from the protection of human rights and stood up in defense of freedom of expression until his death.

SUMMARY OF THE CASE

Rasim Aliyev died on 9 August 2015 in a Baku hospital after being severely beaten on 8 August. Rasim Aliyev, a 30-year old reporter from Baku, criticised Azerbaijani football player Javid Huseynov for mistreating a foreign journalist. Aliyev subsequently received phone calls from persons who presented themselves as the player's relatives. He finally agreed to meet in what seemed to be a safe spot in a busy, populated area of Baku. In this spot, however, he was viciously beaten by a group of men.

The injuries did not immediately seem serious. Aliyev spoke clearly and indignantly from his hospital bed in Baku's City Clinical Hospital a few hours after the attack. But then his condition suddenly deteriorated, and he died just hours later in the same hospital.

An Azerbaijani court handed lengthy prison terms to five individuals involved in the beating, however, as this report demonstrates, the case is far from being closed.

Aliyev's murder only served to further contribute to the already pervasive climate of fear among the media community in Azerbaijan. Prior to criticising the football player, Aliyev had reported threats after posting to his Facebook page a series of photographs exposing police brutality. Aliyev had worked for IRFS for a number of years. He became its chairman after the ruling regime froze the organisation's bank accounts and persecuted its founder and director, Emin Huseynov, who then sought refuge at the Swiss embassy and was later forced into exile abroad. As one of IRFS's most trusted and loyal colleagues, it was Rasim Aliyev, using his personal vehicle, who escorted Emin Huseynov out of the vicinity and to temporary safety while law enforcement raided IRFS' office.

The attack against Aliyev took place one year to the date that authorities had raided and closed IRFS' Baku office.

He had been receiving threatening messages connected to a series of photos he had posted online showing police brutality and social discontent, such as protesters carrying a banner reading "Resign". Rasim Aliyev reported receiving a threat stating "You will be punished for these photos". He publicised the threat on 25 July 2015, and filed a complaint with the police, who failed to take action to protect Rasim Aliyev.

IRFS' investigation has established that the medical personnel at City Clinical Hospital #1 failed to provide necessary medical care to Rasim Aliyev. Furthermore, Rasim Aliyev's family have said they were disappointed that the trial had not come any closer to investigating the circumstances of his death in Baku hospital and pledged that they would continue their attempts to bring all those responsible for Rasim's death to justice.

CAST OF CHARACTERS



Javid Huseynov, footballer, Azerbaijan International and Gabala Football Club (FC) striker.

Role: An accessory: contributed to causing the actus reus through encouragement and concealment. Sentenced to a four-year imprisonment.

On August 7, 2015, journalist Rasim Aliyev said on Facebook that Javid Huseynov, 28-year old striker for the Gabala FC football team, should be banned from football after he made a rude gesture at a Cypriot journalist. Rasim was then beaten by a group of men who lured him to a meeting, claiming to be relatives and friends of the

footballer. Rasim later died in a Baku hospital.

Javid Huseynov was arrested on August 11, 2015. The investigation established that although Huseynov had known that his cousin Elshan Ismayilov was planning the attack, Javid Huseynov did nothing to prevent the occurrence of the incident.

On May 31, Sabail District Court sentenced him to a 4-year imprisonment under Articles 307.1 (failure to report a crime despite being aware of its preparation or commission) and 307.2 (concealing a serious crime without a prior promise) of the Criminal Code.

The principal offenders: a group of men responsible for carrying out the the actus reus

Elshan Ismayilov

Role: Perpetrator, sentenced to a 13-year imprisonment.



Elshan Ismayilov, a 22-year old graduate from the faculty of Football of Sports Academy, was playing professional football for several years. Ismayilov is a cousin of Gabala FC striker Javid Huseynov (son of his aunt on father's side).

He was arrested on 9 August 2015 for allegedly beating Rasim Aliyev. The investigation established that Ismayilov organised a group acting on "preliminary arrangement and inflicted serious harm to Rasim Aliyev's health with special brutality resulting in Rasim Aliyev's death on imprudence". Elshan Ismayilov was charged under Article 126.3 (intentional infliction of serious bodily injury resulting in death) of the Criminal Code and additionally under Article 177 (theft) of the Criminal Code for absconding with Rasim Aliyev's wallet dropped at the scene.

During trial, Ismayilov claimed that he did not regret his action and that he "rightly killed" Rasim Aliyev. In his statement to investigators, he admitted to having committed the crime. During trial, he pleaded guilty for beating Rasim Aliyev.

On 1 April 2016, Baku Grave Crimes Court sentenced Ismayilov to a 13-year imprisonment on charges of theft and intentional infliction of serious bodily injury resulting in death.

Jamal Mammadov

Role: Perpetrator, sentenced to 11 years in jail.

A 21-year old footballer for Garadagh-Lokbatan FC **Jamal Mammadov** was a friend of Elshan Ismayilov. He was arrested on 9 August 2015 for being part of the criminal group that had beaten Rasim Aliyev.. Mammadov pleaded guilty during his testimony in court and said he regretted his action. On April 1, Baku Grave Crimes Court sentenced Mammadov to eleven years in prison under the Article 126.3 (intentional infliction of serious bodily injury resulting in death) of the Criminal Code.

Arif Aliyev

Role: Perpetrator, sentenced to 12.5 years in jail.

A 20-year old Arif Aliyev was arrested on 9 August 2015 for his involvement in the brutal assault and beating of Rasim Aliyev. He was a friend of Elshan Ismayilov. He testified that he went to the meeting with Rasim Aliyev at Elshan's request and participated in the beating of Rasim. The investigating authority charged Arif Aliyev. On April 1, he was sentenced to a twelve-and-a half-year imprisonment on charges under Article 126.3 (intentional infliction of serious bodily injury resulting in death) and Article 177 (theft) of the Criminal Code.

Samir Mustafayev

Role: Perpetrator, sentenced to a nine-year imprisonment.

Samir Mustafayev, 26-year old, was arrested on August 09, 2015 as a member of the group which committed the beating of Rasim Aliyev. He was a friend of one of the relatives of Elshan Ismayilov. He came to the incident scene at the request of Elshan Ismayilov's relative Parviz Gabulzade. The investigating authority charged Samir Mustafayev under Article 126.3 (intentional infliction of serious bodily injury resulting in death) of the Criminal Code. On April 1, the Baku Court of Grave Crimes sentenced him to a nine-year jail term.

Kanan Madatov, Elshan Ismayilov's friend, 21 year-old

Role: Perpetrator, sentenced to a nine-year imprisonment

A 21-year old Kanan Madatov was a friend of Elshan Ismayilov . Madatov was arrested on 9 August 2015 for joining Elshan in beating Rasim Aliyev. The investigation established that Kanan Madatov's car was used to drive the group to the meeting point with Rasim Aliyev. Kanan Madatov was charged under Article 126.3 (intentional infliction of serious bodily injury resulting in death) of the Criminal Code. Although he confessed his deed during investigation, he pleaded not guilty in court. On April 1, the Baku Court of Grave Crimes sentenced Kanan Madatov to a nine-year imprisonment.

Medical Personnel

IRFS' investigation has established that the medical personnel at City Clinical Hospital #1 failed to provide necessary medical care to Rasim Aliyev. Furthermore, Rasim Aliyev's family have said they were disappointed that the trial had not come any closer to investigating the circumstances of his death in Baku hospital and pledged that they would continue their attempts to bring all those responsible for Rasim's death to justice.

Dr. Saday Aliyev, surgeon, intensive care, City Clinical Hospital #1

Dr. Saday Aliyev is a professor at Surgery Department of Azerbaijan Medical University and performs surgeries at City Clinical Hospital #1.. Dr. Aliyev testified that he had performed surgery on Rasim Aliyev. In his first interview¹ with the media after Rasim Aliyev's death, he stated that he had operated on Rasim Aliyev at 8.05 pm on 8 August, 2015. However, at the time mentioned, Rasim Aliyev was with his friends giving an interview to the media (the interview with Meydan TV for example, was taking place at around 9.00 pm). During the interview, Rasim said he had only been

¹ <https://www.youtube.com/watch?v=UHaeKLWPSEE>

examined and no surgery had been performed. At the time of the interview, he was in an ordinary ward and had just an IV drip administered to his arm. During interrogation by investigators, Saday Aliyev stated the operation had been performed in a timely and professional manner. He said Rasim had been provided all necessary medical aid.

Dr. Babak Zeynalov, surgeon, Surgery Department, City Clinical Hospital #1

Dr. Zeynalov performs operations at the Surgery Department of City Clinical Hospital # 1 and is also a docent of Azerbaijan Medical University's Department of Surgery. He is the doctor who admitted Rasim Aliyev to City Clinical Hospital #1. In his testimony to investigating agency, Dr. Zeynalov confirmed that he had admitted Rasim to hospital. The rest of medical personnel who was at the scene confirmed this statement.

INTRODUCTION

This report is a publication of the Institute for Reporters' Freedom and Safety (IRFS), an independent, non-profit organisation dedicated to promoting freedom of expression in Azerbaijan. IRFS was founded on World Press Freedom Day in 2006 by two Azerbaijani journalists in response to growing restrictions by the government on freedom of expression and media freedom.

The organisation's reporting has been instrumental in bringing freedom of expression issues in Azerbaijan to the attention of relevant organisations and officials in the United States and Europe. IRFS has been a member of the International Freedom of Expression Exchange (IFEX) since October 2007 and became a member of the Global Network Initiative in November 2012.

IRFS' broad freedom of expression approach and its ability to respond rapidly to even the most outrageous actions against press freedom are the defining factors of IRFS' activities in Azerbaijan. Dedicated to our dear colleague Rasim Aliyev, this report is part of IRFS' broader efforts to safeguard and promote freedom of expression in Azerbaijan.

Since IRFS was established in 2006, their staff and contractors faced tremendous pressure, culminating with the organisation's illegal closure and persecution of the founder, Emin Huseynov in August 2014. The attack on Rasim Aliyev on 8 August 2015 took place one year from the date authorities had raided and closed the office of IRFS and its online TV project, Obyektiv TV, which were forced to cease operations.

That same day, 8 August 2014, IRFS Director Emin Huseynov was forced into hiding, and was soon after granted refuge at the Swiss Embassy in Baku, where he remained for 10 months until he was finally allowed out of the country, but stripped of his Azerbaijani citizenship.

The brutal murder of journalist Rasim Aliyev demonstrated the severity of the threats and dangers faced by journalists and media workers in Azerbaijan. Sadly, this killing is just the tip of the iceberg in the history of violence against journalists in Azerbaijan. According to IRFS data, more than 300 journalists and media workers have been targeted in Azerbaijan during the last 13 years.

Silencing a journalist through death is the ultimate act of censorship: in the case of Azerbaijan, five journalists and media workers have been killed since President Ilham Aliyev assumed power in 2003. The situation is exacerbated by a range of additional threats, from intimidation and harassment to restrictive policies and arbitrary detention, including attacks on female journalists. Equally worrying, more than nine out of ten cases of attacks on journalists remain unsolved. The end result is a vicious cycle of impunity and a chilling effect on free expression. Azerbaijani society is living in a climate of fear and self-censorship.

In 2014, the Azerbaijani authorities kick started a brutal crackdown on civil society, eliminating independent NGOs and silencing human rights defenders. During the first phase, in April 2014, the Serious Crimes Investigation Department of Prosecutor General's Office launched a criminal case into the activities of local and international NGOs. As the first step within this criminal case, the bank accounts of independent NGOs and human rights defenders - including those of IRFS and the IRFS Chairman - were frozen in July 2014. Following this measure, the government arrested human rights defender Leyla Yunus on 30 July 2014; human rights defender Rasul Jafarov on 2 August and human rights defender Intigam Aliyev on 8 August on trumped-up charges. On 8 August 2014 the prosecutor's office conducted an illegal search at IRFS' office premises, stating that there was a warrant to forcibly bring the organisation's director, human rights defender Emin Huseynov, before the investigating agency.

As a human rights organisation, IRFS has been highly critical of President Ilham Aliyev and his regime. At the same time, it has fully complied with all relevant laws and procedures during the years of its operation. On the basis of the former, the IRFS Chairman Emin Huseynov, was a clear target for the authorities. Huseynov was forced to go into hiding in order to escape his imminent arrest on trumped-up charges. One of those who helped him to avoid illegal and arbitrary persecution by law enforcement agencies was Rasim Aliyev. Emin Huseynov spoke about this on Avaz Zeynalli's Gaynar Gazan (Hot Pot) program on 4 May 2016, after he was stripped of his citizenship and was able to

leave Azerbaijan.²

Based on the investigation conducted by IRFS, there are many questions arising from the official investigation of Rasim Aliyev's death. The organisation believes that the law enforcement agencies failed to conduct an objective investigation and drew up the indictment as the result of instruction from high-level officials. IRFS' sustained observations of court proceedings have revealed numerous irregularities and violations of due process.

² <https://www.youtube.com/watch?v=IQc5KqqW5p0>

IMPUNITY FOR VIOLENCE AGAINST JOURNALISTS

The ex-Soviet Azerbaijan is an oil-rich country with a troubling record of human rights violations. Inconsistent with its self-image of a "tolerant country," Azerbaijani authorities persecute and kill journalists and media workers; shut down independent media outlets, rights groups and brutally violate other rights.

One of the most significant obstacles to freedom of expression in Azerbaijan remains the high frequency of violent attacks against journalists and media workers and impunity for their attackers.

In March 2005, Monitor magazine editor-in-chief Elmar Huseynov was murdered in a well-organized attack that appeared to be a contract-style killing. After receiving a number of death threats, he was gunned down in the stairwell of his apartment building in Baku, where he died on the scene. More than ten years later, the authorities have failed to adequately investigate this case and no one has been brought to justice for the attack. Huseynov was well-known as a hard-hitting investigative journalist who was highly critical of the authorities. His case has become deeply symbolic, reminding the Azerbaijani media community of the courage needed to pursue investigative journalism and of the inherent risks associated with this work.

In subsequent years, journalists Alim Kazimli (19.06.2005) Novruzali Mammadov (17.08.2009), Rafiq Tagi (23.11.2011) and Rasim Aliyev (09.08.2015) paid the highest price for exercising their right to freedom of expression. They were men who stood up for free speech in the face of threats and intolerance. And in the end, their principled stance cost them their lives. All four of these journalists were intentionally harmed, and died at the hospital as a result of willful negligence by the authorities (Novruzali Mammadov died in the prison hospital due to poor prison conditions and lack of medical care). However, none of the medical workers involved have been brought to justice.

In Azerbaijan, journalists are not only killed, but also brutally beaten, kidnapped, stabbed and subjected to intimate video blackmail. The authorities have failed to investigate neither a blackmail and intimidation campaign against investigative journalist Khadija Ismayilova nor a beating of journalist Bahaddin Haziyeu.

In addition to murder and other violent attacks, Azerbaijani journalists and activists have been subject to ill treatment and torture in places of detention. In May 2015, the European Court of Human Rights found that Azerbaijani authorities had tortured media freedom campaigner Emin Huseynov. The judges held the government responsible for multiple infringements of Huseynov's basic human rights – for the assault against him, the lack of a proper investigation, and the restriction of his rights to freedom of expression and assembly. In June 2008, as Ilham Aliyev was preparing to run for a second term in office, Huseynov was detained and seriously assaulted in police custody. He was struck multiple times on the back of the neck during an attack at a district police station, and as a result was admitted to intensive care, suffering a traumatic brain injury. Authorities failed to investigate a subsequent criminal complaint filed by Huseynov.

In addition to this, hundreds of official complaints on police brutality on journalists have not reached any answer. No one has been brought to book, while the interference with the professional activities of journalists is the violation of the right of access to information, guaranteed under Article 50 of the Azerbaijani Constitution (freedom of information) and Article 10 of the European Convention (freedom of expression). Not the least, impeding professional activities of a journalist creates liability under Article 163 of the Constitution.

It is increasingly difficult, in fact nearly impossible, for journalists and media workers who have suffered serious violations of their human rights to receive justice and accountability.

Embraced culture of impunity has resulted in widespread practices of self-censorship in the country, as many journalists fear crossing certain lines in writing about taboo topics, such as corruption and the business interests of the president's family.

The journalists have been especially affected by the climate of hostility and intolerance prevailing in Azerbaijan today. Faced with enormous obstacles in the performance of their work whose legitimacy is questioned and criminalised, they suffer threats and attempts upon their operations and personal security.

The current regime certainly bears responsibility for the atmosphere of impunity in which assassinations of, and physical and moral attacks on journalists encroaching on powerful interests are commonly practiced as a way to silence a critical voice.

THE MURDER

CHRONOLOGY OF EVENTS

July 2015: Threatening messages online

On July 25 2015, Rasim Aliyev wrote on his Facebook page that he had been receiving threatening messages connected to a series of photos he had posted online showing police brutality and social discontent, such as protesters carrying a banner reading "Resign". Rasim Aliyev reported receiving a threat stating "You will be punished for these photos". He publicised the threat on 25 July 2015, and filed a complaint with the police, who failed to take action to protect Rasim Aliyev.

On the same day, on 25 July 2015, Rasim Aliyev called the 102 service of the Ministry of Internal Affairs and reported the threats. Shortly after calling the hotline, he received a phone call from Sabail District Police Office #8 and was invited to the police office for interview; he went and gave a statement.

7 -8 August 2015: The dispute with footballer Javid Huseynov

On 7 August 2015, Rasim Aliyev shared a news story titled "Footballer Javid Huseynov's Obscene Gesture to Cypriot Journalist" on his Facebook page and commented: *"I do not want such an immoral, illbred and unmannerly footballer to represent me in Europe."* On the following day, i.e. 8 August, Rasim Aliyev received several comments to his post including one from Javid Huseynov's cousin Elshan Ismayilov. The comment contained inflammatory language and was later deleted by Elshan Ismayilov.

On the same day, Rasim Aliyev received a phone call at around noon³. Although the caller who cursed Rasim Aliyev with severe profanities did not introduce himself the investigation later established that Javid Huseynov's cousin Elshan Ismayilov made the call. Three minutes after this call, Gabala FC player Javid Huseynov called Rasim Aliyev and said he had not insulted the Cypriot journalist. After his conversation with Javid Huseynov, Rasim Aliyev put up another post on Facebook page which read: *"I had a conversation with Javid Huseynov, and according to what he told me, these hand gestures were not offensive at all, but were meant as a sign of friendship between Azerbaijan and Turkey. I advise Javid to make a statement to the media about this video which has been misunderstood."*

8 August 2015: The attack

After Rasim Aliyev published his friendly Facebook post suggesting that the argument is over Elshan Ismayilov called Rasim Aliyev at around 3 pm and said that he had talked with Javid Huseynov and the latter told him to meet with Rasim at the tea house for a friendly chat. Rasim Aliyev said that the incident was over for him and there was no need for such a talk. But, as Ismayilov insisted, Rasim Aliyev said they could meet near his place and they appointed a meeting in front of Bayil Market located in Bayil settlement.

Rasim Aliyev arrived in front of Bayil market at 4.20pm. He got off the car and shook hands with Elshan Ismayilov, who was waiting in front of the Market, and Kanan Madatov, who was next to Elshan. At that moment, Elshan Ismayilov kicked Rasim in the chest once, and Rasim fell to the ground by the impact of the kick. After that, Elshan Ismayilov and his two friends waiting nearby, Jamal Mammadov and Arif Aliyev, were kicking Rasim while he was on the ground. Elshan Ismayilov's other two friends Kanan Madatov and Samir Mustafayev did not kick Rasim.

Rasim Aliyev broke free from them with difficulty and ran to the other side of the road passing in front of the Market. After that, they ran away with Rasim Aliyev's phone and wallet. Rasim Aliyev drove to the first-aid station located in Bayil, from where they took Rasim Aliyev to City Clinical Hospital #1 in an ambulance⁴.

³ Source: the investigation documents; Rasim's mother.

⁴ <https://www.youtube.com/watch?v=4gE26It8aRw>

8 -9 August 2015: Death at the City Clinical Hospital #1

Rasim Aliyev arrived at the City Clinical Hospital #1 at 5.15pm. In his interview, Rasim Aliyev stated that doctor Babak Zeynalov examined him and said that he had several fractured ribs. Rasim Aliyev also stated that he could not hear out of his left ear and as there was no otorhinolaryngologist at the hospital, his ear was not examined⁵.

Rasim called the Ministry of Internal Affairs hotline (102) at around 5.30pm, i.e. shortly after the incident happened, and reported about his beating. Officers from Police Office #8 of Sabail District Police Department came to the hospital at around 10.00pm and Rasim Aliyev gave them a statement about the incident. The officers told him that they would come again the next day to take a more detailed statement from him. While Rasim Aliyev was in the hospital, footballer Javid Huseynov and Gabala Football Club manager Sabuhi Safiyarli came to visit him at around 9 pm. Rasim Aliyev told them what had happened and Javid Huseynov promised to investigate the matter and set it right if it had been done by his relatives.

Testimony by Rasim's friends and family

Journalist, videoblogger, Rasim Aliyev's friend Mehman Huseynov comments:

"At around 11.40 pm, I visited Rasim Aliyev in the hospital. I stayed there for about an hour and left at 12.50am. An hour later, I learned that Rasim's condition had deteriorated and he had been taken to the operating room. I was the last person to see Rasim and he was allright."

Shortly after Mehman Huseynov's departure from the hospital, Rasim Aliyev's mother was called and told that his condition was not good and he was going to be operated on.

A quote from Rasim Aliyev's mother Teyfura Aliyev's testimony in Baku Grave Crimes Court on January 22, 2016:

*"A few minutes before **1 am on 9 August**, Dr. Babak (ed: Dr. Babak Zeynalov) called and said 'Rasim's condition has worsened, he needs to be operated on, please come over urgently'. In front of the intensive care unit, Dr. Saday (ed: Dr. Saday Aliyev, the surgeon) said Rasim's ribs had been fractured on both sides, his liver had broken apart, and there was no spleen... Dr. Babak was next to him. I asked Dr. Babak, why they had not told this to me during or straight after the examination or at least in the following 7-8 hours. I arrived at the hospital in about half an hour (ed: approximately at 1.30 am) and a nurse told me that the operation was over. I said: 'When you called me you said you were performing the operation. How can such a difficult operation end in half an hour or one hour?' I entered the intensive care ward and saw that Rasim's mouth and eyes were open. As a medical staff myself, I realised that Rasim was dead. They connected him to artificial breathing apparatus. **Rasim had died without undergoing surgery. The doctors were lying. They deceived us by keeping him, the deceased person, as a patient till the morning.**"⁶*

At around **5 am on August 9**, doctors informed Rasim Aliyev's family that he had passed away and his body was going to be sent to the Republican Hospital for autopsy.

9 August: The joint statement by the Ministry of Internal Affairs and Prosecutor General

On August 09, 2015, the Ministry of Internal Affairs and Prosecutor General's Office issued a statement⁷ on journalist Rasim Aliyev's death. The joint statement of the press services of the two agencies read:

"At around 6.00pm on August 8, Aliyev Rasim Mammadali oglu, Baku city resident born in 1984, was beaten by a group of unidentified persons in front of Bayil Market operating in Bayil settlement. He was hospitalized in Clinical Medical Center with multiple bodily injuries and died of injuries there at around 05.00am on August 9. The Investigation Department of Baku City Prosecutor's Office has

⁵ See: Reference 3

⁶ <http://www.azadliq.info/115754.html>

⁷ <http://www.mia.gov.az/>

launched a criminal case on the fact under Article 126.3 (deliberate infliction of serious harm to health, resulting in the death of the victim) of the Criminal Code, and an investigation team consisting of employees of the city prosecutor's office and Baku Main Police Department has been set up. The investigation of the criminal case is under special control of the leadership of the Prosecutor General's Office and the Ministry of Internal Affairs⁸”.

On the same day, i.e. 9 August, Elshan Ismayilov, Jamal Mammadov, Arif Aliyev, Kanan Madatov and Samir Mustafayev were detained as suspected perpetrators of Rasim Aliyev's beating, and on 10 August, the court sentenced them to a pretrial detention.

10 August: Reaction by the Presidential Office

The President of Azerbaijan, Ilham Aliyev, has ordered a "swift and comprehensive" investigation into the journalist's death, with an aide Ali Hasanov telling the state news agency Azartac that he was "seriously concerned" about the attack, and would oversee the investigation personally. Hasanov also said:

*"Azerbaijani President assessed this fact as a threat to freedom of speech and information and independent functioning of the media in the country and noted that it is a primary goal and duty of the Azerbaijani state to ensure the freedom of the media, which is an essential element of democracy. Violation of this principle is completely contrary to the state interests and the very essence of the policy carried out and is unacceptable. As soon as he heard about the incident, President Ilham Aliyev instructed the Prosecutor General's Office and the Ministry of Internal Affairs of Azerbaijan Republic to investigate the matter as soon as possible and with all details, to find the culprits and to bring them to justice, and to keep the president and the public updated about the causes of the incident and the course of the investigation on a regular basis. The President of Azerbaijan has stressed that he will keep the matter under his personal control and that the criminal will be found and punished according to the law."*⁹

11 August: The arrest of Javid Huseynov

On 11 August, the Ministry of Internal Affairs and the Prosecutor General's Office issued a joint statement regarding the arrest of footballer Javid Huseynov¹⁰. According to the statement, at that stage of the investigation, Javid Huseynov was charged under Articles 307.1 (failure to report a serious crime despite being aware of its preparation or commission) and 307.2 (concealing a crime without a prior promise) of the Criminal Code and the measure of pre-trial detention was chosen in respect of him by the court decision, based on *"the reasonable suspicion that he failed to report the preparation of a serious crime masterminded by his cousin E.Ismayilov and after the commission of the crime committed actions aimed at concealing the crime without having promised to do so in advance"*.

⁸ <http://www.genprosecutor.gov.az/news/5/172>

⁹ http://azertag.az/xeber/Prezident_Ilham_Aliyev_jurnalistin_vefatindan_ciddi_narahat_olmus_ve_meselenin_arasdir_ilmasini_sexsi_nezaretine_goturmusdur-876435

¹⁰ <http://prosecutor.gov.az/news/5/170>

AN INDEPENDENT INVESTIGATION INTO THE CARE AND TREATMENT RASIM ALIYEV RECEIVED AT CITY CLINICAL HOSPITAL #1

Contradictions in statements by medical personnel

On 13 August, 2015 Dr. Saday Aliyev, the doctor of City Clinical Hospital #1 who examined and treated Rasim Aliyev, gave an interview to the axar.az news website. He stated:

*"We examined Rasim Aliyev in the waiting room, X-rayed him and took samples from him for analysis. We also showed him to a traumatologist for the blows suffered to the head and **had him examined by an otorhinolaryngologist for the ear complaints**". (Ed: **This statement sharply contradicts with Rasim Aliyev's interview on 8 August, in which he clearly stated there was no otorhinolaryngologist at the hospital, and his ear was not examined**¹¹.)*

"At the time of his admission to the Clinic, there was no fluid in his abdomen or chest. We detected fracture of his two ribs. Overall examination lasted for 40 minutes. After these examinations, Rasim Aliyev said he wanted to go. We tried to explain it to him that he needed to stay in the hospital. But he did not want to stay. He finally agreed after the arrival of his mother. After that, we transferred him from the admission room to the hospital ward."

This testimony suggests that Dr. Aliyev became acquainted with his parents and took part in the examinations. Dr. Aliyev further stated: *"During the operation it became clear that the patient had sustained multiple serious injuries covering every part of the body. Rasim Aliyev did not have hemorrhage during the first examination. Ultrasound examination did not show such a condition, either. After obtaining the analysis results, we were convinced that there was no internal bleeding. He suffered a two-stage rupture. His spleen ruptured and his abdominal membrane could not withstand it and shrunk. **The patient was operated on less than an hour after his admission.** (Ed: **This statement contradicts with testimonies by the rest of the medical staff present at the scene including the one by Dr. Babak Zeynalov, who called Rasim's mother shortly before 1 am on 9 August to inform her that Rasim needed an urgent operation**). We were about to examine him again to put an end to the suspicions of hemorrhage. But an hour later the news came in that the patient's condition had worsened."*

Furthermore, Dr. Aliyev says Rasim underwent examination upon his admission to the hospital and these examinations took 40 minutes. They were going to examine him once again an hour later, when the news came in about the "deterioration of the patient's condition. **However later, Dr. Saday Aliyev made the following conflicting statement:** *"I remind you once again that I was aware of neither the late Rasim Aliyev's admission to the hospital, nor his examination or supervision. I have not participated in these procedures. I do not know his parents and have not seen them. I was just assigned by the responsible surgeon to perform an urgent operation on the patient and it was on the operating table that I saw the patient. That is that."* An audio recording¹² of the doctor's interview with axar.az website has been disseminated¹³.

This statement clearly contradicts with the earlier statement by Dr. Saday he made in his August 10 interviews with report.az and axar.az. In these interviews Dr. Saday confirmed that he, among other things, accepted Rasim Aliyev to hospital and made his first examination.¹⁴

The doctors have given contradictory testimonies.

¹¹ See: Reference 3

¹² <https://www.youtube.com/watch?v=UHaekLWPSEE>

¹³ <http://axar.az/news/61277>

¹⁴ <http://xalqxeber.az/gundem/21968-hekim-rasim-eliyevin-olum-sebebini-achiqalayib.html>

Dr. Babak Zeynalov , who first examined Rasim Aliyev, has stated in his statement to investigators that he observed nondisplaced fractures of the 8th and 9th ribs on the right side of Rasim Aliyev's chest and a small amount of liquid in the sinus.

Dr. Tamara Hajiyeva, head of the department of radiology and diagnostic at the City Clinical Hospital, who examined Rasim Aliyev's X-Ray shots indicated in her statement that she identified displaced fractures of Rasim Aliyev's 8th and 9th ribs on the right hand side and fluid accumulaiton in the sinus during the X-ray examination.

Dr. Arzu Rustamova, an ultrasound specialist at City Clinical Hospital's Surgery Department, has noted in her statement that she performed ultrasound scan of Rasim Aliyev at the direction of traumatologist Dr. Vugar (*ed: surname unknown*) at 5.30pm on 8 August 2015, and determined that there was no free fluid in Rasim Aliyev's abdominal cavity and no hematoma in parenchymal organs (liver, spleen, kidneys, pancreas).

IRFS' research team shared the case material including the medical personnel testimony and the footage of Rasim's last interview with an independent medical expert and asked for a professional opinion. Below is the transcript from the interview with the medical expert, who wished to remain anonymous:

*"If one has sustained a blunt injury to their viscera, then internal organs have inevitably been damaged. The patient should be X-rayed and undergo a computer tomography (CT) scan, and should be kept under constant control. The patient should be X-rayed every half an hour, because if internal bleeding or damage to any internal organ is not observed at the first moments, it does not mean that there is no risk of bleeding afterwards. In the event of fracture, the doctor should first identify the type and extent of the fracture, and eliminate the symptoms threatening the life of the patient. After that, either a splint should be put on or a sterile dressing should be applied and should be reinforced with a splint. Fractured bone parts can be displaced or nondisplaced. Generally, in the event of fracture, the first aid should serve to ensure the immobility of the broken bones. **During fractures, improper medical care may further worsen the patient's condition. Also, failure to detect internal bleeding on time may lead to delay in medical aid, which in turn may result in the patient's death.** The patient with internal hemorrhage risk should be in the semi-sitting position. If there is a suspicion of internal bleeding, the patient should not be given food, water or even pain relief medications. The patient should not be allowed to move or speak if there is a risk of bleeding. But the video that you presented shows that the patient spoke and moved for hours. In their interviews, the doctors also stated that Rasim Aliyev was injected with painkillers. **I do not know why, but it is obvious that the doctors did not monitor the patient's condition. Rasim Aliyev had a good chance of survival, if he were provided a timely and proper medical aid,"** the doctor said.*

REACTIONS

Domestic and international reaction to the murder

The government has repeatedly raised the issue of internet regulation. Officials have repeatedly expressed opinions on licensing online televisions. Some parliamentarian even suggested that restrictions should imposed on social networks. Rasim Aliyev's death has led to bringing the issue of online regulation back on the agenda.

11 August 2015, Azerbaijan Press Council Chairman Aflatun Amashov¹⁵:

"Regulation of social networks and news portals is impossible in any country. Restrictions are imposed only regarding terrorism, human trafficking and other issues. A program on compliance with the code of professional ethics on social networks has not been developed in Azerbaijan. Some people write derogatory posts on social networks. People's levels of tolerance are not equal. Therefore, people's reactions to offensive posts are different and even a death occurs. Therefore, you should respect people when expressing your views."

On 12 August 2015, The OSCE Representative on Freedom of the Media, Dunja Mijatović

addressed a letter to the President of Azerbaijan, condemning the killing of journalist Rasim Aliyev. Noting that the situation of media freedom in the country had deteriorated, Mijatović called on the authorities to ensure the safety of journalists. "This latest tragic incident once again proves it is high time that the authorities heed the warnings of international organizations and the calls of civil society to engage in meaningful dialogue and stop denying the seriousness of the situation," Mijatović wrote in her letter the President. She said she raised the issue of intimidation and imprisonment of journalists in Azerbaijan numerous times, but "Unfortunately, almost nothing has been done."¹⁶

On 11 August, 2015, a Copenhagen-based media freedom NGO International Media Support issued a statement¹⁷ : *"The climate of impunity – which allows attacks on journalists in Azerbaijan to remain unpunished – is contributing to the ongoing repression of free expression. Over the last decade there have been more than 300 attacks against journalists in Azerbaijan. Over the last 12 months, seven journalists and five human rights activists have been arrested and the list of cases of harassment of media and human rights specialists is long. The authorities must end the unacceptable impunity for crimes of violence against journalists in Azerbaijan. The untimely death of Rasim Aliyev is a stark reminder of Azerbaijan's detrimental freedom of expression record and the need to create a mechanism for protecting journalists and human rights defenders."*

On 11 August 2015, Council of Europe Secretary General Thorbjorn Jagland ¹⁸ issued a statement: "It is a very worrying sign that the safety of journalists in the country is deteriorating further. I call on the Azerbaijani authorities to fully and promptly investigate this murder and to bring the perpetrators to justice. This tragic event should serve as a last reminder to the authorities and society as whole that the country cannot continue like this."

On 10 August 2015, President of the European Federation of Journalists Mogens Blicher said¹⁹:

¹⁵ <https://www.youtube.com/watch?v=naFfCpBiPU4>

¹⁶ <http://www.osce.org/fom/176611>

¹⁷ <https://www.mediasupport.org/ims-condemns-killing-journalist-azerbaijan/>

¹⁸ <https://www.theguardian.com/world/2015/aug/10/azerbaijani-journalist-rasim-aliyev-javid-huseynov>

¹⁹ <http://www.ifj.org/nc/news-single-view/backpid/1/article/ifj-and-efj-mourn-the-killing-of-journalist-rasim-aliyev-in-azerbaijan/>

"There is a climate of impunity in Azerbaijan for acts of violence against journalists and human rights defenders. Grave crimes go unpunished. Journalists and every citizen should be free to express their opinions and share their comments on social networks,"

On 10 August 2015, Sport for Rights campaign, freedom of expression organizations, issued a joint statement. *"Rasim Aliyev's murder is the latest incident in a vicious cycle of violence against journalists in Azerbaijan. This attack takes place amidst a brutal human rights crackdown in the aftermath of the European Games and in the run-up to November's parliamentary elections in Azerbaijan,"* the statement read²⁰.

On 12 August 12 2015, Director-General of UNESCO, Irina Bokova condemned the killing of Rasim Aliyev. *"The authorities must ensure that those responsible for the death of Mr Aliyev are brought to justice. This is essential to protect the rule of law and press freedom. Impunity for crimes against journalists cannot be allowed to take root,"* concluded Ms Bokova. ²¹

²⁰ <https://www.fidh.org/en/issues/human-rights-defenders/azerbaijan-journalist-rasim-aliyev-murdered-as-human-rights-crackdown>

²¹ <http://en.unesco.org/news/director-general-calls-investigation-killing-journalist-rasim-aliyev-baku>

DUE PROCESS VIOLATIONS

On December 22, 2015, the indictment bill in the criminal case on charging Kanan Madatov, Jamal Mammadov and Samir Mustafayev under Article 126.3 (deliberate infliction of serious harm to health, resulting in the victim's death) of the Criminal Code and Elshan Ismayilov and Arif Aliyev under Articles 126.3 and 177.1 (theft) of the Criminal Code in connection with the beating of Rasim Aliyev and his subsequent death in the hospital was approved and submitted to Baku Grave Crimes Court for consideration.

The case on charging Javid Huseynov under Articles 307.1 (failure to report a serious crime despite being aware of its preparation or commission) and 307.2 (concealing a serious crime without a prior promise) of the Criminal Code was separated from the criminal case materials into a separate proceeding.

The lawyers defending Rasim Aliyev's rights have reported numerous due process violations during the investigation.

Rasim Aliyev' lawyers and family say they demanded that the doctors of Clinical Medical Center be brought to justice for the reason that Rasim Aliyev died as a result of medical malpractice and delayed surgery, but the city Prosecutor's office denied their requests without any justifiable ground. On 9 September 2015, Azerbaijani Minister of Public Health Ogtay Shiraliyev sent a letter²² to Baku City Prosecutor's Office stating that the doctors had no fault in Rasim Aliyev's death and that Rasim Aliyev had received examinations and treatments on time.

Fariz Namazli, the lawyer defending Rasim Aliyev's rights, believes that Baku City Prosecutor's Office concluding that Javid Huseynov was not involved in the killing of Rasim Aliyev anyhow is groundless, as Rasim Aliyev's beating occurred just because of Javid Huseynov. The fact that Javid phoned Rasim Aliyev, then insisted that Rasim should be invited to a tea in Bayil, and after the incident instructed his cousin Elshan Ismayilov to delete the messages and told him how he should testify, and that after Rasim's beating Elshan wrote a message to his friends that Javid would resolve the problem suggests that Rasim Aliyev's beating was organised by Javid Huseynov. However, the investigating authority came to a different conclusion, and instead of charging Javid Huseynov with more serious charges, filed charges that eventually lead to less serious criminal liability.

Developments in court

Two separate court proceedings were held on two separate criminal cases on the fact of Rasim Aliyev's murder.

The first proceedings were held on charges against the principal offenders: a group of men responsible for carrying out the the actus reus: Elshan Ismayilov, Kanan Madatov, Samir Mustafayev, Arif Aliyev and Jamal Mammadov. The principal offenders were tried at the Baku Grave Crimes Court and the proceedings lasted four months. IRFS' trial monitoring team observed all court hearings. According to the monitoring team, 18 hearings have been held on this criminal case.

The monitoring team has observed a number of violatons during the trial. Although the trial was of a great public importance, also in light of raising awareness on the issue of impunity, and while the Baku Grave Crimes Court has a larger courtroom, and it was available during the hearings in question hearings were held in a small courtroom and not many people could follow the trial.

At the hearing, the lawyer filed a motion to discontinue the court proceedings on the case and return it to the prosecutor, who led the preliminary investigation. Although during the phase of preliminary investigation the victim's legal heir stated in the motions that Javid Huseynov was the mastermind of Rasim Aliyev's killing and medical malpractice was a factor in Rasim's death, the motions were not sustained.

²²<https://www.facebook.com/photo.php?fbid=1248499351834339&set=pcb.1248499415167666&type=3&theater>

The lawyer filed a motion with the court to interrogate some individuals as witnesses, arguing that they were of importance to the case and that they had been questioned during the investigation but was not included in the list of witnesses in the indictment bill despite of the significance of their testimonies. The court did not grant this motion. The lawyer's motion requesting that the police officer, which had taken a statement from Rasim Aliyev in the hospital, be interrogated in court was also rejected. Even the documents on X-ray imaging of Rasim Aliyev in the hospital were not investigated in court.

Article 314 of the Criminal Code deals with the crime of negligence: *"Negligence, i.e. non-performance or improper performance of official duties owing to unfair or negligent attitude to service, if it caused significant damage to lawful interests of individuals or legal entities, gives rise to criminal liability. Such crimes are investigated by prosecuting authorities of the district, where the incident has occurred, under the supervision of Prosecutor General's Office."*

The court did not institute criminal proceedings against the medical personnel at City Clinic Hospital #1 and the police officers, who failed to ensure Rasim Aliyev's safety, at least under this article, though it should have done so.

By its verdict of 1 April, 2016, Baku Grave Crimes Court convicted the accused Elshan Ismayilov of both charges against him and sentenced him to 13 years, Arif Aliyev to 12.5 years, Jamal Mammadov to 11 years, and Samir Mustafayev and Kanan Madatov to 9 years in jail.

Sabail District Court heard the case of Gabala Football Club captain Javid Huseynov, who was arrested on the charge of failing to report the crime committed against Rasim Aliyev despite being aware of its preparation or commission. Twelve hearings have been held on this case. By its judgment of May 31, 2016, Sabail District Court sentenced Javid Huseynov to four years in prison.

ARRISING ISSUES, COMMENTS AND ANALYSIS

Having investigated the circumstances of Rasim Aliyev's death, IRFS has concluded that Rasim Aliyev's murder has been politically motivated and it is highly unlikely that justice will be served.

First and foremost, his murder is ascribed to the work of his organisation, IRFS, which was illegally closed down in 2014, and has faced multiple types of harassment and legal actions since its establishment in 2006.

Since IRFS was established in 2006, their staff and contractors faced tremendous pressure, culminating with the organisation's illegal closure and persecution of the founder, Emin Huseynov in August 2014. The attack on Rasim Aliyev on 8 August 2015 took place one year from the date authorities had raided and closed the office of IRFS and its online TV project, Obyektiv TV, which were forced to cease operations.

That same day, 8 August 2014, IRFS Director Emin Huseynov was forced into hiding, and was soon after granted refuge at the Swiss Embassy in Baku, where he remained for 10 months until he was finally allowed out of the country, but stripped of his Azerbaijani citizenship.

It was Rasim Aliyev, using his personal vehicle, who escorted Emin Huseynov out of the vicinity and to temporary safety while law enforcement raided IRFS' office in August 2014.

In October 2014, Rasim Aliyev was elected as IRFS' chairman, to replace Huseynov. The protocol for this election was sent to Azerbaijan's Ministry of Justice. Aliyev took it upon himself to lead IRFS through the organisation's most difficult time, when it was in effect paralysed by frantic pressure by the authorities.

IRFS has been a part of the Sport for Rights campaign, a coalition of international organisations working to draw attention to the unprecedented human rights crackdown taking place in Azerbaijan. Thanks to the Sport for Rights campaign, the international media turned its attention to the country in the context of the inaugural European Games in June 2015. The timing of the crackdown, in the run-up to the Games, was no coincidence. Bolstered by their experience hosting the Eurovision Song Contest in 2012, the Azerbaijani authorities set their sights on the few remaining individuals who dared to express criticism or dissent. In wake of the Games and on the eve of the parliamentary elections, there was still no end in sight to the perpetual cycle of repression.

The government spared no resources, in hopes of positive media coverage of the Games. But thanks to the Sport for Rights campaign, the Games turned into a PR disaster for the government and its international image.

Increasingly frustrated with PR attempts gone awry, **the authorities might be seeking revenge against the Sport for Rights campaign.** The fact that the attack on a human rights defender and journalist was perpetrated by a group of athletes just after another prominent journalist and Sport for Rights campaigner, Emin Milli, received a chilling message from Azerbaijani Sports Minister Azad Rahimov, **suggests a possible connection between the murder and the campaign.**

Rasim Aliyev had reported receiving continuous threats and intimidation via social media networks for three weeks leading up to his death.

For example, Rasim Aliyev was threatened with death over his journalistic activity on a social network on 25 July 2015, approximately 2 weeks prior to his death. The threatener said Rasim Aliyev would answer for the photos and videos, which he had shot during his time with IRFS. On the same day, i.e. 25 July, Rasim Aliyev called the Ministry of Internal Affairs hotline (102) and reported the threat. Shortly after calling the hotline, he received a phone call from Sabail District Police Office #8 and was invited to the police office for interview; he went and gave a statement.

According to Article 3 of the Law on the Police²³, *the duty of the police in the Republic of Azerbaijan is to protect people's lives, health, rights and freedoms, and the state's, individuals' and legal entities legal interests and properties against unlawful actions.* However, the police did not protect Rasim Aliyev and failed to fulfill its duty.

The police have discriminated against Rasim Aliyev in that Rasim informed them about his identity and activity, but they showed lack of interest in protecting him. Whereas, according to Article 5 of the Law on Police, in the course of performing of their duties, the police shall protect the rights and legal interests of all individuals specified by the Constitution of the Republic of Azerbaijan and treaties to which it is a party, irrespective of race, nationality, religion, language, sex, origin, property, official position, beliefs, affiliation to political parties, trade unions or other civil associations.

According to Article 14 of the Law on Police, the primary duty of the police is to ensure the safety of everyone. The police's failure to ensure Rasim Aliyev's safety was not investigated by the investigating authority or the court. It was overlooked, as if it never happened. We believe that the police were involved in Rasim Aliyev's murder as fulfillers of a political instruction.

The equality of rights and freedoms, the protection of the personal immunity, the honor and dignity, the rights of voting, freedom of information, thought and expression of any person in the territory of the Republic of Azerbaijan are guaranteed. A responsibility was defined by Article 163 of the Criminal Code of the Republic of Azerbaijan with regard to any form of obstacle to implementation of professional obligations by the representatives of mass media and legal professional activity of journalists without considering their political position and press authority which they represent²⁴.

The investigation conducted by IRFS concludes that medical negligence, i.e. the failure of medical staff of City Clinic Hospital #1 to provide timely and professional medical care and treatment is one of the main reasons of Rasim Aliyev's death.

Dr. Arzu Rustamova, an ultrasound expert at City Clinical Hospital's Surgery Department, has noted in her **statement to investigators** that she performed ultrasound scan of Rasim Aliyev at the direction of traumatologist Dr. Vugar (ed: surname is unknown) at 17.30 on 8 August 2015, and determined that there was no free fluid in Rasim Aliyev's abdominal cavity and no hematoma in parenchymal organs (liver, spleen, kidneys, pancreas).

Dr. Saday Aliyev, professor at Surgery Department of Azerbaijan Medical University, who was interrogated as a witness in the case, has noted in his **statement to investigators** that he was a surgeon on duty at City Clinical Hospital #1 on 8 August 2015, along with a surgeon in charge Docent Dr. Babak Zeynalov and other duty surgeon Dr. Ali Ismayilov.

At around 12.30 am on 9 August 2015, Dr. Babak Zeynalov said patient Rasim Aliyev needed urgent surgical intervention as his condition worsened and fluid was discovered in his abdominal cavity. He immediately performed an operation, in which surgeons Ali Ismayilov and Babak Zeynalov, anesthetist

²³<http://mia.gov.az/index.php?/en/content/193/>

²⁴163.1. Impeding journalists in their legal professional activities by forcing them to disseminate or refuse to disseminate information, with use of violence or with threat of its application –

is punished by the penalty at a rate of from hundred up to five hundred of nominal financial unit or corrective works for the term up to one year.

163.2. The same act committed by official with use of the service position –

is punished by corrective works for the term up to two years or with imprisonment for the term up to one year with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to three years or without it.

Fatali Fataliyev and a nurse, whose name he did not remember, had also participated. The operation lasted for 1 hour and 35 minutes, and ended at around 02.00 am.

During abdominal incision as part of the operation, it was determined that there was about 1.5 liters of blood and blood clots in the abdominal cavity. Approximately 1.2 liters of the blood was re-infused. During inspection, wide rupture of the spleen from its center towards its gate, rupture of the tail of the pancreas, and hemorrhagic inhibition of gastro-pancreatic ligament were detected. Splenectomy (removal of the spleen) was performed, the injury defect of the pancreatic tail was stitched and bleeding was completely stopped. The inspection was continued and no damage was detected to other internal organs. The abdominal cavity was washed and dried, three drains were put on the right and the left and the pelvis and the operation was completed. Although the patient's hemodynamic parameters were relatively restored during the operation (blood pressure 120-80, pulse 120), his saturation was prone to fall (60-35), and therefore he was transfused 300ml of donor red blood cell mass and 200ml of plasma and other blood replacement solutions. But saturation was not restored. Because this condition gave reason to suspect that the patient was suffering respiratory hypoxia due to the lung damage (considering the trauma), thoracentesis (pleural cavity drainage) was executed on both sides. Therewith, 120-150 ml of blood flowed out of the left pleural cavity and quickly stopped. From the right pleural cavity, only air bubbles came out. Emission of air continued intermittently and then stopped. After the surgery, the patient was placed in the intensive care unit in serious condition, connected to an artificial breathing apparatus. Despite of intensive resuscitation measures applied throughout the night, biological death of patient Rasim Aliyev occurred at 05.20am on 09 August 2015 as a result of progressive acute respiratory and cardiovascular failure.

Dr. Babak Zeynalov noted in his statement: *Aliyev Rasim Mammadali oglu was brought to the admission section of Clinical Medical Center at around 5.15pm on August 08, 2015, by a team of physicians in an ambulance of First Aid Station with the diagnose of "blunt trauma to head, chest, back and abdomen." The patient was first received by me, his chest, head and face was X-rayed, abdominal cavity was examined with ultrasound and laboratory tests were taken. During the examination, closed non-displaced fracture of his 8th and 9th ribs on the right side of the chest and a small amount of fluid in the sinus were observed. Ultrasound scan of abdominal cavity and X-ray examination of the skull did not show any pathology in the patient. After that, the patient was admitted as in-patient with the purpose of dynamic observation and was kept under control. During that time, he was fully conscious and active and could speak freely. Patient Rasim Aliyev felt good at the time of admission, and only complained about headache and pains in the chest and the left ear. It should be taken into account that the First Aid Station doctors injected the patient with painkillers due to the sustained trauma. After undergoing all necessary examinations, patient Rasim Aliyev was placed in the ward of the Surgery Department and was administered an IV infusion. He regularly examined the patient and there was no probable cause to suspect internal bleeding in the patient and the dynamic observation was continued. At around 12.20am, patient Rasim Aliyev's condition suddenly worsened, he began to experience radiating pains in the abdomen, dizziness and general weakness were observed, and his blood pressure fell to 80/50 mmHg. His body was covered in cold sweat. Those symptoms gave rise to the reasonable suspicion that the patient suffered internal bleeding due to splenic rupture and ultrasound examination confirmed this suspicion. Therefore, patient Rasim Aliyev was immediately operated on.*

Dr. Tamara Hajiyeva, head of the Department of Radiology and Diagnostics of City Clinical Hospital #1, noted **in her statement** that at 5.40pm on 8 August 2015, hospital's duty doctor Babak Zeynalov brought in a patient by name Rasim Aliyev and verbally asked her to X-ray his chest. At that time, patient Rasim Aliyev walked to the X-ray room himself and moved in front of the X-ray apparatus. After that, she talked to Rasim via a microphone asking him where the pain was and the latter pointed to the lower middle part of the left half of his chest saying the pain was there. Rasim did not show any other painful place on his body surface. Rasim could not stand up straight due to the pain and stood leaning to right side. To get accurate X-ray results she told Rasim to stand straight several times, but the latter said he could not stand straight due to the pain. Therefore, she was forced to examine Rasim in that position. During the X-ray examination, she determined displaced fracture in Rasim Aliyev's 8th and 9th ribs on the left side and fluid accumulation in the sinus. As Rasim Aliyev's pains and posture did not allow him to be examined with full accuracy at the time and as she suspected

additional fractures in Rasim's ribs, she advised the patient to undergo CT scan, added a note to his medical record about it and informed the doctors involved in Rasim's treatment.

The doctor, who performed the X-ray imaging, says she identified fluid accumulation in the sinus during the first examination and informed the doctors involved in Rasim's treatment about it and even requested the performance of CT scan. However, from 5.40pm until 12.30am, the doctors failed to perform CT scan, to take Rasim for further X-ray examination or to make medical intervention to clean out the fluid accumulated in the sinus. Because it was mentioned in the X-ray papers that fluid had accumulated in the sinus, the investigators did not attach this document to the criminal case materials, and despite being required by the victim's and the defendants' lawyers in court, the court showed no interest in obtaining this document.

The task of determining the causes of Rasim Aliyev's death was entrusted to experts subordinate to the Ministry, which interfered with the investigation of the criminal case by sending a letter claiming the innocence of the doctors. Due to this fact, the opinion issued by these experts is questionable, because the forensic examination was not conducted by independent experts.

The experts were questioned during the court hearings observed by IRFS.

On 16 February 2016, Alim Huseynov, the expert of the Sabail district department of Forensic Medical Examination and Pathological Anatomy Union who had issued the preliminary expert opinion on August 20, 2015, was questioned in **Baku Grave Crimes Court**. Alim Huseynov said he had issued the opinion after examining the corpse. According to the expert, Rasim Aliyev's body did not bear visible traces of injury. "Documents on initial examination of Rasim Aliyev were not presented to me when drawing up the opinion. I issued the opinion based solely on the results of the post-mortem. As a result of the autopsy, I determined that the cause of the late Rasim Aliyev's death was the cardiopulmonary failure which developed in parallel with acute internal hemorrhage caused by the complex trauma brought about by the blows sustained," Alim Huseynov noted.

Ziyafaddin Mammadov, the expert that had worked out the **panel forensic medical examination report of October 13, 2015**, was also questioned at the same hearing. The expert noted that he had not seen Rasim Aliyev's corpse firsthand and had prepared the expert opinion based on the medical documents presented by the investigating authority. "It seems from the documents that Rasim Aliyev had not been operated on immediately, as he did not have any problems at the time of his examination in the hospital. The relevant examinations, treatments and surgical operation have been conducted in line with the existing guidelines in the healthcare system. Based on the documents presented to me, I concluded that the cause of the death was acute pulmonary and cardiovascular failure which developed due to pulmonary contusion and collateral internal bleeding caused by the pancreatic tail injury and the rupture of the spleen," Ziyafaddin Mammadov said.

It is clear from the testimony of the experts that **the forensic examination has not been conducted fully**. One expert was presented the corpse but not preliminary examination and treatment documents, while the other expert has given the opinion based on only the documents presented to him.

Article 41 of Azerbaijan's supreme law, Constitution²⁵ states that, *Everyone has the right for protection of his/her health and for medical care*. This article further reads that, *Officials concealing facts and cases dangerous for life and health of people will bear legal responsibility*. In his last interview, Rasim Aliyev said although he had pains in his ear, the doctor did not examine it saying that the ear doctor was not in the hospital. Besides, Rasim Aliyev's mother Teyfura Aliyeva has also quoted the doctor as saying that there was no danger to Rasim Aliyev's life, and although his family said they were ready to transfer Rasim to a better-equipped hospital if necessary, the doctors said Rasim Aliyev's condition was good, despite of the fact that the initial X-ray results showed fluid accumulation in the sinus. This fact was hidden from his family.

²⁵http://www.azerbaijan.az/portal/General/Constitution/doc/constitution_a.pdf

At the time when the human rights groups and independent media were raising alarm over the failure to provide proper medical care to Rasim Aliyev in City Clinical Hospital #1, which is run by the Ministry of Health, the President awarded an Order of "Glory" to Minister of Health Ogtay Shiraliyev on 12 August 2015. This also strengthened the suspicion that the doctors were culpable in the journalist's death.

In another notable development, the President took Rasim Aliyev's death under his personal supervision, as announced by a presidential aide on 10 August 2015. However, when Elmar Huseynov, Editor-in-Chief of the Monitor magazine - which was highly critical of the authorities - was murdered in front of his apartment in 2005, President Ilham Aliyev promised that the murder would be solved within 40 days. However, 11 years later, the killers are yet to be punished. Elmar Huseynov was shot in the mouth and his apartment's phone lines were cut, leaving him helpless.

During a speech on 24 August 2014, President Ilham Aliyev stated that all freedoms, including freedom of expression, are ensured in Azerbaijan. However, during his 13 years in power, no less than 5 journalists (Elmar Huseynov, Alim Kazimli, Novruzali Mammadov, Rafiq Tagi and Rasim Aliyev) have been killed in relation to their work. Hundreds of other journalists have been physically assaulted and threatened. The failure to apprehend those responsible for these crimes has led to a climate of impunity and an increase in the number of journalists who are targeted.

Universal Declaration of Human Rights ²⁶

Article 18 - Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

European Convention for the Protection of Human Rights and Fundamental Freedoms²⁷

Article 10. Freedom of expression 1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.

Further observations / indicators of a political motive

There are a number of factors indicating that Rasim Aliyev's murder was politically motivated.

There is an interesting section of the WhatsApp correspondence between Elshan Ismayilov and Javid Huseynov, which is part of the criminal case materials. Elshan Ismayilov writes *"Sorry, bro. I swear to God, I did not know this argument would center around you. You were just an intermediary. He swore at me as soon as he answered the phone. He swore at my loved ones, at my mother. **I did not know it was a put-up job.** I met with him after that. Whatever happens, let it be so. Don't make yourself look bad in people's eyes. Do it however it suits you. I am already a black sheep. You are famous. People can say anything about you, in the good sense. But when he swore at me, I was with guys. I don't know."*

Ismayilov said he did not know it was "a put-up job", which suggests that the principal offenders themselves were unaware of full scale of the plan; in other words, they were just pawns in this politically motivated case. In his final speech at Sabail District Court, Javid Huseynov said he had been told during the investigation that **'our country is receiving pressures, you go serve 2-3 months and then you'll be freed'**. This indicates that the investigating authority put pressure on the defendants to accept their punishments, with the aim of showing that the murder was not politically motivated.

Elshan Ismayilov and Javid Huseynov are not friends with Rasim Aliyev on Facebook and they do not have even common friends. Elshan Ismayilov must have learned about Rasim Aliyev's post from someone else. This person, whose identity is not known, is clearly interested in this case, because

²⁶http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf

²⁷http://www.echr.coe.int/Documents/Convention_ENG.pdf

he/she knew Elshan Ismayilov and could have predicted how Ismayilov would react to the post in question.

The trial monitoring conducted by IRFS demonstrated that this was a show trial. The severe sentences were intended to distract from the political nature of the murder. The rejection of the Rasim Aliyev's lawyers motions at the hearings in Baku Grave Crimes Court and the perfunctory approach to the case is proof of this.

CONCLUSION

The Azerbaijani authorities have developed a sophisticated repressive system that stifles critical and independent voices. Acts of retaliation to quash dissent, attacks against journalists, pressure on civil society organisations, repression of peaceful protest and other grave violations of fundamental freedoms have become systematic in Azerbaijan and are perpetuated by the climate of complete impunity for such acts. As a result, the space for dissenting views, independent media and independent organizations to operate is shrinking.

As for the freedom of expression situation in the country, IRFS reiterates its conclusions as stated in previous reports, noting concern over the absence of a climate of tolerance promoting active participation in public life and the open exchange of ideas among diverse sectors of society.

The situation of freedom of expression in Azerbaijan began to rapidly deteriorate after the murder of Elmar Huseynov in 2005, and during the past three years has reached a critical point. Media organisations and independent journalists have long been sounding the alarm, but the government has shown no reaction.

International organisations have also urged President Ilham Aliyev to ensure freedom of expression and the safety of journalists in Azerbaijan. However, the Aliyev administration has continued to arrest journalists, implemented restrictive amendments to media legislation, and failed to take any steps to solve attacks against journalists. The human rights commitments undertaken upon accession to international organisations such as the OSCE and Council of Europe have remained empty promises.

Aliyev's government has created an environment wherein critical individuals and their relatives are either arrested or subjected to other threats. In this context, there is a lack of public respect for the work of journalists. In this prevailing atmosphere of impunity, journalists' safety cannot be ensured, and the "revolving door" practice of politically motivated arrests continues.

Even the economic problems which have assailed the country since the drop in oil prices have not pushed the government to implement human rights reforms and respect alternative opinions. The Aliyev regime does not hesitate to interfere with freedom of expression; for instance it recently closed down ANS TV, a television channel operating in the country for many years, a move that was unambiguously political.

The safety of journalists is not ensured. The police ignored Rasim Aliyev's request for protection prior to his death. Two weeks later he was brutally beaten and died in hospital under mysterious circumstances. The medical personnel failed to provide him proper medical care. Further, by giving an order of glory to the Minister of Health, in the hospital headed by whom two journalists have died, the President has demonstrated his support for the human rights violations occurring in the country.

The Azerbaijani authorities bear responsibility for the atmosphere of impunity in which physical and moral attacks against journalists encroaching on powerful interests – including, in five cases, murder – are commonly carried out as a way to silence critical voices.

To this end, IRFS calls on the authorities of Azerbaijan to put a stop to violence and other forms of pressure against journalists; all forms of impunity for those who attack or kill journalists and ensure that all cases of violence against journalists are resolved and all guilty parties are punished in accordance with the law.

IRFS calls on the Azerbaijani authorities government to fully investigate the murder of journalist Rasim Aliyev, to punish all those involved in the murder, and to eliminate the climate of impunity for violence against journalists in the country.

IRFS also calls on the international organisations to urge the government of Azerbaijan to fulfill its obligations towards media freedom and to conduct full and fair investigations into the crimes against journalists.