

TOPLUM'S CASE

JUSTICE DENIED AMID SYSTEMIC INJUSTICE

A Case Study of Flagrant Denial of Justice

Prepared By :
IDI Alumni Network



WHO WE ARE?

The Institute for Democratic Initiatives (IDI) is a non-governmental organization that brings together public initiatives aimed at promoting democratic values, human rights, and free and fair elections. Established in Azerbaijan in 2013, the organization currently operates from Prague, Czech Republic.

The Azerbaijani authorities have refused to officially register the organization. Furthermore, since 2024, the organization's director and three staff members have been imprisoned for lengthy terms.

Despite all the pressure, the Institute for Democratic Initiatives continues its work to develop democratic institutions, strengthen civil society, and protect human rights in Azerbaijan.

Visit www.idi-aze.org or more information.

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TOPLUM'S CASE

POLITICAL PRISONERS

On 6 March 2024, a total of 9 people were arrested during police raids on the offices of Toplum TV, the Third Republic Platform (3RP), and the Institute for Democratic Initiatives (IDI).

On 27 July 2026, those arrested in connection with the "Toplum's case" were sentenced to prison terms ranging from 12 to 15 years.



Speaker of the 3RP

Akif Gurbanov

Sentenced to 15 years, 2 years and 6 months of deprivation of the right to hold public office and engage in professional activities.



Founding member of the 3RP

Ruslan Izzatli

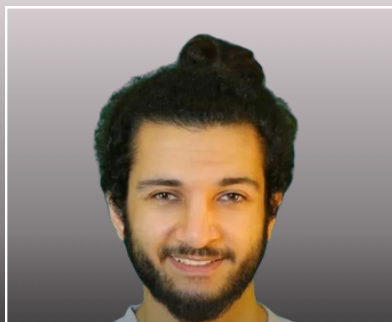
Sentenced to 15 years, 2 years and 6 months of deprivation of the right to hold public office and engage in professional activities.



Founder of Toplum TV

Alasgar Mammadli

Sentenced to 14 years, 2 years and 6 months of deprivation of the right to hold public office and engage in professional activities.



Coordinator of the IDI

Ali Zeynal

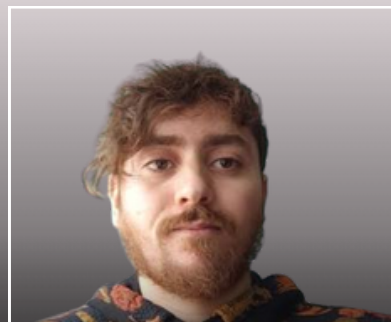
Sentenced to 14 years, 2 years and 6 months of deprivation of the right to hold public office and engage in professional activities.



Coordinator of the IDI

Ilkin Amrahov

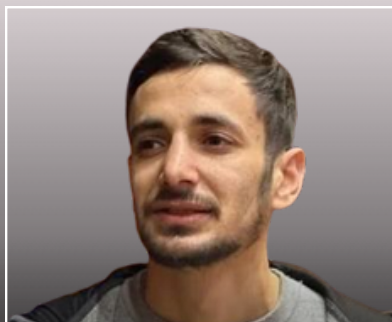
Sentenced to 13 years, 2 years and 6 months of deprivation of the right to hold public office and engage in professional activities.



Coordinator of the IDI

Ramil Babayev

Sentenced to 13 years, 2 years and 6 months of deprivation of the right to hold public office and engage in professional activities.



Journalist of Toplum TV

Farid Ismayilov

Sentenced to 12 years, 2 years and 6 months of deprivation of the right to hold public office and engage in professional activities.



SMM of Toplum TV

Elmir Abbasov

Sentenced to 12 years, 2 years and 6 months of deprivation of the right to hold public office and engage in professional activities.



Journalist of Toplum TV

Mushfig Jabbarov

Sentenced to 13 years, 2 years and 6 months of deprivation of the right to hold public office and engage in professional activities.

INTRODUCTION

This report assesses the criminal case against civil society activists, media professionals, human rights defenders, and politicians associated with the Institute for Democratic Initiatives ('IDI'), the online media outlet Toplum TV ('ToplumTV'), and the Third Republic Platform political movement ('ResPlatform'). As noted, the case involves these three organisations. Azerbaijani public opinion commonly refers to it as 'the Toplum's case' (in Azerbaijani, Toplum işi). As explained below, 'the Toplum's case' began with police raids on 06 March 2024 against the organisations named above. The case is part of ongoing political repression targeting critical civic space, initiated by the Azerbaijani Government in December 2022. For this report, 'critical civic space' means independent (non-aligned) civil society organisations, critical media outlets, and opposition political forces.

The report evaluates Toplum's case from two standpoints:

1) Substantive legal assessment: This assessment explores whether there are reasonable and sufficient legal grounds to pursue a criminal case against the individuals mentioned, based on international human rights law, especially the European Convention on Human Rights ('ECHR') and the relevant jurisprudence of the European Court of Human Rights ('ECtHR'). If such grounds do not exist, it also checks whether the people persecuted in this case are political prisoners, taking into account Resolution 1900 (2012), 'The Definition of Political Prisoner' of the Parliamentary Assembly of the Council of Europe (PACE), which sets out the criteria in paragraph 3.

2) Procedural legal assessment: This assessment appraises whether the fair trial rights have been respected in light of fair trial standards enshrined in Article 6 of the ECHR (the relevant case law of the ECtHR), as well as Article 14 of the International Covenant on Civil and Political Rights (ICCPR) and the fair trial monitoring guides of the OSCE/ODIHR, including whether a 'denial of justice' occurred.

The report's methodology is based on various types of research, such as media monitoring, trial observations in the light of international fair trial standards set out by OSCE/ODIHR, the International Commission of Jurists and OHCHR, international law and national law assessments guided by ECHR and jurisprudence of the ECtHR, ICCPR and jurisprudence of the UN Human Rights Committee. The methods are used in combination to understand the situation.

The report follows 'The Inquiry Report on the Joint Criminal Case Against IDI, Toplum TV, and the Third Republic Platform, and the Political Prisoner Status of Detainees',

which was published by the IDI (March 2025).¹ The current reporting seeks to be a continuation of the previous report and intends to cover the trial aspects of the 'Toplum's case'.

The report concludes the following results concerning the questions:

- The case against the staff of IDI, Toplum TV, and ResPlatform has no reasonable and sufficient legal grounds for national authorities to pursue.
- In the absence of legally valid charges and prosecution, and given the political environment (political prosecution by the Government against critics), the staff of IDI, Toplum TV, and ResPlatform are political prisoners under international legal benchmarks.
- The court violated fair trial standards. The result of failing to meet fair trial standards is a total denial of justice.

I. ORGANISATIONAL BACKGROUND²

1. The Institute for Democratic Initiatives, Toplum TV, and Third Republic Platform are distinct non-registered legal entities with diverse identities and missions. Despite their differences, the members have collaborated extensively, leading the authorities to treat them as a single entity and pursue a joint criminal case against them.

a) Institute for Democratic Initiatives (IDI)

2. The Institute for Democratic Initiatives (IDI) was officially established by Akif Gurbanov and Vasif Piriyeu on November 5, 2013.³ Over time, the number of IDI members, affiliates, and fellows has grown. The IDI is a non-governmental organization dedicated to developing institutions essential for building a democratic society. It aims to improve civil society and electoral institutions, enhance local self-government, contribute to socio-economic and humanitarian development, uphold human rights and freedom of expression, restore transparency, increase youth and women's participation in decision-making and problem-solving, maintain peace through the peaceful settlement

¹ <https://idi-aze.org/files/pdf/2025-03-09/vSDltjTpDwdlISevCHRIbNbdPxweDUVc5aDKaQeGZ.pdf>

² Excerpted from the March 2025 report.

³ Institute for Democratic Initiatives. "Who we are?": <https://idi-aze.org/en/page/who-we-are>. ('The organisation is managed by a 7-member board. Although established a short time ago, managers and members have broad experience. IDI has a well-trained and professional staff consisting of 17 people. Our network has hundreds of participants from Baku and the regions').

of conflicts, and integrate society into the democratic world. The IDI specializes in election monitoring, youth training programs, human rights advocacy, research, and public discussions.⁴

3. The IDI applied for registration with the Ministry of Justice (MoJ), but the MoJ refused to register it. As a result, the organization functioned without registration.⁵ The co-founders appealed to the European Court of Human Rights, alleging that the national authorities' refusal to register violated Article 11 of the Convention. The Court found a violation of Article 11 concerning this application.⁶

b) Toplum TV

4. Toplum TV is an independent online media outlet established in October 2016. The current editor-in-chief is Ms. Khadija Ismayil, an investigative journalist known for her anti-corruption investigations. At the same time, Mr. Alasgar Mammadli, an outstanding media law expert, serves as the legal founder and representative.⁷
5. Toplum TV developed as a result of the Institute for Democratic Initiatives' (IDI) Democracy School's journalistic practice. Originally, it was mostly used as a platform for training young journalists. In other words, it was just a media tool that provided opportunities for improvement to aspiring reporters. Later, Toplum TV became an autonomous media outlet, which also gained popularity as one of the leading internet critical outlets in Azerbaijan. In addition, Toplum

⁴ Since its establishment, IDI has managed elections monitoring of the 2015 and 2020 parliamentary elections, has provided free legal aid to the low-income segment of the population, continuously conducted monitoring and research on socially important topics, and prepared up to 20 study papers. Moreover, during its activity, IDI implemented, as a part of the Democracy School initiative, the following theoretical and practical training programs to increase the knowledge and skills of youth: Junior Journalists (9 times); Junior Human Rights Defenders (5 times); Junior Political Leaders (5 times); Junior Economists (2 times); Junior Project Managers (2 times); Junior Human Rights Lawyers (1 time). Young Social Researchers (1 time). In addition, IDI founded the independent Toplum TV in 2016 and Fakt Yoxla (Fact Check) in 2019. On September 26, 2023, on the initiative of IDI, the Defender Law Center (in short, Defender), which provides legal assistance and other related work in the field of political rights, started operating. Please see <https://idi-aze.org/en> ("What we do?") for more information.

⁵ The relevant law does not prohibit the unregistered functioning of non-governmental organisations. Still, it puts some restrictions, such as managing bank transactions as with the legal capacity of the organisation: see more Expert Council on NGO Law: Country study on NGO legislation in Azerbaijan. <https://www.coe.int/en/web/ingo/t-council-on-ngo-law-country-study-on-ngo-legislation-in-azerbaijan>.

⁶ ECtHR, Abdullayev and others v. Azerbaijan (applications nos. 69466/14 and 12 others) – <https://hudoc.echr.coe.int/fre?i=001-210018>

⁷ Toplum TV. "Who we are?" (Biz kimik?), in Azerbaijani: <https://web.archive.org/web/20240307124132/https://toplum.tv/sehife/biz-kimik>.

TV is characterized by its dedication to providing humanity with objective news and advocating for human rights, freedoms of speech and expression..

6. Since 2020, Toplum TV has renewed its mission by covering critical content and has recently expanded its focus to include online media coverage on social networks. Until recently, it maintained a stable, regular, and daily studio functioning, setting it apart from other critical media operating within Azerbaijan.⁸ Toplum TV and the IDI operated from a joint office at 97B Y. V. Chamanzaminli Street, Baku.

c) Third Republic Platform

7. The Third Republic Platform (ResPlatformm) (Üçüncü Respublika Platforması) is an opposition political movement primarily focused on decentralization and good governance. It operates under the mottos of *"We do not obey one man's rule, but the law"* and *"From the governable society to the self-governing society,"* drawing inspiration from classical republican and liberal political thought.⁹
8. Several former and current associates of the Institute for Democratic Initiatives (IDI), along with other politically active figures, established the ResPlatform on December 7, 2023, marking the 105th anniversary of the establishment of the Azerbaijani Parliament. The ResPlatform regulations were adopted at the constitutive assembly, and Mr Akif Gurbanov was elected as the speaker (equivalent to the chairperson's status) for one year.¹⁰
9. In its founding declaration, the TRP outlined its establishment reasons as part of the 'Post-Karabakh agenda,' emphasising that the end of the Nagorno-Karabakh conflict necessitates a shift in the country's political focus towards addressing its real problems. The ResPlatform identified several key issues as elements of this agenda: rejecting extreme etatist political thought that fuels authoritarianism, transitioning to democracy, restoring trust in public administration and the electoral system, eliminating cross-regional development imbalances through decentralization, transforming suburban regions into suitable territories, achieving sustainable economic development, eliminating sources of income inequality and endemic corruption, reducing the

⁸ Toplum TV on Facebook (22.846 followers): <https://www.facebook.com/ToplumTv>; Toplum TV on Youtube (89.9K subscribers): <https://www.youtube.com/@ToplumTV>; ToplumTV on Tiktok (52,6K followers): <https://www.tiktok.com/@toplumtv>.

⁹ *In Azerbaijani*, Jam-News. Yeni siyasi təşkilat – III Respublika Platforması təsis olunub (08 dekabr 2023). <https://jam-news.net/az/iii-respublika-platformasi/>

¹⁰ Voice of America (Azerbaijani Service). Azərbaycanda III Respublika Platforması adlı təşkilat yaradılıb (10 dekabr 2023). <https://www.amerikaninsesi.org/a/third-republic-platform-established-in-azerbaijan/7391651.html>

damage caused by climate change (especially to agriculture), and developing a high quality of life.¹¹

II. INDIVIDUAL BACKGROUNDS OF THE DEFENDANTS

10. The specific aspects of the defendants' profiles were described in the report of March 2025.¹² In this report, the aspects are not repeated. The current report updates on judicial aspects of the defendants' profiles in the following table.

Nº	Name of the defendant and his profile	Legal status	Charges based on the Criminal Code	Notes
1	Akif Gurbanov (Chairperson of the IDI and the Speaker of the Third Republic Platform)	Defendant before the Baku Assize Court Detainee since 06 March 2024 Sentenced to 15 years as primary penalty and deprived of the right to public office and professional activities during 2 years and 6 months as additional penalty	I. <u>Illegal entrepreneurship and derivative charges:</u> i. Article 192.3.2 – illegal entrepreneurship (conspiracy and aggravated circumstances) ii. Articles 193–1.3.1 and 193–1.3.2 – money laundering (conspiracy and aggravated circumstances) iii. Article 213.2.1 – tax evasion (conspiracy and aggravated circumstances) iv. Article 162–1.1 – Illegal employment practices (it is not certain whether this charge is conspiracy or individual) II. <u>Smuggling</u> – Article 206.4 (conspiracy to commit bulk cash smuggling by organised group)	He pleaded not guilty and maintains that the trial is politically motivated with the intent to silence and punish him because of his critical activities against the Government.
2	Ruslan Izzatli (Founding Member of the	Defendant before the Baku Assize Court Detainee since 08 March 2024	I. <u>Illegal entrepreneurship and derivative charges:</u> i. Article 192.3.2 – illegal entrepreneurship (conspiracy and aggravated circumstances)	He pleaded not guilty and maintains that the trial is politically motivated with the intent to silence and punish him because of

¹¹ Third Republic Platform. Founding declaration: <https://3republic.org/en/page/founding-declaration>

¹² Ibid.

	Third Republic Platform)	Sentenced to 15 years as primary penalty and deprived of the right to public office and professional activities during 2 years and 6 months as additional penalty	ii. Articles 193-1.3.1 and 193-1.3.2 – money laundering (conspiracy and aggravated circumstances) iii. Article 213.2.1 – tax evasion (conspiracy and aggravated circumstances) iv. Article 162-1.1 – Illegal employment practices (it is not certain whether this charge is conspiracy or individual) II. <u>Smuggling</u> – Article 206.4 (conspiracy to commit bulk cash smuggling by organised group)	his critical activities against the Government.
3	Alasgar Mammadli (founder of Toplum TV and human rights lawyer and defender)	Defendant before the Baku Assize Court Detainee since 08 March 2024 Sentenced to 14 years as primary penalty and deprived of the right to public office and professional activities during 2 years and 6 months as additional penalty	I. <u>Illegal entrepreneurship and derivative charges:</u> i. Article 192.3.2 – illegal entrepreneurship (conspiracy and aggravated circumstances) ii. Articles 193-1.3.1 and 193-1.3.2 – money laundering (conspiracy and aggravated circumstances) iii. Article 213.2.1 – tax evasion (conspiracy and aggravated circumstances) iv. Article 162-1.1 – Illegal employment practices (it is not certain whether this charge is conspiracy or individual) II. <u>Smuggling</u> – Article 206.4 (conspiracy to commit bulk cash smuggling by organised group)	He pleaded not guilty and maintains that the trial is politically motivated with the intent to silence and punish him because of his critical activities against the Government.
4	Mushfig Jabbarov (journalist of Toplum TV)	Defendant before the Baku Assize Court Detainee since 06 March 2024 Sentenced to 13 years as primary penalty and deprived of the right to public	I. <u>Illegal entrepreneurship and derivative charges:</u> i. Article 192.3.2 – illegal entrepreneurship (conspiracy and aggravated circumstances) ii. Articles 193-1.3.1 and 193-1.3.2 – money laundering (conspiracy and aggravated circumstances) iii. Article 213.2.1 – tax evasion (conspiracy and aggravated circumstances)	He pleaded not guilty and maintains that the trial is politically motivated with the intent to silence and punish him because of his critical activities against the Government.

		office and professional activities during 2 years and 6 months as additional penalty	iv. Article 162-1.1 – Illegal employment practices (it is not certain whether this charge is conspiracy or individual) II. <u>Smuggling</u> – Article 206.4 (conspiracy to commit bulk cash smuggling by organised group)	
5	Farid Ismayilov (journalist of Toplum TV)	Defendant before the Baku Assize Court Detainee since 17 January 2025 (before that he was under police supervision) Sentenced to 12 years as primary penalty and deprived of the right to public office and professional activities during 2 years and 6 months as additional penalty	I. <u>Illegal entrepreneurship and derivative charges:</u> i. Article 192.3.2 – illegal entrepreneurship (conspiracy and aggravated circumstances) ii. Articles 193-1.3.1 and 193-1.3.2 – money laundering (conspiracy and aggravated circumstances) iii. Article 213.2.1 – tax evasion (conspiracy and aggravated circumstances) iv. Article 162-1.1 – Illegal employment practices (it is not certain whether this charge is conspiracy or individual) II. <u>Smuggling</u> – Article 206.4 (conspiracy to commit bulk cash smuggling by organised group)	He pleaded not guilty and maintains that the trial is politically motivated with the intent to silence and punish him because of his critical activities against the Government.
6	Ali Zeynal (coordinator of the IDI)	Defendant before the Baku Assize Court Detainee since 06 March 2024 Sentenced to 14 years as primary penalty and deprived of the right to public office and professional activities during 2	I. <u>Illegal entrepreneurship and derivative charges:</u> i. Article 192.3.2 – illegal entrepreneurship (conspiracy and aggravated circumstances) ii. Articles 193-1.3.1 and 193-1.3.2 – money laundering (conspiracy and aggravated circumstances) iii. Article 213.2.1 – tax evasion (conspiracy and aggravated circumstances) iv. Article 162-1.1 – Illegal employment practices (it is not certain whether this charge is conspiracy or individual)	He pleaded not guilty and maintains that the trial is politically motivated with the intent to silence and punish him because of his critical activities against the Government.

		years and 6 months as additional penalty	II. <u>Smuggling</u> – Article 206.4 (conspiracy to commit bulk cash smuggling by organised group)	
7	Ramil Babayev (coordinator of the IDI)	Defendant before the Baku Assize Court Detainee since 06 March 2024 Sentenced to 13 years as primary penalty and deprived of the right to public office and professional activities during 2 years and 6 months as additional penalty	I. <u>Illegal entrepreneurship and derivative charges:</u> i. Article 192.3.2 – illegal entrepreneurship (conspiracy and aggravated circumstances) ii. Articles 193–1.3.1 and 193–1.3.2 – money laundering (conspiracy and aggravated circumstances) iii. Article 213.2.1 – tax evasion (conspiracy and aggravated circumstances) iv. Article 162–1.1 – Illegal employment practices (it is not certain whether this charge is conspiracy or individual) II. <u>Smuggling</u> – Article 206.4 (conspiracy to commit bulk cash smuggling by organised group)	He pleaded not guilty and maintains that the trial is politically motivated with the intent to silence and punish him because of his critical activities against the Government.
8	Ilkin Amrahov (coordinator of the IDI)	Defendant before the Baku Assize Court Detainee since 06 March 2024 Sentenced to 13 years as primary penalty and deprived of the right to public office and professional activities during 2 years and 6 months as additional penalty	I. <u>Illegal entrepreneurship and derivative charges:</u> i. Article 192.3.2 – illegal entrepreneurship (conspiracy and aggravated circumstances) ii. Articles 193–1.3.1 and 193–1.3.2 – money laundering (conspiracy and aggravated circumstances) iii. Article 213.2.1 – tax evasion (conspiracy and aggravated circumstances) iv. Article 162–1.1 – Illegal employment practices (it is not certain whether this charge is conspiracy or individual) II. <u>Smuggling</u> – Article 206.4 (conspiracy to commit bulk cash smuggling by organised group)	He pleaded not guilty and maintains that the trial is politically motivated with the intent to silence and punish him because of his critical activities against the Government.
9	Elmir Abbasov	Defendant before the Baku Assize Court	I. <u>Illegal entrepreneurship and derivative charges:</u>	He pleaded not guilty and maintains that the trial is politically

	(SMM of the ToplumTV) Under police supervision since 06 March 2024 Detained after sentencing on 27 July 2026 Sentenced to 12 years as primary penalty and deprived of the right to public office and professional activities during 2 years and 6 months as additional penalty	i. Article 192.3.2 – illegal entrepreneurship (conspiracy and aggravated circumstances) ii. Articles 193–1.3.1 and 193–1.3.2 – money laundering (conspiracy and aggravated circumstances) iii. Article 213.2.1 – tax evasion (conspiracy and aggravated circumstances) iv. Article 162–1.1 – Illegal employment practices (it is not certain whether this charge is conspiracy or individual) II. <u>Smuggling</u> – Article 206.4 (conspiracy to commit bulk cash smuggling by organised group)	motivated with the intent to silence and punish him because of his critical activities against the Government.
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III. FACTUAL ASPECTS OF THE JOINT CRIMINAL CASE

Pre-trial (investigation) Phase:

General environment of the political repression

11. Since November 2023, Azerbaijani authorities have heightened a new [wave of repression](#) against critical civil society organisations, including independent media.¹³ As a result of this crackdown, according to human rights organisations, the number of political prisoners increased to [322 people](#).¹⁴ Around 70 out of the [total list of political prisoners in Azerbaijan](#) were arrested and charged with charges of financial crimes, which stemmed from overrestrictive legislation that aims to prevent independent civil society activities in Azerbaijan.¹⁵ Hence, Azerbaijani NGO legislation imposing restrictions on civil society activism and financial charges against independent civil society groups should be scrutinised in light of the 2014 NGO legislation and the criminal cases initiated since November 2023.

Prior and posterior smear campaigning

12. Prior to the initiation of the joint criminal case against the organisations, smear campaigning against the organisations and individuals associated with them by pro-governmental media targeting the respective organisations and persons, labelling them 'Western puppets,' 'foreign agents,' 'traitors,' 'villains,' and 'breaking of the NGO legislation.' The smear campaign against them has intensified since November 2023. After the police raids were conducted and the criminal case was initiated (as a part of this criminal case, the defendants were arrested and remanded in custody), pro-governmental media proceeded with defamatory targeting using unlawfully obtained selective case file materials leaked probably by law enforcement authorities, accusing them of engaging in 'illegal funding' for 'anti-Azerbaijani purposes'.¹⁶

¹³ International Press Institutute. Azerbaijan: As COP29 is held in Baku, repression against journalists continues:

<https://ipi.media/azerbaijan-as-cop29-is-held-in-baku-repression-against-journalists-continues/>

¹⁴ Toplum TV. İttifaq: "Yenilənmiş siyasi məhbus siyahısında 322 nəfərin adı var":

<https://toplummedia.tv/siyaset/pittifaq-ldquoYenilenmis-siyasi-mehbus-siyahisinda-322-neferin-adi-varrdquo>

¹⁵ Institute for Peace and Democracy. List of Political Prisoners (updated 09 June 2025):

<https://www.ipd-az.org/political-prisoners-for-9-jun-2025/>

¹⁶ Extensively documented in the March 2025 Inquiry Report. See *ibid*.

Operational-search measures and initiation of the joint criminal case

13. Operational-search case: On 6 March 2024, the Baku Metropolis General Police Department (BMGPD) decided on operational search measures against the defendants according to the Operational Search Activities Act. Pursuant to the operational search measures order, the police authorities obtained information on illegal activities committed in conspiracy by Akif Gurbanov and others from an unidentified *'trusted, familiar, and unbiased source.'* The source alleged that A. Gurbanov and others were engaged in the criminal offence of conspiracy to commit bulk cash smuggling and other related illegal activities, such as illicit financial transactions. The order specified that judicial authorisation for these measures would be evaded due to the immediacy of exposing the offence in flagrante delicto.
14. Operational-search measures conducted: Operational-search measures conducted: On 06 and 08 March 2024, the police officers implemented the mentioned operational search measures (police obtained posterior authorisation for these operational-search measures by the district courts who have jurisdiction with judicial review; the defence attorneys subsequently challenged these authorisations and the Baku Appeal Court dismissed their appeals).
15. The searches were conducted at three different locations without procedural guarantees, such as the participation of defence counsel and the detainees under effective police control, while exceeding the statutory limits of the operational search measures, instead of conducting operational inspections; in reality, carrying out criminal procedural searches and seizures:
 - 1) Joint office of the IDI-ToplumTV (on 06 March 2024) – more than 20 staff were arrested and brought to the premises of the BMGPD; electronic devices and other material equipment were seized.
 - 2) Office of the ResPlatform (on 06 March 2024) – persons who were present at the ResPlatform office were arrested (including Akif Gurbanov), office equipment and electronic devices were seized, and allegedly 40.000 EUR was found (according to the defendants' accounts, money was planted by police officers while the detainees were under effective control of police officers).
 - 3) Personal apartments of the defendants (06 and 08 March 2024, based on their detention dates) – according to the police reports, different amounts of money were found at the apartments of the defendants (according to the defendants' accounts, money was planted by police officers while the detainees were under effective control of police officers).

16. Initiation of the joint criminal case: On 06 March 2024, the BMGPD initiated a joint criminal case (no. 240200012) based on the facts of bulk cash allegedly discovered at the official premises and personal apartments in local and foreign currency totaling 145338,98 AZN under the charge of conspiracy to commit bulk cash smuggling by a group of persons acting prior consent (Article 206.3 of the Criminal Code). According to the arraignment, the defendants conspired to commit bulk cash smuggling, and the cash allegedly found at the above-mentioned locations provided reasonable suspicion to initiate the joint criminal case.
17. Initial statements and suspects: On 06 and 08 March 2024, the arrested staff were brought to the BMGPD premises and initially interrogated under duress to give incriminating statements. The police officers forced most of the detainees to give their passwords to the electronic devices and seized their electronic devices. Several people were subjected to inhuman treatment and/or torture (for example, Ruslan Izzatli, Araz Aliyev, Ali Zeynal). After taking initial statements, most of the staff were released. However, nine people were arrested as suspects (seven people on 06 March 2024 and two more on 08 March 2024 – Ruslan Izzatli and Alasgar Mammadli).
18. Defendants, charges and remand in custody: On the mentioned dates, the nine suspects were subsequently charged with conspiracy to commit bulk cash smuggling under Article 206.3 of the Criminal Code. Two of them were released under police supervision restrictive measures (Farid Ismayilov and Elmir Abbasov). The prosecuting authority requested that the Khatai District Court impose restrictive measures of remand in custody for the remaining seven defendants. The Khatai District Court granted a remand in custody for the defendants, stating that the prosecuting authority established reasonable suspicion that the defendants conspired to commit bulk cash smuggling and that there is a flight risk and a risk of obstruction of justice if the defendants are released. The defendants challenged the existence of reasonable suspicion, stating that the cash discovered at the apartment was planted by police during the inspection conducted illegally, and that allegations of flight risk and obstruction of justice are hypothetical, as well as that the ulterior motive of the criminal case is political, with the intent to silence and punish them because of their critical activities against the Government. The Baku Appeal Court dismissed the defendants' appeals respectively. In the case of Alasgar Mammadli, his health concerns were raised against remand-in-custody measures, and the relevant courts did not take them into consideration. The pre-trial detention orders were mostly limited to 4 months and extended gradually until the trial commenced. The Baku Assize Court, during the preparatory hearing, also extended the remand-in-custody measures (see the

table below). Besides the restrictive measures applied to the defendants on their liberty and security, some of the defendants' property was also frozen as preventive measure (Akif Gurbanov's personal house and his automobile).

No	Name of the defendant	Restrictive measures imposed Initial pre-trial detention order (remand in custody) or police supervision	Extensions
1	Akif Gurbanov	Initial detention as a suspect: 06 March 2024 Remand in custody order: 08 March 2024	Khatai District Court extensions: 04 July 2024 03 October 2024 27 December 2024 Baku Assize Court: 02 April 2025
2	Ruslan Izzatli	Initial detention as a suspect: 08 March 2024 Remand in custody order: 09 March 2024	Khatai District Court extensions: 04 July 2024 03 October 2024 27 December 2024 Baku Assize Court: 02 April 2025
3	Alasgar Mammadli	Initial detention as a suspect: 08 March 2024 Remand in custody order: 09 March 2024	Khatai District Court extensions: 03 July 2024 03 October 2024 27 December 2024 Baku Assize Court: 02 April 2025
4	Musviq Jabbarov	Initial detention as a suspect: 06 March 2024 Remand in custody order: 08 March 2024	Khatai District Court extensions: 04 July 2024 03 October 2024 27 December 2024 Baku Assize Court: 02 April 2025

5	Farid Ismayilov	Initial detention as a suspect: 06 March 2024 Police supervision: 06 March 2024 Remand in custody order: 17 January 2025	Baku Assize Court: 02 April 2025
6	Ali Zeynal	Initial detention as a suspect: 06 March 2024 Remand in custody order: 08 March 2024	Khatai District Court extensions: 03 July 2024 03 October 2024 27 December 2024 Baku Assize Court: 02 April 2025
7	Ramil Babayev	Initial detention as a suspect: 06 March 2024 Remand in custody order: 08 March 2024	Khatai District Court extensions: 03 July 2024 04 October 2024 27 December 2024 Baku Assize Court: 02 April 2025
8	Ilkin Amrahov	Initial detention as a suspect: 06 March 2024 Remand in custody order: 08 March 2024	Khatai District Court extensions: 03 July 2024 03 October 2024 27 December 2024 Baku Assize Court: 02 April 2025
9	Elmir Abbasov	Initial detention as a suspect: 06 March 2024 Police supervision: 06 March 2024 Detained: 27 July 2026	Baku Assize Court (police supervision): 02 April 2025 Baku Assize Court (imprisonment): 27 July 2026

19. Investigative measures during the pre-trial phase: During the investigation, the BMGPD conducted the following investigative measures:

i. Interrogation of the witnesses: During the preliminary investigation, the prosecuting authority questioned 48 witnesses. Most of the questions concerned whether the witnesses received any payment from the IDI, Toplum TV, or ResPlatform. In addition, the witnesses were also forced to give up their passwords, and their correspondence was attached to the case file.

ii. During preliminary investigation, the prosecuting authority requested the following expert opinions: dactyloscopy, handwriting, electronic devices content, equipment costs, accounting–tax calculations. The main expert opinion was an accounting–tax opinion (10 January 2025), in which the expert accountant reported a total deficiency of 79441 AZN in tax and social payments.

iii. The content of the electronic devices (correspondence of the defendants and witnesses) was added to the investigation. In addition, the defendants' travel history was attached to the case files as proof of smuggling, without any other corresponding evidence, along with their bank account and financial history.

20. Modifications of the qualification of charges: During preliminary investigation, the prosecuting authority decided to modify the charges against the defendants. First time – on 16 May 2024, in addition to bulk cash smuggling charges, an accusation of money laundering (Articles 193–1.3.1 and 193–1.3.2) was added against the defendants. Next time – on 17 January 2025, the BMGPD modified and extended charges against the defendants – besides bulk cash smuggling, illegal entrepreneurship, tax evasion, illegal labour dealings and money laundering (see table of charges).

21. Issuance of the indictment: On 12 March 2025, the BMGPD issued an indictment (on 18 March 2025, the indictment was approved by the Office of the Prosecutor General). According to the indictment, the following subset of charges was brought against the defendants:

- **Bulk cash smuggling**: The charge on conspiracy to commit bulk cash smuggling in the form of an organised group (Section 206.4 of the Criminal Code) – this subset of the charge is grounded on the fact that the police officers conducted a search in the offices and/or apartments of the defendants and discovered bulk cash in national or foreign currency;
- The charges related to **aggravated circumstances of illegal entrepreneurship and other related accusations** – this subset of charges is grounded on actual or supposed activities of non-registered NGOs (the evidence discovered in this regard) and follows as:

- i. Illegal entrepreneurship: Conspiracy to commit illegal entrepreneurship in an aggravated and significant amount and the form of an organised criminal group (Section 192.3.2 of the Criminal Code);
- ii. Money laundering: Conspiracy to commit money laundering in a substantial amount and the form of an organised criminal group (Sections 193–1.3.1 and 193–1.3.2 of the Criminal Code);
- iii. Tax evasion: Conspiracy to commit tax evasion in a substantial amount and the form of an organised criminal group (Section 213.2 of the Criminal Code);
- iv. Arranging employment without labour contracts: Arranging employment of a substantial number of employees without labour contracts (Section 162–1 of the Criminal Code) (It is unclear from the indictments whether these charges involve conspiracy or not).

22. Pursuant to the prosecution's indictments, the accusations can be summarised as follows:

- The defendants, being the founder, chair, or responsible employee of a non-governmental organisation or media entity, failed to register said organisation in accordance with applicable legislation governing non-governmental organisations and media entities (Law on Registration and Media Law). Such failure to register renders the organisation's operations unlawful.
- In furtherance thereof, the defendants knowingly and willfully conspired with each other and other unindicted co-conspirators, acting as an organised criminal group with avaricious motives.
- The defendants executed grant agreements (and in some cases, service agreements) with foreign non-governmental organisations, which were themselves not duly registered as required by law, and thereby obtained aggravated and significant sums of foreign currency through said agreements, constituting illegal entrepreneurial activity.
- The defendants repeatedly smuggled said funds into the Republic of Azerbaijan in violation of applicable customs laws and regulations (such as failure to declare sums in the customs regulations).
- The defendants engaged individuals as employees without entering into lawful employment contracts, in contravention of labour legislation or forged official documents in order to obtain unlawful sums of foreign currency and used these forged documents.
- The defendants willfully evaded the payment of taxes and other mandatory contributions by failing to submit requisite reports.

- The defendants sought to legitimise their illicit activities under various guises and undertook unlawful measures to legalise funds acquired through criminal means and therefore, laundered money.

Trial Phase:

23. On 02 April 2025, the trial started before the Baku Assize Court and a preparatory hearing was held. In total, more than 40 (forty) hearings have been held by July 2026. At the 02 April hearing, the defendants and their defence counsels requested the replacement of the pre-trial detention with house arrest. The Assize Court dismissed the requests. The preparatory hearing was rescheduled to 24 April 2025 at the request of the defence counsel to enable them to familiarise themselves with the case file. On 24 April 2025 and 05 May 2025, counsel for the defendants requested the exclusion of the unlawfully obtained evidence from the case file. The requests were denied on the basis that the matter would be settled in the following period of the case.
24. During the various parts of the proceedings, motions for the replacement of detention with house arrest were filed on behalf of Alasgar Mammadli and Farid Ismayilov. Nevertheless, despite the fact that both defendants have underlying medical problems, the Assize Court consistently refused to grant their motions.
25. The trial investigation started with the reading of the indictment against the defendants. It took several hearings to read the indictment concerning the defendants (19 May 2025, 02 June 2025, 23 June 2025). The defendants pleaded not guilty on all counts. Following the reading of the indictments, the defendants began their opening statements.
26. During the trial period, the defendants raised various aspects of the violations of the fair trial rights. They repeatedly raised the issue that the criminal proceedings against them are politically motivated and lack a valid legal ground. However, during the hearing, both the trial court and the state prosecutor sought to avoid this argument.
27. Following the trial hearings (14 July 2025–29 September 2025), the defendants continued their opening statements. In their statements, defendants dismissed all allegations against them. They relied on the fact that the charges are politically motivated, based on illegally obtained evidence, and that all their activities comply with the legislation.
28. The opening statements are followed by the witness statements in the next batch of hearings (27 October 2025–01 December 2025). In their witness statements, the witnesses testified that they had given preliminary investigation testimony under duress and requested that the Assize Court take into account their statements made in the courtroom.

29. Subsequently, the documents which were added to the case file were declared and investigated (05 January 2026–20 April 2026). At that time and in the following period (05 May 2026–25 May 2026), the defence counsel submitted various motions challenging the prosecution's version of events. The defence counsel challenged the following forensic opinions: dactyloscopy, handwriting, electronic device content, equipment costs, and accounting and tax calculations. The summoned experts gave their testimonies, and the defence counsel challenged their accounts. In the challenging motions, the defence counsel submitted that the authenticity of the forensic expertises is in question and that they were not conducted in accordance with scientific principles. For example, regarding tax accounting, the representative of the tax inspection failed to clarify how, and on what facts, they calculated the alleged amount related to tax evasion. In addition, it was demonstrated that the dactyloscopic expertise was not conducted in accordance with the comprehensive scientific agenda.
30. The trial was followed by the closing statements of the defence counsels, prosecutor and defendants (June–July 2026).

Defence Position and Arguments Presented in Court

31. During the trial, the defence advanced several arguments on behalf of the accused. These fall into three main groups: challenges to whether the offences actually took place, questions about how those alleged acts should be characterised in law, and objections to the relevance and admissibility of the evidence relied on by the prosecution. The specific points raised by the defence are set out below:
- The defence argued that the smuggling charges are completely unfounded. To prove smuggling, it would have to be shown that the defendants transferred large sums of money illegally across the border. This did not happen, the defence claimed. Specifically, none of the defendants acted illegally during a customs inspection, they stated.
 - The defence argued that the smuggling charges are completely unfounded. To prove smuggling, it would have to be shown that the defendants transferred large sums of money illegally across the border. This did not happen, the defence claimed. Specifically, none of the defendants acted illegally during a customs inspection, they stated.
 - Witness testimony itself revealed that some of the statements used against the accused had allegedly been obtained by coercive means. The defence accordingly applied for those statements to be ruled inadmissible on the ground that they had been secured unlawfully. Trial observers noted, however, that the court put only a handful of questions to the witnesses on this issue.

- The defence further submitted that the activities attributed to the accused (characterised by the prosecution as illegal entrepreneurship and money laundering) were not criminal at all. Drawing on comparable cases decided by the European Court of Human Rights in 2013–2014, counsel argued that the present proceedings themselves violated several rights guaranteed by the European Convention on Human Rights.
- Finally, the defence contended that the prosecution's expert reports rested on evidence that had itself been obtained illegally and therefore violated Convention rights. They asked the court to exclude the expert evidence from the trial on that ground.

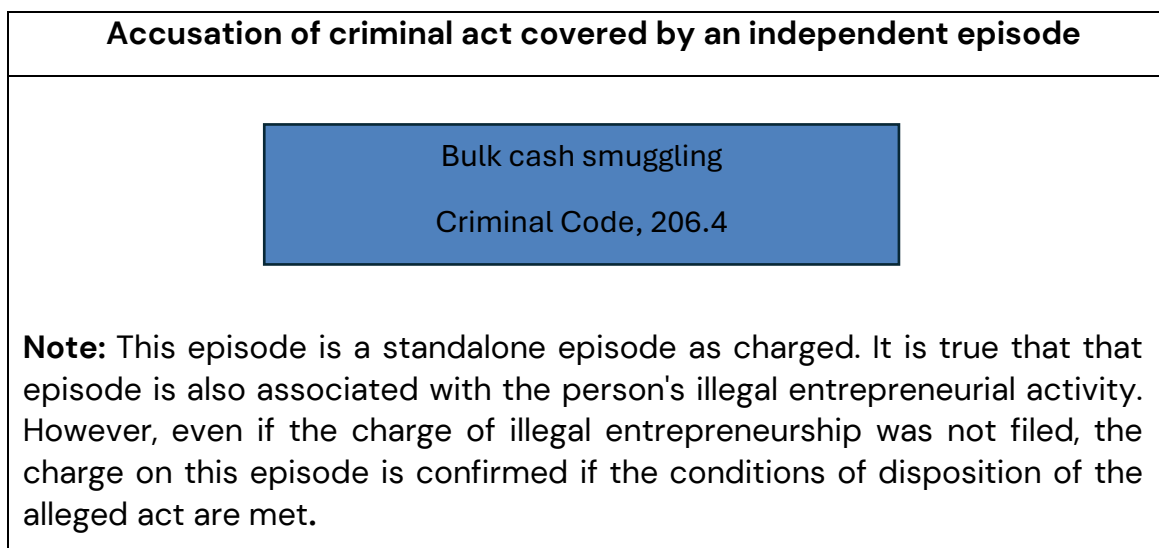
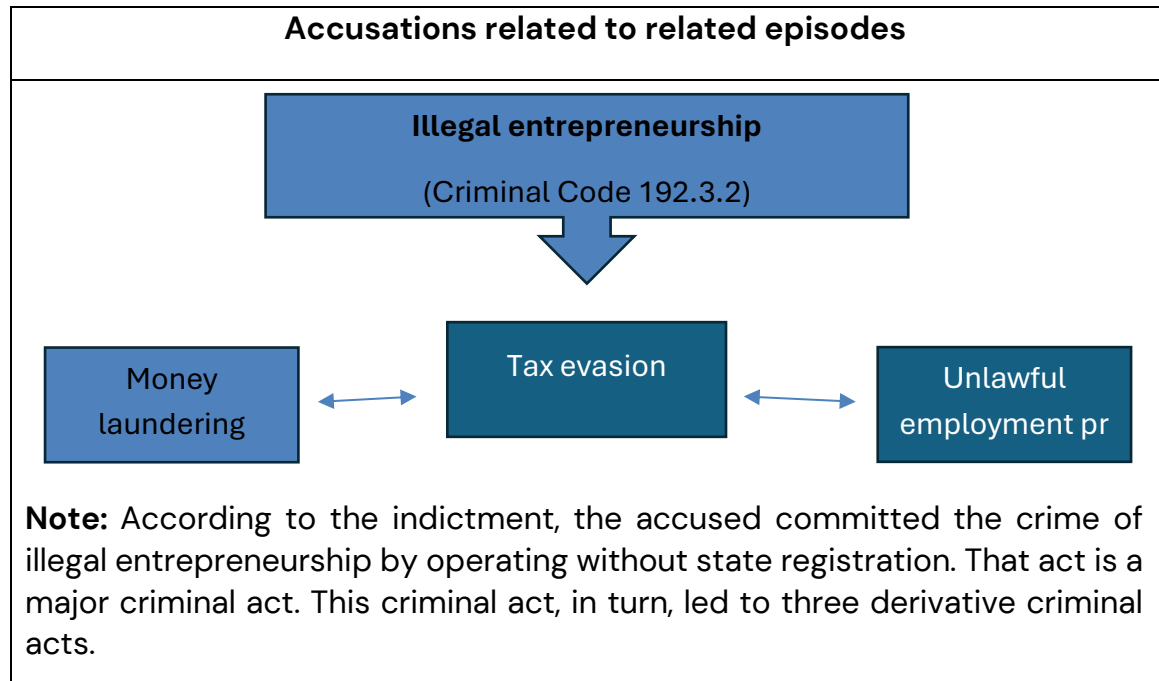
Prosecutor's request and judgment:

32. In June 2026, the prosecutor requested from the Assize Court the following imprisonment sentences for the defendants: Akif Gurbanov – 16 years, Ruslan Izzatli – 16 years, Alasgar Mammadli – 15 years, Ali Zeynal – 15 years, Musvig Jabbarov – 14 years, Ramil Babayev – 14 years, Ilkin Amrahov – 14 years, Farid Ismayilov – 13 years, Elmir Abbasov – 13 years. Besides these principal sentences, the prosecutor asked for the confiscation of property (immovable property, cars) belonging to Akif Gurbanov and his relatives, and cars belonging to Alasgar Mammadli and Ruslan Izzatli. As an additional penalty, the prosecutor requested the deprivation of the defendants' access to public and professional activities for up to 3 years. According to the prosecutor's version, the defendants should also be held liable for paying 79,110 AZN (appr. 40,000 EUR) in damages to the tax authorities.
33. By the 27 July 2026 judgment, the Baku Assize Court sentenced the defendants the following principal sentences as an imprisonment: Akif Gurbanov to 15 years, Ruslan Izzatli to 15 years, Alasgar Mammadli to 14 years, Ali Zeynal to 14 years, Mushfig Jabbarov to 13 years, Ramil Babayev to 13 years, Ilkin Amrahov to 13 years, Farid Ismayilov to 12 years and Elmir Abbasov to 12 years. Elmir Abbasov was ordered detained in the courtroom following the delivery of judgment and was under police supervision pending the judgment. The remaining defendants have been remanded in custody since the initiation of the criminal case (except Farid Ismayilov, who has been in custody since 17 January 2025). The Baku Assize Court also imposed additional penalties, including a ban on access to public office and professional activities, as well as the confiscation of the defendants' property for joint liability for damages of 79,110 AZN.
34. The defendants have submitted an appeal against the judgment of the Baku Assize Court, and the appeal proceedings began on 21 September 2026.
- 35.

IV. LEGAL ASPECTS OF THE JOINT CRIMINAL CASE

Substantive aspects of violations:

36. During Toplum's case, both in the investigative and trial period, the following kinds of legal problems occurred, which negatively affected the defendants' fair trial rights during the trial proceedings.



Violation of the Established ECtHR case law concerning Azerbaijan on NGO law and implementation

37. Toplum's case is essentially related to the ECtHR case law concerning Azerbaijan where the ECtHR found violations of Article 18 in conjunction with Article 5 in the cases of Rasul Jafarov v. Azerbaijan, Anar Mammadli v. Azerbaijan, Khadija Ismayilova v. Azerbaijan, Yunusova and Yunusov v. Azerbaijan, Intigam Aliyev v. Azerbaijan as well as Ibrahimov and Mammadov v. Azerbaijan. The authorities committed violations of the same nature in Toplum's case as well. Therefore, for the consideration of Toplum's case, the previous practice should be taken into account (this case is currently being examined before the Committee of Ministers of the Council of Europe).
38. Mammadli Group v. Azerbaijan (Application No. 47145/14 et al.) is an ongoing case before the Committee of Ministers (CoM) of the Council of Europe (CoE) that has jurisdiction to supervise, *inter alia*, the implementation of final judgments of the European Court of Human Rights (ECtHR) prescribed by Article 46 of the European Convention on Human Rights (ECHR). It concerns 'the seven remaining applicants in this group (the former Ilgar Mammadov group), who are human rights defenders, civil society activists, and journalists. They were all the subject of arrests and detentions in 2013–2016, which the ECtHR found to constitute a misuse of criminal law intended to punish and silence them.'¹⁷ According to the ECtHR's judgments in respective applications, Azerbaijani national authorities, with political animus and in bad faith, abused criminal proceedings against civil society and critical media figures.
39. The ECtHR primarily found violations of Articles 5 (right to liberty and security) and 18 (prohibition of restrictions of rights based on illegitimate purposes) of the Convention, which meant the whole criminal proceedings against the applicants in these respective cases were not based on 'reasonable suspicion' requirements either facts presented in those cases were backed on non-sufficient or possibly falsified factual evidence (case of Ibrahimov and Mammadov – 'Ibrahimov and Mammadov aspect') or criminal law (charges of financial crimes against the applicant) was unnecessarily interpreted more expansively by prosecuting authorities which is susceptible to abuse (cases of Rasul Jafarov, Mammadli and Aliyev as well as remaining applications – 'Rasul Jafarov et al. aspect'). Furthermore, the ECtHR observed that the national authorities, in those cases, acted in bad faith and ulterior motives to punish the applicants for their activities, and the criminal proceedings against them did not originate from legitimate aims but were part of the repressive wave.

¹⁷ For more information, please see HUDOC EXEC. MAMMADLI v. Azerbaijan
<https://hudoc.exec.coe.int/?i=004-50875>

40. As mentioned above, the execution of judgments is not limited to individual measures but also to general measures. Furthermore, the definition of the general measure includes replacing existing administrative practice with good administrative practice. Based on these foundations (for the purposes of this examination, general measures $\square$ administrative practice), the next question arises: the meaning of administrative practice (what does administrative practice mean?). The definition of general measures (Note 3 to the Rules) places the wording of 'administrative practice' alongside the term 'case law'. By its nature, the 'case law' expression applies to the interpretative dimension of judicial and executive bodies (how do these bodies construe the relevant applicable law in practice?). Logically, the term 'administrative practice' indicates the operative dimension of the judiciary and executive (how do these bodies operate in the relevant mandated functioning?). This conclusion means that under general measures, the CoM has legal authority deriving from Article 46 of the ECHR to supervise whether the existing operative dimension, i.e., the administrative practice concerning rights violations, has improved.

Application of the ECtHR case law on Article 18 to the Toplum's case from the substantive aspect:

41. As stated above, the Mammadli group case essentially concerns the persecution of civil society and critical media figures with the intent to prevent and punish them due to their activities. The ECtHR established, *inter alia*, that there exists administrative practice (operative dimension beside legislative, interpretative and interpretative dimensions) to misuse criminal law against the above-mentioned layer of society. Based on this finding, it is undisputed that general measures inherent to the Mammadli group case cover the continuing or ongoing wave of repression. The proper application of the Mammadli group case to the new cases within the framework of administrative practice, the following criteria should be utilised cumulatively:

- 1) Whether substantially the same or similar misuse of substantive or procedural criminal law occurred in the subsequent cases by national authorities (from the substantive criminal law point of view, identical or essentially homogenous charges, from the procedural criminal law point of view, foundational violations like lack of reasonable suspicion, flagrant denial of procedural rights concerning self-incrimination or searches and seizures etc.);
- 2) Whether the public status (profile) or activities of the concerned persons are the same or similar to the Mammadli group case (human rights defender, civil society figure, journalist, or civic activist);

- 3) Whether the authorities demonstrated a prejudicial attitude prior to or subsequent to the institution of criminal proceedings against concerned persons.

42. *Analysis of the cumulative test of application:* Replying to the above-mentioned questions requires a look at the details of the Toplum's case. The joint facts that are applicable to around nine defendants who have been subjected to criminal cases as defendants and remanded in custody starting March 2024 could be summarised as follows (case files and publicly available information support the facts stated below):

- (1) The Baku Metropolis General Police Department (prosecuting authority in those cases; in Azerbaijan, prosecuting jurisdiction is not unified and divided between the Offices of Prosecutors and other executive authorities that are authorised by Presidential decree; police departments as a part of the Ministry of Internal Affairs have jurisdiction to institute criminal cases and the relevant Offices of Prosecutors have optional supervising authority) instituted the criminal cases upon conducting searches and seizures at the premises and (or) apartments of the concerned persons based on 'operational information' allegedly obtained from an 'unbiased source' that the concerned persons and their accomplices are engaged in a conspiracy to commit bulk cash smuggling. Most searches and seizures were conducted not based on the Code of Criminal Procedure but the Operational Search Act, which deprives concerned persons of procedural rights, including the right to legal counsel and allows overly broad interpretation of what kind of measures can be done. The searches were conducted subsequent to the arrest of the concerned persons, and they were under the effective control of the police officers (in addition, legal counsel was not present). According to the police reports, due to these searches and seizures, police officers found and seized bulk foreign currency and equipment (electronic devices, including mobile phones and accessed the data on some occasions). The defendants stated that they were under the effective control of the police officers, who deprived them of proper participation in searches. Meanwhile, the police officers planted bulk cash (in most cases, upon request of the BMGPD, the relevant district courts *post factum* reviewed and authorised operational-search measures). The BMGPD instituted criminal cases under the charge of conspiracy to commit bulk cash smuggling (Article 206.3.2 of the Criminal Code) and charged the concerned persons. Upon the request of the BMGPD and the

relevant Office of Prosecutor, the relevant district courts remanded the concerned persons in custody (then extended period of custody; up-to-date, all concerned persons remain in remand in custody). Subsequently, the BMGPD finalised the preliminary investigation and brought additional charges related to financial crimes and reinterpreted the initial charge of cash smuggling with more aggravated circumstances in one of the concerned criminal case (the concerned persons are in the process of familiarisation of case files and the indictment will be issued after familiarization process exhausted): a conspiracy by a criminal enterprise to commit unlawful entrepreneurship in aggravated significant amount (Article 193.2.3), conspiracy by a criminal enterprise to commit money laundering in substantial amount (Article 193-1.3.1, 193-1.3.2), conspiracy by a criminal enterprise to commit bulk cash smuggling (Article 206.4), conspiracy by a criminal enterprise to commit tax evasion (Article 213.2.1), unlawful employment practices (Article 162.1-1). Most of these charges are the same or similar to those of the Mammadli group case (same ones – unlawful entrepreneurship, tax evasion, similar ones – money laundering, forgery). The novel charge is cash smuggling. Due to the indictment not being issued yet and the initial arraignments being in short content, we are not fully aware of the interpretation of the prosecuting authority. Nonetheless, all charges originate from the initial searches conducted, presumably planted evidence (bulk cash) and accessed electronic documents related to the NGO activities (level of reliance as proof on accessed electronic data still unclear due to these matters not being used in the initial accusations and final indictment is not issued). The BMGPD utilised more general language in initial arraignments and did not mention the NGO activities of the concerned persons. Meanwhile, pro-governmental media and pro-governmental affiliated MPs concerning the Toplum's the case not with ordinary financial crimes but with violations of NGO and media legislation in force. Hence, despite the lack of complete clarity due to the non-issuance of the indictment yet, it could be logically deduced from the official position that the case was substantially the same as that of the Mammadli group case. It should be noted that the criminal case and charges against the remaining concerned persons are identical to the case of AbzasMedia. The only difference is that AbzasMedia's case was finalised in the preliminary investigation. However, the BMGPD conducts preliminary investigations in those cases in the same manner, and nothing bars the BMGPD from using the same charges against the remaining concerned persons. Accordingly, the Rasul Jafarov et al. aspect of the Mammadli group case, which contains accusations of financial crimes due to NGO operations, is

substantially the same as the continuation of administrative practice (operative dimension of executive and judicial bodies). The novel cash smuggling accusation is factually grounded on the outcomes of searches and seizures conducted. However, as stated above, these searches were conducted in the manner of grave violations of procedural law, and the persons concerned were under the 'effective control' of police officers. Therefore, the bulk cash seized due to the search is presumably planted. In the Ibrahimov and Mammadov aspect of the Mammadli group case, the ECtHR found evidence in the form of seized unlawful drugs, which, in that case, were presumably planted. It should be stressed that the searches in those cases were also conducted in an identical manner. Only the subject matter is different – in the mentioned case, it was unlawful drugs; in the present case, it is bulk cash in the form of foreign currency. Correspondingly, the Ibrahimov and Mammadov aspect of the Mammadli group case should be applied, *mutatis mutandis*, to the concerned persons, pertaining to the utilisation of presumably planted evidence as a ground of reasonable suspicion for charging and remanding in custody purposes and considered as the continuation of administrative practice (operative dimension of executive and judicial bodies). Consequently, substantially the same or similar misuse of substantive or procedural criminal law (lack of reasonable suspicion as per required by Article 5.1 (c) of the ECHR) occurred in the cases of concerned persons by national authorities.

- (2) The public status or activities (public profile) of defendants are identical or similar to the Mammadli group case. The concerned persons are human rights defenders, civil society figures, journalists and political or civic activists. Nearly all of them are outspoken critics of the government or engaged in critical civil society activism in the domain of anti-corruption, good governance, election monitoring, youth engagement, etc. Even in Anar Mammadli's case, he is subjected to the essentially identical administrative practice of repression for the second time after ten years. In the judgment of Ibrahimov and Mammadov, the ECtHR established that, taking into account cumulatively, the concerned person's public profile plays a vital role in considering the requirement of reasonable suspicion. Consequently, the concerned persons share the public profile as those in the Mammadli group case.
- (3) The national authorities demonstrated (still demonstrate) a prejudicial attitude against the concerned persons. Since November 2023, pro-governmental media have been publishing articles smearing and labelling concerned persons and other civil society figures, as well as journalists being 'Western puppets,' 'foreign agents,' 'traitors,' 'villains,' and 'breaking

of the NGO legislation.' In addition, pro-governmental media utilised unlawfully obtained selective case file materials from the electronic devices of some concerned persons, which were leaked presumably by law enforcement authorities, accusing them of engaging in 'illegal funding' for 'anti-Azerbaijani purposes'. These leaks further demonstrate that national authorities initiated smear campaigning by the pro-governmental media. Even in some smearing publications, pro-governmental media accused concerned persons of 'grant smuggling' interlinking charges against concerned persons with their NGO activities. Public officials also joined smearing campaigning. Several MPs from the party in power accused organisations associated with concerned persons engaging in unlawful funding from foreign anti-Azerbaijani groups. President I. Aliyev also made similar remarks, accusing Western countries of unlawfully financing civil society and media for disinformation campaigning against Azerbaijan.¹⁸ These statements by public officials display that Azerbaijani authorities possess political animus against concerned persons and people in a similar situation. Accordingly, this conclusion follows that the national authorities have an ulterior motive against the concerned persons by instituting criminal cases against them, arresting and remanding them in custody (Article 18 of ECHR in conjunction with Article 5 of the ECHR).

43. *Conclusion on applicability:* The execution of judgments in the Mammadli group case is applicable to the administrative practice of misusing criminal law against civil society figures and journalists, including the ongoing wave of repression which targeted the concerned persons on the basis that Toplum's case cumulatively satisfy requirements of the existence of the administrative practice concerning abuse of law enforcement power hostile to critical civil society and media by national authorities in Azerbaijan. Hence, the CoM has jurisdiction over the matter.

Specific aspects of the substantive violations

44. The first and foremost violation occurred due to the fact of unlawful acquisition of evidence. There exists reasonable grounds to believe that the decisive

¹⁸ In Azerbaijani, apa.az, Azərbaycan Prezidenti və Almaniyanın Kansleri birgə mətbuat konfransı keçiriblər (26 April 2024): <https://apa.az/resmi-xeber/azerbaycan-prezidenti-ve-almaniyanin-kansleri-birge-metbuat-konfransi-keciribler-foto-yenilenib-838310>

President of the Republic of Azerbaijan, Meeting of President İlham Aliyev with the participants of the 2nd Shusha Global Media Forum (20 July 2024): <https://president.az/en/articles/view/66533>

evidence regarding the charges was planted. The decisive proof in this case constitutes the bulk cash money found during the investigation. This piece of evidence that formed the basis of the prosecution was obtained through the following operational search measures: the entry and inspection of buildings, residential premises, fenced construction sites, structures, and land plots, purportedly conducted pursuant to Article 10(1)(8) of the Law on Operational-Search Activities. The judicial documents demonstrate that authorisations by the judicial review court (district courts) were obtained for these measures. Nevertheless, the operational search measures (especially inspections) were unlawful due to non-compliance with the objectives, scope, and limitations prescribed by the aforementioned law for various reasons.

45. Exceeding Scope and Purpose of Inspections: The objective of an operational-search inspection is to enter and view residential or non-residential premises; however, the described measures went beyond the inspection's objectives as items were taken away from the inspected. As such, the measures do not meet the requirements of an inspection and should be considered searches and seizures.
46. Lack of Procedural Safeguards: Unlike searches and seizures, inspections do not provide procedural safeguards, such as the right to counsel. Procedural safeguards were lacking during the inspections, as the accused were placed in police custody or, where a lawyer was present, their involvement was limited. As such, the integrity of the evidence and inspections is compromised.
47. Doubts Concerning the Evidence Authenticity: Due to the unlawful nature of the inspections, doubts may be raised concerning the authenticity of the evidence. Such doubts were not refuted by the investigation or trial court. Additionally, evidence presented by the prosecution is reliant on the evidence obtained through unlawful means. The evidence obtained by the police through operational-search inspections is therefore inadmissible, and the trial court erred in considering it.
48. Challenge to Evidence Authenticity: The accused contest the authenticity and admissibility of the evidence presented by the prosecution. The case relies on evidence obtained by the police using operational-search inspections, which infringe upon the right to privacy and inviolability of residence stipulated by Article 8 ECHR. As such, by relying on the evidence obtained unlawfully, the court violated the accused's right to a fair trial under Article 6(1) ECHR (*mutatis mutandis*, Ibrahimov and Mammadov v. Azerbaijan: pertaining to the use of presumably planted evidence as a basis of reasonable suspicion for charging purposes and remanding in custody and considered as the continuation of administrative practice (operative dimension of executive and judicial bodies)).
49. In view of the above, the evidence obtained by the police through unlawful operational-search measures must be deemed inadmissible. As such, the

charges brought against the accused may not stand as they were based on inadmissible evidence (Ibrahimov and Mammadov v. Azerbaijan: as regards the use of previously submitted evidence as a basis for holding the applicant in custody on charges of illegal entrepreneurship).

Procedural aspects of the violations:

50. The issues monitored during the trial based on international fair trial monitoring standards are as follows:¹⁹

1. Public conduct of the trial;
2. The presence of an independent and impartial judiciary;
3. Protection of the right of the individual to participate in the trial and to defend himself (including the right to have sufficient time and facilities to prepare his defence and to review the evidence);
4. Protection of the right of the individual to have a lawyer at the trial (including appropriate instruction in this right, the right to free legal assistance in certain cases, and the effectiveness of the lawyer);
5. Equality of arms (including the rights of the individual to present evidence, call and examine witnesses);
6. Presumption of innocence and application of the burden of proof;
7. Protection of the right of the individual not to testify against himself and to remain silent in court;
8. The right of the individual to have his case considered promptly;
9. The right of the individual to liberty and personal security;
10. The right of the individual to a public and reasoned court decision.

Key four indicators for trial monitoring:

Independence/impartiality of tribunal (ICCPR Art. 14 and ECtHR 6)
 Presumption of innocence/public trial (UN Manual Ch. 6A)
 Right to defence/equality of arms (ICJ Manual Ch. 4)
 No arbitrary pre-trial detention (OSCE Ch. 5)

51. The following are considered in order to verify compliance with the principle of public hearings:

- Whether information on court hearings has been compiled; if so, whether it accurately reflects all hearings and is it posted in a publicly visible or easily accessible place (e.g. on a notice board);

¹⁹ Based on OSCE/ODIHR trial monitoring standards: <https://odihr.osce.org/odihr/94214>; <https://odihr.osce.org/odihr/94216>

- Whether there is a practice among judges to admit members of the public who do not have a direct interest in the proceedings into the courtroom and whether the public is allowed to attend the proceedings regardless of their affinity with one or the other party;
- Whether the courtroom allocated for a particular hearing is too small for the expected public interest; if so, could a larger courtroom have been allocated;
- Whether the hearing is held in the judge's office without reasonable justification;
- Whether there are unreasonable restrictions on public access to the courtroom after the hearing has begun;
- Whether the media are allowed into the courtroom and are the requested permissions denied without explanation;
- Whether the balance of interests is respected in each case when declaring a trial or hearing closed and whether other less restrictive measures are considered to protect the interests of the parties.

52. In order to verify the existence of an independent and impartial judiciary, the following are considered:

- Are judges assigned to a specific case appointed on the basis of an objective system – for example, by drawing lots – and if random appointment is not used, is this decision justified?
- Are judges given the opportunity to make independent decisions on any issue by the system or do they consider themselves dependent on external factors?
- Do judges, in their interactions, display a positive or more cordial attitude towards one party than the other, or do judges openly express opinions that undermine the presumption of innocence in the case?
- Are the judges hearing the case consistently present in the court session and is the composition of the court panel appropriate?
- Are there any threatening statements made by political actors or persons participating in the proceedings against the judiciary regarding the outcome of the case?
- Whether allegations of corruption or undue influence over judges in a case have been made by a participant in the case or whether there has been a perception among the public that the court is not fair;
- Whether the court appears to have failed to properly consider arguments or proposals put forward by the defence or prosecution or to have rejected them without due cause;
- Whether the court's decisions include evidence or legal reasoning considered in making those decisions;

- Whether evidence not presented in court is taken into account in reaching a decision;
- Whether factors limiting the independence of judges and influencing their conduct are taken into account in the assessment of judges (e.g., giving negative marks to judges who express minority views).

53. In order to verify the protection of a person's right to participate in the trial and to defend themselves, the following are considered:

- Whether the court duly summoned the person to appear in court and whether persons tried in absentia have a real opportunity to challenge judgments rendered in their absence;
- Is the accused temporarily excluded from the proceedings represented by a lawyer and informed of what happened in his absence?
- Is the accused given a real opportunity to present evidence in his favour and has access to the evidence?
- Are there any allegations or indications that the prosecution has suppressed exculpatory evidence?
- Are there any allegations that the accused's statement was obtained under duress, that the person was threatened with threats to prevent him from presenting his defence or that he was pressured to cover up other criminals, and are such allegations properly investigated?
- Is the person given a real opportunity to familiarise himself with the record of any statements he has made and signed?
- Whether the person has sufficient time to prepare a defence against the evidence presented by the prosecution or collected by the court; and
- Whether witnesses called by the defence are pressured not to testify.

54. In order to verify whether the person has the right to have legal assistance at the trial, the following shall be considered:

- Whether the person has the opportunity to engage legal assistance of his or her own choosing;
- Whether the court or the prosecution has explained these rights to the person in a clear and understandable manner at the appropriate time;
- Whether the person has the opportunity to consult with a legal assistance in confidence and has been given a reasonable time before the trial;
- Whether any restrictions are placed on the access of the legal assistance to the detained client;
- Whether the person is satisfied with the legal assistance assigned to him or her, and whether the court takes steps to protect the rights of the person by appointing another legal assistance if the legal assistance assigned to him or her is manifestly indifferent to the rights of the person or is not competent to represent the person; and

- Whether the legal assistance participates in the trial if the person refuses to appear at the trial.
55. To check whether equality of arms is observed, the following are considered:
- Whether the defence or prosecution's motions are rejected without justification;
 - Whether the court explicitly or implicitly favors the prosecution over the defence or vice versa;
 - Whether both parties are given adequate time and opportunity to gather and present evidence; and
 - Whether the person has an equal opportunity to request expert evidence as the prosecution.
56. To check whether the presumption of innocence and the burden of proof are applied, the following are considered:
- Whether the court uses statements that demonstrate bias against the person before passing sentence;
 - Whether judges give excessive weight to circumstantial or contradictory evidence without due justification, indicating arbitrariness rather than discretion;
 - Whether the court requires the person to prove his or her innocence contrary to the law;
 - Does the court take into account the statements of the accused as a witness without informing him of his rights as a suspect;
 - Does the court and the prosecution dismiss without proper investigation the allegation of torture or ill-treatment of the accused during the investigation;
 - Is the statement of a co-accused or another convicted person the only evidence that led to the conviction of the co-accused;
 - Do public statements by public officials or other government officials imply that the accused are already guilty of the crimes?
57. In order to verify the protection of the right not to incriminate oneself and to remain silent in court, the following are considered:
- Is the silence of the accused, ipso facto, considered by the court as an indication of guilt;
 - Are there any indications that the accused was bribed, threatened or induced to confess?
 - Whether the accused is properly informed of his or her rights and, where appropriate, reminded of them during the trial.
58. In order to verify that the right of the individual to have his or her case heard without delay, the following are considered:
- Whether the court adjourns hearings without reasonable cause;

- Whether the presentation of expert or other evidence takes an unreasonably long time and whether the court seeks to expedite this process;
- Whether the court manages the proceedings efficiently;
- Whether the panel takes the necessary measures to ensure the presence of witnesses who are essential to the case who are unwilling or unable to appear in court.

59. In order to verify that the right of the individual to liberty and security of person is respected, the following are considered:

- Whether proceedings concerning the accused in custody are given priority over others;
- Whether the sentences imposed are proportionate to the length of time the defendants have been in custody;

60. Do pre-trial detention panels properly verify the existence of all grounds for detention and adequately justify their detention decisions, citing the inadequacy of alternative measures to detention?

61. In order to verify that the individual's right to a fair and reasoned trial decision is respected, the following are considered:

- Whether the decision is publicly announced;
- Whether the court provides sufficient reasoning in the decision to support its conclusions based on the law and the facts presented;
- Whether the sentence imposed is within the limits provided for by law and whether any aggravating or mitigating circumstances are properly justified;
- Whether the standard of proof for mitigating and aggravating circumstances is applied (e.g., aggravating circumstances must be proven beyond a reasonable doubt and mitigating circumstances must be proven by a preponderance of the evidence).

Procedural violations observed during the trial monitoring

62. Based on the above-mentioned monitoring standards, during the first-instance trial before the Baku Assize Court, the following procedural deficiencies were observed:²⁰

- *Concerning general witness statements:* The presiding judge and the state attorney attempted to mislead or intimidate the witnesses during their testimony. Most of the witnesses who testified before the Assize Court stated that they had given their statements during the pre-trial

²⁰ During the trial observation period, more than 30 main hearings are directly observed which includes witness statements, examination of documents and motions suppress evidence and motions challenging evidence.

investigation under duress. They specified that the investigators shouted at them, took their phones from their hands, and dictated how to testify against the defendants. They asked the court to consider their current statements, not previous ones. The main issue with the witness statements was whether the witnesses were paid. The witnesses told the Court that they were interns, not salaried employees. Because of their internship, they sometimes received an intern's fee rather than a salary. In response, both the presiding judge and the state attorney still claimed that they received a salary, not an intern's fee. Regarding duress claims, the presiding judge and state attorney sought to intimidate the witnesses, stating that they may be charged with false statements if they were inclined to change their stories, which they had declared during the pre-trial investigation phase.

- *Concerning attesting witnesses' statements:* Attesting witnesses shall be random persons who are present during the operational search measures and are summoned by the operational police officers immediately before the operational measures are undertaken, in accordance with the Operational Search Measures Act and the Code of Criminal Procedure. During the trial, most of the attesting witnesses who participated in the initial searches and seizures were absent. The defence submitted motions to summon them. Nevertheless, the trial court dismissed these motions without any substance, simply verbally stating that participation of one of the witnesses is sufficient. Attesting witnesses who gave testimony during trial contradicted their initial testimonies. State attorney interfered on such occasions and tried to 'assist' them to 'remember' the facts, i.e., directed them.
- *Concerning expert witnesses:* Expert witnesses failed to reply to most of the questions asked by the defence. For example, the expert witness on tax inspection failed to answer questions about when tax was applicable in specific cases and mostly referred to the expert opinion in general terms. It is observed that recording of the failure to reply to questions by the expert witnesses in the minutes was not conducted properly by the presiding judge. In the end, the participation and questioning of expert witnesses were formalistic.
- *Subjective impartiality of judges:* The presiding judge addressed the defendants, mostly Akif Gurbanov and Ali Zeynal, in insulting terms when they tried to raise the relevant deficiencies. Such a demeanour demonstrates that the judges failed to adhere to the impartiality requirement, which is a gross problem for such a trial. Such an attitude by the presiding judge was not occasional but systematic and repeated regularly.

Assessment of further aspects of the trial monitoring

63. The Article 6 issues in the Toplum's case have to be considered in the context of ECtHR's case law on politically motivated prosecutions, evidential unfairness, arbitrariness, and equality of arms. The most relevant recent case is undoubtedly Khadija Ismayilova v. Azerbaijan, no. 4, decided on January 27, 2026, concerning prosecution on charges of financial crimes and "illegal entrepreneurship". Significantly, in this case, the Court found Azerbaijan's courts to have acted "fundamentally flawed and manifestly arbitrary", with "the fairness of proceedings undermined to such an extent as to make other fair trial guarantees essentially ineffective." (para 210).
64. This ruling has direct bearing on the Toplum's case in that in this case too, the government is using financial crimes charges to bring politically motivated prosecutions. In addition to that, in the case of Khadija Ismayilova (no. 4) the Court also ruled that there had been a violation of Article 10 of the Convention. The Court in Khadija Ismayilova no. 4, has emphasized the risk of criminal proceedings being "manifestly arbitrary" where courts fail "to examine critically the prosecution's submissions and interpret ordinary legitimate professional activity as criminal economic activity".
65. This approach is clearly relevant to the Toplum TV prosecution, where the theory of the case also seems to rely on interpreting professional journalism and civic activism as criminal economic activity through expansive, interpretive regulation. However, the Toplum TV situation in terms of Article 6 also goes beyond one case, Khadija Ismayilova no. 4. Other cases are relevant to illustrate various ways in which Azerbaijan's courts may have failed to meet the requirements of Article 6 in the situation of Toplum TV. A foundational principle in the case law of the ECtHR is that Article 6 ECHR protects "fair trial as a whole". This principle underlies many judgments concerning alleged violations of Article 6. Thus, in Ibrahim and others v UK, the Grand Chamber ruled that "the essential requirement of Article 6 is that criminal proceedings shall be fair to the accused, having regard to their overall fairness, and not merely to any technical irregularities committed during them". Similarly, in Bykov v Russia, the Court held that while it was for domestic courts to determine evidential admissibility, "in order to assess compliance with Article 6, [it] was necessary to focus on the manner in which evidence was obtained, as well as the opportunity for its challenge, and the general reliability of the trial process". Taken together, these two principles have significant bearing on the situation in Toplum TV, where the defense has raised questions pertaining to evidential reliability, including unlawful searches and seizures, limitations of procedural safeguards, planting of evidence, and subsequent expert examination of illegally obtained evidence.

Where such issues are raised, the role of a tribunal under Article 6 is to go beyond formal evidential objections and take into account general reliability of evidence.

66. This issue seems to be closely related to the next topic – witness examination – which also has bearing on the Toplum’s case.
67. Under Article 6 §3 (d), the accused is entitled to “examine witnesses against him and to obtain the same facilities for examining witnesses in his favour as are available to the prosecution”. The Court has consistently ruled in Strasbourg case law that this provision imposes a significant responsibility on tribunals to ensure that the confrontation rights of the accused are not “illusory” (Al-Khawaja and Tahery v UK, Grand Chamber). In Schatschaschwili v Germany, the Court held that in respect of evidence whose reliability might not be self-evident, courts ought to apply “increased caution”. Lastly, in Othman (Abu Qatada) v UK, the Court held that “where evidence is obtained by means of coercion, this raises issues of relevance to Article 6 ECHR”.
68. These principles of fair trial law are directly pertinent to the Toplum’s case, on account of the defense’s allegations in the media that in preparing its defense, it has had to consider that certain testimony, including potentially the evidence of the defendants themselves at a pre-trial stage, may have been obtained under pressure. In several cases of this type, it has been reported in the media that witnesses before the court have either disclaimed any of the allegedly criminal conduct attributed to them, or have expressed doubt about their own prior evidence. In such situations, the tribunal is obliged to go beyond general evidential objections and weigh the reliability of evidence on the basis of contradictions. It is necessary to specifically consider the context of obtaining evidence and potential use of coercion. Questions of admissibility should be examined in relation to general reliability of evidence. Where evidence has been obtained under irregular circumstances, the courts must scrutinize such evidence with a high degree of caution.
69. Furthermore, if there are allegations of unlawful interception of evidence, the court needs to consider such complaints within the context of their effect on the rights of the accused. If there are allegations of coercion, the court needs to specifically consider whether such allegations are substantiated, and if so, to what extent.
70. It goes without saying that the fair trial rights of the accused also encompass his or her right to impartial judges. A crucial principle in this regard is that Article 6 ECHR requires both subjective and objective lack of bias on the part of the tribunal. This principle has been enshrined in the jurisprudence of the ECtHR, for instance, in the Grand Chamber ruling in Kyprianou v Cyprus, which held that “the requirement of impartiality is primarily one of appearance, for justice must

be seen to be done". Similarly, in *Micallef v Malta*, the Grand Chamber held that "objective impunity" was also a concern in assessing potential bias.

71. This principle is directly relevant to the Toplum's case, on account of reports in the press concerning the bias of the tribunal in Toplum TV in favor of the prosecution. It must be noted that there is no smoking gun in this situation – the problems in upholding impartiality are indicated by a confluence of multiple issues raised by the defense. Thus, there are concerns in the defense's procedural practice about: the court's acceptance of objections to evidence; insufficient scrutiny of the prosecution's evidence; formalistic examination of witnesses; and formalistic consideration of questions related to the defense's evidence. These concerns, when taken together, may raise objective questions about the impartiality of the tribunal.
72. A separate but closely related matter is the rights of the defense under Article 6, particularly the principle of equality of arms. The principle of equality of arms has been developed in a number of judgments, including the remarkable judgment of the Grand Chamber in *Dombo Beheer B.V v Netherlands*, which ruled that the rights under Article 6 include the right of every party to be given "a reasonable opportunity to present his plea or defence on foot of the evidence available to him and not be put at a substantial disadvantage vis-à-vis the other party". The principle of equality of arms is obviously pertinent to the situation in Toplum TV, on account of the fact that the prosecution in Toplum TV possesses substantial resources and procedural opportunities unavailable to the defense, including: control over documentary evidence, forensic expertise, state resources, and detention of the defendants. At the same time, the defense in Toplum TV has been significantly hampered by the physical detention of the accused, particularly Alasgar Mammadli, whose health appears to be in precarious condition.
73. Moreover, the time spent in custody significantly limits the effectiveness of the defense, particularly given that in complex financial cases such as Toplum TV prolonged detention of the defendants limits their opportunities for coordination of defense, consultation with attorneys, reviewing evidence, preparing documents, and expert examination.
74. Thus, the situation in Toplum TV raises serious questions about the fairness of the defense, and consequently about the overall fairness of the trial. In this regard, the most relevant case law of the ECtHR is certainly concerned with the right of the accused to effective assistance of counsel, as well as general principles of fair trial in complex financial cases. According to the ECtHR's jurisprudence, a number of factors may affect the ability of the accused to exercise his or her rights under Article 6, including the right to effective assistance of counsel. Thus, in *Idalov v Russia*, the Court acknowledged that "prolonged detention may undermine the right of the defence to effective

assistance of counsel.” Similarly, in *Moiseyev v Russia*, the Court held that “detention of an accused person for an extended period of time may also have a negative impact on his right to a fair trial.” The situation in *Toplum TV* raises several questions on the intersection of detention rights of the accused and the fair trial guarantee under Article 6 ECHR, and in particular the effect of such detention on the right of the accused to effective assistance of counsel. As has already been said, such a situation as the *Toplum*’s case involves many difficulties in the preparation of defense, including the analysis of documentary evidence, consultation between defendants, coordination of defense documents, and expert examination of financial reports. Consequently, the prolonged detention of the accused without trial significantly restricts his or her rights under Article 6 ECHR.

75. A further difficulty for *Toplum TV* is the accused's health. This situation relates to the preceding point about the right to the effective assistance of counsel, as the accused's state affects their capacity to choose counsel. relevant case law of the ECtHR indicates that the right to effective assistance of counsel is in turn intrinsically linked with the right to participate effectively in the proceedings. Thus, in *Stanford v UK*, the Court held that “effective participation is a fundamental aspect of a fair trial as required by Article 6 of the Convention”.
76. The situation in *Toplum TV* is significant for this particular reason, as *Alasgar Mammadli*'s health declined substantially, and if the court does not consider it, it would have failed to meet the requirements of article 6 of the ECHR.
77. The characterization of the charges brought against the defendants is also of particular importance in assessing the situation in *Toplum TV*. Thus, in the cases of *Rasul Jafarov* and *Intigam Aliyev*, the Court expressed considerable concern about the tendency of the Azerbaijani courts to interpret legislation in an excessively broad sense, imposing charges of economic crimes on the accused in order to restrict their civic freedoms. Although each case must be considered on its own merits, the practice of the Azerbaijani courts to interpret legislation in a way that exceeds its literal meaning may be of particular relevance to the *Toplum TV* prosecution. In particular, the defense in *Toplum TV* has argued that the charges brought against it do not fall within the jurisdiction of criminal law, as they concern issues of regulation, registration, and reporting, which fall under state regulation of economic activity. Under the principles of Article 6 ECHR, a tribunal considering the charges in *Toplum TV* has an obligation to carefully consider this argument. If a tribunal fails to do so and accepts the prosecution’s position on the interpretation of law without scrutiny, it may violate the rights of the defense to a fair trial as stipulated in Article 6 ECHR. In this regard, the situation in *Toplum TV* is similar to the situation in *Khadija Ismayilova no. 4*, which concerned the interpretation of economic crimes in a way that expanded beyond the accepted limits of criminal law.

78. Considering all Article 6–related issues in the Toplum’s case together, and taking into account the case law of the ECtHR discussed above, it becomes apparent that the cumulative effect of the alleged rights violations in Toplum TV is sufficient for the Court to find a breach of the fair trial guarantee under Article 6. The situation in Toplum TV is particularly concerning given that the Court’s case law indicates that the fairness of proceedings should not be judged only by isolated procedural shortcomings. If the Toplum TV court has acted in a manner indicating disregard for the rights of the defense to effective assistance of counsel, equality of arms, and other fair trial rights, the overall trial process may have failed to meet the requirements of Article 6.

PRELIMINARY CONCLUSIONS

Factors Indicating a Political Prisoner

79. The defendants are not ordinary criminals. Many of them are known to have openly spoken out on matters of public interest as members of civil society, and/or independently of the state:

Akif Gurbanov – former member of the Central Election Commission who openly criticized electoral fraud, IDI and Third Republic Platform initiator
Alasgar Mammadli – renowned media lawyer, co-owner of Toplum TV
Ruslan Izzatli – long-time political activist, co-owner of the Third Republic Platform

Other defendants (Mushfig Jabbarov, Ali Zeynalov, Ramil Babayev, Ilkin Amrahov, Farid Ismayilov, Elmir Abbasov) – independent journalists, managers, and activists.

80. Moreover, none of the defendants have previously had any criminal convictions

81. Crimes of smuggling, illegal entrepreneurship, tax evasion, and money laundering are economic crimes. However, the very fact of organizing independent, unauthorized media resources is criminalized under Article 10 and 11 of the European Convention on Human Rights, which protect the freedom of speech and association. In other words, the prosecution’s position entails that any independent media initiative that was not legalized by the relevant state structures is automatically “criminal.”

82. There are multiple signs that the investigation was conducted in bad faith. Firstly, searches were carried out under operational–investigative measures, which violates several rights granted by the European Convention on Human Rights. Secondly, it has been publicly reported several times that cash found during these searches may have been planted by the investigators. Thirdly, several witnesses stated in court that they were tortured. Moreover, the entire

chain of events points to the fact that the investigation was launched not due to any criminal offense on the part of the defendants, but in order to cripple independent media initiatives.

83. Similar violations of human rights were previously noted by the ECHR in several cases involving Azerbaijani courts, for example, Ibrahimov and Mammadov v. Azerbaijan.
84. In addition, the repression fits into a larger crackdown on independent media outlets and NGOs that has been taking place in the country since the end of 2022 and intensified in November 2023. During this period, Abzas Media and Kanal 13 were closed, followed by a wave of libel lawsuits against independent journalists. Pro-government newspapers published articles accusing independent media of being “Western agents”. Repressive measures against human rights defenders also intensified. Finally, the crackdown fits into the overall strategy of undermining the growing popularity of the Third Republic Platform, particularly after the launch of Toplum TV. All of this confirms that there may be political motives for the prosecution.

Are the Defendants Considered Political Prisoners According to PACE?

85. According to PACE Resolution 1900(2012), persons deprived of liberty may be considered “political prisoners” if they are imprisoned “as a result of a violation of the rights provided for in the European Convention on Human Rights or other international human rights treaties... in particular for expressing opinions or views in the exercise of the rights enumerated in those conventions...”
86. The defendants are considered political prisoners for several reasons. Firstly, they were arrested in connection with the exercise of their rights under Articles 10 and 11 of the ECHR. Secondly, the prosecution pursues political ends by trying to crush independent civil society. Thirdly, there are multiple grounds for believing that the trial is being held in bad faith. Additionally, the crackdown fits into a general crackdown on independent media outlets and NGOs in Azerbaijan.
87. Based on the above facts, it may be concluded that the Toplum’s case is indeed a political prisoner case. The defendants are deprived of liberty to a considerable extent as a result of exercising their right to freedom of speech and association. The strategy of politicization of the case and the presence of violations of human rights during the trial are additional arguments.
88. Thus, the Institute for Democratic Initiatives draws attention to the mass repression of independent media in Azerbaijan and calls for the immediate release of the defendants from custody.



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