

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

AI Index: EUR 55/002/2009
13 March 2009

CALL FOR THE IMMEDIATE RELEASE OF DMITRI PAVLOV, MAKSIM GENASHILKIN AND RUSLAN BESSONOV

Amnesty International is calling on the Azerbaijani authorities to resolve immediately the longstanding cases of three youths Dmitri Pavlov, Maksim Genashilkin and Ruslan Bessonov.

In particular, Amnesty International urges the authorities to release immediately the three youths, either pending a prompt and fair retrial which must comply with international human rights standards, or unconditionally, with the charges dropped.

Residents of the Surakhan district of the capital city of Baku Dmitri Pavlov, Maksim Genashilkin and Ruslan Bessonov were detained on 14 March 2005, when they were aged 15, 15 and 16 respectively. Dmitri Pavlov was released a few days afterwards and then detained again in August 2005. They are currently being held on charges relating to the murder of another teenager, Vusal Zeynalov.

Family members believe that the teenagers may have been targeted by investigators because their Russian ethnicity allowed the crime to be explained as ethnically motivated. Their lawyer stated that “these boys were singled out (as scapegoats) because they were not of ethnic Azeri origin, two of them didn’t have fathers, they were low-income households and so these were vulnerable families with no one from ‘above’ to protect them.”

Judicial proceedings against the teenagers, who have now been detained for nearly four years, have been unreasonably prolonged, in violation of their rights to a trial within a reasonable time.

They have been subjected to other violations of their rights under international human rights law. They were not permitted to immediately inform or have their families informed of their detention, and their parents were reportedly only informed some eight hours later. The three children were also denied prompt access to a lawyer.

In addition, all three are reported to have been beaten and otherwise ill-treated while in detention. It was after such treatment, coupled with the denial of food, water and sleep, access to their lawyer and their parents, that the three were said to have been compelled to sign false confessions and statements incriminating one another for participation in the murder.

The Azerbaijani authorities have indicated that an “investigation and forensic medical examination showed that neither violence nor torture was committed” in respect of the three youths. However, Amnesty International is concerned that any investigation that did take place may not have met the threshold of independence and effectiveness required under international law.

Amnesty International continues to call for a thorough, independent and impartial investigation into the youths’ allegations of ill-treatment in detention. If the allegations are confirmed, the three should receive reparation, including compensation, and those responsible should be brought to justice in fair proceedings.

In June 2007 the three teenagers were sentenced to 10 years’ imprisonment and their convictions and sentences were upheld by the Baku Court of Appeal in January 2008.

According to the copy of the judgment supplied to Amnesty International, in April 2008 the country's Supreme Court ruled that the Court of Appeal had violated the rights of the three to a fair trial. It highlighted the following violations, among others:

- The protocols of the search and removal of items of evidence had been fabricated as confirmed during the proceedings in the Court of Grave Crimes.
- The 'confessions' had been obtained in violation of the right of the accused to the assistance of an interpreter, defence lawyer and their legal representatives during their detention.
- Some of the documents relating to investigative activities, including transcripts of interrogation and the protocol of familiarization with the criminal case, had been fabricated. Such materials cannot be considered to have legal force.
- There had been a violation of the right of the accused to question witnesses for the prosecution and witnesses for the defence.

The Supreme Court overturned the decision of the Court of Appeal and sent the case back to the Court of Appeal for re-examination. During the second review of the case, the Court of Appeal upheld the conviction of the three young men in July 2008. However, its decision was overturned again by the Supreme Court in January 2009 which stated in its second judgment that the Court of Appeal had not sufficiently taken into account provisions of the April 2008 judgment of the Supreme Court and, during its re-examination, had committed procedural violations.

The cases of Dmitri Pavlov, Maksim Genashilkin and Ruslan Bessonov are currently being reviewed in the Court of Appeal for the third time. The three are currently being held in the pre-trial investigation facility No.1 in Sabail district of the capital city of Baku.

Amnesty International is concerned that the rights of Dmitri Pavlov, Maksim Genashilkin and Ruslan Bessonov to a fair trial have been violated, including as identified by the Supreme Court's two judgments. Amnesty International is further concerned that the current review of the case may also fail to conform to international fair trial standards and that the continued detention of Dmitri Pavlov, Maksim Genashilkin and Ruslan Bessonov may be arbitrary.

END/