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No.: 395/2006

Date: 9 October 2006

The Office of High Commissioner for Human Rights, Geneva,
Please circulate this letter to the Working Group on Arbitrary
Detention (also for Fair Trials) and to the Special Rapporteur
on Independence of Judges and Lawyers

CC Mrs. Harrison, Amnesty International, London



Dear sir/madam,

**Re COMPLAINT – ARBITRARY SENTENCE INCLUDING 50 LASHES TO A 65 YEARS
OLD VETERAN OF MUSIC**

We present a case of complaint before you, the Case of Mr. Hesən Azerbaijan (also known as Demirchi, or Hergüli). He was arrested on 26 May 2006, and currently jailed in Tebriz Prison, deprived of his liberty (please refer to our letter: Ref: 327/2006 on 28 May 2006 and Ref: 332/2006 on 7 June 2006).

Amnesty International has referred to Mr. Azerbaijan's case, and together with other detainees, made a collective case for them as prisoners of conscience (MDE 13/074/2006 on 29 June 2006). Some of the details of his sentence were reported on 17 August 2006 (our letters Ref: 367/2006 on 22 August 2006; and Ref: 382/2006 on 17 September 2006):

- **Charge:** Pan-Turkism, separatism, disturbing public order
- **Sentence:** one year imprisonment and **50 lashes**

Mr. Azerbaijan is a 65 years old Southern Azerbaijani composer, professional player of stringed instrument called *Tar* and a singer. His opera called *Settar Khan* has captured hearts and minds of Southern Azerbaijanis and is expected to be downloaded from an Azerbaijani website (you will be advised in due course). In reality, he is a wealthy businessman, married with three children but music is just his spiritual life. In addition, he has published a number of his books on music and set up a music school on his own account to teach Azerbaijani music to enthusiasts of our culturally deprived people.

ASMEK published the sentence issued by the judge on 17 August 2006 and this information is therefore deemed to be reliable. Nonetheless we are still in the dark on:

- We believe Mr. Azerbaijan did not have access to a lawyer of his own choice
- The court proceedings was in a closed session
- To date, the issued sentence has not yet been published in a written form
- It is not clear whether the infamous act of lashing has been carried out or not
- Charges such as Pan-Turkism and separatism are not a correct interpretation for proclaiming national and human rights and Amnesty International does not regard such charges to be recognizable in an international court of law, and of course disturbing public order is an outrageous accusation against this 65 year old veteran musician.



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The only reliable information available to us is that Mr. Azerbaijan is still in the dungeon in his home city of Tebriz, Southern Azerbaijan, imprisoned by the Islamic Republic of Iran. Additionally, we know for sure that he suffers from poor heart conditions. We trust that you agree with us that Mr. Azerbaijan's case is a clear case of arbitrary imprisonment and deprivation of liberty.

In search of a reason for the detention of Mr. Azerbaijan, let us consider the following:

1. You are closely familiar with arbitrary sentencing of the authorities not least following our complaints against them, e.g. please refer to our letters: Ref.: 392/2006 on 30 September 2006; and Ref.: 382/2006 on 17 September 2006.
2. Prior to issuing these sentences, the authorities had made a lot of noise that the widespread May 2006 protests were not acts of Azerbaijanis but incited by American and Israeli subversive elements and they promised waves of confessions to expose the so called conspiracies (please refer to our letter: 355/2006, on 28 July 2006). These so called *confessions* never materialised and this would mean that they relied upon obtaining confession under torture but in vain.
3. A prisoner of conscience smuggled out a statement from the prison that unmasked this disgraceful ploy. He wrote: "Any confessions out of me, if any, were obtained under psychological and physical torture. Therefore, I declare that the only statement on my behalf will bear truth if it is issued in the presence of the lawyer of my choice" (our letter: 342/2006 on 26 June 2006).

The background information presented above, takes us to unravelling the reasons for the detention of Mr. Azerbaijan. The perpetrators detained him with the illusion that he was vulnerable and would agree to their demand of false confessions. With the benefit of the hindsight, Mr. Azerbaijan withstood torture and did not appease the violators of his human rights. The disappointed authorities have evidently resorted to the last draw within their disposal, arbitrary detention of this old man as a reprisal. The victim is an old man who has devoted his life to the service of fellow human beings and has earned the love of our people. He has purposefully avoided politics and only taken refuge in cultural activities.

This distinguished musician even attempted to teach music while in the dungeon but the authorities denied him this right too. We are sure that he was most upset for the shutdown of his music school in Tebriz by the authorities. Maybe this is indirectly related to our complaint but let us remind the ongoing Iranian rhetoric of *the dialogue of civilisations* to unravel its true meaning:

- Iranian authorities have subjected this Southern Azerbaijani to an arbitrary sentence;
- They have shut down his school of music;
- During the presidency of Mr. Khatemi, the former president of Iran and an architect of the so called the dialogue, Mr. Azerbaijan was imprisoned twice (see our letters: Ref: 174/2003, Date: 22 December 2003; and Ref: 249/2004, Date: 29 July 2004).

We are in the process of mobilising a campaign with the aim of the reinstatement of human rights of this veteran of music and of securing his immediate and unconditional freedom. In this phase of campaign, we are lodging a complaint against the Islamic Republic of Iran. We are requesting your attention for this case to use your appropriate mandates for the immediate and unconditional release of Mr. Azerbaijan.

Yours faithfully,

Boyuk Resuloglu

For and on behalf of



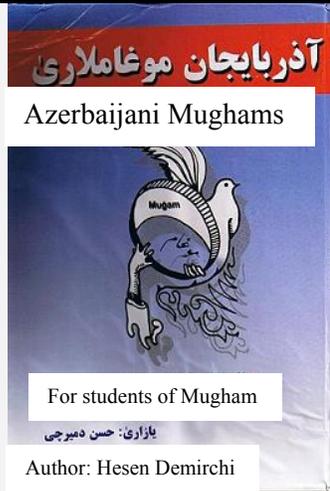
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The Committee for the Defence of the Rights of World Azerbaijanis

The Reverse Chronology of Mr. Hesen Azerbaijan



Mr Azerbaijan is singing



**A book by Mr. Azerbaijan –
Mugham means a program of
melodic music**



**Mr Azerbaijan (ringed) is
playing in his orchestra and as a
solo**

Date	Events
Now	A campaign for the release of Mr. Azerbaijan, arbitrarily imprisoned in Tebriz prison
7 Sept 2006	A letter by Heyder Bayat recalling his memories of Mr. Azerbaijan and expressing his abhorrence of lashing. Calling Mr. Azerbaijan a living legend, he tries to understand the meaning of lashing of an innocent 65 years old musician. After contemplating for two days, he confesses to be even more confused and angry.
17 August 2006	The sentence was published in Azerbaijani websites, although a written verdict has never been issued.
2 August 2006	The prison authorities disallowed Mr. Azerbaijan to teach music to political prisoners in Tebriz Prison, apparently as a punishment.
20 July 2006	Apparently the court was convened.
8 July 2006	Worrying news was published on his heart conditions
4 July 2006	Dr Ekber E'lemi, a Southern Azerbaijani MP in the Iranian Majlis, visits political prisoners in Tebriz Prison and apparently had a chat with Mr. Azerbaijan too. However, the prison authorities were reportedly hampering the visit with the political prisoners.
29 June 2006	On the occasion of the Babek Assembly, Amnesty International referred to Mr. Azerbaijan's detention, and together with other detainees, made a collective case for them as prisoners of conscience (MDE 13/074/2006 on 29 June 2006)



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25 June	Worrying news on his heart conditions
22 June 2006	Despite heart problems, Mr Azerbaijan's initiative of teaching Azerbaijani music to the 42 fellow political prisoners reflects his high <i>morale</i> . Nonetheless this initiative is being hampered by the authority.
15 June 2006	A heart felt letter from Güntay Javanshir
14 June	The 65 years old Mr. Azerbaijan resorts to hunger strike as a protest for shutting down his music school. He is refusing to take in solid food. At this point in time there were some 80 political prisoners in Tebriz.
7 June 2006	The second letter by Boyuk Resuloglu to Amnesty International
28 May 2006	The first letter by Boyuk Resuloglu to Amnesty International giving the background on the detention of Mr. Azerbaijan
25 May 2006	Security agents raided Mr. Azerbaijan's house and arrested him together with his son Babek. They were taken to an undisclosed location and confiscated two lorry loads of books, CDs, computer and other personal belongings.
January 2006	Mr. Azerbaijan managed to stage his last opera in Tebriz, composed and produced by him, see:
July 2004	Mr. Azerbaijan was imprisoned for his cultural activities
December 2003	Mr. Azerbaijan was detained for taking part in the anniversary of the National Government (1945-46) referred to as 21 Azer Anniversary (corresponding to 11 December)
Heart Problems	Mr. Azerbaijan's heart problem is a residue of the arbitrary imprisonment three years ago, when arrested for visiting the mausoleum of Prof. Zehtabi on the occasion of the anniversary of 11 December (21 Azer).
Overview of his past detentions	He has been arrested in numerous occasions; <ul style="list-style-type: none">• his passport has been confiscated;• he is under constant threat;• his workplace has been raided many times;• he carries on his shoulders a court sentence of one year term of imprisonment, currently postponed