



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

CASE OF RAMIKHANOV AND OTHERS v. AZERBAIJAN
(Application no. 31732/08 and 19 others - see appended list)

JUDGMENT

STRASBOURG

3 May 2018

This judgment is final but it may be subject to editorial revision.

In the case of Ramikhanov and Others v. Azerbaijan,

The European Court of Human Rights (Fifth Section), sitting on 12 April 2018 as a Committee composed of:

André Potocki, *President*,

Síofra O’Leary,

Mārtiņš Mits, *judges*,

and Liv Tiggerstedt, *Acting Deputy Section Registrar*,

Having deliberated in private on 12 April 2018,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in applications against Azerbaijan lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on the various dates indicated in the appended table.

2. The applications were communicated to the Azerbaijani Government (“the Government”).

THE FACTS

3. The list of applicants and the relevant details of the applications are set out in the appended table.

4. The applicants complained of the non-enforcement or delayed enforcement of domestic decisions.

THE LAW

I. JOINDER OF THE APPLICATIONS

5. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. LOCUS STANDI IN APPLICATION No. 44281/09

6. The applicant in application no. 44281/09 died on 4 July 2011. On 5 January 2016 Ms Yegana Sadikhova, the applicant’s daughter, expressed her intention to pursue the application. The Government opposed the request.

7. The Court reiterates that where an applicant dies during the examination of a case, his or her heirs may in principle pursue the application on his or her behalf (see *Ječius v. Lithuania*, no. 34578/97, § 41, ECHR 2000-IX; *Shiryayeva v. Russia*, no. 21417/04, §§ 8-9, 13 July 2006; and *Horváthová v. Slovakia*, no. 74456/01, § 26, 17 May 2005). Nothing suggests that the rights the applicant sought to protect through the Convention mechanism in the present application were eminently personal and non-transferable (see *Malhous v. the Czech Republic* [GC], no. 33071/96, § 1, 12 July 2001). Accordingly, the Court holds that Ms Yegana Sadikhova has standing to continue the present proceedings in her late father's stead.

III. THE GOVERNMENT'S REQUEST TO STRIKE OUT SOME APPLICATIONS UNDER ARTICLE 37 § 1 OF THE CONVENTION

8. The Government submitted unilateral declarations in applications nos. 29248/11, 69191/11, 650/12 and 36164/13 which did not offer a sufficient basis for finding that respect for human rights as defined in the Convention does not require the Court to continue its examination of the case (Article 37 § 1 *in fine*). The Court rejects the Government's request to strike the applications out and will accordingly pursue its examination of the cases (see *Tahsin Acar v. Turkey* (preliminary objections) [GC], no. 26307/95, § 75, ECHR 2003-VI).

IV. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

9. The applicants complained of the non-enforcement or delayed enforcement of domestic decisions given in their favour. They relied on Article 6 § 1 of the Convention which reads as follows:

Article 6 § 1

“In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by a ... tribunal ...”

10. The Court reiterates that the execution of a judgment given by any court must be regarded as an integral part of a “hearing” for the purposes of Article 6. It also refers to its case-law concerning the non-enforcement or delayed enforcement of final domestic judgments (see *Hornsby v. Greece*, no. 18357/91, § 40, Reports of Judgments and Decisions 1997-II).

11. In the leading cases of *Akhundov v. Azerbaijan* (no. 39941/07, §§ 15-36, 3 February 2011) and *Jafarli and Others v. Azerbaijan* (no. 36079/06, §§ 29-54, 29 July 2010), as well as in the case of *Mirzayev v. Azerbaijan* (no. 50187/06, §§ 23-37, 3 December 2009), the Court

already found a violation in respect of issues similar to those in the present case.

12. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the admissibility and merits of these complaints. Having regard to its case-law on the subject, the Court considers that in the instant case the authorities did not deploy all necessary efforts to enforce fully and in due time the decisions in the applicants' favour.

13. These complaints are therefore admissible and disclose a breach of Article 6 § 1 of the Convention.

V. OTHER ALLEGED VIOLATIONS UNDER WELL-ESTABLISHED CASE-LAW

14. Some of the applicants complaining of non-enforcement or delayed enforcement of domestic decisions given in their favour also relied on Article 13 of the Convention (applications nos. 31732/08, 501/09 and 13261/11) and Article 1 of Protocol No. 1 to the Convention (all save the applicants in the applications nos. 31732/08, 501/09, 40144/10 and 56330/10), which read as follows:

Article 13 of the Convention

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

Article 1 of Protocol No. 1

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

15. As concerns the complaints under Article 1 of Protocol No. 1 to the Convention, according to well-established case-law, a “claim” can constitute a “possession” if it is sufficiently established to be enforceable (see, *Jafarli and Others*, cited above, § 56). The Court notes that the decisions in the relevant applications ordered specific action to be taken and became enforceable upon their delivery. The Court therefore considers that those decisions constitute “possessions” within the meaning of Article 1 of Protocol No. 1 to the Convention.

16. Having examined all the material submitted to it and given the relevant well-established case-law of the Court (see, among others,

Akhundov v. Azerbaijan, cited above, §§ 38-40, and *Jafarli and Others*, cited above, §§ 56-58), the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the admissibility and merits of these complaints.

17. These complaints are therefore admissible and disclose a breach of Article 1 of Protocol No. 1 to the Convention.

18. Turning to the complaints under Article 13 of the Convention, the Court finds that these complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor are they inadmissible on any other ground. Accordingly, they must be declared admissible.

19. However, the Court does not consider it necessary to rule on the merits of these complaints because Article 6 is *lex specialis* in regard to this part of the applications (see, for example, *Tarverdiyev v. Azerbaijan*, no. 33343/03, § 62, 26 July 2007).

VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

20. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

21. Regard being had to the documents in its possession and to its case-law (see, among many others, *Zulfali Huseynov v. Azerbaijan*, no. 56547/10, §§ 21-37, 26 June 2012), the Court considers it reasonable to award the sums indicated in the appended table. It rejects any additional claims for just satisfaction made by the applicants.

22. The Court further notes that the respondent State has an outstanding obligation to enforce the judgments which remain enforceable.

23. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Holds* that in the application no. 44281/09 the applicant’s daughter, Ms Yegana Sadikhova, has standing to continue the proceedings in Mr Sadikhov’s stead;

3. *Rejects* the Government's request to strike the applications nos. 29248/11, 69191/11, 650/12 and 36164/13 out of its list of cases under Article 37 § 1 of the Convention on the basis of the unilateral declarations which they submitted;
4. *Declares* the applications admissible;
5. *Holds* that these applications disclose a breach of Article 6 § 1 of the Convention;
6. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to the Convention as regards the complaints raised under this provision under well-established case-law of the Court (see appended table);
7. *Holds* that there is no need to examine the complaints under Article 13 of the Convention;
8. *Holds* that the respondent State is to ensure, by appropriate means, within three months, the enforcement of the pending domestic decisions referred to in the appended table;
9. *Holds*
 - (a) that the respondent State is to pay the applicants, with the exception of the amounts for costs and expenses which are to be paid into the applicants' representatives' bank accounts, within three months, the amounts indicated in the appended table, to be converted into New Azerbaijani manats at the rate applicable at the date of settlement;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
10. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 3 May 2018, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt
Acting Deputy Registrar

André Potocki
President

APPENDIX

List of applications raising complaints under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1
(non-enforcement or delayed enforcement of domestic decisions)

No.	Application no. Date of introduction	Applicant name Date of birth / Date of registration	Representative name and location	Relevant domestic decision	Start date of non-enforcement period	End date of non-enforcement period Length of enforcement proceedings	Other complaints under well-established case-law	Amount awarded for pecuniary damage per applicant / household (in euros) ¹	Amount awarded for non-pecuniary damage per applicant / household (in euros) ²	Amount awarded for costs and expenses per application (in euros) ³
1.	31732/08 20/06/2008	Mais Ramikhanov 03/05/1970		Court of Appeal, 06/03/2007	06/03/2007	pending More than 11 year(s) and 18 day(s)			3,600	
2.	501/09 05/12/2008	Rafiq Abdullayev 15/07/1949		Court of Appeal, 08/12/2006	08/12/2006	pending More than 11 year(s) and 3 month(s) and 16 day(s)			3,600	
3.	44281/09 28/07/2009	Sadikh Sadikhov 23/08/1918	Alizade Akif Baku	Narimanov District Court, 28/11/2006	25/01/2007	pending More than 11 year(s) and 1 month(s) and 27 day(s)	Prot. 1 Art. 1 - interference with peaceful enjoyment of possessions		3,600	200
4.	34921/10 01/04/2010	Ramiz Suleymanov 26/02/1954	Mustafayev Mukhtar Baku	Supreme Court, 18/06/2008	18/06/2008	pending More than 9 year(s) and 9 month(s) and 6 day(s)	Prot. 1 Art. 1 - interference with peaceful enjoyment of possessions		3,600	
5.	40144/10 02/07/2010	Natig Baybalayev 14/01/1967		Baku Court of Appeal, 19/07/2006	19/07/2006	pending More than 11 year(s) and 8 month(s) and 5 day(s)			3,600	

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No.	Application no. Date of introduction	Applicant name Date of birth / Date of registration	Representative name and location	Relevant domestic decision	Start date of non-enforcement period	End date of non-enforcement period Length of enforcement proceedings	Other complaints under well-established case-law	Amount awarded for pecuniary damage per applicant / household (in euros) ¹	Amount awarded for non-pecuniary damage per applicant / household (in euros) ²	Amount awarded for costs and expenses per application (in euros) ³
6.	52462/10 02/02/2012	Guloglan Badirov	Abdullayeva Sevinj Baku	Supreme Court, 15/09/2004	15/09/2004	12/10/2013 9 year(s) and 28 day(s)	Prot. 1 Art. 1 - interference with peaceful enjoyment of possessions		3,600	200
7.	56330/10 14/09/2010	Abdulhamid Manafov 03/12/1976		Supreme Court, 29/06/2010	29/06/2010	pending More than 7 year(s) and 8 month(s) and 24 day(s)			3,600	
8.	13261/11 09/02/2011	Halal Shirketi 24/05/1999	Valiyeva Nargiz Baku	Baku Economic Court No.2, 02/04/2010	02/04/2010	30/08/2012 2 year(s) and 4 month(s) and 29 day(s)	Prot. 1 Art. 1 - interference with peaceful enjoyment of possessions		1,200	
9.	17374/11 28/02/2011	Firuza Jafarova 28/07/1960	Shukurov Elkhon Baku	Supreme Court, 24/06/2009	24/06/2009	pending More than 8 year(s) and 9 month(s)	Prot. 1 Art. 1 - interference with peaceful enjoyment of possessions		3,600	200
10.	29248/11 26/04/2011	Mahammad Abbasov 03/04/1962	Guliyev Sahil Baku	Nasimi District People's Court, 07/12/1994	15/04/2002	pending More than 15 year(s) and 11 month(s) and 9 day(s)	Prot. 1 Art. 1 - interference with peaceful enjoyment of possessions		3,600	200
11.	69191/11 30/10/2011	Shaban Rzayev 01/01/1938		Supreme Court, 18/05/2011	18/05/2011	19/11/2012 1 year(s) and 6 month(s) and 2 day(s)	Prot. 1 Art. 1 - interference with peaceful enjoyment of possessions		900	

No.	Application no. Date of introduction	Applicant name Date of birth / Date of registration	Representative name and location	Relevant domestic decision	Start date of non-enforcement period	End date of non-enforcement period Length of enforcement proceedings	Other complaints under well-established case-law	Amount awarded for pecuniary damage per applicant / household (in euros) ¹	Amount awarded for non-pecuniary damage per applicant / household (in euros) ²	Amount awarded for costs and expenses per application (in euros) ³
12.	650/12 21/12/2011	Almas Guliyeva 02/08/1958	Aliyev Farhad Sumgayit	Sabail District Court, 08/01/2007	08/02/2007	pending More than 11 year(s) and 1 month(s) and 16 day(s)	Prot. 1 Art. 1 - interference with peaceful enjoyment of possessions		3,600	200
13.	19934/12 24/02/2012	Azer Gasimov 01/07/1964	Aliyev Intigam Sumgayit	Khazar District Court, 15/12/2009 Supreme Court, 31/03/2011	15/12/2009 31/03/2011	pending More than 8 year(s) and 3 month(s) and 9 day(s) 03/09/2013 2 year(s) and 5 month(s) and 4 day(s)	Prot. 1 Art. 1 - interference with peaceful enjoyment of possessions		4,700	200
14.	20280/12 12/03/2012	Arzukhanim Alizade 05/10/1950	Hajibeyli Tural Baku	Court of Appeal, 22/10/2004	22/10/2004	pending More than 13 year(s) and 5 month(s) and 2 day(s)	Prot. 1 Art. 1 - interference with peaceful enjoyment of possessions		3,600	200
15.	40417/12 13/06/2012	Galib Aliyev 20/06/1955		Supreme Court, 15/12/2011	15/12/2011	17/06/2015 3 year(s) and 6 month(s) and 3 day(s)	Prot. 1 Art. 1 - interference with peaceful enjoyment of possessions		2,100	
16.	44341/12 28/06/2012	Atraba Binnatova 06/08/1965	Shahbazov Yavar Baku	Supreme Court, 19/05/2010	19/05/2010	pending More than 7 year(s) and 10 month(s) and 5 day(s)	Prot. 1 Art. 1 - interference with peaceful enjoyment of possessions		3,600	200

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No.	Application no. Date of introduction	Applicant name Date of birth / Date of registration	Representative name and location	Relevant domestic decision	Start date of non-enforcement period	End date of non-enforcement period Length of enforcement proceedings	Other complaints under well-established case-law	Amount awarded for pecuniary damage per applicant / household (in euros) ¹	Amount awarded for non-pecuniary damage per applicant / household (in euros) ²	Amount awarded for costs and expenses per application (in euros) ³
17.	36164/13 21/05/2013	Bahram Rustamov 12/08/1943	Hasanov Jabbar Baku	Sumgayit Court of Appeal, 28/11/2011	28/01/2012	18/12/2014 2 year(s) and 10 month(s) and 21 day(s)	Prot. 1 Art. 1 - interference with peaceful enjoyment of possessions		1,500	200
18.	71816/13 14/11/2013	Mahira Mammadova 03/08/1968	Shahverdi Agaveys Baku	Supreme Court, 13/09/2011	13/09/2011	pending More than 6 year(s) and 6 month(s) and 11 day(s)	Prot. 1 Art. 1 - interference with peaceful enjoyment of possessions		3,600	200
19.	63715/14 09/09/2014	Kamil Asgarov 02/01/1963	Mustafazade Ruslan Sumgayit	Court of Appeal, 14/02/2014	14/02/2014	pending More than 4 year(s) and 1 month(s) and 10 day(s)	Prot. 1 Art. 1 - interference with peaceful enjoyment of possessions	1,872	1,800	200
20.	15483/16 14/03/2016	Nabi Hasanov 10/10/1933	Mustafazade Ruslan Sumgayit	Ganja Administrative-Economic Court, 18/04/2013	18/05/2013	pending More than 4 year(s) and 10 month(s) and 6 day(s)	Prot. 1 Art. 1 - interference with peaceful enjoyment of possessions		1,800	200

1. Plus any tax that may be chargeable.

2. Plus any tax that may be chargeable to the applicants.

3. Plus any tax that may be chargeable to the applicants or their representatives.