



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

FIFTH SECTION

CASE OF AHMADOV AND OTHERS v. AZERBAIJAN

(Applications nos. 3225/10 and 5 others - see appended list)

JUDGMENT

STRASBOURG

28 March 2019

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

In the case of Ahmadov and others v. Azerbaijan,

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

Síofra O’Leary, *President*,

Mārtiņš Mits,

Lado Chanturia, *judges*,

and Liv Tiggerstedt, *Acting Deputy Section Registrar*,

Having deliberated in private on 7 March 2019,

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. Some applicants also raised other complaints under the provisions of the Convention.

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

6. The Government submitted unilateral declarations in applications nos. 40043/11, 62762/11 and 30573/13 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).

III. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION AND OF ARTICLE 1 OF PROTOCOL No. 1 TO THE CONVENTION

7. The applicants complained principally of the non-enforcement or delayed enforcement of domestic court decisions given in their favour. They relied, expressly or in substance, on Article 6 § 1 of the Convention and on Article 1 of Protocol No. 1 to the Convention, which read, as far as relevant, as follows:

Article 6 § 1

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

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.”

8. The Court notes at the outset that in application no. 3225/10 the applicants Mr S.B. Jabiyev and Mr H.H. Ahmadov were not parties to the domestic enforcement proceedings. Accordingly, they cannot claim to be “victims” within the meaning of Article 34 of the Convention of the alleged violation. Their complaint concerning the non-enforcement of the final domestic judgment is therefore incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 and must be rejected in accordance with Article 35 § 4.

9. As concerns the other applications, as well as the applicant Mr H. M. Ahmadov in application no. 3225/10, 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).

10. The Court further notes that the domestic court decisions in the present applications ordered specific action to be taken. The Court therefore considers that the domestic court decisions in question constitute “possessions” within the meaning of Article 1 of Protocol No. 1 to the Convention.

11. In the leading cases of *Akhundov v. Azerbaijan* (no. 39941/07, §§ 15-40, 3 February 2011) and *Jafarli and Others v. Azerbaijan* (no. 36079/06, §§ 29-58, 29 July 2010), as well as in the case of *Mirzayev v. Azerbaijan* (no. 50187/06, §§ 23-41, 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 and Article 1 of Protocol No. 1 to the Convention.

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

14. The applicant in application no. 15696/14 also complained under Article 13 of the Convention that he had not had an effective remedy in respect of his non-enforcement complaints.

15. The Court finds that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor is it inadmissible on any other ground. Accordingly, it must be declared admissible.

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

V. REMAINING COMPLAINTS

17. The applicants in applications nos. 3225/10 and 35977/14 also raised other complaints under various Articles of the Convention.

18. The Court has examined these applications and considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, these complaints do not meet the admissibility criteria set out in Articles 34 and 35 of the Convention.

19. It follows that these parts of applications nos. 3225/10 and 35977/14 must be rejected in accordance with Article 35 § 4 of the Convention.

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 raised by the applicants. As concerns the applicants in applications nos. 15696/14 and 35977/14, the Court makes no award since these applicants failed to respond to the Court’s invitation to submit their claims for just satisfaction in accordance with Rule 60 of the Rules of Court.

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. *Rejects* the Government’s request to strike applications nos. 40043/11, 62762/11 and 30573/13 out of its list of cases under Article 37 § 1 of the Convention;
3. *Declares* the complaints lodged by the applicants Mr S.B. Jabiyev and Mr H.H. Ahmadov in application no. 3225/10 inadmissible;
4. *Declares* the complaints, lodged by all other applicants, under Articles 6 § 1 and 13 of the Convention and Article 1 of Protocol No. 1 to the Convention concerning non-enforcement admissible, and the remainder of applications nos. 3225/10 and 35977/14 inadmissible;

5. *Holds* that these complaints disclose a breach of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention concerning non-enforcement or delayed enforcement of domestic court decisions;
6. *Holds* that there is no need to examine the complaint under Article 13 of the Convention in application no. 15696/14;
7. *Holds* that the respondent State shall ensure, by appropriate means, within three months, the enforcement of the pending domestic court decisions referred to in the appended table;
8. *Holds*
 - (a) that the respondent State is to pay the applicants, except 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 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;
9. *Dismisses* the remainder of the applicants' claims for just satisfaction.

Done in English, and notified in writing on 28 March 2019, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt
Acting Deputy Registrar

Síofra O'Leary
President

APPENDIX

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

No.	Application no. Date of introduction	Applicant's name Date of birth	Representative's name and location	Relevant domestic decision	Start date of non-enforcement period	End date of non-enforcement period/ Length of enforcement proceedings	Domestic order	Amount awarded for pecuniary damage per applicant (in euros) ¹	Amount awarded for non-pecuniary damage per applicant (in euros) ²	Amount awarded for costs and expenses per application (in euros) ³
1.	3225/10 11/01/2010	Huseyn Mustafa oglu AHMADOV 17/07/1926 Shafagat Bakir oglu JABIYEV 25/04/1958 Humeyir Huseyn oglu AHMADOV 18/08/1958	Mustafayev Mukhtar Nagi oglu Baku	Supreme Court, 26/01/2009	26/01/2009	04/11/2011 2 year(s) and 9 month(s) and 10 day(s)		-	1,500 to be awarded only to the applicant Huseyn Mustafa oglu AHMADOV	200
2.	40043/11 17/06/2011	Bahadur Oruj oglu Gulahmadzade 18/04/1960	Agayev Fuad Arif oglu Baku	Supreme Court, 12/11/2010	12/11/2010	Pending more than 8 year(s) and 11 day(s)	eviction of internally displaced persons	2,900	3,600	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.

No.	Application no. Date of introduction	Applicant's name Date of birth	Representative's name and location	Relevant domestic decision	Start date of non-enforcement period	End date of non-enforcement period/ Length of enforcement proceedings	Domestic order	Amount awarded for pecuniary damage per applicant (in euros) ¹	Amount awarded for non-pecuniary damage per applicant (in euros) ²	Amount awarded for costs and expenses per application (in euros) ³
3.	62762/11 28/09/2011	Seyidaga Fateh oglu Mahmudov 05/09/1950		Surakhani District Court, 03/05/1994	15/04/2012	pending more than 6 year(s) and 7 month(s) and 8 day(s)	eviction of internally displaced persons	7,100	3,600	-
4.	30573/13 10/04/2013	Ilyaz Usub oglu Ilyaz Sadigov 17/05/1957	Agayeva Khatira Jabrayil gizi Baku	Supreme Court, 03/03/2010	03/03/2010	pending more than 8 year(s) and 8 month(s) and 21 day(s)	performing certain actions related to registration of the applicant's right to property	-	3,600	200
5.	15696/14 11/02/2014	Sanan Sarkhan oglu Guliyev 21/05/1976		Khatai District Court, 24/12/2008	24/01/2009	pending more than 9 year(s) and 10 month(s)	eviction of internally displaced persons	-	-	-
6.	35977/14 29/04/2014	Asmatkhanim Farajulla gizi Huseynova 12/04/1943	Shamilov Shirinbala Ansaf oglu Baku	Surakhani District Court, 28/01/2013	28/02/2013	pending more than 5 year(s) and 9 month(s) and 6 day(s)	eviction of internally displaced persons	-	-	-