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2002-2021: AZERBAIJAN – EUROPEAN  
COURT OF HUMAN RIGHTS

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# 2002-2021: AZERBAIJAN – EUROPEAN COURT OF HUMAN RIGHTS

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## ***EXECUTIVE SUMMARY***

Azerbaijan ratified the European Convention on Human Rights and its Protocols on April 15, 2002. From that date, the Convention and its Protocols entered into force in relation to Azerbaijan, and persons under the jurisdiction of the Republic of Azerbaijan gained the right to appeal to the European Court of Human Rights (ECtHR). This study, prepared by the Media Rights Group, covers developments in the context of Azerbaijan-European Court of Human Rights relations since that date.

In general, the document discusses the importance of the ECtHR instrument in the protection of rights and freedoms, national legal mechanisms governing the use of this instrument, the procedural aspects of the ECtHR's review of complaints,

decision-making, and enforcement.

The document also contains applications to the ECtHR, decisions/judgments taken by the ECtHR, measures taken to implement the decisions/judgments in the light of annual statistics. The study is based on information from the ECtHR, the Council of Europe of Cabinet of Ministers, relevant Azerbaijani authorities, the ECtHR applicants, and their representatives.

### ***The Report consists of five sections.***

***Section 1*** covers the history of Azerbaijan-Council of Europe and ECtHR relations.

***Section 2*** deals with the legal framework for the use of the ECtHR instrument.

***Section 3*** deals with the national legislative framework for the implementation of ECtHR decisions.

***Section 4*** of the report deals with the complaints sent to the ECtHR from Azerbaijan from 2002 to the beginning of 2021, the ECtHR decisions, and the measures determined by those decisions. The table in this section provides statistics on all violations recognized by the ECtHR.

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The document is updated annually, and the information in the current document covers developments from 2002 to early 2021.

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## Section 1: History of Azerbaijan-Council of Europe and European Court of Human Rights relations

*The Council of Europe is the leading human rights organization on the European continent. The Council of Europe consists of 47 member states. All member states of the Council of Europe have signed the European Convention on Human Rights, which protects human rights, democracy and the rule of law.*

The headquarters of the Council of Europe is in Strasbourg, France. English and French are the two official languages. The Secretary General of the Council of Europe, the head of the organization, is elected by the Parliamentary Assembly of the Council of Europe (PACE) for a five-year term. The Secretary General directs the activities of the organization and is the main representative of the Council of Europe. The Committee of Ministers, the decision-making body of the Council of Europe, is composed of the foreign ministers of the member states or their permanent representatives in Strasbourg.

The Parliamentary Assembly, composed of deputies from 47 member states, elects the Secretary General, the Commissioner for Human Rights and the judges of the European Court of Human Rights. The Congress of Local and Regional Authorities, which is responsible for strengthening local and regional democracy in its member states, is an institution of the Council of Europe. The European Court of Human Rights is a permanent judicial body that guarantees the rights of all European citizens under the European Convention. States, as well as individuals, regardless of nationality, may apply to this court. The Council of Europe's Commissioner for Human Rights discusses human rights issues independently and draws attention to their violations.

The Conference of International Non-Governmental Organizations of the Council of Europe brings together about 400 international non-governmental organizations. The organization provides an opportunity to build vital links between politicians and society and to bring the voice of civil society to the Council of Europe.

The history of relations between Azerbaijan and the Council of Europe dates back to 1992. On January 24, 1992, the Parliament of the Republic of Azerbaijan applied to the Council of Europe for the status of "special guest". In February 1995, the Parliamentary Assembly of the Council of Europe (PACE) initiated the consideration of Azerbaijan's application for "special guest" status.

At the meeting of the European Commission for Democracy (Venice Commission) of the Council of Europe held by law on March 17-18, 1996, Azerbaijan was accepted as a member of this commission. In June of that year, the PACE Bureau, taking into account Azerbaijan's efforts to build a democratic state, decided to grant the country the status of "special guest".

On July 13, 1996, the Republic of Azerbaijan addressed the Secretary General of the Council of Europe, expressing its desire to become a full member of the Council of Europe and join the European Convention on Human Rights and Freedoms (European Convention on Human Rights). Following this appeal, the Council of Europe's Committee of Ministers adopted Resolution No. 32 (96) at its 573rd meeting on 11 September 1996, which called for Azerbaijan's accession to the Council of Europe, intensification of negotiations with the Azerbaijani government to accelerate the transition to democracy in Azerbaijan.

On February 3, 1998, the Republic of Azerbaijan took one of the most important steps in ensuring human and civil rights and freedoms, and the country's parliament decided to abolish the death penalty. At the next session of the PACE, held on June 26-28, 2000, a positive opinion was given on Azerbaijan's accession to the full membership of the Council of Europe. At the 107th session of the Committee of Ministers of the Council of Europe on November 7-9, 2000, Resolution No. 14 (2000) entitled "Invitation of Azerbaijan to join the Council of Europe" was adopted. On January 17, 2001, the Committee of Ministers of the Council of Europe decided to

admit Azerbaijan as a full member of the Council of Europe.

On April 15, 2002, the Republic of Azerbaijan submitted to the Depositary a document on ratification of the European Convention on Human Rights and its Protocols. From that date, the Convention and its Protocols entered into force in relation to Azerbaijan, and persons under the jurisdiction of the Republic of Azerbaijan (citizens, stateless persons, and legal entities, have the right to appeal to the European Court of Human Rights (European Court).

In its statement on the accession to the European Convention, Azerbaijan government

added some reservations. In these notes, the Republic of Azerbaijan stated that it is not able to guarantee the implementation of the provisions of the Convention in the territories occupied by the Republic of Armenia until the liberation of the occupied territories. This note relates to Protocols No. 2 of Protocol No. 1 to the Convention and Protocols No. 4, 6 and 7 of the Convention. The notes also relate to Articles 5, 6 and 10 of the Convention. Those reservation provide for the application of extrajudicial disciplinary sanctions in the Armed Forces, the interpretation and application of the right to freedom of expression in the light of Article 14 of the Law on Mass Media.

## **Section 2 - Legislative framework for the use of the ECtHR instrument**

*With the ratification of the European Convention and its annexed protocols, Azerbaijan has the right to appeal to the ECtHR on the grounds of interfering with the rights of all persons under its jurisdiction guaranteed by the Convention and its Additional Protocols. However, certain conditions must be met in order to file a complaint.*

As provided in Article 35 of the Convention, the complainant must complete the domestic remedies and appeal the final decision of the domestic courts to the ECtHR within the next six months. In addition to the above, unsigned applications, applications pending, considered and decided by other international courts or tribunals shall be rejected by the ECtHR.

Applications submitted to the ECtHR must include the applicant's name, date of birth, nationality, sex, occupation, address, and the name, profession, address, and country of the representative, if any. The complaint shall include a description of the events complained of, the alleged violations of the Convention, and the evidence supporting the violations. Application to the ECtHR should be sent to the address: "Cour Européenne des Droits de L'Homme, Conseil de L'Europe, F-67075 Strasbourg-Cedex / FRANCE, Phone: 33 (0) 3 88 41 20 18, Fax: 33 (0) 3 88 41 27 30

The ECtHR does not accept unsigned applications. However, there may be applicants who do not want to be named. In such cases, the applicant must state that he or she does not wish to be named, stating the reasons. If justified, the ECtHR may decide to keep the applicant's name secret. The language in which complaints to the ECtHR are prepared does not matter. Citizens of countries that have been granted jurisdiction by the ECtHR may file complaints in their own language. However, in the later stages of the complaint, the correspondence will be in English or French. The ECtHR's decision will be in accordance with the language used in the correspondence.

Citizens of countries that have accepted the jurisdiction of the ECtHR may appeal directly to the court. However, it is mandatory to use legal assistance in the post-complaint phase. Lawyers can represent themselves.

The ECtHR rules recognize the possibility of providing legal assistance to complainants deprived of access to legal aid. For this, the head of the department must decide. Such decisions are made if the legal assistance is necessary for the good management of the case, if the applicant is not able to partially

or completely cover the costs. If the head of the department concludes that both conditions exist, she decides to provide legal assistance. Legal aid covers all stages of the ECtHR's application process.

In the case of Azerbaijan, the applicant may also apply to a lawyer for free legal assistance. Appropriate domestic legislation establishes the institution of free legal aid to citizens at public expense. In the context of complaints to the ECtHR, there is no legal basis restricting the access of citizens to this opportunity. Compensation determined by the ECtHR must be paid within 3 months from the date of the final ECtHR decision. To do this, the applicant must apply to the competent state body and provide the necessary information.

Applicants who have lodged a complaint with the ECtHR may obtain information on the status of the complaint electronically. For this, the application number is required. Applicants can also obtain the necessary information by writing to the above address or by calling the telephone numbers.

### Implementation of ECtHR decisions and control procedure

*The member states of the Council of Europe must fully implement the decisions of the ECtHR. By acceding to the European Convention, States have committed themselves to the ECtHR. This obligation is enshrined in Article 46 of the Convention. Member States are also free to choose the measures necessary to implement the ECtHR decisions. Therefore, the measures to be taken are determined by the states.*

The Committee of Ministers of the Council of Europe (CoE) is overseeing the implementation of ECtHR decisions. The Council of Europe is composed of representatives of the 47 member states of the Council. In the Council of Europe, states are officially represented by foreign ministers, while in practice the role of ministers is played by representatives of the permanent missions of the states in Strasbourg. The CoE is provided with the necessary support in the oversight process by its Secretariat and the Decision Enforcement Department, which is part of the Directorate General for Human Rights and the Rule of Law. The Department works closely with Member States to identify the measures needed to implement the decisions and makes recommendations to the CoE. In addition, the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe (PACE), the PACE Rapporteur on the implementation of decisions, and the Council of Europe Commissioner for Human Rights are involved in the implementation of the decisions.

The CoE monitors the implementation of ECtHR decisions on the merits, friendly settlement, and

decisions that exclude applications from the list of cases to be considered. According to the Convention, the member states of the Council of Europe have a legal obligation to eliminate the violations identified by the ECtHR. This obligation is executed through the implementation of two types of measures:

Individual measures aim to return victims to their pre-existing conditions as much as possible before the violation occurs. Compensation (fair compensation) is the most common individual measure. Compensation covers both pecuniary and non-pecuniary damage. Individual measures may also include the reinstatement of a person, the renewal of an unfair trial, the return of property, the enforcement of local court decisions, the release of a person imprisoned as a result of an unfair court decision, and so on.

The goal of general measures is for states to prevent similar violations in the future. These measures are mostly related to the improvement of judicial practice, detention conditions, and reforms in the legal, political, and executive systems within states.

Once the ECtHR decision is final, it is sent to the CoE for review. The CoE reviews the implementation of its decisions at the Human Rights Meeting, which is held four times a year. CoE Human Rights Meetings are held annually in March, July, September and December. Meetings are held behind closed doors, and victims, civil society organizations, and representatives are not allowed to attend.

Once the ECtHR decisions have entered into force, they are submitted to the Council of Europe and included in the agenda of the meetings. States shall submit an Action Plan as soon as possible after the decision has been finalized, but not later than 6 months after the finalization of the decision, stating the measures to be taken for the full implementation of the decision. The action plan should clearly state in detail which measures the state will take and when to implement the decision. The action plan is a document that can be amended on the basis of appropriate submissions to the CoE.

After the implementation of the measures envisaged in the action plan and changes made to it, the state submits a final report stating the planned and implemented measures and invites the CoE to close control over the implementation of this decision. If no action is required to implement the decision and the state has already taken the necessary steps, a report may be submitted without submitting an action plan.

Terms of payment of fair compensation - the amount of compensation, the date on which the amount will be paid, the interest for late payment of the amount are specified in the text of the ECtHR decision. ECtHR decisions generally do not specify the measures to be taken other than fair compensation. In most cases, it is up to the states to determine the measures necessary for the full implementation of the decision in a dialogue with the CoE. The CoE and the Decision Enforcement Department contribute to this process with intermediate decisions and recommendations.

Implementation of ECtHR decisions is monitored in the light of the classification of decisions into "leading", "repetitive" and "isolated" cases. Such classification serves to facilitate the decision control system. The purpose of the classification is to identify "leading cases". These decisions that necessitate the implementation of new general measures which address the complex or structural problems. Cases related to systemic problems identified in previous trials are classified as "repetitive cases". If the identified violations are due to special circumstances and no general measures is required, those cases are classified as "isolated".

As a rule, the CoE monitors the implementation of decisions by grouping decisions. "Repetitive" cases are included in the groups formed under

the name of "leading" cases. In the example of Azerbaijan, for example, *Nemat Aliyev against Azerbaijan* case is "leading" case under the name of "Nemat Aliyev group case". Other cases in this group is named as "repetitive" cases for similar violations. All general measures in the action plans submitted for the implementation of "leading" cases are valid for the implementation of all "repetitive" cases included in that group. When the Council of Europe decides to complete the execution of a "leading" case, this also applies to all "repetitive" cases included in that group.

The CoE has been applying a system of double control over the implementation of decisions for almost 10 years. The purpose of this system is to increase the effectiveness of decision enforcement. This system classifies the work under control into two groups, "standard" and "extended". These two systems are different from each other. Execution of decisions included in the "extended" control system is on the agenda of the The CoE human rights meetings held every three months. The focus on the implementation of "standard" controlled decisions is somewhat different. Execution control in these cases is largely under the control of the Decision Enforcement Department, with the Council of Europe limiting its role to reviewing the action plans and reports submitted to it.

ECtHR decisions must meet certain criteria to be included in the "extended" review category. This category includes decisions that provide for urgent individual action and contain major systemic problems. Classification of decisions is the responsibility of the CoE on the recommendation of the Department for Enforcement of Decisions. The CoE may also, at the request of States, the Department of Enforcement of Decisions, incorporate any decision that is under "standard" control into an "extended" control system. Victims and civil society organizations also have the opportunity to make such a request to the Council of Europe.

The CoE can also transfer control over the implementation of the "extended" control system to the "standard" control system. Such cases are possible when the grounds for including the decision in the "extended" control system (when urgent individual measures are taken, when a systemic problem is eliminated, etc.) disappear.

### **Section 3: Implementation of ECtHR Decisions and the National Legislative Framework**

*According to second paragraph of Article 12 of the Constitution of the Republic of Azerbaijan, human and civil rights and freedoms guaranteed by the Constitution are applied in accordance with international agreements to which the Republic of Azerbaijan is a party.*

The Constitution recognizes implementation of the decisions of the European Court in the Republic of Azerbaijan as binding. According to Article 148 of the Constitution, international agreements to which the Republic of Azerbaijan is a party are an integral part of the legislative system of the Republic of Azerbaijan. Article 151 of the Constitution states that in the event of a

conflict between the normative legal acts included in the legislative system of the Republic of Azerbaijan (except for constitutional laws and acts adopted by referendum) and interstate agreements to which the Republic of Azerbaijan is a party, those international agreements shall apply.

#### **Plenipotentiary Representative of the Republic of Azerbaijan to the ECtHR**

*Azerbaijan is represented before the ECtHR by the "Plenipotentiary Representative of the Republic of Azerbaijan to the European Court". The Plenipotentiary Representative is responsible for the relations between the Republic of Azerbaijan and the ECtHR.*

According to the decree of the President of Azerbaijan "On the Plenipotentiary Representative of the Republic of Azerbaijan to the European Court" signed in November 2003, the issues of ensuring the authorized representation were entrusted to the head of the Presidential Administration. When preparing the annual state budget, the Cabinet of Ministers of the Republic of Azerbaijan takes into account the allocation of funds for the protection of the interests of the Republic of Azerbaijan before the ECtHR and the implementation of the decisions of that court.

As can be seen, the institution responsible for the ECtHR and its decisions is the institution of an Plenipotentiary Representative. The Regulations on the Plenipotentiary Representative of the Republic of Azerbaijan to the European Court reflect aspects of the representative's activities.

The plenipotentiary is appointed by the president. Higher legal education, experience in human rights protection, knowledge of one of the official languages of the Council of Europe is a prerequisite for the appointment of an plenipotentiary representative. The head of the Presidential Administration of the Republic of

Azerbaijan has the right to appoint a representative of the plenipotentiary representative. Legal and organizational-technical support of the plenipotentiary representative is provided by the "Human Rights Protection Sector of the Department of Law Enforcement and Military Affairs" of the Presidential Administration.

The Plenipotentiary representative is the main instance in the process of implementing ECtHR decisions. It has the function of coordinating the activities of the relevant state bodies in order to ensure the implementation of the decisions of the ECtHR and the Committee of Ministers of the Council of Europe. The functions of the Plenipotentiary representative also include studying the legal consequences of ECtHR decisions and preparing proposals for improving legislation and law enforcement practices.

The Plenipotentiary representative may establish working and expert groups to address issues within its competence, and may involve experts in these groups. However, it is up to the head of the Presidential Administration to determine issues such as the composition and duration of these working groups.



With regard to the enforcement procedure of ECtHR decisions, the plenipotentiary representative informs the relevant state bodies for the implementation of individual and general measures of ECtHR decisions for the full and timely manner.

The powers of the Plenipotentiary Representative are not only framed in the context of relations with the ECtHR, he has the right to represent the Republic of Azerbaijan before other institutions specializing in the field of human rights on an *ad hoc* basis.

The Recommendation of the CoE on “Renewal and Review of Proceedings at the Domestic Level in Relation to Decisions of the European Court of Human Rights” provides for the renewal

of proceedings at the national level on ECtHR decisions. There must be certain conditions for the resumption of proceedings. The violation must be so serious that it calls into question the outcome of the national trial. At the same time, the individual must continue to be subject to serious adverse effects as a result of national court decisions, and fair compensation must not be sufficient to remedy this effect.

The national legislation of the Republic of Azerbaijan allows for the renewal of proceedings on the facts of decisions in the context of the execution of ECtHR decisions and the reconsideration of the case in domestic courts. These issues are reflected in both the Criminal and Civil Procedure Code the Republic of Azerbaijan.

### Regulations provided for in the Criminal Procedure Code of the Republic of Azerbaijan

***According to this Code, ECtHR decisions are considered one of the grounds for reviewing national judicial decisions. According to Article 455 of the Code:***

455.0. The grounds for considering judicial acts in light of new facts related to the violation of rights and freedoms are as follows:

455.0.2. Establishment by the European Court of Human Rights of a violation of the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms in the courts of the Republic of Azerbaijan during proceedings on a criminal case, simplified pre-trial procedure materials or a private prosecution complaint

The right to consider judicial decisions under new facts belongs to the Plenum of the Supreme Court of the Republic of Azerbaijan. According to Article 456 of the Code:

Article 456. Consideration of judicial decisions on new facts of violation of rights and freedoms

456.2. If there are grounds provided for in Articles 455.0.1 and 455.0.2 of this Code, the Plenum of the Supreme Court of the Republic of

Azerbaijan shall consider cases only on legal issues related to the implementation of decisions of the Constitutional Court and the European Court of Human Rights. When the decision of the Constitutional Court of the Republic of Azerbaijan or the European Court of Human Rights is received by the Supreme Court of the Republic of Azerbaijan, the Chairman of the Supreme Court instructs one of the judges to prepare and report the case to the plenary session. The case shall be considered at the plenary session no later than 3 months after the decision of the Constitutional Court of the Republic of Azerbaijan or the European Court of Human Rights is received by the Supreme Court of the Republic of Azerbaijan.

The Plenum of the Supreme Court has the right to make three types of decisions when reviewing cases in the context of the execution of ECtHR decisions. The plenum may decide to annul, in whole or in part, the decisions of all local courts in the case, and to refer the case materials to the relevant court of first instance or appellate instance for reconsideration. Plenum may also decide to change the decision of the court of cassation, to annul the decision of the court of cassation and to issue a new decision.

## Regulations provided for in the Code of Civil Procedure of the Republic of Azerbaijan

*Civil Procedure Code also prescribe ECtHR decisions as grounds for reconsideration of national court decisions. According to Article 431 of the Code, if the European Court finds that the courts of the Republic of Azerbaijan have violated the provisions of the European Convention when considering a case, this will be ground for considering the case under new facts.*

The Plenum of the Supreme Court also considers civil cases under new facts limited to legal issues of cases. The proceedings are not different from those in criminal cases.

In addition to the above, there are many other acts adopted in the Republic of Azerbaijan that encourage the observance and consideration of ECtHR decisions.

The Decree of the President of the Republic of Azerbaijan “On modernization of the judicial system in the Republic of Azerbaijan ...” signed in 2006 envisages taking into account the the ECtHR case law. Paragraph 6 of the decree emphasizes:

“... recommend to the Supreme Court of the Republic of Azerbaijan, ... the courts of appeal and the Supreme Court of the Nakhchivan Autonomous Republic to organize a study of the case law of the European Court of Human Rights and take it into account in judicial practice ....”

***According to the decision of the Plenum of the Supreme Court of the Republic of Azerbaijan dated March 30, 2006 "On the application of the provisions of the European Convention and the precedents of the European Court in the administration of justice":***

*"Implementation of the judgments of the European Court of Human Rights shall, if necessary, involve both individual measures to prevent violations of the human rights under the Convention to eliminate the harmful consequences for the applicant and general measures to prevent future violations of the same nature. The decisions of the European Court of Human Rights serve not only the resolution of cases under its jurisdiction, but also the interpretation, protection and development of the provisions of the Convention in the broadest sense, thus helping States to comply with their obligations as parties to the Convention. Courts must ensure that the state fulfills its obligations under the Convention in the administration of justice."*

## Section 4 - 2002-2021: Complaints to the ECtHR, Decisions and Measures – Overview

- Complaints and decisions, and statistics for years
- Most violated rights
- Table: ECtHR decisions on Azerbaijan and the statistics of violations
- Individual measures and compensations determined by decisions

### Complaints and decisions, and statistics for years

*In 2002, when Azerbaijan accepted the jurisdiction of the ECtHR, 265 complaints were sent to this court from Azerbaijan. According to ECtHR statistics, hundreds of complaints were lodged with the ECtHR even before the jurisdiction was recognized.*

266 complaints were sent to the ECtHR from Azerbaijan in 2003 and 225 in 2004.<sup>1</sup> That year, 200 complaints were removed from the list of cases to be considered. Of the 172<sup>2</sup> complaints sent to the ECtHR in 2005, 120 were removed from the list of cases to be considered. The ECtHR made its first judgment on Azerbaijan in 2003. The judgment of *PERCHENOK against Azerbaijan*, announced on January 30, 2003, was related to the inadmissibility of the application.<sup>3</sup>

In 2006, there was a significant increase in the number of complaints sent to the ECtHR from Azerbaijan.

That year, more than 445<sup>4</sup> complaints were filed with the ECtHR. 57 of these complaints were considered inadmissible or removed from the list of cases to be considered on other grounds. In 2006, 13 complaints were communicated to the government.

At the end of 2006, a total of 1,480 complaints from Azerbaijan were pending before the ECtHR. By that date, the ECtHR had considered a total of 422 complaints inadmissible and decided to remove them from the list. 36 complaint was communicated with the government.

The ECtHR also declared its first judgment on merit on Azerbaijan in 2006. The judgment was declared on the complaint of Fahmin Hajiyev, who was the commander of the Azerbaijani Internal Troops in 1992-1993. Fahmin Hajiyev

was arrested in 1994. Although he pleaded not guilty, the court found him guilty of abuse of office and several war crimes during the February 1992 occupation of Khojaly – Karabakh region. The former officer of Internal Troops was sentenced to 15 years in prison. He appealed to the ECtHR in January 2013, claiming that he had been subjected to an unfair trial. After the complaint was filed, in 2004 Fahmin Hajiyev's sentence was reduced to 5 years and pardoned a few weeks before the end of his sentence. In November 2006, the ECtHR found a violation of Fahmin Hajiyev's right to a fair trial. The ECtHR ordered the state to pay Hajiyev 3,000 euros for non-pecuniary damage and 2,500 euros for court costs and other expenses.<sup>5</sup>

In 2007, the number of complaints sent to the ECtHR continued to grow. Also, in the same year, there was an increase in the number of judgments made regarding Azerbaijan.

In 2007, the number of complaints sent to the ECtHR was 708. At the end of that year, the total number of complaints awaiting consideration was 979.<sup>6</sup> In 2007, the ECtHR adopted seven judgments on Azerbaijan. In those judgments, the ECtHR recognized violations of effective remedies, right to be not tortured, a fair trial, and the right to property and association.

In 2008, the number of complaints sent to the ECtHR decreased significantly compared to previous years - 334 complaints.<sup>7</sup> However, the growth rate was dominated by the number of complaints pending consideration. A total of

<sup>1</sup> [https://www.echr.coe.int/Documents/Annual\\_report\\_2004\\_ENG.pdf](https://www.echr.coe.int/Documents/Annual_report_2004_ENG.pdf) ECtHR Annual Report 2004, page 118

<sup>2</sup> [https://www.echr.coe.int/Documents/Annual\\_report\\_2005\\_ENG.pdf](https://www.echr.coe.int/Documents/Annual_report_2005_ENG.pdf) ECtHR Annual Report, page 123

<sup>3</sup> <http://hudoc.echr.coe.int/eng?i=001-23045>, see the judgment

<sup>4</sup> [https://www.echr.coe.int/Documents/Annual\\_report\\_2005\\_ENG.pdf](https://www.echr.coe.int/Documents/Annual_report_2005_ENG.pdf) ECtHR, Annual Report, page 98

<sup>5</sup> <http://hudoc.echr.coe.int/eng?i=001-78064>, see the judgment

<sup>6</sup> [https://www.echr.coe.int/Documents/Annual\\_report\\_2007\\_ENG.pdf](https://www.echr.coe.int/Documents/Annual_report_2007_ENG.pdf), ECtHR, Annual Report, page 138

<sup>7</sup> [https://www.echr.coe.int/Documents/Annual\\_report\\_2008\\_ENG.pdf](https://www.echr.coe.int/Documents/Annual_report_2008_ENG.pdf), ECtHR, Annual Report, page 130

1,051 complaints were pending at the end of the year.

In 2008, the ECtHR issued nine judgments on Azerbaijan. Those judgments recognized violations of the right to effective remedies, a fair trial, and the right to property, freedom of movement, association, and freedom of expression.

In 2009, the number of pending complaints increased slightly and reached 1,104. In the same year, 361 complaints were sent to the ECtHR. During the year, the ECtHR issued seven judgments on merits concerning Azerbaijan.<sup>8</sup> In those judgments, the ECtHR recognized violations of the right to life, to elections, to a fair trial, to property rights, and right not to be tortured.

In 2010, 334 complaints were sent to the ECtHR. At the end of that year, the number of pending complaints increased slightly to 1,254. During the year, 16 judgments were made on Azerbaijan.<sup>9</sup> In these judgments, the ECtHR recognized violation of a fair trial, freedom of expression, effective remedies, property, liberty and security, and violations of suffrage.

At the end of 2011, the number of complaints and waiting cases to be considered increased significantly again. At the end of that year, the ECtHR had 1,692 complaints in this category. During the year 532 complaints were sent to the ECtHR.<sup>10</sup> That year, nine judgments were made against Azerbaijan. These judgments recognized violations of the right to liberty and security, property, effective remedies, association, and a fair trial.

In 2012, 342 complaints were sent to the ECtHR.<sup>11</sup> At the end of that year, a total of 1,299 complaints against Azerbaijan were pending before the ECtHR. During the year, 17 judgments were issued against Azerbaijan. These judgments recognized violations of the right to elections, a fair trial, non-torture, property and freedom of expression.

In 2013, a total of 325 complaints were sent to the ECtHR. At the end of the year, the total number of complaints awaiting consideration was 1,293. The number of judgments issued

against Azerbaijan during the year was 8.<sup>12</sup> The judgments recognized violations of the rights not to be subjected to torture, a fair trial, association, property, and effective remedies.

In 2014, the number of complaints sent to the ECtHR was 403. 1404 complaints were pending. The number of judgments made against Azerbaijan during the year was 11.<sup>13</sup> These judgments recognized violations of the right to life, the right not to be tortured, liberty and security, a fair trial, the right to association, as well as the right to freedom of association under Article 18 of the Convention.

In 2015, a total of 268 complaints were sent to the ECtHR. During the year, 19 judgments were made against Azerbaijan.<sup>14</sup> These judgments recognized violations of the rights to be tortured, liberty and security, property, elections, a fair trial, privacy, and freedom of expression.

In 2015, Azerbaijan was ahead of the ECtHR countries in the number of complaints awaiting consideration. At the end of that year, 1,522 complaints from Azerbaijan were pending before the Court. Azerbaijan was in the top ten among 48 countries, accounting for 2.3 percent of all complaints pending before the ECtHR. Ukraine was in the top three with 21 percent, Russia with 14 percent and Turkey with 13 percent.

In 2016, the number of pending complaints increased slightly to 1662. In this category, Azerbaijan was 9th among the Council of Europe countries. 333 of those complaints were filed in 2016.

During the year the ECtHR passed 16 judgments on Azerbaijan.<sup>15</sup> These judgments found violations of the right not to be subjected to torture, to liberty and security, to a fair trial, to association, to elections, to property rights, and limitation on use of restrictions on rights (Article 18 of the Convention).

In 2017, the number of complaints sent to the ECtHR was more than 679. During the year, compared to previous years, many judgments were made on the merits, in total 26 judgments.<sup>16</sup> These judgments found violations

<sup>8</sup>

[https://www.echr.coe.int/Documents/Annual\\_report\\_2009\\_ENG.pdf](https://www.echr.coe.int/Documents/Annual_report_2009_ENG.pdf), ECtHR, Annual Report, page 142

<sup>9</sup>

[https://www.echr.coe.int/Documents/Annual\\_report\\_2010\\_ENG.pdf](https://www.echr.coe.int/Documents/Annual_report_2010_ENG.pdf), ECtHR, Annual Report, page 148

<sup>10</sup>

[https://www.echr.coe.int/Documents/Annual\\_report\\_2011\\_ENG.pdf](https://www.echr.coe.int/Documents/Annual_report_2011_ENG.pdf), ECtHR, Annual Report, page 156

<sup>11</sup>

[https://www.echr.coe.int/Documents/Annual\\_report\\_2012\\_ENG.pdf](https://www.echr.coe.int/Documents/Annual_report_2012_ENG.pdf), ECtHR, Annual Report, page 154

<sup>12</sup>

[https://www.echr.coe.int/Documents/Annual\\_report\\_2013\\_ENG.pdf](https://www.echr.coe.int/Documents/Annual_report_2013_ENG.pdf), ECtHR, Annual Report, page 198

<sup>13</sup>

[https://www.echr.coe.int/Documents/Annual\\_Report\\_2014\\_ENG.pdf](https://www.echr.coe.int/Documents/Annual_Report_2014_ENG.pdf), ECtHR, Annual Report, page 172

<sup>14</sup>

[https://www.echr.coe.int/Documents/Annual\\_report\\_2015\\_ENG.pdf](https://www.echr.coe.int/Documents/Annual_report_2015_ENG.pdf), ECtHR, Annual Report, page 189

<sup>15</sup>

[https://www.echr.coe.int/Documents/Annual\\_report\\_2016\\_ENG.pdf](https://www.echr.coe.int/Documents/Annual_report_2016_ENG.pdf), ECtHR, Annual Report, page 198

<sup>16</sup>

[https://www.echr.coe.int/Documents/Annual\\_report\\_2017\\_ENG.pdf](https://www.echr.coe.int/Documents/Annual_report_2017_ENG.pdf), ECtHR, Annual Report, page 170

of the right to life, the right not to be tortured, liberty and security, a fair trial, association, elections rights, property rights, as well as limitation on use of restrictions on rights.

In 2017, there was a significant increase in the number of complaints awaiting consideration. The number of such complaints reached 2027 at the end of that year. Among the Council of Europe countries, Azerbaijan ranked 7th in this category.

In 2018, the share of Azerbaijan in the complaints awaiting consideration by the ECtHR has increased slightly, reaching 2050. According to the number of complaints awaiting consideration, Azerbaijan ranked 6th among 48 countries that year.

In 2018, 313 complaints were sent to the ECtHR. ECtHR issues 9 judgments on Azerbaijan.<sup>17</sup> These judgments recognized the violation of the right to be not tortured, liberty and security, a fair trial, effective remedies, freedom of movement, as well as limitation on use of restrictions on rights. (Article 18 of the Convention)

In 2019, the number of complaints sent to the ECtHR was 397. According to the number of pending complaints, Azerbaijan ranked 6th with 1,950 complaints among the member states of the Council of Europe. During the year, 21 judgments were issued against Azerbaijan, 18 of which were on merit.<sup>18</sup> The ECtHR has found the violation of the right to live, not to be subjected to torture, liberty and security, fair trial, the right to election, privacy, freedom of thought, religion, freedom of expression, freedom of association, effective remedies, property rights, as well as as well as limitation on use of restrictions on rights.

In 2020, the number of complaints sent from Azerbaijan to the ECHR was 525. The ECHR has adopted 37 decisions on Azerbaijan in 2020. The ECHR found violations of the following articles in those decisions: 5 times of Article 2, 14 times of Article 3, 17 times of Article 5, 21 times of Article 6, 10 times of Article 8, 3 times of Article 9, 5 times of Article 10, 3 times Article 11, 2 times Articles 13 and 14, 4 times Article 1 of Protocol No. 1 and 7 times other articles.<sup>19</sup>

As of early 2021, Azerbaijan currently accounts for 3.3 percent (2050 complaints) pending cases

before the ECtHR. According to this category, Azerbaijan ranks 6th after Russia, Turkey, Ukraine, Romania, and Italy.<sup>20</sup>

As of the beginning of 2021, the ECtHR has so far adopted 215 decisions on merit on Azerbaijan.<sup>21</sup> The number of decisions transferred to the implementation status and obliging the state to take individual or general measures is 287.<sup>22</sup>

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<sup>17</sup>

[https://www.echr.coe.int/Documents/Annual\\_report\\_2018\\_ENG.pdf](https://www.echr.coe.int/Documents/Annual_report_2018_ENG.pdf), ECtHR, Annual Report, page 174

<sup>18</sup>

[https://www.echr.coe.int/Documents/Annual\\_report\\_2019\\_ENG.pdf](https://www.echr.coe.int/Documents/Annual_report_2019_ENG.pdf), ECtHR, Annual Report, page 132

<sup>19</sup>

[https://www.echr.coe.int/Documents/Stats\\_violation\\_2020\\_ENG.pdf](https://www.echr.coe.int/Documents/Stats_violation_2020_ENG.pdf)

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<sup>20</sup>

[https://www.echr.coe.int/Documents/Stats\\_pending\\_2021\\_BIL.pdf](https://www.echr.coe.int/Documents/Stats_pending_2021_BIL.pdf)

<sup>21</sup>

[https://www.echr.coe.int/Documents/Stats\\_violation\\_1959\\_2020\\_ENG.pdf](https://www.echr.coe.int/Documents/Stats_violation_1959_2020_ENG.pdf)

<sup>22</sup> <https://rm.coe.int/168070973e>

## ECtHR judgment on Azerbaijan – the most frequently violated rights

According to the ECtHR statistics, at the beginning of 2021, there were 15 judgments finding violation of the right to life, 49 judgments - the right not to be subjected to torture, 78 judgments - the right to liberty and security, 112 judgments - the right to a fair trial, 15 judgments - the right to privacy, 4 judgment - the right to freedom of thought and religion, 11 judgments - the right to freedom of expression, 37 judgments - the right to association, 9 judgments - the right to effective remedies, 38 judgments - the right to property, 25 judgments - the right to vote, and 34 judgments regarding violations of other rights.<sup>23</sup> Azerbaijan is ahead of all countries under the jurisdiction of the ECtHR in some violations of the Conventional rights.

### *The right to free election*

The ECtHR has recognized violations of free election rights in 25 judgments on Azerbaijan. Next comes Italy with 17 judgments recognizing the violation on the same ground. The next country is Turkey - the ECtHR found violations of the free election rights in 11 of its judgments against Turkey. In addition, in cases of Rashid Mansurov, Elchin Behduov, Hasan Karimov, Rasul Guliyev, Isa Gambar, Fuad Mustafayev, Elchin Rzayev, Eldar Namazov, Yagub Mammadov, Mirmahmud Fattayev, Ismayil Salimov, Khaladdin Ibrahimli, Solmaz Rustamova, the government reached friendly settlement. The ECtHR has considered these cases under the name of *Nemat Aliyev against Azerbaijan*. In those cases, the applicants received fair compensation and in most of the cases the government acknowledged violations of the free election rights of the applicants.

### *Limitation on use of restrictions on rights (Article 18)*

The ECtHR has recognized a violation of Article 18 of the Convention in only 19 judgments in its history. 10 of those judgments were made against Azerbaijan. In the cases of *Yunusova and Yunusov against Azerbaijan*, *Khadija Ismayilova against Azerbaijan*, *Ibrahimov and Mammadov against Azerbaijan*, *Natig Jafarov against Azerbaijan*, *Intigam Aliyev against Azerbaijan*, *Hasanov and others against Azerbaijan*, *Anar Mammadli against Azerbaijan*, *Rasul Jafarov against Azerbaijan*, *Ilgar Mammadov against Azerbaijan*, *Azizov and Novruzlu against Azerbaijan* the ECtHR judged there were violation of Article 18 of the Convention. In total the ECtHR had found violation in respect of 16 applicants. The remaining decisions were made against Russia, Ukraine, Turkey, Georgia, and Moldova.

### *The right to association*

Azerbaijan also has poor performance in terms of violations of the right to association. Among the member states of the Council of Europe, Azerbaijan is one of the three countries that violate this right the most. The ECtHR ruled against Turkey with the highest number of judgments (97) in violation of this right. 45 such judgments have been made against Russia. Azerbaijan ranks third in this indicator with 37 judgments.

<sup>23</sup> [https://echr.coe.int/Documents/Stats\\_violation\\_1959\\_2019\\_ENG.pdf](https://echr.coe.int/Documents/Stats_violation_1959_2019_ENG.pdf), the table of statistics

**Table: ECtHR decisions on Azerbaijan and the statistics of violations**

<b>Azerbaijan: 2002-2020</b>		
<i>Right to life – deprivation of life</i>	Article 2	<b>4</b>
<i>Lack of effective investigation</i>	Article 2	<b>11</b>
<i>Prohibition of torture</i>	Article 3	<b>2</b>
<i>Inhuman or degrading treatment</i>	Article 3	<b>25</b>
<i>Lack of effective investigation</i>	Article 3	<b>22</b>
<i>Conditional violations</i>	Article 2/3	
<i>Prohibition of slavery/forced labour</i>	Article 4	
<i>Right to liberty and security</i>	Article 5	<b>78</b>
<i>Right to a fair trial</i>	Article 6	<b>84</b>
<i>Length of proceedings</i>	Article 6	<b>7</b>
<i>Non-enforcement</i>	Article 6	<b>21</b>
<i>No punishment without law</i>	Article 7	
<i>Right to respect for private and family life</i>	Article 8	<b>15</b>
<i>Freedom of thought, conscience and religion</i>	Article 9	<b>4</b>
<i>Freedom of expression</i>	Article 10	<b>11</b>
<i>Freedom of assembly and association</i>	Article 11	<b>37</b>
<i>Right to marry</i>	Article 12	
<i>Right to an effective remedy</i>	Article 13	<b>9</b>
<i>Prohibition of discrimination</i>	Article 14	<b>1</b>
<i>Protection of property</i>	P1-1	<b>38</b>
<i>Right to education</i>	P1-2	
<i>Right to free elections</i>	P1-3	<b>25</b>
<i>Right not to be tried or punished twice</i>	P1-4	
<i>Other Articles of the Convention</i>	Other	<b>34</b>

## Individual measures and compensations determined by decisions

***The ECtHR's first judgment against Azerbaijan in 2006 provided for the applicant (F.Haciyev) to be paid 3,000 euros as non-pecuniary damages and 2,500 euros in legal fees and other expenses. No other indemnity judgment was made that year.***

In 2007, the total amount of compensation paid to applicants in ECtHR judgments was 22,467 euros. In 2008, the amount of compensation determined by the judgments was slightly higher - 30 thousand 745 euros. The amount of compensation in 2009 was about the same - 30,725 euros.

In 2010, the compensation paid applicants was increased by 10 times. In the same year, 334,602 euros in compensation was paid for 12 judgments. After 2010, there is usually an increase in the amount of compensation.

In 2011 the ECtHR judgments on Azerbaijan provided for a fair compensation of a total of 310,650,000 euros to the applicants. In the judgments made in 2012, this amount amounted to 308,805 euros, in 2013 - 293,344 euros, in 2014 - 289,583 euros, in 2015 - 311,950 euros.

In 2016, the total amount of compensation determined by the ECtHR judgments on Azerbaijan more than doubled. The total amount of compensation that year was 815,146 euros. In the following 2017, the ECtHR ruled that Azerbaijan was obliged to pay the applicants 817,451 euros in compensation. In 2018, the amount of compensation decreased to 186,972 euros.

***In 2019, the total amount of compensation determined by the ECtHR judgments on Azerbaijan amounted to 707,010 euros. In 2020, this amount was 803,726 euros.***

The total amount of compensation imposed on Azerbaijan by the ECtHR judgments in 2006-2020 amounted to 5,268,676 euros.

The ECtHR's judgments on Azerbaijan provide to take different individual measures in addition to the payment of fair compensation. These measures provide for the enforcement of more disputed Court judgments and the return of property to the applicants. In addition, the ECtHR ruled in two cases, *Fatullayev against Azerbaijan* and *Mammadov against Azerbaijan*, that the unjustly imprisoned persons be released immediately



## **Section 5 - Implementation of decisions: 2002-2021**

- Decisions under implementation- general information on years and general picture of implementation
- Funds allocated from the state budget for the implementation of decisions
- Cases under the reconsideration of the Supreme Court
- Closed decisions
- Ongoing Cases

### *Decisions under implementation - general information on years and general picture of implementation*

The implementation of the ECtHR judgments on Azerbaijan has been problematic since the first judgments came into force. Execution problems are related to both individual and general measures.

In 2007, 3 leading cases related to Azerbaijan were under implementation. Individual measures on these cases - fair compensation - were implemented on time by 67 percent. In 2008, there were a total of 13 judgments in implementation. Of these, 9 were leading, and 4 were repetitive or isolated. A total of 25 percent of the compensation was paid on time. The remaining 75 percent of the fair compensation was either not paid or the government did not inform the Committee of Ministers of Council of Europe about the payments. In 2009, 16 judgments were implemented. Individual measures on 3 judgments that year were implemented in 50 percent. In 2010, the number of pending cases reached 31. None of the individual measures were implemented that year. In only 4 cases was a fair compensation paid within 6 months of delay.

In 2011, 14 more leading and 3 recurring cases related to Azerbaijan were sent for execution. In 9 of these cases, fair compensation was paid on time. At the end of 2011, there were a total of 45 leading and 24 other cases. In 2012, 19 new cases were added to them. Payment was made on time in 8 new cases. In 2013, 19 more cases were filed. In the same year, it was decided to close the implementation of one of the judgments of the ECtHR on Azerbaijan. This was the first closed case involving Azerbaijan.

In 2014, 33 new cases were involved in the implementation. In 4 of these cases, compensations were made on time. At the end of 2014, there was a total of 114 cases on Azerbaijan which were pending, 42 of which were leading. The implementation of 45 judgments was under extended control and the implementation of 52 judgments was under standard control. The control procedure for other judgments was not classified. According to the results of that year, fair compensation was expected in 56 cases.

In 2015, the implementation of 34 new judgments was monitored. The total number of judgments under implementation was 147. The implementation of 54 judgments was under extended control and the rest were in the standard control. In 2015, control over the implementation of another judgment was closed. In 2016, the number of judgments under implementation reached 168 with 21 new judgments. There were problems with the payment of compensation in 86 cases - either no payment was made or the Committee of Ministers of Council of Europe was not informed about the payment. In 2017, the number of judgments expected to be implemented reached 197. Of these, 54 were leading and 143 were repetitive. The implementation of 96 judgments was under extended control. Information on payments for 115 judgments was expected to be provided. In 95 judgments, more than 6 months had elapsed since the payment of compensation.

In 2018, control over the implementation of 18 judgments on Azerbaijan was closed. At the end of that year, the total number of judgments under implementation was 186 out of which 54 were leading and 131 repetitive. 101 judgments were under extended control. According to 2018 data, 4.5 percent of all judgments under implementation fell to Azerbaijan. In 2019, the procedure of monitoring the implementation of 19 new judgments was launched. After the closure of control over the implementation of 16 judgments, the total number of judgments on Azerbaijan in the implementation phase was 189. 155 of them were repetitive and 34 were leading cases. The implementation of 95 judgments was under extended control.

In 2019, the implementation of 16 decisions of the ECtHR on Azerbaijan was closed. In 2020, the number of completed decisions was 6.

As of the beginning of 2021, a total of 235 decisions on Azerbaijan are pending. Of these decisions, 45 are leading and 190 are repetitive. Of the pending cases to be completed 20 have been strengthened control, while others are under standard control. The Committee of Ministers of the Council of Europe has strengthened the implementation of 91 of the 190 repetitive cases and monitors the rest in a standard manner.

According to the statistics of the Committee of Ministers of the Council of Europe at the beginning of 2021, so far 287 decisions of the ECtHR on Azerbaijan have been sent to the implementation status. These decisions oblige the state to take individual and general measures. Azerbaijan has implemented 43 of those decisions.<sup>24</sup> The Committee of Ministers of the Council of Europe has decided to close the control over the implementation of those decisions.

In 2020, compensation was paid on time for 6 decisions under implementation. Compensation was paid in 18 decisions, but payments were not made on time. At the end of 2020, the number of cases expected to be compensated was 69. In 35 of these cases, compensation has been delayed for more than 6 months.

### Funds allocated from the state budget for the implementation of decisions

*According to the judgments of the ECtHR on Azerbaijan in 2007-2019, the applicants shall be compensated in the amount of 4.5 million euros. Every year, the state budget of the Republic of Azerbaijan allocates funds for ECtHR expenditures. The funds provided in the budget are not only related to the implementation of judgments and the payment of compensation. The funds provided in the budget are allocated for "protection of the interests of the Republic of Azerbaijan before the ECtHR and the implementation of the judgments of that Court." Consequently, the funds provided in the budget also cover the expenses of the authorized representative of the Republic of Azerbaijan to the ECtHR. The funds are allocated to the Administration of the President of the Republic of Azerbaijan and spent in this direction.*

In 2007-2019, the total amount of funds allocated from the state budget of the Republic of Azerbaijan for "protection of the interests of the Republic of Azerbaijan before the ECtHR and the implementation of the judgment of that Court" exceeded 15 million manat.

In 2007, a total of 1.3 million manat was allocated from the state budget for this purpose. In 2008 and 2009, the same amount was allocated for "protection of the interests of the Republic of Azerbaijan before the ECtHR and the implementation of the judgments of that Court."

The amount of funds allocated in 2010 was 802,560 manat, and in 2011 - 953,040 manat. As in 2007-2009, in 2012, 2013 and 2014, 1 million 3 thousand 200 manat was allocated from the state budget in this direction.

The amount allocated in 2015 amounted to 732,336 manat. In 2016, no funds were allocated from the state budget in this direction. These funds were included in the funds allocated to the Presidential Administration of Azerbaijan.

In 2017, 1 million 3 thousand 200 manats were allocated to protect the interests of the Republic of Azerbaijan before the ECtHR and to implement the judgments of that court, the amount was 2 million 6 thousand 400 manats in 2018, and 4 million 861 thousand 298 manats in 2019. The amount of funds allocated for 2020 amounted to 3 million 989 thousand 67 manat.

### Reconsideration of ECtHR cases in the Supreme Court

***According to the Supreme Court of the Republic of Azerbaijan, the consideration of cases on new facts arising by the ECtHR judgments began in 2009. ECtHR judgments are considered one of the grounds for reviewing national judicial decisions on new facts. Such cases are considered by the Plenum of the Supreme Court.***

<sup>24</sup> <https://rm.coe.int/168070973e>

In 2009, the Plenum of the Supreme Court reconsidered 5 civil cases after ECtHR judgments. In two of these cases, the Plenum of the Supreme Court annulled the judgments of the cassation instance and sent the cases for reconsideration. In the other three cases, the Plenum decided that there was no need to reconsider these cases. In 2009, the Plenum of the Supreme Court heard one criminal case after the ECtHR judgments. In this case, the decisions of the cassation and appellate instances were annulled. The case was sent to the appellate court for reconsideration. In the same year, the Plenum of the Supreme Court heard one case related to war crimes the judgment of the ECtHR. It was decided that there was no need to reconsider the case.

In 2010, the Plenum of the Supreme Court heard a total of five new cases after the ECtHR judgments. One of those cases was a civil case. The Plenum decided that there was no need to reconsider the case. In 4 criminal cases, national court decisions were annulled and the case was sent to a new court for reconsideration.

In 2011, the Plenum of the Supreme Court reconsidered a total of five cases on new facts after the the ECtHR judgments. 3 of the cases were civil cases. In one of those cases, the Plenum overturned the local court's decision and remanded the case to the appellate court for reconsideration. It was decided that there was no need to reconsider in other two cases. In 2011, the Plenum of the Supreme Court annulled the local court decisions in two cases after the ECtHR judgments. The case was sent to the appellate court for consideration.

In 2012, after the judgments of the ECtHR, the Plenum of the Supreme Court reconsidered only 2 cases on new facts. In the civil case, Pelnum overturned the local court's decision and remanded the case to the appellate court for reconsideration. In the criminal case, the Plenum annulled the decision of the cassation instance. The case was sent for a new cassation review.

In 2013, after the ECtHR judgments, the number of cases heard on new facts was five. The Plenum considered two civil cases, and in both cases the decisions of the cassation and appellate instances were annulled. The cases were sent for reconsideration. The Plenum of the Supreme Court annulled the decisions of the cassation and appellate instances in all three criminal cases and remanded the cases for reconsideration.

In 2014-15, the Plenum of the Supreme Court considered two criminal cases after the decision of the ECtHR judgments. In 2014, all court decisions in the case were annulled and the case was sent to the preliminary hearing of the Baku Court of Grave Crimes for reconsideration. In the criminal case considered in 2015, the decisions of the court of cassation and appellate instance were annulled and the case was sent to a new appellate review. According to the ECtHR judgments in 2016-17, there were no reports of new cases being heard.

The last case (reported) was submitted to the Plenum of the Supreme Court on new facts based on the ECtHR judgments in 2018. In that criminal case, the decisions of the cassation and appellate instance were annulled, and the case was sent to a new appellate review.

According to the annual report of the Supreme Court, in 2019 no cases were reconsidered in accordance with the decisions of the ECtHR.

As of January 2021, the Plenum of the Supreme Court had reconsidered a total of 28 new cases after the ECtHR judgments. Of these, 12 were civil cases and 16 were criminal cases. Most of the decisions on these cases were annulled by the decisions of the cassation and appellate instances, and the cases were sent for reconsideration. The Pelnum of the Supreme Court concluded that in most civil cases there was no need to reconsider them.

The Supreme Court discloses only statistical information on these cases. According to the law on access to information, all court decisions must be open and posted on the courts' websites for everyone to access. However, access to these decisions is not possible. There is also no information on what cases are being considered. Necessary information was not disclosed on whether the cases returned to the appellate instance were considered, and if so, what decisions were made.

## Closed judgments

The Committee of Ministers of the Council of Europe decided that [Səfərəli Cəfəri and others against Azerbaijan](#) (Valida Bagirzade, Elchin Jafarov) case should be considered as the closed case. The judgment, made in 2010, was related to a lack of a fair trial and property rights, and delays in the execution of local court decisions. Following the implementation of local court decisions, the Committee of Ministers of the Council of Europe decided in 2012 to close control over the implementation of this [judgment](#).

The next closed case is [Ruslan Aliyev's case against Azerbaijan](#). The case was related to the illegality of pre-trial detention. The parties agreed on friendly settlement. The applicant was compensated. Execution of the judgment was [closed](#) in 2015.

The Committee of Ministers of the Council of Europe once again considered the issue of closing the implementation of the judgments of the ECtHR on Azerbaijan in 2018 and [decided](#) to close the implementation of 15 judgments. These cases involved a fair trial and a violation of property rights. The parties reached a friendly settlement in 2015 on the condition that the applicants be paid a fair compensation of 3,000-7,500 euros. As the settlement was implemented, the control over the implementation of the judgments was declared closed.

The Committee of Ministers of the Council of Europe also [closed](#) its control over the implementation of three judgments related to the violation of free election rights in 2018. In their cases against Azerbaijan, Behbudov, Karimov and Mansurov agreed to a friendly settlement. Due to compliance with the terms of the agreement, control over the implementation of the judgments was [closed](#).

The Committee of Ministers of the Council of Europe has decided to close control over the implementation of the [Akhundov Group Case](#) in 2019. A total of 13 judgments were monitored within the Akhundov Group Case. These judgments were related to the non-enforcement of national courts decisions involving various obligations. The Committee of Ministers of the Council of Europe decided to close control over the execution of judgments as fair compensation was paid, all national court decisions were enforced, and the applicants' violated property rights were restored. However, at the same time, it was decided that there are shortcomings in the implementation of general measures on these judgments. The Committee of Ministers of the

Council of Europe will monitor these judgments under the Mirzayev, Humbatov and Tarverdiyev Group Case.

In 2019, the control over the execution of the judgment on the case of *Akimova against Azerbaijan* was also closed. This judgment is related to the violation of the property right - the seizure of the applicant's apartment. The parties agreed to friendly settlement. The applicant was compensated for non-pecuniary damage, as well as fair costs and expenses. The interference with property rights was eliminated. However, the Committee of Ministers of the Council of Europe will monitor the implementation of general measures stemming from this judgment under the Mirzayev group case.

The next case, which was closed in 2019, was [Rahmanova against Azerbaijan](#). The case involved a violation of property rights and the right to a fair trial. Due to the implementation of individual and general measures, the Committee of Ministers of the Council of Europe decided to [close](#) the control over the implementation of the case.

The implementation of the first judgment of the ECtHR on the merits of Azerbaijan in 2006 was closed in 2019. *Fahmin Hajiyev's case against Azerbaijan* was related to the violation of the right to a fair trial. Within the framework of the implementation of the judgment, the government needed to provide fair compensation as individual measures and eliminate the practice of misapplication of legislation as general measures. Individual measures were implemented, however, the applicant did not request a retrial, based on the findings of the ECtHR. The Committee of Ministers of the Council of Europe has decided to [close](#) the control over the implementation of the judgment.

In 2020, the cases of I. Mammadov against Azerbaijan and Rasul Jafarov against Azerbaijan were closed. These decisions were related to the pre-trial detention and imprisonment of the applicants in violation of Article 18 of the Convention for their active socio-political participation, criticism of the government, and activities in the field of human rights monitoring. In April, the Supreme Court of Azerbaijan reconsidered both cases on newly discovered facts and decided to acquit both applicants and compensate them for material and moral damage. Following these decisions of the SC, the Committee of Ministers of the CoE ceased the control over the implementation of both decisions

## Ongoing cases

*The implementation of more than 230 ECtHR judgments on Azerbaijan is under supervision. The implementation of these judgments is monitored within 20 groups.*

**Yashar Agazadeh the group's case** includes the judgments of Mahmudov and Agazadeh against Azerbaijan and E.Fatullayev against Azerbaijan. These judgments are related to the unjustified imposition of imprisonment for defamation and the provision of insufficient reasons to justify the defamatory nature of certain statements and the arbitrary application of anti-terrorist legislation to punish the people for their statements. Supervision over individual measures on judgments is closed because, in both cases, the applicants were released and given fair compensation. Three main general measures are pending. These measures are aimed at ensuring the adequacy of defamation legislation, preventing the arbitrary application of the law, and preventing violations of the right to the presumption of innocence by the Prosecutor General's Office and other officials.

**The cases in Mirzayev Group, Humbatov Group and Tarverdiyev Group** are related to the implementation of domestic court decisions. There are three different types of unenforced domestic court decisions.

The Mirzayev group includes judgments that provide for the transfer of applicants' illegally seized property by IDPs to their owners. In this group, the implementation of 18 judgments is under supervision.<sup>25</sup> The cases included in the Humbatov group are related to domestic court decisions on property rights, such as the restoration of the applicants' land use rights. In this group, the implementation of four judgments is monitored. The cases included in the Tarverdiyev group are related to the judgments of the applicants to be reinstated in their previous jobs. In this group, the implementation of four judgments is monitored. The ECtHR stated in its judgments that the respondent state should provide "appropriate means" to enforce domestic court decisions.

Compensation was paid to the applicants in 26 judgments included in the above groups. There is a problem for paying compensation to only in two judgments (Islamzade and others against Azerbaijan and Ramikhanov and others against Azerbaijan).

In the Mirzayev group case the implementation of domestic court decisions in 11 cases were ensured. In one case in the Humbatov group, a friendly settlement was reached between the government and the applicant, and as a result, the obligation for enforcement of the domestic court decision was withdrawn. Execution continues in the other three cases. The issue of taking individual measures was resolved in two out of four cases in the Tarverdiyev group. The applicants were reinstated by domestic court decisions. The execution of other two cases (Tarverdiyev and Damirov's cases) are underway.

The general measures envisaged in the above-mentioned three groups include the return of property seized by IDPs to their owners, the application of effective remedies for those in the same legal status as the applicants, and the provision of the necessary compensation mechanism. It also covers issues such as the establishment of an appropriate compensation mechanism for obtaining *restitutio in integrum* in connection with non-enforceable court decisions.

The implementation of 40 judgments in the **Avsharova Group Case** is under supervision. These judgments also include friendly settlement on the enforcement of domestic court decisions in favor of the applicants whose homes have been seized. These agreements cover the enforcement of domestic court decisions and the obligation to pay compensation. However, the government has not submitted an action plan for implementation.

<sup>25</sup>

[https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=0900001680942057](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680942057)

**The Nemat Aliyev Group Case** covers the implementation of 23 ECtHR judgments. This group is concerned with the violation of the election rights of members of opposition parties or independent candidates in the 2005 and 2010 parliamentary elections (Article 3 of Protocol No. 1 of the Convention). In most of the cases included in this group, the ECtHR found that election commissions and domestic courts, including the Constitutional Court, had applied election law arbitrarily, without justification, or through procedures that did not guarantee lawful application of the law. In particular, the ECtHR found the following violations in the decisions of election commissions:

- *Rejection of the applicants' complaints and arguments without any justification;*
- *Acceptance of testimonies and explanations of witnesses against the applicants without independent expert examination to determine their accuracy and validity;*
- *Making decisions revoking the registration or nullifying the selection of applicants as candidates without independent expert examination and justification;*
- *Not guaranteeing the participation of applicants in the hearings of the commissions that made these decisions.*

In the *Gahramanli and others against Azerbaijan* case, which included in this Group Case, the Court noted that it should be encouraged to reform the structure of the responsible State Election Commissions in order to increase the effectiveness of the investigation of individual complaints filed by candidates.

In connection with the decisions of the domestic courts, the Court found, in particular, that: the refusal to examine the evidence presented, the failure to take action in accordance with its official duties to clarify the disputed issues and the formal nature of the investigation; automatic repetition of the results of election commissions as in courts; the applicants did not have sufficient time to prepare their defense; misapplication of election legislation.

In six cases included in this group, the ECtHR found that in August 2014 the right to apply individually was violated due to the seizure of working documents from the office of the legal representative of the applicants, along with all other documents.

In the cases included in this group, individual measures - fair compensation (except for four cases) were fully implemented.

As for the general measures related to the implementation of the judgments included in this group's case, the action plan for 2018-2021 includes priority issues such as electoral reforms, in particular candidate registration, composition of election commissions, observers' rights, complaints and appeals procedures, and transparency of party funding - full and effective harmonization of electoral legislation and practice with the requirements of the European Convention. The Committee of Ministers of the Council of Europe discusses this group case periodically and states in most of its resolutions that the Azerbaijani government has not provided the necessary information on general measures.

The judgments in the **Qafqaz Mammadov Group Case** included the dispersal of unauthorized peaceful protests planned and organized by the political opposition in 2010-2014 that did not pose a threat to public order. The judgments in this Group Case also identified numerous interference with the applicants' freedom of assembly and their short-timed detention and administrative arrests for participation in the demonstrations. In those judgments, the ECtHR expressed serious concern about the unclearness of the legislation governing public gatherings and the fact that they allowed the dispersal of public gatherings and the illegal ban on public gatherings. In particular, the Court stressed that the Constitution of Azerbaijan contains only the procedure for informing about any planned gatherings. The Law on Freedom of Assembly gives the relevant local executive authorities broad powers to prohibit or prevent gatherings. In addition, the law authorizes the relevant local executive authorities to limit or change the venue, route or time of the public gatherings, and to designate certain areas for gathering. The ECtHR ruled that the reasons for the interference by the relevant authorities, which had to be tolerant and conscientious in the applicants' freedom of assembly, were inadequate and that the sanctions were disproportionate. According to the ECtHR's judgments, such measures should not intimidate the applicants and should not deter other opposition supporters and the general public from participating in the demonstrations or participating in open political discussions.

In most of the cases in this group, individual measures were implemented - the

As a general measure, the judgments included in the group's case identified complex problems arising from the non-compliance of local legislation on gatherings and public events with the requirements of Article 11 of the European Convention. The judgments emphasize the arbitrary application of the law by the police, local authorities and related courts. The

**The Garayev Group Case** is related to extradition issues. The implementation of three judgments is supervised within this group. *Garayev against Azerbaijan judgment* is related to the extradition of the applicant to Uzbekistan. In there he could be subjected to torture, inhuman or degrading treatment or punishment. The ECtHR found in the case that there were no effective internal remedies to challenge extradition on the grounds of torture or ill-treatment. Prior to his extradition, the applicant had been detained under a law that did not meet the quality standards considered by the Convention and had not been able to challenge his detention in court.

**The judgments of Chankayev against Azerbaijan and Tershiyev against Azerbaijan**, which belong to the group, have a similar content. These cases highlighted the lack of effective internal remedies to challenge extradition due to the risk of torture or ill-treatment. It was noted that applicants should not be handed over until the judgments have taken effect or the next judgments has been made in accordance with Rule 39. However, the applicants were extradited to Russia.

Bu qrupa daxil olan Qarayev işi üzrə qərarın icrası kontekstində fərdi tədbirlər mümkün olduğu qədər icra edilib. Ümumi tədbirlərə gəlincə, məhkəmə qərarı tərcümə edilib və uyğun personal arasında yayılıb. Tutulan şəxslərin ekstradisiya ilə bağlı hüquqlarının təmini üzrə qanunvericiliyə dəyişikliklərlə bağlı tədbirlər yubanır. Çankayev və Terşiyev işi üzrə qərarların icrası ilə bağlı Hökumət AŞ NK-ya heç bir məlumat təqdim etməyib.

**The Insanov Group Case** supervise the implementation of two judgments. The ECtHR's judgments of *Insanov against Azerbaijan and Rzaxanov against Azerbaijan*, which were included in the group, highlighted overcrowding in prisons, problematic heating systems, poor sanitation, and lack of recreational and educational facilities in prisons. These judgments raise the issue of lack of guarantees of the right to a fair trial, as in most other groups.

The government did not provide the Committee of Ministers of the Council of Europe with the necessary information on the implementation of general and individual measures related to the judgments.

The implementation of 6 ECHR decisions is monitored within the framework of the **Mammadli (formerly Mammadov Group) Group**. These decisions are related to Anar Mammadli, Natig Jafarov, Intigam Aliyev, Rashad Hasanov, Zaur Gurbanli, Uzeyir Mammadli, Rashadat Akhundov, and Khadija Ismayilova (№2). Those ECtHR decisions are related to the pre-trial detention and imprisonment of applicants in violation of Article 18 of the Convention for their active political and social participation, criticism of the government, human rights, and election observation activities. The individual measures identified in these

compensations determined by the ECtHR judgments were paid.

common problems posed by group case require the implementation of urgent measures and ensuring the implementation of various necessary reforms. The resolutions of the the Committee of Ministers of the Council of Europe on this group's case stated that the Azerbaijani government did not provide the necessary information on the action plan.

decisions have been incompletely implemented. As for general measures:

- taking urgent and effective steps to prevent the government from arbitrarily using criminal law to punish and dismantle its critics and human rights defenders;

- protection of the independence of the judiciary, its protection from any side pressure, including the executive branch; ensuring stronger compliance of the system with the standards of the Council of Europe; - Steps in that direction are delayed. Also, the application of the approach of the Supreme Court of Azerbaijan on the decisions of I. Mammadov against Azerbaijan and Rasul Jafarov against Azerbaijan with the same or similar content is delayed in the cases under control within this group.

Under **the Khadija Ismayilova Group cases**, two cases are under monitoring. These decisions relate to the alleged interference in the applicant's rights to respect for privacy and freedom of expression (Articles 8 and 10) in 2012-14. The applicant threatened to be humiliated if she did not stop the investigation into the family business relationship of the President. Subsequently, secret footage of her bedroom was leaked, and pro-government

newspapers published articles damaging her reputation.

In the context of the implementation of both decisions, the applicant must be provided with fair compensation (including the percentage of delay), the criminal act against the applicant must be investigated, and the perpetrators must be brought to justice.

**The Mammadov (Jalaloglu) Group Case** 11 ECtHR judgments are under supervision. The implementation of five judgments in the **Muradova Group Case** and eight judgments in the **Mikayil Mammadov Group Case** is under supervision.

The judgments included in these groups' cases were related to the deaths of the applicants' close relatives, the alleged ill-treatment by law enforcement officers, and the lack of an effective investigation into torture. The ECtHR found in its judgments on the cases included in the above groups that: the applicants ill-treatment had not been investigated, although there was sufficient evidence; evidence in favor of the applicants was not taken into account; there were no relevant examinations to determine the cause of the injuries/deaths; the authorities did not take all possible measures to ensure that the suspects were brought to justice; as well as the fact that the arrests were arbitrary and the decisions taken during the selection of restrictive measures were not justified; a journalist covering a public event was treated as a participant in the incident to whom violence was used; The applicants' legal representatives were not allowed to meet with them.

Individual measures to compensate applicants in these groups have not been fully implemented. The Committee of Ministers of the Council of Europe has not been provided with the necessary information on measures to reopen proceedings at the national level. In several cases, the Plenum of the Supreme Court overturned domestic court decisions and returned the case to the appellate court for investigation, but the government did not provide the necessary information on the proceedings in that instance.

As for the general measures in the context of the implementation of the judgments included in the three groups, the government said that some steps have been taken - the decree of the President of Azerbaijan in 2018 "On improving the function of the penitentiary institution" provides for humanization of penal policies, alternative sanctions and non-custodial measures. The relevant authorities - the police and the prosecutor's office - have been instructed to ensure that torture/inhuman or degrading treatment is prevented.

The implementation of two judgments is under supervision within the **Hummatov Group Case**. Both decisions were related to the non-treatment of applicants with tuberculosis and other diseases, humiliating treatment, and lack of transparency in court proceedings. In the case of *Hummatov against Azerbaijan* the ECtHR found out the lack of effective legislation on medical treatment, both in law and in practice, and the violation of the right to a fair trial. In the case of *Yunusova and Yunusov against Azerbaijan* the ECtHR ruled that the government should ensure that the applicants were transferred to a medical facility. The ECtHR also obligated the government provide monthly information on their health status. The implementation of individual measures on both judgments was partially ensured (other necessary information was not disclosed).

In the **Natig Mirzayev Group Case**, the implementation of three judgments is supervised. These judgments also raise the issue of medical treatment and the restriction of the right to appeal to the court on the issue of medical treatment. Necessary information on the status of implementation of these judgments has not been submitted to the Committee of Ministers of the Council of Europe. For example, in Mirzayev's case, in 2012, the Plenum of the Supreme Court annulled the decisions of the lower courts and sent the case to the appellate court for investigation. However, no information has been provided since then.

The implementation of six judgments is supervised in the **Ramazanova and Others Group Case**. These judgments were announced in 2007-10. These judgments are related to the incorrect application of the law on the registration of non-governmental organizations, and in some cases to the violation of the right to associate due to the cancellation of registration. With the exception of one organization in the cases included in this group, other NGOs were registered after the ECtHR judgment. As for general measures, the government told the Committee of Ministers of the Council of Europe that under the new arrangement, if any NGO does not get any respond to its application for registration within 40 days, it is automatically registered and can obtain a registration document within 10 days. In connection with the implementation of these judgments, the government should provide information about the NGOs awaiting registration, on the status of registration legislation, and an analysis of national legislation in light of the ECtHR case law.

A total of 22 judgments are under the supervision within the **Farhad Aliyev Group Case**. These judgments relate to the arrest of



applicants without a court order, the extension of detention without reasonable suspicion or good cause, the violation of those proceedings, the disregard for the applicants' arguments, the interference with the presumption of innocence, and the interference with property rights without a court order. Material compensation was provided for these judgments. However, in most cases the trial was not renewed.

**The Hajibeyli Group Case** supervise the implementation of three judgments. These judgments are in violation of the applicants' right to freedom of movement. In the case of *Karimli against Azerbaijan*, the applicant was refused to renew his passports. Both this and the restrictions imposed on the applicants in the case of *Hajibeyli against Azerbaijan* were linked to criminal cases opened many years ago. The case of *Mursaliyev and others against Azerbaijan* is based on complaints from 11 applicants. They were involved in various criminal cases as witnesses and their freedom of movement was restricted. The government did not provide an action plan for this Group Case. However, restrictions imposed on the applicant in the Hajibeyli case was lifted. In the case of *Mursaliyev and others against Azerbaijan*, according to official information, the restriction imposed on two applicants was lifted.

**The Sargsyan Group Case** is related to the implementation of Sargsyan's judgment against

Azerbaijan. The applicant in this case is an Armenian living in Azerbaijan at one time. The ECtHR concluded that the areas where the incidents took place were within Azerbaijan's internationally recognized borders. Thus decided to pay compensation to the applicant.

Within the **Huseyn and others Group Case** eight ECtHR judgments are being supervised. These judgments are mainly related to the groundlessness of criminal cases against opposition political activists, political prisoners and independent journalists. The ECtHR found out that the applicants protests against the judge, who had family ties to the prosecutor and the investigator, were rejected by the court, that the applicants did not have the time and opportunity to defend themselves, and that some witnesses were ill-treated. Moreover, the Court determined that the the domestic courts failed to examine the applicant's objections and the authenticity of the evidence, their use against the applicant, and failed to ensure the participation of the majority of the applicants in the hearings in the Court of Appeals.

In these cases, the ECtHR concluded that the most appropriate form of compensation for violations was, in principle, the opening of a new proceeding. The Azerbaijani government did not inform the Committee of Ministers of the Council of Europe about the measures to be taken in connection with the new proceedings.

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