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ECHR- Azerbaijan, 2022: Annual analysis



Media Rights Group – Azerbaijan

MEDIA RIGHTS GROUP - is a civil society initiative working in Azerbaijan, especially in the field of adapting legislation and practice related to media freedom to advanced standards, protecting media and journalists, promoting freedom of expression and other basic rights, advanced practices.

THIS ANALYSIS is about the activities of the European Court of Human Rights (ECHR) in 2022 related to Azerbaijan. In the analysis, all decisions and judgments adopted by the ECHR on applications sent from Azerbaijan during one year, as well as their brief description, were included. Violations and compensations determined by the ECtHR, applications communicated with the Government of Azerbaijan in one year are summarized in this document. Also, developments in the field of implementation of the judgments adopted by the ECHR regarding Azerbaijan in previous years were explained.

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GENERAL ANALYSIS

In 2022, the European Court of Human Rights (ECHR) adopted 56 decisions and judgments related to Azerbaijan. The Court passed 23 judgments on the merits. Most of the alleged violations were recognized in 22 of those judgments made on 91 applications. The ECHR passed 33 decisions based on 91 applications in one year - 6 of the decisions were related to the inadmissibility of applications, 22 decisions were based on a friendly settlement of the parties, and 5 decisions were issued based on a unilateral declaration submitted by the Government.

In 2021, the ECHR recognized violations of the right to liberty and security in its judgments on Azerbaijan the most - 9 judgments. In the same year, it was also decided that the right not to be tortured and the right to a fair trial were violated in 7 cases. In 2022, there was no significant change in the nature of violations - 9 judgments recognized the violation of the right to liberty and security, and 7 judgments recognized the violation of the right to a fair trial.

In 2021, 36 judgments were issued in relation to 161 applicants. In 2022, 22 judgments in which violations were found were announced in relation to 91 applicants.

A fragile change was observed in the pace of implementation of the ECHR's judgments regarding Azerbaijan - in 2021, the Committee of Ministers of the Council of Europe considered 12 judgments implemented, and the Council of Europe announced the closing of supervision of the implementation of 25 judgments in 2022.

JUDGMENTS OF THE ECHR ON THE MERITS

In 2022, the ECtHR adopted 23 judgments on the merits regarding Azerbaijan. Most of the alleged violations were recognized in 22 of those judgments. The Court did not find a violation in only one case.

Cases in which the ECHR did not find violations in judgments related to Azerbaijan

In 2022, the ECtHR concluded in one judgment it made regarding Azerbaijan that there was no violation. The case of Khural newspaper and Zeynalov v. Azerbaijan involved the bringing of civil claims against the applicants in connection with an article published in the applicant newspaper¹. The articles alleged that R.M., a well-known high-ranking civil servant, interfered in the parliamentary elections. The named person sued the newspaper and its editor, claiming that the information was false and damaged its reputation, and demanded compensation for the damage. Local courts upheld the claim and ordered the applicants to apologize, publish a rebuttal and pay 10,000 Azerbaijani manats in compensation. The applicants claimed before the ECHR that there had been an interference with their right to freedom of expression.

The ECHR observed that "various claims made against R.M. in the title and content of the disputed article form the basis of the first applicant's liability for defamation. The disputed statements were summarized as follows: (a) R.M. showed enmity against B.V., a well-known Azerbaijani poet, and tried to take revenge on him; (b) R.M. gave an instruction to prevent the election of B.V. in the Sheki parliamentary elections, etc. ...". According to the Court's opinion, "... such claims could harm the reputation of R.M. For this reason, it appears that the statements at issue reached a level of seriousness sufficient to damage R.M.'s reputation protected by Article 8.1 of the Convention... The Court reiterates, by applying the criteria established by the Court, that domestic courts hearing defamation claims on conflicts between the right to protection of reputation and the right to freedom of expression are expected to strike a balance between the two rights... Although the domestic courts in the present case found that the contested statements affected R.M.'s reputation were not based on any factual basis, and that the applicant did not provide any evidence regarding the allegations against R.M., the Court found that they did not refer to the relevant criteria established by the case law. ... The domestic courts also did not ... examine whether the impugned statements concerned a matter of public interest, the context in which they were made, or R.M.'s status as a recognized high-ranking public official..." The ECtHR then examined whether the disputed article contributed to public interest discussions, the degree of damage to the reputation of the person affected by the article, the content and form of the disputed statements, the method of obtaining the information and its veracity, and the nature and severity of the sanction imposed. Regarding whether the article contributed to the public debate and whether the person was influenced by the article, the Court noted that since the controversial

¹ <https://hudoc.echr.coe.int/eng/?i=001-219482>

statements made in the article are related to an important topic such as parliamentary elections and the mentioned person is a well-known high-ranking public figure, they could undoubtedly contribute to the public debate. Regarding the content and form of the disputed statements, "The Court notes that most of the disputed statements reflected in the said article refer to specific dates, persons and events. The court considers the statements to be factual claims, contrary to the applicant's claim that those statements are "value judgments".

As regards the manner in which the disputed information was obtained and its veracity, the Court noted that the applicant had not provided the domestic courts or the Court with any evidence showing the factual basis of the disputed statements. The Court acknowledges that the applicant, as a media, has a public "watchdog" function by providing information on public issues, however, it emphasizes that "the guarantees provided by Article 10 of the Convention to journalists in relation to reporting on matters of public interest, in accordance with their journalistic ethics, is subject to the condition that they act in good faith to provide reliable information".

The Court also reiterates the conclusion that value judgments must be based on factual basis: "The applicant should have provided a 'sufficient factual basis' for the statements constituting a "value judgment" ... During the domestic court proceedings, the applicant was given real chances to demonstrate his efforts to verify the accuracy of the contested claims in the article and to submit facts to support the stated value judgments." However, the applicant did not ... initiate to submit any evidence in support of the contested statements. The applicant also did not claim that his failure to provide evidence arose out of the need to keep journalistic sources confidential," the ECHR notes. In the light of its investigation, the Court found that the applicant had failed to demonstrate that he had acted in good faith to provide honest and reliable information prior to the publication of the article, thereby failing to fulfill his "duties and responsibilities" under Article 10. Examining the content and severity of the sanction imposed on the applicant (10 thousand manats), the Court noted that despite the fact that the applicant claimed that the punishment was too severe and led to the closure of the newspaper, he never complained before the local courts about the severity of the decision to punish him. On the other hand, neither the domestic courts nor the ECHR were presented with documents indicating his financial situation. In conclusion, the Court concluded that the interference with the applicant's freedom of expression met the test of "necessity in a democratic society" and did not violate Article 10 of the Convention.

Cases in which the ECHR found violations in judgments related to Azerbaijan

Cases where the violation of the right to life is recognized

The ECHR recognized a violation of the right to life in one case in 2022. In the case of Maila Taghiyeva v. Azerbaijan,² the applicant was the wife of well-known writer and columnist Rafiq Tagi, who died after being stabbed in 2011. The application was related to the failure to effectively investigate the death case of R.Tagi. The applicant complained, based on Articles 2, 10 and 13 of the Convention, that the State had failed to protect her husband's right to life, that the criminal investigation into his murder had been ineffective, and that her husband had been targeted precisely because of his publications.

The court stated in its decision that the rights of the applicant, recognized as a victim, were violated during the investigation. "Despite the fact that the applicant was given victim status during the investigation, it seems that the investigative agencies repeatedly blocked her access to the documents of the case. The Court cannot accept that investigative authorities refer to domestic legislation to justify this situation... The Court observes that this issue has been highlighted in previous cases against Azerbaijan. As a result of the state of domestic law, although the applicant has repeatedly requested relevant documents related to the ongoing criminal investigation, her requests have been ignored or denied. This situation deprived the applicant of the opportunity to protect her legal interests and prevented the investigation from being sufficiently discussed by the public. In this matter, the Court emphasizes that it is important for the deceased's family members or their legal representatives to participate in the investigation and to provide them with information, as well as to provide them with the opportunity to present other evidence... The above-mentioned considerations are sufficient for the Court to come to the conclusion that

² <https://hudoc.echr.coe.int/eng/?i=001-218456>

the investigation was ineffective due to the lack of an important guarantee of the participation of the deceased person's family in the investigation into the death of the applicant's husband... Thus, in relation to the framework of the applicant's participation in the investigation, Article 2 of the Convention has been violated from a procedural point of view...". According to the judgment, the Government should pay the applicant 12,000 euros for moral damages and 2,000 euros for costs and expenses.

Cases involving violations of the right not to be tortured and the right to liberty and security

In one judgment on Azerbaijan in 2022, the ECtHR recognized the violation of the right not to be tortured in relation to 4 applicants. The Court found a violation of the right to liberty and security in relation to 16 applicants in 9 cases. According to these judgments, just satisfaction of 111,500 euros was determined.

The case of Shenturk and others (3) v. Azerbaijan³ was related to the deportation of Turkish citizens from Azerbaijan, which alleged violation of the right not to be tortured, to liberty and security, to have an effective remedy. After the events of July 15, 2016 in Turkey, 4 applicants were detained at the request of Turkey and forcibly returned to Turkey. They were accused and convicted of being members of a terrorist organization in Turkey. In this case, the ECHR considered that the extradition of the applicants from Azerbaijan to Turkey was illegal, that they were deprived of the effective protection guaranteed by the European Convention on arbitrary refoulement and national legislation, and that the local authorities did not consider whether the applicants would face ill-treatment when they were returned to Turkey. The Court ruled that each of the applicants' right not to be tortured and right to liberty and security had been violated. According to the judgment, 9000 (nine thousand) euros compensation should be paid to each of the applicants.

In the case of Vidadi Iskenderov v. Azerbaijan,⁴ the allegations were similar, the applicant, who is a lawyer by profession, claimed that the conditions of detention, pre-trial detention, and extension of the detention period were illegal. Regarding the complaint under Article 3 as inadmissible, the Court referred to its previous judgments regarding Azerbaijan in relation to the claims under Article 5, stating that "standard templates are used in the decisions of domestic courts regarding arrests, no reasons are given, no reference is made to specific facts, a number of abstract principles are repeated for arrest". The Court considered that the national courts had not been able to provide appropriate and sufficient grounds for issuing pre-trial detention orders against the applicant and that there had been a violation of Article 5.3. The judgment envisages payment of 3,000 euros for moral damages and 500 euros for costs and expenses to the applicant.

In the case of Jahangir Hajiyev v. Azerbaijan,⁵ the ECHR decided that national courts could not justify the necessity of pre-trial detention, violating Article 5.3. The applicant should be paid fair compensation of EUR 3,500. The case of Bahruz Hasanov v. Azerbaijan⁶ was related to allegations of illegal detention and administrative arrest of the bodyguard of the opposition party chairman. "The applicant was taken to the police station to draw up a report on an administrative offense, but the report was not drawn up there. At the same time, it was not explained what prevented the drawing up of the protocol at the place where the violation was detected. The local authorities and the Government failed to present any concrete reason justifying the imposition of an administrative prison sentence on the applicant," the Court emphasized, finding the violation of Article 5.1. According to the judgment, the applicant should be paid 4,500 euros in compensation. In the case of Adil Dadashov and Tural Hajibeyli v. Azerbaijan,⁷ in which the violation of Article 5.1 was recognized, the applicants should be paid a total of 8,500 euros of just compensation. In the case of Khatira Guliyeva v. Azerbaijan,⁸ the ECHR found the same violation (violation of Article 5.1; 3500 euro in just compensation).

³ <https://hudoc.echr.coe.int/eng?i=001-216016>

⁴ <https://hudoc.echr.coe.int/eng?i=001-216199>

⁵ <https://hudoc.echr.coe.int/eng?i=001-215744>

⁶ <https://hudoc.echr.coe.int/eng?i=001-216920>

⁷ <https://hudoc.echr.coe.int/eng?i=001-217646>

⁸ <https://hudoc.echr.coe.int/eng?i=001-218928>

In the case of *Fikret Ibishbeyli v. Azerbaijan*,⁹ where the illegality of pre-trial detention was alleged, the Court ruled that the relevant national decisions were not substantiated, that the detention of 11 months and 14 days in prison was contrary to the applicant's rights guaranteed by Article 5.3 of the Convention (just compensation: 3500 euros). The ECtHR repeated the same approach in the case of *Yadigar Sadigov v. Azerbaijan*¹⁰ (violation of Article 5.3; 3,500 euro in just compensation). In the case of *Savalanli and Others v. Azerbaijan*,¹¹ the four applicants claimed that their detention pending trial following trumped-up charges was illegal. The Court found a violation of Articles 5.1 and 5.4 of the Convention in relation to all the applicants in this case. According to the judgment, the applicants should be paid a total of 45,000 euros in moral damages and expenses.

Cases in which the right to a fair trial was violated

In 2022, the ECHR recognized the violation of the right to a fair trial in relation to 11 applicants in 7 judgments regarding Azerbaijan. A total of 11,100 euros of fair compensation was determined in these judgments.

Eynulla Fatullayev, the applicant in the case against Azerbaijan,¹² was the founder and editor-in-chief of the newspapers "Gundalik Azerbaijan" and "Realniy Azerbaijan", which were known for their harsh criticism of the government and various officials. While the applicant was serving his sentence in prison, he was searched, drugs were found, he was charged for this episode and sentenced to two years and six months of imprisonment. The applicant complained to the ECHR based on Article 6 of the Convention about the unfairness of the review of the criminal case against him - procedural violations in obtaining evidence, violation of the principle of equality. The Court considered in this case that the applicant was not given the opportunity to effectively present the main line of defense - the evidence that the drug was placed on the applicant by the officials, and that the criminal case was fabricated in general. These arguments of the applicant were quite coherent and serious, but, nevertheless, the national courts did not check and examine them. The national courts simply relied on the claims of the penitentiary institution, disregarded the applicant's procedural requirements, did not give him the opportunity to object to decisive evidence, to present evidence in his favor. In particular, the sequence of persecution of the applicant for his articles critical of the government, the fact that the applicant continued to work as a journalist while in prison and was therefore targeted by the authorities were generally not taken into account by the national courts. In the end, the Court ruled that Article 6 was violated in relation to the applicant, and that 4,000 euros of compensation should be paid to the applicant.

In the case of *Ramiz Jafarov v. Azerbaijan*,¹³ the applicant raised the issue of the illegality of refusing a special pension due to years of service in the prosecutor's office, among others, the issue of excessive length of domestic proceedings. "The court noted that in this case ... the proceedings lasted a total of nine years, three months and fourteen days ... The reasonableness of the duration of the trial must be determined in light of the criteria such as circumstances of the case and the complexity of the case, the actions of the applicant, what is at stake for the applicants. ... As for what was at stake for the applicant, the fact that the case concerned a pension dispute was a matter that required particular attention... Having considered all the material before it, the Court found that the length of the proceedings as a whole was excessive, that it did not meet the requirement of a reasonable time and that Article 6(1) was violated", the ECHR stated in its judgment. According to the judgment, the applicant should be compensated with 2,000 euros for non-pecuniary damage and 1,000 euros for costs and expenses.

⁹ <https://hudoc.echr.coe.int/eng/?i=001-217800>

¹⁰ <https://hudoc.echr.coe.int/eng/?i=001-218929>

¹¹ <https://hudoc.echr.coe.int/eng/?i=001-221517>

¹² <https://hudoc.echr.coe.int/eng/?i=001-216885>

¹³ <https://hudoc.echr.coe.int/eng/?i=001-217759>

In the case of Rovshan Ahmadli v. Azerbaijan,¹⁴ where the illegality of administrative arrest was contested, the ECHR found a violation of Article 6 and decided to compensate the applicant 3,600 euros for moral damages and 500 euros for costs. The ECHR also recognized the violation of Article 6 in the cases of Bahruz Hasanov v. Azerbaijan and Adil Dadashov and Tural Hajibeyli v. Azerbaijan. The Court also came to the same conclusion regarding 4 applicants in the case of Ismayil Bagvanov and Others v. Azerbaijan, which was adopted on 14 applications. In the case of Zayidov (Ganimat Zahid) v. Azerbaijan the Court also found the violation of the applicant's right to a fair trial.

Cases in which the violation of the right to respect for private life is recognized

In two judgments in 2022, the ECtHR ruled on the violation of the right to respect for private life in relation to 12 applicants and determined compensation of 21,794 euros.

In the case of Said Hashemi and others against Azerbaijan,¹⁵ the applicants, who are foreign citizens, claimed that the refusal to grant citizenship to their children born in Azerbaijan, who have birth certificates, constituted an interference with their right to respect for their private life. The Court recognized the alleged violation and ordered the compensation of 2,100 euros (total: 14,700) to each of the applicants. The case of Hasanali Aliyev and Others (4) v. Azerbaijan¹⁶ was related to the confiscation of an apartment provided by the state in a military settlement from the applicants. In this case, the ECHR found the applicants' claim of violation of their right to respect for private life to be well-founded. The judgment provides for a total of EUR 7,094 in compensation for moral damage and costs to the applicants.

Cases of violation of the right to freedom of expression

In two judgment in 2022, the ECHR ruled on the violation of the right to freedom of expression in relation to 3 applicants and determined compensation of 10,000 euros.

The cases in which the ECHR found a violation of the right to freedom of expression were issued based on the applications of "Azadlig" newspaper and its editor-in-chief Ganimat Zayidov. The case of Zayidov (Ganimat Zahid) against Azerbaijan¹⁷ was related to the allegation that the manuscript of the book written by the editor of "Azadlig" newspaper was taken away and destroyed in prison while he was imprisoned on charges of hooliganism. The case also involved the applicant's claims for damages. The ECHR noted that the seizure and subsequent destruction of the applicant's 278-page manuscript constituted an interference with the applicant's right to freedom of expression protected by Article 10. As to whether the interference was justified, the ECHR noted that the seizure and destruction of a single copy of the manuscripts, as explained in the internal disciplinary rules of prisons, did not meet the "prescribed by law" test. The Court concluded that the right to freedom of expression was violated. According to the judgment, the applicant should be paid a total of 8,500 euros in compensation.

The case of Azadlig newspaper and Ganimat Zayidov v. Azerbaijan¹⁸ was related to the civil lawsuits filed against the applicants and the court decisions issued on those lawsuits, due to the article entitled "Corrupt apparatus of the presidential assistant". The domestic courts fined the applicants civilly for the disputed article. The applicants argued before the ECHR that the interference was unjustified and disproportionate. The ECHR considered this claim to be well-founded. In this judgment, 1,500 euros were determined for costs and expenses.

Violations of the right to freedom of assembly and association

¹⁴ <https://hudoc.echr.coe.int/eng?i=001-218068>

¹⁵ <https://hudoc.echr.coe.int/eng?i=001-214763>

¹⁶ <https://hudoc.echr.coe.int/eng?i=001-217648>

¹⁷ <https://hudoc.echr.coe.int/eng?i=001-216356>

¹⁸ <https://hudoc.echr.coe.int/eng?i=001-218077>

In 2022, in two judgments the Court found a violation of the right to freedom of assembly and association in relation to 7 applicants. All the applicants in these cases were representatives of the opposition party. The Court determined a total of 17,625 euros in compensation.

In the case of Mustafa Hajili and Others (5) v. Azerbaijan,¹⁹ 6 applicants, who were members of an opposition political party, applied for permission to hold a mass action three times in Baku to protest various political issues, but were denied each time. The applicants argued before the ECHR that the decisions to refuse permission to hold a peaceful protest were not legal and necessary, and violated their right to freedom of assembly. The ECHR recognized the violation and decided to compensate the applicants a total of 15,125 euros in moral damages and costs. In the case of Dayanat Babayev and others v. Azerbaijan,²⁰ the ECHR considered the complaints of two applicants inadmissible on the grounds that domestic remedies had not been exhausted. However, the Court recognized the violation of the right to freedom of assembly in relation to the 3rd applicant A. Gurbanli (moral damage and costs, compensation in the amount of 2500 euros). In this case, all the applicants were detained by the police and brought to administrative responsibility for participating in a peaceful protest.

Cases where the violation of the right to property is recognized

In 2022, the ECHR made 3 judgments on the merits based on 37 applications where the violation of the right to property was contested, and 5000 euros of compensation was determined.

In the case of Alasgar Alasgarov and Others v. Azerbaijan,²¹ 22 out of 82 applicants continued their complaints. This case concerned the expropriation and demolition of properties belonging to the petitioners on various grounds, with or without the orders of public authorities. The circumstances of Ismayil Bagvanov and Others v. Azerbaijan²² were similar. Recognizing the violation of the right to property in relation to a total of 36 applicants in two cases, the Court stated that it was not ready to make a decision on compensations, and asked the Government for a written submission in this regard.

In the case of Rafik Safarov v. Azerbaijan,²³ the Court decided that the applicant's right to property had been interfered with. The judgment provides for the payment of 5,000 euros in compensation to the applicant. According to the facts of this case, the applicant Rafig Safarov published his book on the history of Azerbaijan in 2009. The litigation involved allegations of copyright infringement by reproducing and distributing the book online without the applicant's permission and without paying him any royalties. Although the applicant filed a civil suit in court, the local courts rejected it. Based on Article 1 of Protocol No. 1 (right to property), the applicant complained to the ECHR that the state did not protect his intellectual property interests and that the domestic courts' decisions on his claim were not justified.

APPLICATIONS THAT THE ECHR CONSIDERED INADMISSIBLE REGARDING AZERBAIJAN

The ECHR considered inadmissible 7 applications sent from Azerbaijan in 2022.

In the case of Rabiyya Mammadova v. Azerbaijan,²⁴ the application was considered inadmissible, as the claim of violation of both the right to property and the right to a fair trial was considered groundless. In the case of Dayanat

¹⁹ <https://hudoc.echr.coe.int/eng?i=001-219484>

²⁰ <https://hudoc.echr.coe.int/eng?i=001-217747>

²¹ <https://hudoc.echr.coe.int/eng?i=001-220670>

²² <https://hudoc.echr.coe.int/eng?i=001-220532>

²³ <https://hudoc.echr.coe.int/eng?i=001-218927>

²⁴ <https://hudoc.echr.coe.int/eng?i=001-216281>

Babayev and others v. Azerbaijan,²⁵ the applicants, Dayanat Babayev, Erzuman Majidov and Abulfaz Gurbanli, claimed that their detention and administrative liability (10 AZN fine) during a peaceful mass protest constituted an interference with their freedom of assembly. D. Babayev was found guilty of petty hooliganism and had to pay a fine of 50 manats, while A. Majidov and A. Gurbanli were found guilty of violating the rules of public gatherings and had to pay a fine of 10 manats each. The European Court declared the petitions of the 1st and 2nd applicants inadmissible due to failure to exhaust domestic remedies (failure to file a cassation appeal to the Supreme Court).

In the case of Fariz Namazli v. Azerbaijan,²⁶ which was declared inadmissible, the violation of the right to freedom of expression (non-response to information requests for public information) was contested. The court explained its decision by saying that the applicant could not prove that he wanted to obtain the information because he was acting as a "public watchdog". The cases of Rashid Rahimov v. Azerbaijan,²⁷ Asadov v. Azerbaijan,²⁸ and Pashayev v. Azerbaijan,²⁹ which were considered inadmissible, alleged violations of property rights.

APPLICATIONS STRUCK OUT OF THE LIST

Cases where the applicants and the Government had a friendly settlement

In 2022, a total of 69 applications were struck out of the list of cases based on 22 decisions based on friendly settlements. 294,200 euros should be paid to the applicants in the cases that ended with friendly settlements.

In the cases of Amrah Salmanov v. Azerbaijan,³⁰ Natig Jafarov v. Azerbaijan,³¹ Jumshud Bayramov v. Azerbaijan,³² Malikov and 2 other applicants v. Azerbaijan,³³ and Javid Mammadov v. Azerbaijan,³⁴ which ended with friendly settlements, the illegality of pre-trial detention (Article 5), as well as the violation of the right to presumption of innocence (Article 6) was disputed. The final decisions in these cases provide for a total of €36,750 in just compensation to the applicants.

In the cases of Ulviyya Karimova v. Azerbaijan,³⁵ Gadir Mahmudov v. Azerbaijan,³⁶ and Amirov v. Azerbaijan,³⁷ which are related to bringing the applicants to criminal and administrative responsibility for non-execution of court judgments, violations of Article 6 and Article 1 of Protocol No. 4 of the Convention (Prohibition of Imprisonment for Debt) were contested. According to friendly settlements, applicants will be paid a total of 12,300 euros.

The review of 51 applications in which the violation of Article 11 of the Convention (refusal to register non-governmental organizations, religious community, not allowing peaceful actions, detention of their participants) was ended with friendly settlements. Friendly settlements in the cases of Ulvi Nuriyev and Joshgun Salahov v. Azerbaijan,³⁸ Balamammadov and Others v. Azerbaijan,³⁹ Sariyev and 14 other applicants v. Azerbaijan,⁴⁰ Shakhuseinov and 7 other applicants v. Azerbaijan,⁴¹ Balakishiyev and others v. Azerbaijan⁴² and Leonid Moroz and Others v. Azerbaijan,⁴³ provide for the payment of 191,550 euros to the applicants in fair compensation.

²⁵ <https://hudoc.echr.coe.int/eng?i=001-217747>

²⁶ <https://hudoc.echr.coe.int/eng?i=001-218349>

²⁷ <https://hudoc.echr.coe.int/eng?i=001-219148>

²⁸ <https://hudoc.echr.coe.int/eng?i=001-219794>

²⁹ <https://hudoc.echr.coe.int/eng?i=001-219790>

³⁰ <https://hudoc.echr.coe.int/eng?i=001-215786>

³¹ <https://hudoc.echr.coe.int/eng?i=001-216815>

³² <https://hudoc.echr.coe.int/eng?i=001-218004>

³³ <https://hudoc.echr.coe.int/eng?i=001-220266>

³⁴ <https://hudoc.echr.coe.int/eng?i=001-222004>

³⁵ <https://hudoc.echr.coe.int/eng?i=001-218230>

³⁶ <https://hudoc.echr.coe.int/eng?i=001-218229>

³⁷ <https://hudoc.echr.coe.int/eng?i=001-220264>

³⁸ <https://hudoc.echr.coe.int/eng?i=001-215791>

³⁹ <https://hudoc.echr.coe.int/eng?i=001-218577>

⁴⁰ <https://hudoc.echr.coe.int/eng?i=001-219798>

⁴¹ <https://hudoc.echr.coe.int/eng?i=001-219767>

⁴² <https://hudoc.echr.coe.int/eng?i=001-215142>

⁴³ <https://hudoc.echr.coe.int/eng?i=001-221048>

13300 euros should be paid to 4 applicants in the cases of Huseynov and Mirgasimova v. Azerbaijan,⁴⁴ Khvorova v. Azerbaijan⁴⁵ and Rashidov v. Azerbaijan,⁴⁶ in which it was contested that the non-execution of local court decisions violated their rights to fair trial and property rights. In the cases of Humeyir Ahmadov v. Azerbaijan⁴⁷ and Natig Isbatov v. Azerbaijan,⁴⁸ which are related to the violation of the right to freedom of movement, a total of 12,000 euros should be paid to the applicants, and 8,000 euros to the applicant in the case of Elman Agayev v. Azerbaijan,⁴⁹ in which ill-treatment claims were filed.

The friendly settlements in the cases of Mehman Agayev v. Azerbaijan⁵⁰ and Tural Jafarov v. Azerbaijan,⁵¹ in which violations of the rights to property, fair trial, respect for private life, and freedom of expression were filed, provide for a fair compensation of 19,300 euros to the applicants.

Applications struck out of the list based on unilateral declarations of the Government

In 2022, the European Court adopted a decision to struck 15 applicants out of the list of pending cases, taking into account the unilateral declarations submitted by the Government. A total of 5 decisions were issued based on unilateral declarations in which most of the alleged violations were acknowledged. A total of EUR 39,750 in just compensation should be paid to applicants for decisions based on unilateral declarations.

The decisions in the cases of Akif Nasirli and others v. Azerbaijan⁵² and Rashad Niftaliyev and others v. Azerbaijan,⁵³ where the illegality of interference with the rights to respect for private life, freedom of religion, freedom of assembly, and prohibition of discrimination, provide for the payment of fair compensation to the applicants in total of 24,500 euros. According to the decision issued in the case of Jalilov and others v. Azerbaijan,⁵⁴ which is related to the non-execution of national court decisions, the Government should pay 1750 euros compensation to each of the 5 applicants. In the case of Mahammad Mustafayev and Jeyhun Suleymanov v. Azerbaijan,⁵⁵ in which the amount of compensation awarded for illegal deprivation of liberty was disputed, the Government undertook to pay 7,500 euros to each of the applicants. The decision in the case of Alikram Khurshidov v. Azerbaijan,⁵⁶ whose pre-trial detention is alleged to be illegal, provides for the payment of 3,500 euros to the applicant.

Applications struck out of the list of pending cases on other grounds

The ECHR struck 62 applications out of the list of pending cases with 3 decisions on grounds other than those mentioned above.

Among those cases, the case of Igbal Aghazade v. Azerbaijan⁵⁷ was related to the parliamentary elections held in Azerbaijan in 2015. Contrary to the announced official results at the end of the election, the applicant claimed that he had received the most votes and that the right to vote was interfered with, but he later withdrew his complaint, so the application was struck out of the list of cases to be considered.

⁴⁴ <https://hudoc.echr.coe.int/eng?i=001-217627>

⁴⁵ <https://hudoc.echr.coe.int/eng?i=001-218231>

⁴⁶ <https://hudoc.echr.coe.int/eng?i=001-219789>

⁴⁷ <https://hudoc.echr.coe.int/eng?i=001-217623>

⁴⁸ <https://hudoc.echr.coe.int/eng?i=001-218232>

⁴⁹ <https://hudoc.echr.coe.int/eng?i=001-221092>

⁵⁰ <https://hudoc.echr.coe.int/eng?i=001-215271>

⁵¹ <https://hudoc.echr.coe.int/eng?i=001-215270>

⁵² <https://hudoc.echr.coe.int/eng?i=001-215281>

⁵³ <https://hudoc.echr.coe.int/eng?i=001-217618>

⁵⁴ <https://hudoc.echr.coe.int/eng?i=001-215284>

⁵⁵ <https://hudoc.echr.coe.int/eng?i=001-215778>

⁵⁶ <https://hudoc.echr.coe.int/eng?i=001-217998>

⁵⁷ <https://hudoc.echr.coe.int/eng?i=001-215273>

In the case of *Alasgar Alasgarov and Others v. Azerbaijan*, where the right to property was disputed, only 22 of the 82 applicants continued their appeal, and the remaining 60 applications were struck out of the list of cases to be considered.

The case of *Isa Ibrahimov v. Azerbaijan*,⁵⁸ where the illegality of pre-trial detention was disputed, was also struck out of the list of applications to be considered. The Court based its decision on the fact that the legal representative stated that he no longer represented the applicant, and the applicant did not respond to correspondence officially received by him.

Statistics of VIOLATIONS established by the ECHR in 2022

In 2022, the ECHR found violations of the right to liberty and security in cases related to Azerbaijan the most. In 9 judgments, the Court recognized the violation of Article 5 in relation to 16 applicants. In 7 judgments, the Court found a violation of the right to a fair trial in relation to 11 applicants.

Alleged violations (Article)	Article 2 (right to life)	Article 3 (prohibition of torture)	Article 5 (right to liberty and security)	Article 6 (right to a fair trial)	Article 8 (right to respect for private life)	Article 10 (freedom of expression)	Article 11 (freedom of assembly and association)	Article 1 of Protocol 1 (right to property)
Number of violations	1 judg. (1 ap.)	1 judg. (4 ap.)	9 judg. (16 ap.)	7 judg. (11 ap.)	2 judg. (12 ap.)	2 judg. (3 ap.)	2 judg. (7 ap.)	3 judg. (37 ap.)

APPLICATIONS THAT THE ECHR COMMUNICATED WITH THE GOVERNMENT OF AZERBAIJAN IN 2022

The ECHR started communicating 20 cases sent from Azerbaijan in 2022 with the Government. The total number of communicated applications is 54. The ECHR has consolidated similar applications in one case.

In the applications communicated to the Government, violations of Articles 2 (right to life), 3 (prohibition of torture), 5 (liberty and security), 6 (fair trial), 8 (respect for private life), 9 (right to religion), 10th (freedom of expression), 11th (freedom of association), 13th (right to an effective remedy), 14th (prohibition of discrimination), 18th (limitation on use of restrictions on rights), as well as Article 1 of Protocol No. 1 (property rights), Article 4 of Protocol No. 7 (right not to be tried or punished twice), Article 1 of Protocol No. 4 (prohibition of imprisonment for debt) are alleged.

In the 54 cases communicated to the Government in the past year, the applicants most often raised a violation of the right to a fair trial. The ECHR sent questions to the Government regarding allegations of the violation of Article 6 during communications on 47 applications. Next come allegations of violation of Article 18 of the Convention. In 38 applications (out of 54 applications), the ECHR sent questions to the Government regarding allegations of the violation of Article 18 during the communication. The ECHR sent questions to the Government regarding allegations of the violation of Article 9 during communications on 36 applications.

In 54 applications that the ECHR communicated with the Government of Azerbaijan in 2022, the following violations were raised in general, and clarifying questions were sent to the government:

⁵⁸ <https://hudoc.echr.coe.int/eng?i=001-222008>

Alleged violation (Article)	A.2	A.3	A.5	A.6	A.8	A.9	A.10	A.11	A.13	A.14	A.18	A.34	A.1-P.1	A.1-P.4	A.4-P.7
Number of alleged violations	1	2	2	47	3	36	9	22	4	3	38	2	2	4	1

Statistics of just satisfaction (pecuniary, non-pecuniary damage, costs and expenses) determined by the ECHR in 2022:

	Non-pecuniary damage	Costs and expenses	Total	Total (over the year)
<i>Just satisfaction as determined in judgments on the merits</i>	172,800 euro	21,219 euro	194,019 euro	527,969 euro
<i>Just satisfaction determined in decisions made on the basis of friendly settlements</i>	268,350 euro	25,850 euro	294,200 euro	
<i>Just satisfaction determined in decisions made on the basis of unilateral declarations</i>	38,000 euro	1,750 euro	39,750 euro	

AIHM IMPLEMENTATION OF JUDGMENTS OF THE ECHR ON AZERBAIJAN - 2022

Azerbaijan implemented 25 judgments of the ECHR in 2022, and the Committee of Ministers of the Council of Europe (CoE), which monitors the implementation of judgments, closed the supervision of the implementation of 25 judgments of the ECHR regarding Azerbaijan during one year.

On October 19, 2022, the CM of the CoE adopted a resolution on closing the supervision over the execution of judgments in the cases of Alakbarov and others and 16 other applicants v. Azerbaijan.⁵⁹ The mentioned court cases were related to various allegations of violations of liberty and security and property rights (various alleged violations of law in relation to detention and its excessive length; seizure of bank shares without formal charges, etc.). All individual measures related to the mentioned judgments have been implemented. The state of implementation of general measures is incomplete, their implementation will continue to be supervised within the framework of Farhad Aliyev, Gafgaz Mammadov and Mahmudov and Aghazade group cases.

With the resolution dated June 10, 2022, the supervision of the execution of the Court judgment in the case of Gudrat Agayev v. Azerbaijan was closed.⁶⁰ This lawsuit, which involved alleged violations of the right to a fair trial and property rights, was ended based on a friendly settlement between the parties. The implementation of the judgment meant only the implementation of individual measures.

With its resolution dated December 8, 2022, the CM closed the supervision of the execution of the judgment in Novruzlu and Azizov v. Azerbaijan case, which was under supervision within the framework of the Mammadov Group case.⁶¹ The Committee considered that the individual measures under this judgment have been

⁵⁹ <https://hudoc.exec.coe.int/ENG/?i=001-220795>

⁶⁰ <https://hudoc.exec.coe.int/ENG/?i=001-218350>

⁶¹ https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680a923df

implemented, and the supervision of the implementation of general measures will continue to be supervised in the light of other judgments included in the group. With its resolution dated December 8, 2022, the CM closed the supervision over the execution of the judgment in *Ismayilov v. Azerbaijan* case, which was under supervision within the framework of the *Namazov Group* case.⁶² The Committee considered that the individual measures under this judgment have been implemented, and the supervision of the implementation of general measures will continue in the light of other judgments included in the group.

Cases in which the status of implementation was checked by the Committee of Ministers of the Council of Europe in 2022

In addition to the judgments in relation to which the supervision of the execution was closed, the CM discussed the implementation status of 27 more judgments in 2022. The judgments under review were the judgments included in the *Mahmudov and Aghazade* group, the *Mammadli Group*, the *Khadija Ismayilova Group*, the *Namazov Group*, the *Ramazanova and Others Group*, and the judgments of *Sargsyan v. Azerbaijan*.

In the *A. Mammadli Group*, the implementation of 6 judgments of the ECHR regarding Azerbaijan is supervised. These judgments issued on the complaints of Anar Mammadli, Intigam Aliyev, Ibrahimov and Mammadov, Khadija Ismayilova (2), Arif and Leyla Yunus are related to their detention and deprivation of liberty until trial due to the applicants' active political and social participation, criticism of the government, human rights and election monitoring activities, and violations of Article 18 of the Convention were found in each of these cases.

Within the framework of the *K. Ismayilova Group*, the implementation of the 2 judgments of the ECHR on the complaints of K. Ismayilova is supervised. These judgments are related to the violation of the applicant's rights to personal integrity (dissemination of personal images) and freedom of expression related to her activity as a journalist. Within the framework of the *Mahmudov and Aghazade* group, the execution of 4 ECHR judgments related to Azerbaijan (*Tagiyev and Huseynov v. Azerbaijan*, *Fatullayev v. Azerbaijan*, *Mahmudov and Aghazade v. Azerbaijan*, *Ali Hasanov v. Azerbaijan*) is supervised. These judgments are related to the violation of the right to freedom of expression, the application of criminal penalties for defamation and the abolition of prison sentences for defamation.

Within the framework of the *Ramazanova and Others Group*, the implementation of at least 11 judgments of the ECHR regarding Azerbaijan is supervised. The number of applicants in these cases is more than 50. For example, there are 13 applicants in *Abdullayev and others v. Azerbaijan* case. The judgments included in the group are related to the registration of NGOs, the European Court recognized the violation of the right to association in all of the judgments. Within the framework of the *Namazov Group*, the execution of 3 judgments of the ECHR regarding Azerbaijan (the cases of *Elchin Namazov*, *Khalid Bagirov*, *Aslan Ismayilov* against Azerbaijan) is supervised. All 3 judgments are related to the disbarment of lawyers from the Azerbaijan Bar Association. The ECHR ruled in favor of the applicants who complained about their disbarment in these cases.

The judgment of *Sargsyan v. Azerbaijan* is related to the impossibility of access to the homes and properties of people who were forcibly displaced during the Nagorno-Karabakh conflict in 1992.

According to the indicators as of the end of 2022, 291 judgments issued by the ECHR regarding Azerbaijan are waiting to be executed. 238 of those judgments in the implementation stage are repeated cases, 53 of them are leading cases.

⁶² <https://hudoc.exec.coe.int/eng/?i=001-222180>

THIS ANALYSIS is about the activities of the European Court of Human Rights (ECHR) in 2022 related to Azerbaijan. In the analysis, all decisions and judgments adopted by the ECHR on applications sent from Azerbaijan during one year, as well as their brief description, were included. Violations and compensations determined by the ECtHR, applications communicated with the Government of Azerbaijan in one year are summarized in this document. Also, developments in the field of implementation of the judgments adopted by the ECHR regarding Azerbaijan in previous years were explained.

ECHR-Azerbaijan, 2022:

January, 2023

Annual analysis