



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

FIRST SECTION

CASE OF ZAYIDOV v. AZERBAIJAN (No. 3)

(Application no. 60824/08)

JUDGMENT

Art 6 § 1 (criminal) • Fair hearing • Applicant deprived of an effective opportunity to challenge reliability of key evidence against him, oppose its use and adduce evidence in his favour • Breach of applicant's right to a reasoned judgment • Domestic courts' failure to test and investigate applicant's consistent and serious allegations and to consider his evidence in this respect

STRASBOURG

19 January 2023

FINAL

19/04/2023

*This judgment has become final under Article 44 § 2 of the Convention.
It may be subject to editorial revision.*

In the case of Zayidov v. Azerbaijan (no. 3),

The European Court of Human Rights (First Section), sitting as a Chamber composed of:

Marko Bošnjak, *President*,
Péter Paczolay,
Krzysztof Wojtyczek,
Alena Poláčková,
Lətif Hüseynov,
Gilberto Felici,
Erik Wennerström, *judges*,

and Liv Tigerstedt, *Deputy Section Registrar*,

Having regard to:

the application (no. 60824/08) against the Republic of Azerbaijan lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by an Azerbaijani national, Mr Ganimat Salim oğlu Zayidov (*Qənimət Səlim oğlu Zayidov*) (“the applicant”), on 15 November 2008;

the decision to give notice to the Azerbaijani Government (“the Government”) of the complaints concerning Article 6 of the Convention and to declare inadmissible the remainder of the application;

the parties’ observations;

Having deliberated in private on 13 December 2022,

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

INTRODUCTION

1. The applicant complained that the criminal proceedings against him had been in breach of Article 6 §§ 1 and 3 (d) of the Convention because he had been convicted on the basis of unreliable and fabricated evidence; he had not been given an opportunity to effectively challenge that evidence and to adduce evidence in his favour; his right to a reasoned judgment had been violated; and he had not been able to examine a prosecution witness whose pre-trial statement had been read out in court and used against him.

THE FACTS

2. The applicant was born in 1963 and lives in France. He was represented by Mr R. Hajili (who was given leave by the President of the Section to represent the applicant in the proceedings before the Court (Rule 36 § 4 (a) *in fine* of the Rules of Court)) and Mr E. Sadigov, lawyers based in Strasbourg and Baku respectively.

3. The Government were represented by their Agent, Mr Ç. Əsgərov.

4. The facts of the case may be summarised as follows.

I. BACKGROUND INFORMATION

5. The applicant is a well-known journalist and the chief editor of *Azadlig* (*Azadliq*), a pro-opposition newspaper.

6. He is also a member of an opposition party, the Popular Front Party of Azerbaijan (*Azərbaycan Xalq Cəbhəsi Partiyası* – “the PFPA”). *Azadlig* was initially established by the PFPA, and after the newspaper became independent from the PFPA, it nevertheless continued to be closely connected with the party. For some time prior to the events complained of in the present case the party’s headquarters and *Azadlig* were located in a shared office.

II. THE APPLICANT’S ACCOUNT OF THE INCIDENT OF 7 NOVEMBER 2007

7. According to the applicant, on 7 November 2007 at around 3.30 p.m., he was approaching the entrance to the building of the Azerbaijan publishing house to go to work (at the material time *Azadlig* had its office in the same building). In front of the building, a woman who was talking on her mobile phone, whom he did not know and who later was identified as S.Q., turned to him and started shouting and swearing at him, accusing him of having insulted her. He replied that he was not insulting her and that she had to stop swearing. At that moment a man later identified as V.H. joined in. The man physically attacked the applicant and tried to punch and kick him. As a result, the applicant’s jacket was torn. The applicant defended himself by pushing the man, who fell to his knees. They were separated by a bystander. The physical altercation attracted attention and therefore the woman and the man hurriedly left the scene.

8. On the same day the applicant informed several media outlets, including *Azadlig* and *Yeni Musavat*, of the incident, and they then published his account of the events and his allegation that the attack on him had been set up by the authorities as a means of deterring him and punishing him for critical articles he had published in *Azadlig* (the applicant submitted to the Court a copy of an article published on 7 November 2007 on *Day.Az*, reporting his account of the incident and its alleged cause).

III. V.H.’S MEDICAL TREATMENT

9. It appears from the material in the case file that following the incident, V.H. went to a hospital, where he received first aid for a nosebleed, and then to another medical institution, the Clinical Medical Centre, where he was examined by a doctor, F.Z., and received inpatient treatment from 7 to 10 November 2007.

10. A medical report drawn up at the Clinical Medical Centre stated that V.H. had complained of a headache, dizziness and nausea, and that the

doctors who examined him had detected puffiness on both his cheeks and on his nose, a four-millimetre-long injury on his upper lip, and a haemorrhage (*qansızma*) in his right eardrum. According to the same medical report, V.H. underwent two X-ray examinations: the X-ray image obtained on 7 November 2007 did not reveal any fractures on V.H.'s nose, while the image obtained on 9 November 2007 revealed "an incomplete fracture" of V.H.'s right cheekbone.

11. On the basis of those examinations the medical report concluded that V.H. had suffered soft tissue injuries on his face, an injury to his upper lip, a closed brain injury, concussion, and an incomplete fracture of his right cheekbone.

IV. CRIMINAL INVESTIGATION AGAINST THE APPLICANT

A. V.H.'s complaint

12. On the day of the incident, 7 November 2007, V.H. lodged a complaint with the Yasamal District Police Office, alleging that at around 3.30 p.m. he had been beaten and insulted by a man whom he did not know.

13. Following V.H.'s complaint, the Yasamal District Police Office instituted criminal proceedings under Article 221.1 (hooliganism) of the Criminal Code.

14. In his statement to the investigator in charge of the case, V.H. stated that he had taken his acquaintance, S.Q., to the Azerbaijan publishing house by car. On their arrival, he had parked the car in front of the publishing house. S.Q. had crossed the street first and he had followed her. At that moment he had realised that a stranger was talking to S.Q. He had immediately approached the man, asking him in a normal way what the matter was, but the man in question had begun to insult him. When he (V.H.) had insulted him back, the man had physically attacked him by slapping him. He had slapped the man too. Then the man had headbutted and punched him, knocking him to the ground. As a result, his (V.H.'s) nose and mouth had started to bleed. They had been separated by S.Q. After that, he had first gone to the Yasamal District Police Office and informed the police about the incident, and then he had gone for medical assistance. The police officers had visited him at the Clinical Medical Centre and during that visit he had submitted his written complaint.

15. On 8 November 2007 V.H. informed the police that he had identified the man with whom he had been involved in the physical altercation the day before. V.H. said that it was the applicant and that he had identified him after seeing the applicant's photograph in a newspaper, *Yeni Musavat*.

16. The applicant was contacted and was asked to attend the Yasamal District Police Office.

17. On 10 November 2007 the investigator decided to investigate the incident in question also under Article 127.2.3 (deliberate infliction of moderate harm to health) of the Criminal Code.

B. Investigative measures against the applicant

18. On the day of the incident and the days that followed, the investigator questioned several witnesses, conducted identification parades in which the applicant participated, questioned the applicant and held face-to-face confrontations. He also ordered expert medical examinations of the applicant and V.H. and an expert examination of V.H.'s clothes.

1. Questioning of the applicant, S.Q. and eyewitnesses

19. S.Q., who was questioned on the day of the incident, confirmed V.H.'s statement. She stated that when she had been in front of the publishing house, a man whom she did not know had complimented her on her looks. She had rebutted his compliment, and the man had begun to insult her. At that moment a verbal altercation had occurred between her and the man. V.H. had been nearby and approached the man, asking him what the matter was. The man had also begun to insult V.H., and the verbal altercation had turned into a physical altercation between V.H. and the man. He had first slapped V.H., and when V.H. slapped the man back, the latter had headbutted and then punched V.H. As a result, V.H.'s nose and mouth had started to bleed. She had managed to separate the man and V.H. and helped the latter to leave the scene.

20. On 10 November 2007 the applicant was questioned. He gave the account of the incident as summarised above (see paragraph 7 above). The applicant stated in addition that he had not slapped, headbutted or punched V.H.

21. On the same day, 10 November 2007, face-to-face confrontations were carried out between the applicant and V.H., and between the applicant and S.Q. The applicant, V.H. and S.Q. reiterated their initial statements.

22. During the confrontation with V.H., the applicant remembered that he had met V.H. before and that V.H. used to be a member of the PFP; he confirmed this to the investigator and later to the trial court (see paragraph 47 below).

23. On the same day, 10 November 2007, the investigator questioned two eyewitnesses (A.I. and V.R.). Both testified that, while passing the scene in a car during a traffic jam, they had partially witnessed a physical altercation between two men on 7 November 2007 in front of the publishing house and that one of the men, who was older, tall, thin and wearing glasses, had punched the other man, who had been wearing a suit and a tie, in the mouth, knocking him to the ground and causing his mouth to bleed.

2. Identification parades

24. On the same day, 10 November 2007, the investigator carried out identification parades during which the above-mentioned eyewitnesses, A.I. and V.R., identified the applicant as the man who had punched the other man on the day of the incident. An identification parade was also organised for S.Q., in which she recognised the applicant.

3. Expert medical examination of V.H.

(a) Expert medical report no. 1024

25. V.H. was examined by a medical expert, apparently sometime between 9 and 11 November 2007. In his report (no. 1024) the expert stated that V.H. had bruises on his right cheekbone area, nose, left ear (the bruises measuring respectively seven by five centimetres, three by two and a half centimetres, and three by two centimetres) and lips, an injury on his upper lip, and no other injury (a copy of the report was not submitted to the Court and its date is not clear as in some official records it was indicated as 9 November 2007 and in one as 11 November 2007).

26. Referring to the above-mentioned medical report drawn up at the Clinical Medical Centre (see paragraphs 10-11 above), the expert also stated that V.H. had suffered a haemorrhage in his right eardrum, a closed brain injury, concussion and an incomplete fracture of his right cheekbone.

27. The expert report concluded that the injuries could have been inflicted by a blunt object; that the time of infliction of the injuries corresponded to the date indicated in the investigator's order, namely 7 November 2007; and that the injuries could be classified as causing "moderate harm to health" because they had long-term effects.

28. The applicant disputed expert report no. 1024. He argued in particular that the conclusions that V.H.'s injuries had caused moderate harm to his health and that he had an incomplete fracture of his right cheekbone were unreliable because the expert had not subjected V.H. to an X-ray examination.

29. Following the applicant's above-mentioned objections, the investigator ordered a new expert medical examination of V.H.

30. On 16 November 2007 the applicant also asked the investigator to carry out a visual examination of V.H.'s person (*şəxsi müayinə*) in the presence of a doctor and the applicant's lawyers, and to record the examination by video and photographs. The applicant argued that V.H.'s alleged injuries could not be classified as causing moderate harm to his health as they had not remained present for twenty-one days or more, which was the requirement under the relevant guidelines issued in 1999 by the Ministry of Healthcare.

31. On the same day the investigator decided to grant the applicant's request and ordered an examination of V.H.'s person. However, later, on

19 November 2007, the investigator did not conduct the examination on the ground that V.H. had refused to undergo it.

32. The applicant requested the investigator to ask the relevant court to order an examination of V.H.'s person. The investigator did not grant the request.

(b) New expert medical examination of V.H.

33. On 21 November 2007 V.H. was examined by medical experts (F.A., J.J. and J.A.). In a report issued on 23 November 2007 (report no. 205/2007), the experts stated that during the examination it had been established that, according to V.H., his right cheekbone was hurting him and that V.H. had a three-millimetre-long "flexile scar" (*hərəkətli çapıq*) on his upper lip and no other injury or trace of injury.

34. Referring to the above-mentioned medical report drawn up at the Clinical Medical Centre (see paragraphs 10-11 above), the X-ray image of 9 November 2007 (see paragraph 10 above), expert report no. 1024 (see paragraph 25 above) and a medical report of 12 November 2007 (mentioned in paragraph 44 below), the experts stated that there had been bruises on V.H.'s cheekbone areas, nose, left ear and lips, an injury on his upper lip, a haemorrhage in his right eardrum, a closed skull and brain injury, concussion and an incomplete fracture of his right cheekbone.

35. The experts noted that V.H. had refused to undergo an X-ray examination because he had already undergone such examinations on 7 and 9 November 2007. Consequently, when they had stated that V.H. had suffered an incomplete fracture of his right cheekbone, they had relied on the above-mentioned X-ray image of 9 November 2007.

36. Expert report no. 205/2007 concluded that V.H.'s injuries could have been inflicted by a blunt object, and that the time of infliction of the injuries corresponded to the date indicated in the investigator's order, namely 7 November 2007.

37. The report also concluded that the bruise to V.H.'s right cheekbone area and the incomplete fracture of the right cheekbone as attested by the above-mentioned X-ray image were injuries causing moderate harm to health – injuries with long-term effects – while his other injuries were to be classified as causing minor harm to health with short-term effects.

38. On 27 November 2007 the applicant familiarised himself with the report. He argued that it was forged and unreliable and insisted that V.H. be subjected to an X-ray examination or a computer tomography (CT) scan, with the applicant's lawyers observing. The investigator did not grant that request.

4. Expert examination of V.H.'s clothes

39. V.H.'s clothes were also examined, and an expert report (no. 196) issued on 23 November 2007 stated that there were bloodstains on some of those clothes which corresponded to V.H.'s blood type.

5. Expert medical examination of the applicant

40. The applicant was examined by medical experts on two occasions. Both of the reports drawn up on those occasions – report no. 1026 issued by the expert N.A. on 12 November 2007 and report no. 206/2007 issued by the experts F.A., J.J. and J.A. on 23 November 2007 – stated that there had been bruises at the hairline on the applicant's forehead and on his left upper arm, not causing harm to his health. The report concluded that the bruises could have been inflicted by a blunt object, and that the time of infliction of the injuries corresponded to the date indicated in the investigator's order, namely 7 November 2007.

C. Charges against the applicant and V.H. and their pre-trial detention

41. On 11 November 2007 the applicant was charged under Articles 127.2.3 (deliberate infliction of moderate harm to health) and 221.1 (hooliganism) of the Criminal Code.

42. On the same date the Yasamal District Court ordered the applicant's detention pending trial (the applicant's pre-trial detention was the subject of *Zayidov v. Azerbaijan* (no. 11948/08, 20 February 2014), in which the Court found a violation of Article 5 § 3 of the Convention).

43. V.H. was also charged with hooliganism under Article 221.1 of the Criminal Code for his actions during the incident in question and was detained pending his trial.

44. According to a medical report issued on V.H.'s admission to a detention facility on 12 November 2007, he had some bruises and slight puffiness on his right cheek and under his right eye, a scar on his upper lip, and an old bullet scar on his abdomen.

V. THE APPLICANT'S TRIAL

45. On 10 December 2007 the investigator prepared an indictment against the applicant and V.H., which was filed with the Yasamal District Court, following which the applicant's and V.H.'s trial began.

A. Arguments and requests submitted by the applicant to the trial court

46. At a preliminary hearing of the trial (first-instance) court (the Yasamal District Court) and during the examination of the case on the merits the applicant alleged that on 7 November 2007 he had been attacked, that during the incident he had not inflicted any injury on V.H., that the incident in question had been set up by the authorities, who wanted to frame him for critical articles he had published in *Azadlig* as a journalist and as chief editor, and that the ensuing criminal proceedings against him had been fabricated.

1. Arguments and requests relating to the reliability of the testimonies given by V.H., S.Q. and the eyewitnesses

47. The applicant argued in particular that there were several elements demonstrating that V.H. and S.Q. had cooperated with the authorities in order to frame him. Thus, contrary to his assertions, V.H. had known the applicant before the incident and been involved with the PFPA and *Azadlig*. Furthermore, V.H. had previously officially worked for the police. In addition, both V.H. and S.Q. had a criminal past, which gave the authorities the necessary “leverage” to induce the two to cooperate, possibly in exchange for favours.

48. The applicant also submitted to the court an open letter addressed by the organisation Human Rights Watch to the President of Azerbaijan in February 2007 reporting the eviction of *Azadlig* from its rented premises, violent attacks (stabblings) on *Azadlig* journalists, and criminal proceedings instituted against the applicant’s brother, who was also an *Azadlig* journalist (see *Sakit Zahidov v. Azerbaijan*, no. 51164/07, 12 November 2015), all of which had happened in 2006 and had allegedly been politically motivated.

49. Relying on those arguments, the applicant asked the trial court to examine V.H. and S.Q.’s background and seek additional evidence in that regard; to hear defence witnesses who would testify about V.H.’s prior connections with the applicant, the PFPA and *Azadlig* (the applicant submitted a list of such witnesses, including the names of H.K., S.H. and R.A.); to hear defence witnesses who would testify about S.Q.’s previous involvement in crime (the applicant asked the court to summon S.Q.’s uncle A.Q., sister M.Q., aunt N.Q. and brother-in-law E.Q.); and to seek a detailed list of telephone communications by V.H., S.Q., A.Ch., the investigator in charge of the case, and the chief of the Yasamal District Police Office during the period from 1 to 30 November 2007.

50. The applicant also alleged that the eyewitnesses were cooperating with the authorities in fabricating the criminal case against him. He submitted in particular that one of the eyewitnesses heard by the court, I.T. (see paragraph 62 below), had later given an interview to *Azadlig* in which he alleged that he had been taken to “the anti-banditry department” (that is the

Organised Crime Department of the Ministry of Internal Affairs), ill-treated, and forced to give false testimony against the applicant. The applicant asked the trial court to examine an audio recording made by a journalist during the interview and also to consider the article published in *Azadlig* (the applicant did not submit a copy of the article or the audio recording to the Court).

51. The trial court partially granted some of the applicant's above-mentioned requests. For example, a request for information was sent to the Ministry of Internal Affairs, in response to which the Ministry confirmed that between 2000 and 2004 V.H. had worked for the police.

52. Furthermore, the court heard some of the defence witnesses, namely H.K., S.H. and R.A. They testified that V.H. had previously been a member of the PFPA and visited the party's headquarters, an office shared by the PFPA and *Azadlig*. V.H. and the applicant had met before as V.H. had wanted to publish his poems in *Azadlig* and therefore he had been introduced to the applicant in a nearby coffee shop, but the applicant had refused to publish V.H.'s literary works. Later V.H. had been suspected of spying for the authorities and had therefore been removed from the membership of the party.

53. The court formally decided to grant the applicant's request regarding the telephone communications. However, it requested information only on whether, in the period from 1 to 7 November 2007, mutual calls had been made from the specified mobile phone numbers used by V.H., S.Q., and A.Ch. to two other specified mobile phone numbers (the latter numbers were apparently used by the investigator in charge of the case and the chief of the Yasamal District Police Office). The relevant mobile operator company replied that no such calls had been made and that the latter numbers belonged to a different mobile operator company.

54. As to the other above-mentioned requests made by the applicant (see paragraphs 49-50 above), the court refused to grant them, without providing any reasons or by summarily declaring that the requests were irrelevant.

2. Arguments and requests relating to the reliability of expert report no. 205/2007

55. The applicant also challenged the reliability of expert report no. 205/2007, which had determined the severity of the injuries allegedly suffered by V.H.. The applicant alleged that he had not inflicted on V.H. any injury, in particular any injury that could qualify as causing moderate harm to health within the meaning of Article 127.2.3 of the Criminal Code. In connection with the alleged bruise on V.H.'s right cheekbone area, the applicant argued that its classification in report no. 205/2007 as an injury causing moderate harm to health had been wrong because the bruise in question had no long-term effects, which was the requirement under the above-mentioned guidelines (see paragraph 30 above). In connection with the alleged fracture of V.H.'s right cheekbone (also classified as an injury causing moderate harm to health), the applicant argued that the experts who

issued report no. 205/2007 had not subjected V.H. to an X-ray examination. Neither had the expert who had issued report no. 1024. Instead, the experts had relied on the X-ray image allegedly obtained by V.H. on 9 November 2007 when he attended the Clinical Medical Centre. The applicant argued that that image was forged and most probably belonged to someone other than V.H.

56. Relying on those arguments, the applicant asked the trial court to summon and question F.Z., a doctor who had treated V.H. at the Clinical Medical Centre. He also asked for the above-mentioned X-ray image to be produced and examined in the court proceedings as the material in the case file did not contain that image and the defence had never had an opportunity to examine it. Furthermore, the applicant asked the trial court to order an X-ray examination or CT scan of V.H. He argued in that connection that an X-ray or alternative method of scanning could still be used to detect the alleged fracture because even a healed fracture would leave a trace.

57. The court refused to grant those requests. In refusing the applicant's request for an order for V.H. to undergo an X-ray examination or CT scan, the court relied on V.H.'s objection to an X-ray examination. The court did not provide reasons for its refusal to grant the other above-mentioned requests.

B. Witnesses questioned by the trial court

58. Apart from the above-mentioned witnesses (see paragraph 52 above), the Yasamal District Court heard a number of other witnesses during the examination of the case. The court also heard the applicant, V.H. and S.Q.

59. The applicant, V.H. and S.Q. gave testimonies which were similar to the statements they had given to the investigator (see paragraphs 14-15 and 19 above).

60. The eyewitness A.I. also gave testimony which was similar to the statements he had given to the investigator (see paragraph 23 above).

61. The eyewitness V.R. did not participate in the proceedings before the court. He sent a telegram to the court saying that he had been in Barda and had not been able to attend the hearing owing to illness and that he confirmed his earlier testimonies, and he asked the court to hold the hearing in his absence. The court asked the Barda District central clinic whether V.R. was being treated there and what his diagnosis was. Apparently, no response to that request was received. Eventually, the court relied on the statements V.R. had given at the pre-trial stage of the proceedings (see paragraph 23 above).

62. Another eyewitness, I.T., for whom no identification parade had been organised, also gave testimony before the first-instance court. He stated that, while passing the scene in his taxi during a traffic jam, he had partially witnessed a physical altercation between two men on 7 November 2007 in front of the publishing house, and that one of the men, who was taller and

wearing glasses, had punched the other man, who wore a suit and a tie, in the mouth and knocked him to the ground. I.T. also stated that he had later recognised the applicant from one of two photographs presented to him by the investigator.

63. V.H.'s cousin, N.H., testified that on 7 November 2007 he had visited V.H. in the Clinical Medical Centre and had seen that the latter's nose was puffy and that he had bloodstains on his clothes. V.H.'s friend, A.Ch., testified that on 7 November 2007 N.H. had called and told him about the incident.

64. Police officers G.H. and M.D. testified that they had seen the applicant on 7 November 2007 in a distressed state and that the applicant had informed them that he had a quarrel with unknown woman and man. Police officers A.A. and I.M. testified that on 7 November 2007 they had seen V.H. "in an unwell state" (according to A.A.), with his mouth and nose injured and his clothes bloodstained (according to I.M.). Police officer E.H. testified that he had heard about the incident from his colleagues G.H. and M.D.

65. An official of the Ministry of Justice, M.A., confirmed that V.H. had been convicted previously on two occasions and had yet to serve his sentences (he still had to serve a term of one year and three months' imprisonment and pay a fine as a punishment). M.A. also testified in that regard that in 2006 V.H. had been allowed to serve the remaining period of imprisonment for his previous crime in an open penal facility (*məntəqə tipli cəzaçəkmə müəssisəsi*) and in February 2007 he had been allowed to live with his family outside the penal facility.

66. The experts N.A., F.A. and J.A. confirmed the result of their respective reports (see paragraphs 33-37 and 40 above).

67. It appears from the material submitted to the Court that the X-ray image allegedly obtained at the Clinical Medical Centre on 9 November 2007 had disappeared from the criminal case file in unclear circumstances and on an unknown date, before the trial court could examine it. In response to the defence's questions in that regard, the expert F.A. stated that, at the time of the preparation of report no. 205/2007, the case file had contained the X-ray image in question, on which the experts had relied in their findings.

C. The applicant's conviction and his appeals

68. On 7 March 2008 the Yasamal District Court convicted the applicant as charged and sentenced him to six months' imprisonment for hooliganism and three years and six months' imprisonment for deliberate infliction of moderate harm to health (consequently, his final sentence amounted to four years' imprisonment). In finding the applicant guilty the court relied on above-mentioned expert reports nos. 205/2007, 196, 1026 and 206/2007 (see paragraphs 33-37 and 39-40 above) and on the testimonies summarised above in paragraphs 59-64. Expert report no. 1024 summarised in paragraphs 25-28

above was not used by the prosecution as evidence against the applicant and was not relied on by the Yasamal District Court.

69. The court also convicted V.H. and sentenced him to six months' imprisonment for hooliganism (considering his unserved previous conviction, V.H. was therefore liable to serve a term of one year and six months' imprisonment and to pay a fine).

70. The applicant appealed against the judgment. He reiterated his earlier arguments and complained about the Yasamal District Court's refusal to grant his requests. He reiterated in particular that there were several elements demonstrating that V.H., S.Q. and the eyewitnesses had cooperated with the authorities in order to frame him, that the X-ray image allegedly obtained by V.H. on 9 November 2007 was missing from the criminal case-file, that the experts who had issued report no. 205/2007 had not subjected V.H. to X-ray examination and had classified the alleged bruise on V.H.'s right cheekbone area as an injury causing moderate harm to health despite the fact that it had disappeared by 21 November 2007, leaving no detectable trace, whereas, according to the guidelines issued by the Ministry of Healthcare, an injury was regarded as causing moderate harm to health if its effects remained for twenty-one days or more. The applicant also lodged his requests again (in particular, his requests for questioning of F.Z. and I.T., an alternative expert examination of V.H.'s alleged cheekbone fracture, and an examination of V.H. and S.Q.'s telephone communications).

71. The Court of Appeal decided to examine the applicant's appeal "without judicial investigation" (*məhkəmə istintaqını aparmadan*) and without seeking additional evidence: that is, to consider the case only on the basis of the material in the case file, and without, *inter alia*, rehearing the witnesses or summoning new ones.

72. On 13 May 2008 the Court of Appeal dismissed the applicant's appeal and upheld the judgment of the Yasamal District Court.

73. The applicant lodged a cassation appeal, reiterating his earlier complaints. In addition, the applicant submitted an article published on 8 July 2008 on the *Radio Liberty* website reporting that the Ministry of Internal Affairs had confirmed that S.Q. had been on a list of wanted people and that later in 2001 she had been arrested.

74. On 26 August 2008 the Supreme Court dismissed the appeal as unfounded and upheld the judgments of the lower courts.

VI. FURTHER DEVELOPMENTS

75. The applicant was released from serving the remainder of his sentence by a presidential pardon granted on 17 March 2010.

RELEVANT LEGAL FRAMEWORK

76. The relevant parts of Article 221 of the Criminal Code, as in force at the material time, provided as follows:

Article 221. Hooliganism

“221.1. Hooliganism, that is to say, deliberate actions which seriously breach public order, display a manifest disrespect for society accompanied by the use of violence against citizens or the threat of its use, or by damage to or destruction of the property of others -

shall be punishable by 160 to 200 hours of community service, or by corrective labour for a term of up to one year, or by imprisonment for a term of up to one year.”

77. The relevant parts of Article 127 of the Criminal Code, as in force at the material time, provided as follows:

Article 127. Deliberate infliction of moderate harm to health

“127.1. Deliberate infliction of moderate harm (*az ağır zərər*) to health, which did not endanger the victim’s life and did not entail any of the consequences specified by Article 126 of the present Code [(namely the Article which provides for criminal responsibility for deliberate infliction of serious harm to health)], but which caused a long-term deterioration of health or significant loss of working capacity by less than a third -

shall be punishable by corrective labour for a term of up to two years, or by restriction of liberty for the same term, or by imprisonment for a term of up to two years.

127.2. Commission of the same act:

...

127.2.3. in a publicly dangerous way or with hooligan intent -

shall be punishable by imprisonment for a term of up to five years.”

78. According to the relevant guidelines issued by the Ministry of Healthcare on 8 February 1999, an injury was classified as causing moderate harm to health if its effects remained for twenty-one days or more.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

79. The applicant complained that the criminal proceedings against him had been in breach of Article 6 §§ 1 and 3 (d) of the Convention because he had been convicted on the basis of unreliable and fabricated evidence, and because he had not been given an effective opportunity to challenge that evidence and to adduce evidence in his favour, his right to a reasoned judgment had been violated, and he had not been able to examine a

prosecution witness whose pre-trial statement had been read out in court and used against him. The relevant part of Article 6 of the Convention reads:

“1. In the determination of ... any criminal charge against him, everyone is entitled to a fair ... hearing ... by [a] ... tribunal ...

3. Everyone charged with a criminal offence has the following minimum rights:

...

(d) to examine or have examined witnesses against him ...”

A. Admissibility

80. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

81. The applicant submitted that there had been several elements demonstrating that V.H., S.Q. and the eyewitnesses who had given the main testimonies against him had cooperated with the authorities in fabricating the criminal case. He argued that, contrary to V.H.'s assertions, V.H. had known the applicant before the incident and had been involved with the PFPA and *Azadlig*. Furthermore, V.H. had previously officially worked for the police. In addition, both V.H. and S.Q. had a criminal past, which gave the authorities the necessary “leverage” to induce them to cooperate. Furthermore, one of the eyewitnesses, I.T., had given an interview to *Azadlig* in which he had alleged that he had been ill-treated and forced to give false testimony against the applicant. Nevertheless, the applicant had not been given an effective opportunity to challenge the statements given by V.H., S.Q. and the eyewitnesses because the domestic courts had ignored the relevant evidence and requests submitted by the applicant in that regard.

82. The applicant also submitted that expert report no. 205/2007, which constituted the other important evidence against him, was unreliable. He argued in particular that the experts had never subjected V.H. to an X-ray examination and that in determining the existence of the alleged cheekbone fracture they had relied on the X-ray image obtained privately by V.H. That image had never been disclosed to the defence or examined in court. In addition, the applicant had not been given an effective opportunity to challenge expert report no. 205/2007 or to adduce expert evidence in support of his arguments, because the relevant requests lodged by him had not been granted by the domestic courts, in breach of the principles of equality of arms and adversarial proceedings.

83. Lastly, the applicant argued that he had been unable to examine V.R., a prosecution witness whose pre-trial statement had been read out in court and used against him.

84. The Government submitted that the trial court had thoroughly considered the applicant's requests and dismissed them, giving proper reasoning.

85. The Government also argued that since expert report no. 205/2007 had been disclosed to the applicant, he should have been able to examine the X-ray images of V.H. that had been used in preparing that report. Furthermore, most of the experts whose attendance the applicant had requested had attended the court and had been examined during the domestic court hearings.

86. The Government lastly submitted that V.R. had been summoned to the trial court hearing as a witness, but had not appeared because he had been in Barda, situated about 230 kilometres from Baku, and had been ill. V.R. in his telegram had confirmed his earlier testimonies and asked the court to hold hearings in his absence. Furthermore, when V.R. had been questioned as witness in the Yasamal District Police Station on 10 November 2007 he had been duly notified about liability for giving false statements as provided by Article 297 of the Criminal Code.

2. *The Court's assessment*

(a) **Applicable principles**

87. While Article 6 guarantees the right to a fair hearing, it does not lay down any rules on the admissibility of evidence as such, which is primarily a matter for regulation under national law (see, among many other authorities, *Moreira Ferreira v. Portugal (no. 2)* [GC], no. 19867/12, § 83, 11 July 2017).

88. It is not, therefore, the role of the Court to determine, as a matter of principle, whether particular types of evidence – for example, evidence obtained unlawfully in terms of domestic law – may be admissible. The question that must be answered is whether the proceedings as a whole – including the way in which the evidence was obtained – were fair. This involves an examination of the alleged unlawfulness in question and, where the violation of another Convention right is concerned, the nature of the violation found (see, among many other authorities, *Lisica v. Croatia*, no. 20100/06, § 48, 25 February 2010).

89. In determining whether the proceedings as a whole were fair, regard must also be had to whether the rights of the defence have been respected. In particular, it must be examined whether the applicant was given an opportunity to challenge the authenticity of the evidence and to oppose its use. In addition, the quality of the evidence must be taken into consideration, as must the circumstances in which it was obtained and whether these circumstances cast doubt on its reliability or accuracy. While no problem

regarding fairness necessarily arises where the evidence obtained was unsupported by other material, it may be noted that where the evidence is very strong and there is no risk of its being unreliable, the need for supporting evidence is correspondingly weaker (see, among many other authorities, *Bykov v. Russia* [GC], no. 4378/02, § 90, 10 March 2009). In this connection, the Court also attaches weight to whether the evidence in question was or was not decisive for the outcome of the criminal proceedings (see, among many others, *Vukota-Bojić v. Switzerland*, no. 61838/10, § 95, 18 October 2016).

90. The Court also reiterates that the concept of a fair hearing within the meaning of Article 6 § 1 of the Convention includes the principle of equality of arms, which requires a “fair balance” between the parties: each party must be afforded a reasonable opportunity to present their case under conditions that do not place them at a disadvantage *vis-à-vis* their opponent (see, among many other authorities, *Faig Mammadov v. Azerbaijan*, no. 60802/09, § 19, 26 January 2017).

91. Although Article 6 does not go as far as requiring that the defence be given the same rights as the prosecution in taking evidence, the accused should be entitled to seek and produce evidence “under the same conditions” as the prosecution. Clearly, those “conditions” cannot be exactly the same in all respects; thus, for example, the defence cannot have the same search and seizure powers as the prosecution. However, as can be seen from the text of Article 6 § 3 (d), the defence must have an opportunity to conduct an active defence – for example, by calling witnesses on its behalf or adducing other evidence (see *Khodorkovskiy and Lebedev v. Russia*, nos. 11082/06 and 13772/05, § 728, 25 July 2013).

92. The principle of equality of arms is also relevant in matters relating to the appointment of experts in proceedings (see *Khodorkovskiy and Lebedev v. Russia* (no. 2), nos. 42757/07 and 51111/07, § 499, 14 January 2020). The mere fact that the experts in question are engaged by one of the parties does not suffice to render the proceedings unfair. Although this fact may give rise to apprehension as to the neutrality of those experts, such apprehension, while having a certain importance, is not decisive. What is decisive, however, is the position occupied by the experts throughout the proceedings, the manner in which they performed their functions and the way the judges assessed the opinion presented by those experts. In ascertaining the experts’ procedural position and their role in the proceedings, the Court takes into account the fact that the opinion given by any court-appointed expert is likely to carry significant weight in the court’s assessment of the issues within that expert’s competence (see *Shulepova v. Russia*, no. 34449/03, § 62, 11 December 2008, and *Poletan and Azirovik v. the former Yugoslav Republic of Macedonia*, nos. 26711/07 and 2 others, § 94, 12 May 2016).

93. Within the context of expert evidence, the rules on its admissibility must not deprive the defence of the opportunity to challenge it effectively – in particular by obtaining and filing alternative opinions and reports. In

certain circumstances, refusal to allow an alternative expert examination of material evidence may be regarded as a breach of Article 6 § 1 (see *Stoimenov v. the former Yugoslav Republic of Macedonia*, no. 17995/02, §§ 38 et seq., 5 April 2007, and *Matytsina v. Russia*, no. 58428/10, § 169, 27 March 2014).

94. The Court also reiterates that according to established case-law reflecting a principle linked to the proper administration of justice, judgments of courts and tribunals should adequately state the reasons on which they are based. While courts are not obliged to give a detailed answer to every argument raised, it must be clear from the decision that the essential issues of the case have been addressed and that a specific and explicit reply has been given to the arguments which are decisive for the outcome of the case (see, among other authorities, *Karimov and Others v. Azerbaijan*, nos. 24219/16 and 2 others, § 29, 22 July 2021). Moreover, in cases relating to interference with rights secured under the Convention, the Court seeks to establish whether the reasons provided for decisions given by the domestic courts are automatic or stereotypical (see *Moreira Ferreira*, cited above, § 84). An issue with regard to a lack of reasoning in judicial decisions under Article 6 § 1 of the Convention will normally arise when the domestic courts have ignored a specific, pertinent and important point raised by the applicant (see *Nechiporuk and Yonkalo v. Ukraine*, no. 42310/04, § 280, 21 April 2011; *Rostomashvili v. Georgia*, no. 13185/07, § 59, 8 November 2018; and *Zhang v. Ukraine*, no. 6970/15, § 73, 13 November 2018).

(b) Application of the above-mentioned principles in the present case

(i) The main issues to be examined

95. The Court notes at the outset that the applicant did not dispute, either in the domestic proceedings or before the Court, the fact that on 7 November 2007 he had had a verbal and physical altercation with V.H. The essence of his complaint before the Court is that he was denied an effective opportunity to challenge key pieces of evidence used against him and to demonstrate that the incident in question had been set up by the authorities, who had sought to frame him because of his activity as a journalist and as the chief editor of *Azadlig*, and that the ensuing criminal proceedings against him had been fabricated (see paragraph 46 above).

96. In this regard, the Court notes that several pieces of evidence played a crucial role in the applicant's conviction. Firstly, on the basis of the statements by V.H. and S.Q., the domestic courts concluded that it was the applicant who had started the incident and that V.H. had acted in response to the applicant's aggression. Another key piece of evidence against the applicant was the statements of three eyewitnesses who testified that they had seen the moment the applicant had allegedly punched V.H. in the mouth. Lastly, on the basis of expert report no. 205/2007 the courts concluded that the applicant had fractured V.H.'s right cheekbone and bruised his face on

the same area, and that both the fracture and the bruise constituted injuries causing moderate harm to health. The experts' findings in that regard played a decisive role in the classification of the offence as "deliberate infliction of moderate harm to health", of which the applicant was convicted under Article 127.2.3 of the Criminal Code, since the remaining injuries were described as being of a minor nature.

97. Consequently, in order to assess the applicant's complaints and the fairness of the criminal proceedings as a whole, the Court will examine whether, as alleged by the applicant, the domestic courts disregarded without reasoning clear elements that cast doubt on the reliability of the above-mentioned key pieces of evidence, whether the domestic courts gave sufficient reasons for their decisions in respect of the applicant's challenges to the key incriminating evidence and his requests for the collection of other evidence and, in general, whether the applicant was given an effective opportunity to challenge the reliability of the incriminating evidence and to adduce evidence in support of his arguments.

(ii) The manner in which the domestic authorities dealt with the reliability of the testimonies given by V.H., S.Q. and the eyewitnesses

98. The applicant attempted to contest the reliability of the statements given against him by V.H., S.Q. and the eyewitnesses. He argued that they had cooperated with the authorities in fabricating the criminal case against him and that the reason was his work as a journalist and as chief editor of a pro-opposition newspaper, *Azadlig*.

99. To support his argument, he provided evidence that V.H.'s assertions that he had not known the applicant before the incident were false and that V.H. had met the applicant in the past and had been involved with *Azadlig* and the PFPA – the opposition political party closely connected with *Azadlig* (see paragraphs 47 and 52 above). The applicant also wanted to submit evidence that one of the eyewitnesses, I.T., had admitted to having been ill-treated and intimidated into giving false testimony against the applicant (see paragraph 50 above). Despite the seriousness of the applicant's allegations, the court ignored or refused to consider this and other evidence in favour of the applicant's argument, without providing any adequate and clear reasons. The Court emphasises in that regard that the statements given by H.K., S.H. and R.A. cast doubt on the reliability of V.H.'s account of the events because they demonstrated that the latter had not been truthful when he had claimed that he had not known the applicant and simply recognised him in a photograph published in *Yeni Musavat* newspaper. Those statements also demonstrated that V.H. had tried to conceal that he used to be a member of the same political party as the applicant and had visited the shared office of the party and *Azadlig*. As to the applicant's allegations that the eyewitness I.T. had been ill-treated and forced to testify against the applicant, those allegations merited particularly vigorous examination. If true, they could also

have cast doubt on the reliability of the other two eyewitnesses who had given almost word for word identical statements about the incident of 7 November 2007 (see paragraphs 23 and 62 above). In addition, while the trial court granted the applicant's request to obtain information on whether V.H. used to be a police officer, it failed to comment on that fact once it was established (see paragraph 51 above).

100. Furthermore, to prove his argument that V.H. and S.Q. had cooperated with the authorities in fabricating the criminal case against him, the applicant asked the trial court to collect other relevant evidence (see paragraph 49 above). Nevertheless, without providing clear reasons, the court either did not grant the requests (see paragraph 54 above) or, despite formally granting them, failed to follow what was actually requested by the applicant (see paragraph 53 above).

(iii) The manner in which the authorities dealt with the reliability of expert report no. 205/2007

101. The Court notes that following the applicant's objections concerning expert report no. 1024 the investigator in charge of the case ordered a new expert medical examination of V.H. (see paragraph 29 above) and, once a new report was produced, the initial report no. 1024, criticised by the applicant for significant flaws, was not used in the criminal proceedings against him (see paragraph 68 above). It follows that the authorities did take into account the applicant's challenge to a key piece of evidence and discarded it.

102. However, the applicant alleges in essence that the above did not have any significant effect on the fairness of the trial since the authorities disregarded his relevant arguments regarding the flaws of the second expert report, no. 205/2007, which was relied upon by the courts to convict him.

103. The Court notes in this regard that report no. 205/2007 contained, *inter alia*, two major conclusions which, as it was mentioned earlier, played a crucial role in the applicant's conviction and was in the nature of incriminating evidence (compare *Fatullayev v. Azerbaijan* (no. 2), no. 32734/11, § 96, 7 April 2022, and *Stoimenov*, cited above, §§ 38-42). The report stated, firstly, that V.H. had suffered an incomplete fracture of his right cheekbone and a bruise on the same area of his face; and, secondly, that both the fracture and the bruise constituted injuries causing moderate harm to health – that is injuries with long term effects (see paragraph 37 above).

104. The applicant challenged the reliability of those conclusions before the domestic authorities and presented arguments in that regard which were far from being irrelevant or insignificant. He argued in particular that the experts had never conducted an X-ray examination on V.H., that the X-ray image obtained by V.H. privately could have been forged (specifically that it could have belonged to someone else), and that the material in the case file did not contain that image, which had disappeared in unclear circumstances

thus preventing the defence from examining it and commenting on it (see paragraphs 55-56 above). He asked the trial court to summon and question F.Z., a doctor who had treated V.H. at the Clinical Medical Centre, where the latter had allegedly undergone an X-ray examination and to demand and examine the X-ray image missing from the criminal case file (see paragraph 56 above). In that connection the Court notes that when they concluded that V.H. had suffered a fracture of his cheekbone the experts who issued report no. 205/2007 relied not on their own examination of V.H., but on the X-ray image in question. As that image was obtained by V.H. in a medical institution which was not an official expert agency, the applicant's doubts about its authenticity required an answer. However, the trial court ignored the applicant's above-mentioned arguments and requests regarding that image, without any adequate and clear reason (see paragraph 57 above). The court did not explain why it refused to summon and question F.Z., who could have testified to the circumstances in which V.H. had allegedly undergone an X-ray examination. Furthermore, the court did not give a clear explanation as to why it had not demanded the X-ray image in question from the prosecution, despite the applicant's request for the image to be produced and examined. It appears that the X-ray image in question had disappeared from the criminal case file in unclear circumstances, on an unknown date before the trial court could see it (see paragraph 67 above). Nevertheless, the court failed to explain the reason why the fact that the image in question had been obtained by V.H. privately and not by the experts and had disappeared in unclear circumstances should not lead to the application of the *in dubio pro reo* principle, which requires that the benefit of any doubt about the reliability of evidence should be given to the defendant (see *Fatullayev (no. 2)*, cited above, § 99, and, *mutatis mutandis*, *Ilgar Mammadov v. Azerbaijan (no. 2)*, no. 919/15, § 232, 16 November 2017).

105. The applicant moreover asked the trial court to order new expert examinations of V.H. and argued that an X-ray or alternative method of scanning could still be used to detect the alleged fracture because even a healed fracture would leave a trace (see paragraph 56 above). The trial court's refusal to grant that request on the basis of V.H.'s objection to an X-ray examination was not accompanied by reasoning on the possibility to use an alternative method if V.H.'s objection was due to his concern about being exposed to strong radiation question (see paragraph 57 above). In any event, the trial court did not explain why it considered that the initial X-ray image remained a reliable piece of incriminating evidence despite V.H.'s refusal to undergo a verifying examination.

106. The applicant also argued (see paragraph 55 above) that the alleged bruise on V.H.'s right cheekbone area could not qualify as an injury causing moderate harm to health. In that connection the Court notes that the experts who had issued report no. 205/2007 had given the above-mentioned classification to the bruise in question despite the fact that by 21 November

2007 – that is around fourteen days after its alleged infliction – that bruise had disappeared, leaving no detectable trace (see paragraph 33 above), whereas, according to the relevant guidelines issued by the Ministry of Healthcare, an injury was regarded as causing moderate harm to health only if its effects remained for twenty-one days or more (see paragraph 78 above). Apparently, the only ground for that classification was the fact that during his examination on 21 November 2007 V.H. said that “his right cheekbone was hurting” (see paragraph 33 above). While it is not the Court’s role to replace the domestic authorities in the assessment of evidence, it is relevant to note that the trial court failed to address the applicant’s arguments concerning the reliability of the above-mentioned conclusion made in report no. 205/2007.

(iv) The manner in which the courts dealt with the applicant’s appeals

107. The Court notes that the higher courts in their turn failed to examine the applicant’s complaints about the way the trial court had treated his arguments and requests (see paragraphs 70-74 above).

(c) Conclusion

108. In view of the above, the Court considers that the applicant was deprived of an effective opportunity to challenge the reliability of the key pieces of evidence against him (namely report no. 205/2007 and the statements given by V.H., S.Q., and the eyewitnesses), to oppose their use in the domestic proceedings, and to adduce evidence in his favour. In addition, when refusing to grant most of the applicant’s requests in that regard, the domestic courts breached his right to a reasoned decision. Despite the consistency and seriousness of the allegations made by the applicant, the domestic courts failed to test and investigate them in accordance with the principles of equality of arms and adversarial proceedings.

109. The Court also notes that the domestic courts simply ignored the applicant’s above-mentioned allegations and did not take into consideration any evidence in that regard presented by him (including such contextual evidence as the applicant’s work as a journalist and the chief editor of *Azadlig*, and the reports about violent attacks on other journalists from that newspaper (see paragraph 48 above)).

110. There has accordingly been a violation of the applicant’s right to a fair trial as protected by Article 6 § 1 of the Convention.

111. In view of the above findings, the Court considers that there is no need to examine whether the applicant’s right to a fair trial was also breached on account of the fact that he had been unable to examine V.R., a prosecution witness whose pre-trial statement was read out in court, allegedly contrary to Article 6 § 3 (d) of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

112. Article 41 of the Convention provides:

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

A. Damage

113. The applicant claimed 54,500 euros (EUR) in total in respect of pecuniary damage. He argued in that connection that as a result of his twenty-eight months’ imprisonment he had lost his salary amounting to 47,600 Azerbaijani manats (AZN), equivalent to EUR 39,000, and that his family had spent EUR 15,500 in order to support him in prison. In support of his claim the applicant submitted a certificate issued by *Azadlig* stating that the applicant’s monthly salary in 2006 and 2007 had been AZN 1,700 (equivalent to approximately EUR 1,350 at the material time).

114. The applicant also claimed EUR 50,000 in respect of non-pecuniary damage.

115. The Government argued that the applicant’s claims in respect of pecuniary damage were unsubstantiated as he had failed to submit any evidence. Furthermore, AZN 47,600 constituted the equivalent of approximately EUR 24,320. With respect to the allegation that the applicant’s family had incurred expenses in order to support him in prison, the Government also argued that the prison system was State-funded, providing prisoners with the necessary healthcare, food and security, and recreation and education opportunities. Consequently, any amount allegedly spent by the applicant’s family had been voluntary (optional) and not necessary.

116. The Government also argued that the applicant’s claim in respect of non-pecuniary damage was excessive. They asked the Court to adopt a strict approach in respect of the claims.

117. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim.

118. However, ruling on an equitable basis, the Court awards the applicant EUR 4,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

119. The applicant also claimed EUR 6,400 in respect of the costs and expenses incurred before the domestic courts and the Court. In support of his claim, he submitted a contract signed with Mr R. Hajili and Mr E. Sadigov. The applicant submitted that he had not yet honoured that contract and was still under an obligation to pay the lawyers for their services.

120. The Government submitted that the applicant's claims for costs and expenses were unsubstantiated, and that it could not be established whether they had been actually incurred. The Government asked the Court to adopt a strict approach in respect of the claims.

121. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 2,000 covering costs under all heads, plus any tax that may be chargeable to the applicant.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
3. *Holds* that there is no need to examine the merits of the applicant's complaint under Article 6 § 3 (d) of the Convention;
4. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
 - (i) EUR 4,000 (four thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 2,000 (two thousand euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

ZAYIDOV v. AZERBAIJAN (No. 3) JUDGMENT

Done in English, and notified in writing on 19 January 2023, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt
Deputy Registrar

Marko Bošnjak
President