



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

THIRD SECTION

CASE OF ALASGAROV AND OTHERS v. AZERBAIJAN

(Application no. 32088/11)

JUDGMENT *(Just satisfaction)*

Art 34 • *Locus standi* • Court informed after the delivery of the principal judgment of the death of several applicants prior to its adoption • Heirs with legitimate interest to pursue the application in the deceased applicants' stead
Art 41 • Just satisfaction • Removal of all obstacles unlawfully restricting the applicants' free access to their land in violation of Art 1 P1 constituting most appropriate redress • Awards for pecuniary damage, in the absence of information on the value of the plots of land as of the date the situation complained of began, calculated on the basis of the value indicated in the certificates attached to the original title deeds • Awards for non-pecuniary damage

Prepared by the Registry. Does not bind the Court.

STRASBOURG

18 February 2025

FINAL

18/05/2025

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

In the case of Alasgarov and Others v. Azerbaijan,

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

Ioannis Ktistakis, *President*,

Lətif Hüseynov,

Darian Pavli,

Oddný Mjöll Arnardóttir,

Diana Kovatcheva,

Úna Ní Raifeartaigh,

Mateja Đurović, *judges*,

and Milan Blaško, *Section Registrar*,

Having deliberated in private on 21 January 2025,

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

PROCEDURE

1. The application concerns the alleged unlawful interference by the State authorities with the applicants' peaceful enjoyment of their possessions.

2. In a judgment delivered on 10 November 2022 ("the principal judgment"), the Court held that the erection of a wall by the State authorities around the applicants' plots of land restricted their free access to their land and constituted an interference with the applicants' peaceful enjoyment of their possessions. The Court concluded that the interference could not be considered "lawful" within the meaning of Article 1 of Protocol No. 1 to the Convention and that, consequently, there had been a violation of that Article. It further held that there was no need to give a separate ruling on the admissibility and merits of the applicants' complaint under Article 6 of the Convention (see *Alasgarov and Others v. Azerbaijan*, no. 32088/11, §§ 39, 46-47 and 49, and points 3 and 4 of the operative provisions, 10 November 2022).

3. The applicants sought just satisfaction under Article 41 of the Convention (*ibid.*, § 51). However, since the question of the application of Article 41 of the Convention was not ready for decision, the Court reserved it and invited the Government and the applicants to submit, within three months from the date of the judgment becoming final, their written observations on that issue and, in particular, to notify the Court of any agreement they might reach (*ibid.*, § 53 and point 5 of the operative provisions). The parties were also requested to submit a duly substantiated expert valuation of the applicants' plots of land in case they failed to settle the matter.

4. The parties did not reach an agreement on just satisfaction within the time allocated for that purpose. The applicants and the Government filed observations, which were transmitted to the other party for comment.

5. Following the delivery of the principal judgment, the applicants' representative made the following submissions.

(a) Mr Alasgar Alasgarov (applicant no. 1; see the appended table) had died on 3 November 2012. Applicants nos. 3 and 4, his grandchildren, and Ms Seadet Alasgarova, his daughter-in-law, had expressed their wish to pursue the application in the deceased applicant's stead.

(b) Ms Zuleykha Gadirova (applicant no. 9) had died on 21 May 2021. Applicants nos. 8 and 10-12, her spouse and children, had expressed their wish to pursue the application in the deceased applicant's stead.

(c) Mr Naghi Naghiyev (applicant no. 13) had died on 25 January 2021. Applicants nos. 14-16, his children, had expressed their wish to pursue the application in the deceased applicant's stead.

(d) Mr Aydin Ramazanov (applicant no. 17) had died on 12 June 2015. Applicants nos. 18-21, his spouse and children, had expressed their wish to pursue the application in the deceased applicant's stead.

6. The Government did not submit any comments in respect of the above-mentioned submissions.

THE LAW

I. PRELIMINARY ISSUES

7. Having regard to its case-law on the matter (compare *Hadjithomas and Others v. Turkey*, no. 39970/98, § 14, 22 September 2009, and *Bittó and Others v. Slovakia* (just satisfaction), no. 30255/09, § 7, 7 July 2015, with further references) and the documents in its possession, the Court accepts that applicants nos. 3 and 4 and Ms Seadet Alasgarova have a legitimate interest to pursue the application in Mr Alasgar Alasgarov's stead.

8. The Court further accepts that applicants nos. 8 and 10-12 have a legitimate interest to pursue the application in Ms Zuleykha Gadirova's stead, and that applicants nos. 14-16 have a legitimate interest to pursue the application in Mr Naghi Naghiyev's stead.

9. As to Mr Aydin Ramazanov, who died in 2015, the Court observes that it has already held in the principal judgment that Ms Kifayet Jafarova (applicant no. 18), had a legitimate interest in pursuing the application in the late applicant's stead (see §§ 24-25 of the principal judgment). In the absence of any arguments to the contrary, bearing in mind that the deceased applicant's children are themselves applicants in the present application, and in view of its conclusion below as to the award being made jointly to members of the same family (see paragraphs 20 and 23 below), the Court sees no ground to revisit this issue in the present judgment.

II. ARTICLE 41 OF THE CONVENTION

10. 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. Pecuniary damage

The parties' submissions

11. In their initial submissions, applicants nos. 1-4 and 8-21 claimed 170,000 Azerbaijani manats (AZN – approximately 84,700 euros (EUR)) for each family and applicants nos. 5-7 claimed AZN 102,500 (approximately EUR 51,100) for their family, which they submitted were the market values of their respective plots of land, in respect of pecuniary damage. In their observations submitted after the delivery of the principal judgment, the applicants stated that “restitution in the present case” was “possible” and that they wished to “recover” their land. If that was not possible, the applicants asked, without providing any supporting documents, for the award of pecuniary damage equal to the market value of the land, in which connection they reiterated the above-mentioned amounts that they had initially claimed.

12. The Government argued that the applicants had failed to submit duly substantiated expert valuations of their properties. The Government presented a valuation report whereby the market value of the plots of land of applicants nos. 1-4 and 8-21 was estimated at AZN 149,668 (approximately EUR 81,800) for each plot, while the plot of land of applicants nos. 5-7 was estimated at AZN 90,241 (approximately EUR 49,300) as of 7 February 2023 (the date of the valuation).

The Court's assessment

13. The Court reiterates that, according to its case-law, a judgment in which it finds a breach of the Convention imposes on the respondent State a legal obligation to put an end to the breach and make reparation for its consequences in such a way as to restore as far as possible the situation existing before the breach. The Contracting States that are parties to a case are in principle free to choose the means whereby they will comply with a judgment in which the Court has found a breach. This discretion as to the manner of execution of a judgment reflects the freedom of choice attaching to the primary obligation of the Contracting States under the Convention to secure the rights and freedoms guaranteed (Article 1). If the nature of the breach allows of *restitutio in integrum*, it is for the respondent State to effect it, the Court having neither the power nor the practical possibility of doing so itself. If, on the other hand, national law does not allow – or allows only

partial – reparation to be made for the consequences of the breach, Article 41 empowers the Court to afford the injured party such satisfaction as appears to it to be appropriate. The Court enjoys a certain discretion in the exercise of that power, as the adjective “just” and the phrase “if necessary” attest (see *Molla Sali v. Greece* (just satisfaction) [GC], no. 20452/14, § 32, 18 June 2020, with further references).

14. Given the variety of means available to achieve *restitutio in integrum* and the nature of the issues involved, in the exercise of its competence under Article 46 § 2 of the Convention, the Committee of Ministers is better placed than the Court to assess the specific measures to be taken. It should thus be left to the Committee of Ministers to supervise, on the basis of the information provided by the respondent State and with due regard to the applicant’s evolving situation, the adoption of such measures that are feasible, timely, adequate and sufficient to ensure the maximum possible reparation for the violations found by the Court (see *Ilgar Mammadov v. Azerbaijan* (infringement proceedings) [GC], no. 15172/13, § 155, 29 May 2019, and *Semenov v. Russia*, no. 17254/15, § 77, 16 March 2021).

15. As mentioned above, in the principal judgment, the Court found that a wall had been erected around the applicants’ plots of land (see paragraph 2 above). Following the delivery of the principal judgment, the parties have not informed the Court about any factual developments, and it is not clear from their submissions whether any State building was eventually constructed in the area in question (see § 43 of the principal judgment). It is, however, clear from the case file that the applicants remain to date the legal owners of the land in question.

16. In such circumstances, and having regard to the applicants’ submissions (see paragraph 11 above), the Court considers that the removal of all obstacles restricting the applicants’ free access to their land would be the most appropriate redress and would put them, as far as possible, in a situation equivalent to the one in which they would have been if there had not been a breach of Article 1 of Protocol No. 1 (compare *Stoycheva v. Bulgaria*, no. 43590/04, § 75, 19 July 2011).

17. The Court notes, at the same time, that this measure alone cannot fully compensate for the damage suffered by the applicants and considers that an award for pecuniary damage, in order to compensate for the restriction imposed on the applicants’ free access to their land since 2008, should be made. However, such award cannot be equal to the market value of the land in question, as the applicants have not been deprived of their properties (compare *Akshin Garayev v. Azerbaijan*, no. 30352/11, § 71, 2 February 2023). The Court considers that the damage resulting from the restriction on the applicants’ free access to their land could be compensated for by the payment of a sum corresponding to the statutory interest accruing throughout the relevant period, applied to the likely value of the land at the beginning of the situation complained of (compare *G.I.E.M. S.r.l. and Others v. Italy* (just

satisfaction) [GC], nos. 1828/06 and 2 others, § 47, 12 July 2023, with a further reference).

18. In the present case, the applicants failed to provide any valuation reports in support of their claims either when submitting their initial claims or in their observations following the delivery of the principal judgment (see paragraph 11 above). In this connection, the Court reiterates that it is for the applicant to show that pecuniary damage has resulted from the violation or violations alleged. The applicant should submit relevant documents to prove, as far as possible, not only the existence but also the amount or value of the damage (*ibid.*, § 39, and *Vasilevski v. the former Yugoslav Republic of Macedonia*, no. 22653/08, § 66, 28 April 2016).

19. The Court has also previously stressed that when it adjourns the question of just satisfaction as it did in this case, it does so in order to provide the parties with an opportunity to reach a friendly settlement or present written observations; the latter to ensure that the application of Article 41 is ready for decision (see *Maharramov v. Azerbaijan* (just satisfaction), no. 5046/07, § 19, 9 May 2019).

20. The Court notes that, while the Government have submitted an expert opinion, the value of the applicants' plots of land had been estimated as of 7 February 2023 (see paragraph 12 above). There is, therefore, no information in the case file as regards the value of the land in question as of the date when the situation complained of began (2008). In such case, the Court will base its calculation on the value of the plots of land as indicated in the relevant certificates attached to the original title deeds (see the appended table). Having regard to the above-mentioned circumstances, the Court awards the applicants the amounts indicated in the appended table in respect of pecuniary damage.

B. Non-pecuniary damage

21. Each family also initially sought AZN 10,000 (approximately EUR 5,000) in respect of non-pecuniary damage. In their observations submitted after the delivery of the principal judgment, each applicant sought EUR 10,000 in respect of non-pecuniary damage.

22. The Government submitted that the amounts claimed were excessive.

23. Ruling on an equitable basis, the Court awards each family EUR 3,000 in respect of non-pecuniary damage.

C. Costs and expenses

24. Each family also claimed AZN 1,000 (approximately EUR 500) in respect of legal services and AZN 500 (approximately EUR 250) in respect of translation and postal expenses. They submitted several invoices in support of their claims. It appears that while the application was pending before the

Court, the applicants' representative Mr E. Mustafayev died. After filing of observations by the parties was finalised, applicants nos. 2, 5, 8, 13 and 18 appointed Mr A. Layij as their representative (see § 2 of the principal judgment). Following the delivery of the principal judgment, the remaining applicants, except applicants nos. 6 and 7, also appointed Mr A. Layij as their representative, who made submissions on just satisfaction on their behalf. In those submissions, the same amounts were sought in respect of each applicant, and they asked for any award made in respect of legal expenses to be paid directly into Mr A. Layij's bank account.

25. The Government submitted that Mr E. Mustafayev, who had initially represented the applicants, had passed away, and that Mr A. Layij had been appointed as the applicants' representative before the Court only after the filing of the observations had been finalised. They further submitted that no evidence had been presented to substantiate the translation and postal expenses. They therefore asked the Court to dismiss the applicants' claims under this head.

26. 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 (see, for example, *Vegotex International S.A. v. Belgium* [GC], no. 49812/09, § 167, 3 November 2022, and *Malik Babayev v. Azerbaijan*, no. 30500/11, § 97, 1 June 2017, with further references). In the present case, while the previous representative has died and Mr A. Layij did make submissions on just satisfaction on behalf of the applicants following the delivery of the principal judgment, no document, such as a copy of a contract for legal services or an invoice proving that any payment had been made to him, was submitted to the Court. The Court further notes that the invoices provided with the initial just satisfaction claims in support of translation and postal expenses do not contain any information about the client(s) or a clear description of the service(s) provided. In the light of the above, the Court dismisses the applicants' claims under this head.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Holds*

- (a) that applicants nos. 3 and 4 and Ms Seadet Alasgarova have a legitimate interest to pursue the application in Mr Alasgar Alasgarov's stead;
- (b) that applicants nos. 8 and 10-12 have a legitimate interest to pursue the application in Ms Zuleykha Gadirova's stead; and
- (c) that applicants nos. 14-16 have a legitimate interest to pursue the application in Mr Naghi Naghiyev's stead;

2. *Holds*

- (a) that the respondent State should remove all obstacles restricting the applicants' free access to their plots of land and pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the amounts indicated in the appended table, in respect of pecuniary and non-pecuniary damage, to be converted into the currency of the respondent State at the rate applicable at the date of settlement, plus any tax that may be chargeable;
- (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on those amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

3. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 18 February 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško
Registrar

Ioannis Ktistakis
President

APPENDIX

No.	Applicant's name	Size and value of the plot of land as indicated in the title deed	The Court's award in respect of pecuniary and non-pecuniary damage
1.	Alasgar Ahmad oglu ALASGAROV Deceased: 2012	0.68 ha 2,138,501 old Azerbaijani manats (AZM) – approximately AZN 428 – approximately EUR 475 at the relevant time	EUR 300 in respect of pecuniary damage and EUR 3,000 in respect of non-pecuniary damage (jointly)
2.	Bekhtiyar Alasgar oglu ALASGAROV		
3.	Kemale Bekhtiyar gizi ALASGAROVA		
4.	Kamran Bekhtiyar oglu ALASGAROV		
5.	Eldar Isa oglu BAYRAMOV	0.41 ha AZM 1,283,132 - approximately AZN 257 - approximately EUR 285 at the relevant time	EUR 200 in respect of pecuniary damage and EUR 3,000 in respect of non-pecuniary damage (jointly)
6.	Afet Galandar gizi BAYRAMOVA		
7.	Taghi Eldar oglu BAYRAMOV		
8.	Sultan Khanlar oglu GADIROV	0.68 ha AZM 2,138,479 - approximately AZN 428 - approximately EUR 475 at the relevant time	EUR 300 in respect of pecuniary damage and EUR 3,000 in respect of non-pecuniary damage (jointly)
9.	Zuleykha Mikayil gizi GADIROVA Deceased: 2021		
10.	Arzu Sultan gizi GADIROVA		
11.	Asad Sultan oglu GADIROV		
12.	Farida Sultan gizi GADIROVA		
13.	Naghi Isa oglu NAGHIYEV Deceased: 2021	0.68 ha AZM 2,138,555 - approximately AZN 428 - approximately EUR 475 at the relevant time	EUR 300 in respect of pecuniary damage and EUR 3,000 in respect of non-pecuniary damage (jointly)
14.	Hidayet Naghi oglu NAGHIYEV		
15.	Sona Naghi gizi NAGHIYEVA		
16.	Lale Naghi gizi NAGHIYEVA		
17.	Aydin Akbar oglu RAMAZANOV Deceased: 2015	0.68 ha AZM 2,138,590 - approximately AZN 428 - approximately EUR 475 at the relevant time	EUR 300 in respect of pecuniary damage and EUR 3,000 in respect of non-pecuniary damage (jointly)
18.	Kifayet Ramazan gizi JAFAROVA		
19.	Jeyran Aydin gizi RAMAZANOVA		
20.	Taleya Aydin gizi RAMAZANOVA		
21.	Aynur Aydin gizi RAMAZANOVA		