



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

THIRD SECTION

CASE OF AMIROV v. AZERBAIJAN

(Application no. 55642/16)

JUDGMENT

Art 5 § 1 • Lawful arrest or detention • Pre-trial detention in the absence of a “reasonable suspicion” of the applicant having committed a criminal offence

Prepared by the Registry. Does not bind the Court.

STRASBOURG

11 March 2025

FINAL

11/06/2025

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

In the case of Amirov v. Azerbaijan,

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

Ioannis Ktistakis, *President*,

Peeter Roosma,

Lətif Hüseynov,

Oddný Mjöll Arnardóttir,

Diana Kovatcheva,

Úna Ní Raifeartaigh,

Mateja Đurović, *judges*,

and Milan Blaško, *Section Registrar*,

Having regard to:

the application (no. 55642/16) 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 Faig Samidkhan oglu Amirov (*Faiq Səmidxan oğlu Əmirov* – “the applicant”), on 19 September 2016;

the decision to give notice to the Azerbaijani Government (“the Government”) of the complaints concerning Article 5 § 1, Article 5 § 3 and Article 6 § 2 of the Convention and an issue raised by the Court of its own motion under Article 18 of the Convention;

the parties’ observations;

Having deliberated in private on 11 February 2025,

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

INTRODUCTION

1. Relying on Articles 5 and 6 § 2 of the Convention, the applicant alleged that he had been unlawfully detained in the absence of a reasonable suspicion that he had committed a criminal offence; that the domestic courts had failed to justify his pre-trial detention; and that the joint statement of 23 August 2016 by the law-enforcement authorities had amounted to an infringement of his right to the presumption of innocence. He alleged in his observations, relying on Article 18 of the Convention in conjunction with Article 5 of the Convention, that his Convention rights had been restricted for purposes other than those prescribed in the Convention.

THE FACTS

2. The applicant was born in 1973 and lives in Baku. He was represented by Mr A. Layij, a lawyer based in Azerbaijan.

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

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

I. INSTITUTION OF CRIMINAL PROCEEDINGS AGAINST THE APPLICANT AND HIS REMAND IN CUSTODY

5. At the time of the events the applicant was an active member of the Azerbaijan Popular Front Party, an opposition party, and worked as the financial director of the *Azadliq* newspaper.

6. Following the attempted *coup d'état* in July 2016 in Türkiye, on 12 August 2016 the Prosecutor General of the Republic of Azerbaijan instituted criminal proceedings in connection with the activities of persons affiliated to the Gülen movement in Azerbaijan under Articles 168.1 (breach of citizens' rights on the pretext of conducting religious rites) and 283.2.2 (incitement to ethnic, racial, social or religious hatred and hostility) of the Criminal Code.

7. On 20 August 2016, when the applicant was about to get into his car, four individuals approached him and introduced themselves as agents of the State Security Service and the Prosecutor General's Office. They asked the applicant to go with them and the applicant complied with their request by getting into their car. Two of the agents accompanied the applicant, while the other two agents took his car keys.

8. On the same day the applicant's home and car were searched on the basis of a decision issued by the investigator in charge of the case, and various items, including several books and CD-ROMs, were taken during the searches. In particular, it appears from the search record that three books about the life and ideas of Fethullah Gülen, entitled *Fəthullah Gülən* ("Fethullah Gülen"), *Fəthullah Gülənlə 11 gün* ("Eleven days with Fethullah Gülen") and *Ruhumuzun heykelini dikerken* ("The statue of our souls"), were found in the applicant's car.

9. On the same day the investigator issued a decision on the applicant's arrest (*cinayət törətməkdə şübhə edilən şəxsin tutulması haqqında qərar*) on suspicion of having committed a criminal offence under Article 283.2.2 of the Criminal Code.

10. On 22 August 2016 the applicant was charged in criminal case no. 162006055 under Articles 168.1 and 283.2.2 of the Criminal Code. The description of the charges consisted of a single sentence which was more than half a page long. In particular, the applicant was accused of breaching citizens' rights on the pretext of conducting religious rites, and of incitement to ethnic, racial, social or religious hatred and hostility by belonging to Fethullah Gülen's religious movement and disseminating the ideology of that movement. In that connection, he was accused of committing those criminal offences by having religious literature and eight CD-ROMs in his car with the intention of disseminating the material openly, as well as on the internet, which constituted mass media (*aşkar surətdə, o cümlədən kütləvi informasiya vasitəsi olan internet səhifələrində yaymaq məqsədi ilə*).

11. On the same day the Deputy Prosecutor General submitted a request to the court to apply the preventive measure of remand in custody in respect of the applicant for a period of three months. The request relied on the investigator's decision of 22 August 2016 recognising the applicant as an accused person and reaffirmed the reasoning of that decision (see paragraph 10 above).

12. On 22 August 2016 the Nasimi District Court, referring to the official charges brought against the applicant and the prosecutor's request to apply the preventive measure of remand in custody, ordered the applicant's detention pending trial for a period of three months, calculating the period of detention from 20 August 2016. The court justified the applicant's detention by citing the risks of his reoffending and absconding from the investigation. The transcripts of the court hearing of 22 August 2016 indicate that, while the applicant stated that there was no evidence that he had committed a criminal offence, the investigator maintained that the charges against the applicant were justified and referred to the books and CD-ROMs included in the case file.

13. On 23 August 2016 the investigator in charge of the case ordered a forensic computer-technical, audio, linguistic and religious examination (*məhkəmə kompüter-texniki, fonoskopik, lingvistik və dinşünaslıq ekspertizası*) of the various books, CD-ROMs, two USB flash drives and other documents and items found in the applicant's flat and car. In particular, he asked the expert to analyse the documents and items submitted to the expert examination and to establish whether they contained acts aimed at (*yönlən əməllər*) breaching citizens' rights on the pretext of conducting religious rites, incitement to ethnic, racial, social or religious hatred and hostility, or any other criminal offences. Despite the Court's explicit request to the Government to submit copies of all the documents relating to the proceedings concerning the applicant's pre-trial detention, the Government failed to provide the Court with a copy of the expert report issued in response to the investigator's decision of 23 August 2016.

14. On 25 August 2016 the applicant appealed against the Nasimi District Court's decision of 22 August 2016. He argued that there was no evidence that he had committed any criminal offence and there had been no justification for the application of the preventive measure of detention pending trial. In that connection, he pointed out that the books allegedly found in his car did not belong to him. In any event, those books were not forbidden in Azerbaijan and the investigating authorities and the first-instance court had failed to refer to any evidence demonstrating that a criminal offence had been committed.

15. On 2 September 2016 the Baku Court of Appeal dismissed the appeal, finding that the first-instance court's decision had been justified. The appellate court made no mention of the applicant's specific complaints.

II. PUBLIC STATEMENT BY LAW-ENFORCEMENT AUTHORITIES

16. On 23 August 2016 the Prosecutor General's Office, the Ministry of Internal Affairs and the State Security Service made a statement published in the press. The statement concerned the institution of criminal proceedings in connection with the activities of persons affiliated to the Gülen movement in Azerbaijan. The statement also informed the public that, owing to reasonable suspicions (*əsaslı şübhələr*), the applicant had been arrested and criminal proceedings had been instituted against him under Articles 168.1 and 283.2.2 of the Criminal Code. The relevant part of the statement reads as follows:

"In the course of the ongoing investigation it was established that there were reasonable suspicions that Faig Amirov, a member of the Azerbaijan Popular Front Party and assistant to the head of the party, by abusing his function as financial director of the *Azadliq* newspaper together with followers of "Hizmet movement", had been in possession of literature and electronic information devices with content that degrades national dignity and promotes "Fetullahism", social or religious hatred and hostility with the intention of disseminating them and that [he] had maintained relationships with persons whose names were on the list of "imams of Hizmet" where his name and phone numbers were also indicated.

...

Faig Amirov was charged with the criminal offences under Articles 168.1 (breach of citizens' rights on the pretext of conducting religious rites) and 283.2.2 (incitement to ethnic, racial, social or religious hatred and hostility by a person using his official position) of the Criminal Code and the preventive measure of remand in custody was ordered in respect of him."

III. EXTENSION OF THE APPLICANT'S PRE-TRIAL DETENTION

17. On 12 October 2016 the Nasimi District Court, and on 21 October 2016 the Baku Court of Appeal, dismissed a request by the applicant to be placed under house arrest instead of being held in pre-trial detention.

18. Following a request by the prosecutor, on 11 November 2016 the Nasimi District Court extended the applicant's pre-trial detention until 12 January 2017. The first-instance court did not give any reason for its decision.

19. On 12 November 2016 the applicant appealed against that decision, arguing that the first-instance court had failed to justify his continued detention. He also repeated his previous complaints, pointing out that none of the books found in his car were forbidden in Azerbaijan and that the actions provided for by Article 283 of the Criminal Code could constitute a criminal offence only if committed openly or via the mass media, which had not been the case in the present circumstances.

20. On 21 November 2016 the Baku Court of Appeal dismissed the appeal, finding that the extension of the applicant's pre-trial detention had

been justified. The appellate court did not address the applicant's specific complaints.

21. On 6 January 2017 the Nasimi District Court extended the applicant's pre-trial detention until 12 March 2017. The court substantiated the necessity of this extension on the grounds that a number of investigative steps needed to be carried out, as well as the possibility of his absconding and obstructing the investigation if released.

22. On 9 January 2017 the applicant appealed against that decision, repeating his previous complaints.

23. On 16 January 2017 the Baku Court of Appeal dismissed the appeal, finding that the extension of the applicant's detention pending trial had been justified.

24. On 8 February 2017 the Nasimi District Court, and on 16 February 2017 the Baku Court of Appeal, dismissed further requests by the applicant to be placed under house arrest instead of being held in pre-trial detention.

25. On 3 March 2017 the Nasimi District Court extended the applicant's pre-trial detention until 12 June 2017. The court justified its decision by referring to the scope of further investigative actions which had to be conducted and indicating that the grounds for the applicant's pre-trial detention had not changed.

26. On 9 March 2017 the Baku Court of Appeal upheld the Nasimi District Court's decision of 3 March 2017.

27. No further decisions extending the applicant's detention are contained in the case file.

IV. FURTHER DEVELOPMENTS

28. It appears from the documents in the case file that on 17 April 2017 the applicant was charged with additional criminal offences under Articles 213.1 (tax evasion) and 308.2 (abuse of power) of the Criminal Code.

29. By a letter dated 18 April 2017, the investigator in charge of the case informed the applicant and his lawyers that a new criminal case, no. 172006028, concerning the charges against the applicant under Articles 213.1 and 308.2 of the Criminal Code had been separated from criminal case no. 162006055.

30. On 2 May 2017 the investigator gave a decision on the assessment of the evidence (*sübutların qiymətləndirilməsi*) in criminal case no. 172006028. By that decision, the investigator charged the applicant with the criminal offences under Articles 213.1 and 283.2.2 of the Criminal Code, but dropped the charges under Article 308.2. The decision did not contain any information as regards the outcome of the charges under Article 168.1 of the Criminal Code.

31. On 24 July 2017 the Sabail District Court found the applicant guilty under Articles 213.1 and 283.2.2 of the Criminal Code and sentenced him to three years and three months' imprisonment.

32. On 15 September 2017 the Baku Court of Appeal changed the sentence and decided to conditionally suspend it for three years. The applicant was released from the courtroom.

33. On 27 February 2018 the Supreme Court upheld the appellate court's decision.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

34. The relevant part of the Criminal Code, as in force at the material time, provided as follows:

Article 168 - Breach of citizens' rights on the pretext of conducting religious rites

"168.1. Organising, leading or participating in a group carrying out activities on the pretext of spreading religious beliefs (*dini məzhəbləri yaymaq*) and conducting religious rites and thereby disrupting public order, or harming the health of citizens, or breaching citizens' rights regardless of their form, as well as preventing (*yayındıran*) citizens from performing their duties established by law, shall be punishable by a fine in the amount of 7,000 to 9,000 manats or deprivation of liberty for a period of up to two years.

..."

Article 283 - Incitement to ethnic, racial, social or religious hatred and hostility

"283.1. Acts aimed at inciting ethnic, racial, social or religious hatred and hostility, humiliation of national dignity, as well as acts aimed at restricting citizens' rights or establishing citizens' superiority on the basis of their ethnic, racial or religious origin, if committed openly or via the mass media (*aşkar surətdə, o cümlədən mediadan istifadə olunmaqla törədildikdə*), shall be punishable by a fine in the amount of 1,000 to 2,000 manats, or corrective labour for a period of up to two years, or deprivation of liberty for a period of two to four years.

283.2. The same acts, if committed

283.2.1. with the use of violence or the threat of the use of violence;

283.2.2. by a person using his or her official position;

283.2.3. by an organised group

shall be punishable by deprivation of liberty for a period of three to five years."

35. The relevant provisions of the Code of Criminal Procedure concerning pre-trial detention are described in detail in the Court's judgments in *Farhad Aliyev v. Azerbaijan* (no. 37138/06, §§ 83-102, 9 November 2010), and *Muradverdiyev v. Azerbaijan* (no. 16966/06, §§ 35-49, 9 December 2010).

36. The relevant decisions of the Plenum of the Supreme Court concerning pre-trial detention are described in detail in the Court's judgment in *Rasul Jafarov v. Azerbaijan* (no. 69981/14, §§ 79-80, 17 March 2016).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 5 §§ 1 AND 3 OF THE CONVENTION

37. Relying on Article 5 §§ 1 (c) and 3 of the Convention, the applicant complained that he had been arrested and detained in the absence of a “reasonable suspicion” that he had committed a criminal offence. He also complained that the domestic courts had failed to provide relevant and sufficient reasons justifying the need for his pre-trial detention. Article 5 §§ 1 (c) and 3 of the Convention reads as follows:

“1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

...

(c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;

...

3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.”

A. Admissibility

38. The Court notes that these complaints are neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. They must therefore be declared admissible.

B. Merits

1. The parties’ submissions

39. The applicant maintained that the accusations against him had been groundless and that the investigating authorities had not been in possession of any objective evidence or information that could have given rise to a reasonable suspicion that he had committed a criminal offence. He also submitted that when the domestic courts had ordered, and subsequently extended, his detention pending trial, they had failed to refer to any evidence in support of their decisions. As regards the books and CD-ROMs found in his car, the applicant submitted that they had been planted in the vehicle. In any event, those items had not included any unlawful content and the forewords of the books in question had been written by high-ranking officials

of the Azerbaijani government. The applicant also drew attention to the fact that although his pre-trial detention had been ordered for the first time on 22 August 2016, the investigator had ordered the expert examination of various documents found in his home and car only on 23 August 2016. The applicant further argued that the domestic courts had failed to provide relevant and sufficient reasons justifying his pre-trial detention.

40. The Government contested the applicant's submissions, asserting that the applicant's rights under Article 5 of the Convention had not been breached. He had been detained on reasonable suspicion of having committed a criminal offence and the Nasimi District Court had duly examined the material in the case file, such as the investigator's decision of 22 August 2016 recognising the applicant as an accused person, the Deputy Prosecutor General's request and the investigator's statements made at the court hearing, when it had ordered his detention. In that connection they referred to the transcripts of the hearing held before the Nasimi District Court on 22 August 2016. The Government furthermore submitted that the domestic courts had provided relevant and sufficient reasons justifying the need for the applicant's pre-trial detention.

2. The Court's assessment

41. The Court refers to the general principles established in its case-law and set out in *Selahattin Demirtaş v. Turkey (no. 2)* ([GC] no. 14305/17, §§ 311-21, 22 December 2020), which are equally pertinent to the present case.

42. In the present case, while the applicant complained that there had been no reasonable suspicion against him throughout the entire period of his pre-trial detention, the Government submitted that the applicant had been detained on reasonable suspicion of having committed a criminal offence. In support of their assertion, the Government relied on the transcripts of the court hearing held before the Nasimi District Court on 22 August 2016, submitting that the Nasimi District Court had duly examined the material in the case file, such as the investigator's decision of 22 August 2016 recognising the applicant as an accused person, the Deputy Prosecutor General's request to apply the preventive measure of remand in custody and the investigator's statements made at the court hearing.

43. The Court notes at the outset that, although the Government referred to the transcripts of the court hearing held before the Nasimi District Court on 22 August 2016 in support of their argument, no information was contained in those transcripts referring to the examination by the court of any material in the case file. In particular, although the transcripts referred to the investigator's statements at the court hearing in which the investigator referred, in a general way and without specifying their content, to the books and CD-ROMs in the case file, there is nothing to indicate that those books and CD-ROMs were submitted to the Nasimi District Court for examination.

In that connection, the Court considers it necessary to reiterate that vague and general references to the evidence in the case file cannot be regarded as sufficient to justify the “reasonableness” of the suspicion on which the applicant’s detention was supposed to have been based, in the absence either of a specific assessment of the individual items of evidence in the file, or of any information that could have justified the suspicion against the applicant, or of any other kinds of verifiable material or facts (see *Alparslan Altan v. Turkey*, no. 12778/17, § 142, 16 April 2019; *Öğreten and Kanaat v. Turkey*, nos. 42201/17 and 42212/17, § 88, 18 May 2021; and *Akgün v. Turkey*, no. 19699/18, § 175, 20 July 2021).

44. The Court also observes that the Government contented themselves with the submission that the domestic court had duly examined the material in the case file, such as the investigator’s decision of 22 August 2016 recognising the applicant as an accused person, the Deputy Prosecutor General’s request to apply the preventive measure of remand in custody and the investigator’s statements made at the court hearing. However, the Government failed to specify whether the material submitted by the prosecuting authorities had contained the books and CD-ROMs found in the applicant’s car or any other specific information, facts or evidence that would satisfy an objective observer that the applicant might have committed a criminal offence. Moreover, it does not appear from the Nasimi District Court’s decision of 22 August 2016, or any other decision of the domestic courts ordering and extending the applicant’s pre-trial detention, that such information, facts or evidence were ever submitted to the courts, since the domestic courts’ decisions did not refer to this kind of material (compare *Yagublu v. Azerbaijan*, no. 31709/13, § 60, 5 November 2015, and *Rustamzade v. Azerbaijan*, no. 38239/16, § 47, 7 March 2019).

45. In this regard, the Court also notes the decision of the Plenum of the Supreme Court of 3 November 2009 requiring the domestic courts to subject prosecuting authorities’ applications for an accused person to be remanded in custody to close scrutiny and to verify the existence of a suspicion against the accused by making use of their power under Article 447.5 of the Code of Criminal Procedure to request and review the “initial evidence” in the prosecution’s possession (see reference in paragraph 36 above). However, in the present case, the above-mentioned requirements were not taken into account (compare *Ilgar Mammadov v. Azerbaijan*, no. 15172/13, § 97, 22 May 2014; *Yagublu*, cited above, § 61; and *Mirgadirov v. Azerbaijan and Turkey*, no. 62775/14, § 82, 17 September 2020).

46. The Court further considers it necessary for the purposes of the present case to examine not only the factual aspect of reasonable suspicion, but also the question of whether the acts of which the applicant was suspected constituted a criminal offence at the time they were committed. In that connection, it reiterates that apart from its factual aspect, which is most often in issue, the existence of a reasonable suspicion additionally requires that the

facts relied on can reasonably be considered to constitute criminal behaviour under domestic law. Thus, there could clearly not be a reasonable suspicion if the acts held against a detained person did not constitute a criminal offence at the time they were committed (see *Selahattin Demirtaş*, cited above, § 317; *Włoch v. Poland*, no. 27785/95, § 109, ECHR 2000-XI; *Kandzhov v. Bulgaria*, no. 68294/01, § 57, 6 November 2008; *Rasul Jafarov*, cited above, § 118; and *Rustamzade*, cited above, § 49).

47. The Court observes that the charges brought against the applicant were for breaching citizens' rights on the pretext of conducting religious rites and incitement to ethnic, racial, social or religious hatred and hostility by belonging to Fethullah Gülen's religious movement and disseminating the ideology of that movement. He was accused of committing those criminal offences by having religious literature and eight CD-ROMs in his car, with the intention of disseminating the material openly, as well as on the internet, which constituted mass media (see paragraph 10 above).

48. The Court notes that the applicant consistently maintained in the course of the domestic proceedings and before the Court that the books and eight CD-ROMs found in his car did not belong to him and had been planted by the investigating authorities. However, in the particular circumstances of the present case, the Court does not consider it necessary to examine this issue. Even assuming that the books and eight CD-ROMs in question belonged to the applicant, the Court does not see how such an action, namely the mere fact of having those items in his car, could have given rise to a reasonable suspicion that the applicant had committed the criminal offences under Articles 168.1 and 283.2.2 of the Criminal Code.

49. The Court firstly notes that the applicant's argument that the books in question were not forbidden in Azerbaijan was not contested by the investigating authorities in the domestic proceedings or by the Government before the Court. In addition, the investigating authorities and the domestic courts did not provide any explanation in their decisions as to how the possession of those books and CD-ROMs could have given rise to a suspicion that the applicant had been involved in any way in a group conducting any of the actions criminalised under Article 168.1 of the Criminal Code (see paragraph 34 above).

50. As for the charges under Article 283.2 of the Criminal Code, it is not at all clear from the decisions of the prosecuting authorities and the domestic courts how the mere fact of having those books and CD-ROMs in a car could be considered an act committed openly or via mass media (*aşkar surətdə, o cümlədən mediadan istifadə olunmaqla törədildikdə*), which constitutes one of the elements of the criminal offence of incitement to ethnic, racial, social or religious hatred and hostility under domestic law. In particular, the Court draws attention to the text of Article 283.2 of the Criminal Code, which clearly required that such an action had to be committed openly or via mass media (see paragraph 34 above). However, in the present case it is undisputed

by the parties that the applicant had never published or made public in any other way the books and CD-ROMs at issue. The Court therefore concludes that one of the constituent elements of the criminal offence of incitement to ethnic, racial, social or religious hatred and hostility, as defined in the Criminal Code, was not present in the applicant's case.

51. Lastly, the Court is mindful of the fact that the additional charges under Article 213.1 of the Criminal Code were brought against the applicant in April 2017. When the applicant's case went to trial, he was convicted under Articles 213.1 and 283.2.2 of the Criminal Code. However, that does not affect its findings in connection with the present complaint; all the decisions ordering and extending the applicant's pre-trial detention available in the case file had been based solely on the original charges under Articles 168.1 and 283.2.2 of the Criminal Code, and the new charges were therefore of no significance as regards the assessment of the reasonableness of the suspicion underpinning the applicant's detention during the period falling within the scope of the present case, and the Government have not expressly argued otherwise (compare *Rashad Hasanov and Others v. Azerbaijan*, nos. 48653/13 and 3 others, § 106, 7 June 2018, and *Rustamzade*, cited above, § 53).

52. On the basis of the foregoing, the Court concludes that the applicant's deprivation of liberty did not constitute "lawful detention" effected "on reasonable suspicion" of his having committed an offence. There has accordingly been a violation of Article 5 § 1 of the Convention.

53. Having regard to the above finding, the Court does not consider it necessary to examine separately under Article 5 § 3 of the Convention whether the domestic authorities provided relevant and sufficient reasons justifying the need for the applicant's continued pre-trial detention (see *Ilgar Mammadov*, cited above, § 102, and *Yagublu*, cited above, § 64).

II. ALLEGED VIOLATION OF ARTICLE 18 OF THE CONVENTION TAKEN IN CONJUNCTION WITH ARTICLE 5 OF THE CONVENTION

54. On the basis of the same facts and in response to a question put by the Court in relation to Article 18 of the Convention in conjunction with Article 5 of the Convention, the applicant argued in his observations that his Convention rights had been restricted for purposes other than those prescribed in the Convention. Article 18 reads as follows:

"The restrictions permitted under [the] Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed."

55. The Government submitted that the applicant had failed to exhaust domestic remedies in respect of the complaint under Article 18 of the Convention.

56. The applicant contested the Government's submission as regards the exhaustion of domestic remedies.

57. The Court observes that the applicant did not raise, either expressly or in substance, any complaint under Article 18 of the Convention before the domestic courts which ordered and extended his pre-trial detention. It follows that this complaint must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies (see *Rustamzade*, cited above, § 58, and *Savalanli and Others v. Azerbaijan*, nos. 54151/11 and 3 others, § 107, 15 November 2022).

III. ALLEGED VIOLATION OF ARTICLE 6 § 2 OF THE CONVENTION

58. The applicant complained under Article 6 § 2 of the Convention that the joint statement of 23 August 2016 by the law-enforcement authorities had amounted to an infringement of his right to the presumption of innocence. Article 6 § 2 reads as follows:

“Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.”

59. The Government contested the applicant's argument, submitting that no violation could be inferred from the impugned joint statement, which had simply described the relevant events.

60. The applicant maintained his complaint, submitting that the statement had portrayed him to the public as a criminal.

61. The Court reiterates that Article 6 § 2 is aimed at preventing the undermining of a fair criminal trial by prejudicial statements made in close connection with those proceedings. The presumption of innocence enshrined in paragraph 2 of Article 6 is one of the elements of a fair criminal trial that is required by paragraph 1 (see *Allenet de Ribemont v. France*, 10 February 1995, § 35, Series A no. 308, and *Ilgar Mammadov*, cited above, § 125). It not only prohibits the premature expression by the tribunal itself of the opinion that the person charged with a criminal offence is guilty before he has been so proved according to the law (see *Minelli v. Switzerland*, 25 March 1983, § 38, Series A no. 62), but also covers statements or actions made by other public officials about pending criminal investigations which encourage the public to believe the suspect guilty and prejudge the assessment of the facts by the competent judicial authority (see *Allenet de Ribemont*, cited above, § 41; *Daktaras v. Lithuania*, no. 42095/98, §§ 41-43, ECHR 2000-X; and *Ürfi Çetinkaya v. Turkey*, no. 19866/04, § 139, 23 July 2013).

62. Turning to the circumstances of the present case, the Court observes that the impugned statement by the law-enforcement authorities was made on 23 August 2016, a few days after the applicant's arrest, and it informed the public not only of his arrest but also of the ongoing criminal investigation in connection with the activities of the Gülen movement in Azerbaijan. Accordingly, given the importance of the ongoing criminal investigation, the

authorities might have considered it necessary to keep the public informed of new developments in that investigation.

63. Although the applicant argued that he had been portrayed as a criminal, the Court considers that the part of the statement concerning the charges against the applicant and his arrest within the framework of the ongoing criminal proceedings did not use any wording portraying him as guilty, but contained brief information about the accusations against him and his arrest and placement in pre-trial detention (compare *Mirgadirov*, cited above, § 108).

64. It does not appear from the documents in the case file that the impugned statement amounted to a declaration of the applicant's guilt, in the absence of a final conviction, and breached his right to be presumed innocent. It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

65. 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

1. Pecuniary damage

66. The applicant claimed in total 107,000 Azerbaijani manats (AZN) (approximately 55,000 euros (EUR) at the material time) in respect of pecuniary damage for his loss of earnings during his pre-trial detention lasting ten months (AZN 5,000) and the subsequent closure of the *Azadliq* newspaper, for which he had worked (AZN 102,000). He argued that he had been receiving a monthly salary of AZN 500, but could not provide any document in support of his claim since the persons in charge of the newspaper were out of the country and the newspaper's documents had been confiscated by the prosecuting authorities.

67. The Government submitted that the amounts claimed by the applicant in respect of pecuniary damage were unsubstantiated, and that there was no causal link between the damage claimed and the alleged violation of the Convention.

68. The Court notes that the present application does not concern the closure of the *Azadliq* newspaper, for which the applicant had worked. Accordingly, the Court does not discern any causal link between the violation found and the pecuniary damage alleged in respect of loss of earnings owing to the closure of the *Azadliq* newspaper.

69. As regards the applicant's claim for loss of earnings during his pre-trial detention, the Court reiterates that, under Rule 60 of the Rules of Court, any claim for just satisfaction must be itemised and submitted in writing, together with the relevant supporting documents or vouchers, failing which the Court may reject the claim in whole or in part. In the present case, even assuming that there is a causal link between the damage claimed and the violation found, the Court observes that the applicant did not submit any relevant documentary evidence supporting this claim. The Court also cannot accept the applicant's argument that it was not possible for him to submit the relevant supporting documents because the persons in charge of the newspaper were out of the country and the newspaper's documents had been confiscated by the prosecuting authorities. In particular, the Court does not see how the above-mentioned facts could prevent the applicant from providing it with any supporting documents that might be in his possession, such as an employment contract, payslip, bank statement or any other document confirming his loss of salary.

70. For the above reasons, the Court rejects the applicant's claims in respect of pecuniary damage.

2. Non-pecuniary damage

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

72. The Government submitted that the amount claimed by the applicant was unsubstantiated and excessive.

73. The Court considers that the applicant has suffered non-pecuniary damage which cannot be compensated for solely by the finding of a violation, and that compensation should thus be awarded. Making its assessment on an equitable basis, as required by Article 41 of the Convention, the Court awards the applicant the sum of EUR 7,500 under this head, plus any tax that may be chargeable on this amount.

B. Costs and expenses

74. The applicant claimed EUR 5,000 for legal costs incurred in the proceedings before the Court. In support of his claim, the applicant submitted a contract concluded between himself and his lawyer. The applicant also claimed 138 United States dollars for postal expenses incurred in the proceedings before the Court and submitted a receipt in support of his claim. The applicant asked that the award in respect of costs and expenses be paid directly into his representative's bank account.

75. The Government argued that the claim was unsubstantiated and excessive.

76. 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, the amount of work carried out by the applicant's representative and the above criteria, the Court considers it reasonable to award the sum of EUR 1,500, covering costs under all heads, to be paid directly into the bank account of the applicant's representative.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints concerning Article 5 §§ 1 and 3 of the Convention admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 5 § 1 of the Convention;
3. *Holds* that there is no need to examine the complaint under Article 5 § 3 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 7,500 (seven thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 1,500 (one thousand five hundred euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses, to be paid directly into the bank account of the applicant's representative;
 - (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.

Done in English, and notified in writing on 11 March 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško
Registrar

Ioannis Ktistakis
President