



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

THIRD SECTION

CASE OF BAGIROVA AND OTHERS v. AZERBAIJAN

*(Applications nos. 37706/17 and 5 others –
see appended list)*

JUDGMENT
(Just satisfaction)

Art 34 • *Locus standi* • Court informed after the delivery of the principal judgment of the death of one applicant prior to its adoption • Heir with legitimate interest to pursue the application in the deceased applicant's stead
Art 41 • Just satisfaction • Awards for pecuniary damage sustained from violation of Art 1 P1 in relation to unlawful expropriation for State needs, based on the principles adopted in *Guiso-Gallisay v. Italy* and reiterated in *Akhverdiyev v. Azerbaijan* • Awards for pecuniary damage in six applications and claim rejected in one application • Awards for non-pecuniary damage

Prepared by the Registry. Does not bind the Court.

STRASBOURG

24 June 2025

FINAL

03/11/2025

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

In the case of Bagirova and Others v. Azerbaijan,

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

Ioannis Ktistakis, *President*,

Peeter Roosma,

Lətif Hüseynov,

Darian Pavli,

Diana Kovatcheva,

Úna Ní Raifeartaigh,

Canòlic Mingorance Cairat, *judges*,

and Milan Blaško, *Section Registrar*,

Having deliberated in private on 27 May 2025,

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

PROCEDURE

1. The present applications concern the expropriation of the applicants' properties for State needs.

2. In a judgment delivered on 31 August 2023 ("the principal judgment"), the Court found that the domestic procedure for the expropriation of privately-owned property had not been followed in the present case and concluded that the interference with the applicants' peaceful enjoyment of their possessions had not been carried out in compliance with the "conditions provided for by law". The Court held that there had been a violation of Article 1 of Protocol No. 1 to the Convention. It further held that there was no need to give a separate ruling on the admissibility and merits of the applicants' complaints under Article 6 § 1 and Article 8 of the Convention (see *Bagirova and Others v. Azerbaijan*, nos. 37706/17 and 5 others, §§ 53-56 and points 4 and 5 of the operative provisions, 31 August 2023).

3. The applicants sought just satisfaction under Article 41 of the Convention (*ibid.*, § 58). 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.*, § 60 and point 6 of the operative provisions). The Court also requested the parties to provide a duly substantiated valuation of the applicants' properties in accordance with the principles enumerated in *Akhverdiyev v. Azerbaijan* ((just satisfaction), no. 76254/11, § 33, 21 March 2019) should they fail to settle the matter.

4. The parties did not reach an agreement on just satisfaction within the time allocated for that purpose. The applicants, except for the applicant in application no. 47835/17, and the Government filed observations, which were transmitted to the other party for comment.

5. Following the delivery of the principal judgment, the representative of the applicant in application no. 59194/17 informed the Court that the applicant, Ms Elma Baliyeva, had died on 21 March 2024, and that her son, Mr Eldaniz Baliyev, had expressed his wish to pursue the application in the deceased applicant's stead.

THE LAW

I. PRELIMINARY ISSUE

6. Having regard to its case-law on the matter (see *Mammadov and Others v. Azerbaijan*, no. 35432/07, § 80, 21 February 2019, with further references) and the documents in its possession, the Court accepts that Mr Eldaniz Baliyev has a legitimate interest to pursue application no. 59194/17 in Ms Elma Baliyeva's stead.

II. ARTICLE 41 OF THE CONVENTION

7. 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

1. *The parties' submissions*

8. The applicants initially claimed various amounts in respect of pecuniary damage flowing from the loss of their properties. The applicants in applications nos. 37706/17, 59194/17, 73757/17 and 75028/17 also sought: (a) award in respect of the plots of land underlying and/or attached to their properties, (b) compensation of 20% of the market prices of their properties, to be paid in addition to the purchase price (“the additional 20% compensation”), in accordance with Article 2.3 of Presidential Decree no. 689 of 26 December 2007, and (c) further additional compensation “for hardship” of 10% of the “total compensation” paid to them (“compensation for hardship”), in accordance with Article 66 of the Law on the Expropriation of Land for State Needs (see *Aliyeva and Others v. Azerbaijan*, nos. 66249/16 and 6 others, §§ 69-70, 21 September 2021). The applicant in application no. 753/18 also sought an award in respect of damage to and the disappearance of her belongings following her eviction.

9. In their observations following the delivery of the principal judgment, some applicants partly amended their claims (see the appended table). The applicants in applications nos. 59194/17, 73757/17 and 75028/17 no longer

sought awards in respect of the plots of land underlying and/or attached to their properties.

10. As mentioned above, following the delivery of the principal judgment the Court requested the parties to provide a duly substantiated valuation of the applicants' properties in accordance with the principles enumerated in *Akhverdiyev* (cited above, § 33) should they fail to settle the matter (see paragraph 3 above). The applicants in applications nos. 37706/17, 73757/17 and 75028/17 did not present any such valuations, but relied, instead, on expert reports from a private company indicating the market value of their properties as of 12 February 2015, 28 February 2015 and 11 July 2016 respectively; those reports had been submitted to the domestic courts and submitted together with their applications or initial just satisfaction claims to the Court. The applicant in application no. 47835/17 failed to submit any report or make any submissions. The applicants in applications nos. 59194/17 and 753/18 provided a valuation report from the same private company indicating the market value of their properties as of December 2015 and the year 2016 (the month was not indicated) respectively. The expert also deducted the amounts paid at the domestic level and adjusted the remaining sums.

11. The Government provided an expert valuation report in respect of the applications concerned, except for application no. 47835/17, which estimated the market value of the respective properties as of 1 January 2016 together with necessary adjustments. The Government argued that market value claimed by some applicants was "very much exaggerated". The Government submitted that the applicant in application no. 73757/17 had received adequate compensation at the material time. They further submitted that they accepted the claim of the applicant in application no. 47835/17.

12. The applicants in applications nos. 37706/17, 59194/17, 73757/17 and 75028/17 contested the conclusions of the report provided by the Government, arguing that the expert had arbitrarily determined the prices of their properties without providing "any references or supporting evidence such as photos or videos of the flats and buildings". They argued, in particular, that it was unclear why the expert had evaluated their properties as of 2016. The applicant in application no. 47835/17 did not submit any comments. The applicant in application no. 73757/17 also argued that while her share in the house was 52 sq. m, the expert had used the figure of 23.2 sq. m in his calculations. The applicant in application no. 753/18 submitted that the Government's position was unfair and unacceptable.

2. The Court's assessment

13. The Court firstly refers to its findings in the principal judgment concerning the applicants' possessions. In particular, it held that the flats, houses or parts thereof, as indicated in the ownership documents, constituted the applicants' "possessions". As to the claims of some applicants concerning

the plots of land underlying their properties and/or attached to them, the Court held that only the plot of land referred to in application no. 37706/17 constituted the applicant's "possession" and declared inadmissible the part of the complaints of the remaining applicants in respect of the land (see §§ 32-38 of the principal judgment).

14. As to the claims of the applicants in applications nos. 37706/17, 59194/17, 73757/17 and 75028/17 concerning the additional 20% compensation and the compensation for hardship, the Court notes that the applicants did not raise the issue of the applicability of the relevant provisions (see paragraph 8 above) in their applications submitted to the Court. Accordingly, having regard to the fact that the Court was not given an opportunity to determine whether the applicants had a legitimate expectation under domestic law as to the additional compensation claimed, which is a question related to the admissibility and merits of the complaints under Article 1 of Protocol No. 1, those parts of the claims should be dismissed (compare *Akhverdiyev*, cited above, § 31). As regards the part of the claim of the applicant in application no. 753/18 in respect of the damage to and the disappearance of her belongings, even assuming that there is a causal link between the damage claimed and the violation found, the applicant failed to submit any evidence supporting that part of her claim. The Court therefore rejects it as well (compare *Khalikova v. Azerbaijan*, no. 42883/11, § 156, 22 October 2015).

15. As to the awards in respect of pecuniary damage flowing from the expropriation of the properties in question, the Court considers that the assessment of pecuniary damage should be based on the principles adopted in *Guiso-Gallisay v. Italy* ((just satisfaction) [GC], no. 58858/00, §§ 103 and 105, 22 December 2009) and reiterated in *Akhverdiyev* (cited above, § 33).

16. The Court firstly notes that while the expert reports concerning the properties in applications nos. 37706/17, 47835/17, 73757/17 and 75028/17 provided information about the market value of the properties, no information or supporting documents were submitted by the applicants concerning necessary adjustments required by the principles enumerated in *Akhverdiyev* (cited above, § 33), despite the Court's explicit request in that regard (see paragraph 3 above).

17. In this connection, the Court reiterates that it is for applicants to show that pecuniary damage has resulted from the violation or violations alleged. Applicants should submit relevant documents to prove, as far as possible, not only the existence but also the amount or value of the damage (see *G.I.E.M. S.r.l. and Others v. Italy* (just satisfaction) [GC], nos. 1828/06 and 2 others, § 39, 12 July 2023).

18. Moreover, the Court has 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 submit written observations, in the latter case 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).

19. The Court further observes that while the applicants in applications nos. 59194/17 and 753/18 provided expert reports from the same private company with a calculation of adjustment (see paragraph 10 above), the elements used in the calculation of that adjustment are very different, even considering the difference in the period concerned in those two applications, and no substantiation is provided as regards the choice of those specific elements in each case. Furthermore, the report in application no. 753/18 provides exactly the same value for the applicant's share in the house as in the report of 2016 presented by her to the domestic courts. The latter report, which was dismissed by the domestic courts (see § 20 of the principal judgment), indicated the same market value for the applicant's share in the house together with the plot of land underlying the house. As previously stated, the Court declared the part of the applicant's complaint related to the land inadmissible in its principal judgment (see paragraph 13 above).

20. The Government provided an expert report in respect of five applications which estimated the market value of the properties in question together with the necessary adjustments (see paragraph 11 above). It is true that, in that report, the value of all the properties was estimated as of 1 January 2016. The Court notes in that connection that while the date of demolition was not specified in applications nos. 59194/17 and 75028/17, the properties in the remaining applications were demolished in mid-December 2015 (application no. 73757/17) and in June (application no. 37706/17) and July 2016 (application no. 753/18) according to the applicants' submissions. The applicants were paid compensation on the basis of contracts of sale and purchase signed with the Baku City Executive Authority on different dates between 29 December 2015 and 21 July 2016 (see the appended table in the principal judgment).

21. The Court notes that the date taken for the calculation of the pecuniary damage in the report provided by the Government, that is 1 January 2016, is close to the dates when the deprivation of property occurred, and that it has not been argued or demonstrated that there had been any significant fluctuation in the market value of property during the relevant period. The Court also notes in that connection that in application no. 37706/17 the market value of the applicant's property was estimated in the report provided by the applicant as of 12 February 2015, that is approximately one year and four months prior to date when the deprivation of property occurred, and that in application 753/18 the value of the applicant's property was estimated as of 2016 without any indication of a specific date (see paragraph 10 above).

22. As to some applicants' argument concerning the absence of any references or supporting evidence in the report provided by the Government (see paragraph 12 above), the Court observes that the reports provided by those applicants included reference to photos of their properties, whereas the

report provided by the Government did not. The Court, however, considers that that fact alone cannot be given significant weight for the following reasons.

23. When estimating the market value of the properties in question, the expert in the report provided by the Government noted that, based on the information he had received, the properties had been equipped with all the necessary amenities for living, and stated that he had taken into account other relevant factors such as the accessibility of the buildings by transport, whether they were located in zones affected by harmful substances or liable to flooding and so on. The applicants did not substantiate that the photos of their properties provided crucial information which could have led the expert to reach a different conclusion when determining their market value. In fact, the Court observes that the value per square metre of the applicants' properties in applications nos. 73757/17 and 75028/17 as estimated in the report provided by the Government was higher than the value estimated in the reports presented by the applicants.

24. In view of the above-mentioned principles (see paragraphs 17-18 above) and the circumstances of the present case, the Court finds it more appropriate to proceed on the basis of the valuation report submitted by the Government in applications nos. 37706/17, 59194/17, 73757/17, 75028/17 and 753/18. It awards the amounts indicated in the appended table to the applicants in applications nos. 37706/17, 59194/17, 75028/17 and 753/18, plus any tax that may be chargeable on those amounts. As to the applicant in application no. 73757/17, the Court notes that, according to the ownership document issued to her and the domestic courts' findings, she owned 1/3 of a house of 69.7 sq. m. The expert estimated the value of her share, that is 23.2 sq. m, at 59,740 Azerbaijani manats (AZN). It is undisputed that the applicant received AZN 66,695 (approximately 58,600 euros (EUR)) as compensation for her property at the relevant time. In the light of those circumstances, and in the absence of substantiated arguments to the contrary, the Court rejects her claim under this head.

25. As to the applicant in application no. 47835/17, taking into account the Government's submission (see paragraph 11 above), and by virtue of the principle of *non ultra petita*, the Court awards him the full amount claimed.

B. Non-pecuniary damage

26. The applicants claimed various amounts in respect of non-pecuniary damage (see the appended table).

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

28. Ruling on an equitable basis, as required by Article 41 of the Convention, the Court awards each applicant the sum of EUR 3,000 in respect of non-pecuniary damage, plus any tax that may be chargeable on that amount.

C. Costs and expenses

29. The applicants claimed various amounts for costs and expenses incurred before the domestic courts and the Court (see the appended table). All applicants, except for the applicant in application no. 47835/17, provided copies of contracts for legal services signed with their representatives.

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

31. 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, regard being had to the documents in its possession and the amount of work carried out by the applicants' representatives, the Court considers it reasonable to award the applicants in applications nos. 37706/17, 59194/17, 73757/17, 75028/17 and 753/18 the sums indicated in the appended table in respect of legal costs, plus any tax that may be chargeable to the applicants.

32. As to the claim of the applicant in application no. 47835/17 in respect of legal services and the claim of the applicant in application no. 753/18 in respect of translation costs and postal expenses, in the absence of any supporting documents, the Court dismisses them.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Holds* that Mr Eldaniz Baliyev has standing to pursue application no. 59194/17 in Ms Elma Baliyeva's stead;
2. *Holds*
 - (a) that the respondent State is to 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, 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 on awards in respect of pecuniary or non-pecuniary damage, plus any tax that may be chargeable to the applicants on awards for costs and expenses;
 - (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' claims for just satisfaction.

BAGIROVA AND OTHERS v. AZERBAIJAN (JUST SATISFACTION) JUDGMENT

Done in English, and notified in writing on 24 June 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško
Registrar

Ioannis Ktistakis
President

APPENDIX

List of cases:

No.	Application no. Case name Lodged on	Applicant Year of birth Place of residence Nationality	Represented by	Type and size of the property (according to the ownership documents)	Amounts awarded/paid at the domestic level	Just satisfaction claims	Amounts awarded by the Court
1.	37706/17 Bagirova v. Azerbaijan 18/05/2017	Nabat Aziz gizi BAGIROVA 1960 Baku Azerbaijani	Fuad AGAYEV	A house of 182.7 sq. m and a plot of land of 0.0242 ha	AZN 398,885 – approximately EUR 233,330 at the relevant time	EUR 2,500,000 in respect of pecuniary damage; EUR 300,000 in respect of non-pecuniary damage; EUR 5,000 for legal services.	EUR 147,000 in respect of pecuniary damage; EUR 3,000 in respect of non-pecuniary damage; EUR 1,500 for costs and expenses <i>jointly with the applicants in applications nos. 59194/17, 73757/17 and 75028/17.</i>
2.	47835/17 Guliyev v. Azerbaijan 23/06/2017	Fikrat Fazil oglu GULIYEV 1973 Baku Azerbaijani	Agil LAYIJ	¼ of a house of 108.1 sq. m	AZN 32,584 - approximately EUR 17,700 at the relevant time	AZN 35,584 in respect of pecuniary damage; EUR 10,000 in respect of non-pecuniary damage; EUR 1,000 for legal services.	EUR 19,000 in respect of pecuniary damage; EUR 3,000 in respect of non-pecuniary damage.

BAGIROVA AND OTHERS v. AZERBAIJAN (JUST SATISFACTION) JUDGMENT

No.	Application no. Case name Lodged on	Applicant Year of birth Place of residence Nationality	Represented by	Type and size of the property (according to the ownership documents)	Amounts awarded/paid at the domestic level	Just satisfaction claims	Amounts awarded by the Court
3.	59194/17 Baliyeva v. Azerbaijan 08/08/2017	Elma Mirza gizi BALIYEVA 1938 Baku Azerbaijani Deceased: 2023	Fuad AGAYEV	A flat of 31.5 sq. m	AZN 49,012 - approximately EUR 42,500 at the relevant time	EUR 90,000 in respect of pecuniary damage; EUR 50,000 in respect of non-pecuniary damage; EUR 2,000 for legal services.	EUR 2,000 in respect of pecuniary damage; EUR 3,000 in respect of non-pecuniary damage; <i>see application no. 37706/17 for the award for costs and expenses.</i>
4.	73757/17 Heydarova v. Azerbaijan 05/10/2017	Gulnara Abil gizi HEYDAROVA 1966 Baku Azerbaijani	Fuad AGAYEV	1/3 of a house of 69.7 sq. m	AZN 66,695 - approximately EUR 58,600 at the relevant time	EUR 80,000 in respect of pecuniary damage; EUR 50,000 in respect of non-pecuniary damage; EUR 2,000 for legal services.	EUR 3,000 in respect of non-pecuniary damage; <i>see application no. 37706/17 for the award for costs and expenses.</i>
5.	75028/17 Aliyev v. Azerbaijan 17/10/2017	Faig Mashadi oglu ALIYEV 1951 Baku Azerbaijani	Fuad AGAYEV	A flat of 137.6 sq. m	AZN 250,030 - approximately EUR 145,500 at the relevant time	EUR 300,000 in respect of pecuniary damage; EUR 100,000 in respect of non-pecuniary damage; EUR 3,500 for legal services.	EUR 58,000 in respect of pecuniary damage; EUR 3,000 in respect of non-pecuniary damage; <i>see application no. 37706/17 for the award for costs and expenses.</i>

BAGIROVA AND OTHERS v. AZERBAIJAN (JUST SATISFACTION) JUDGMENT

No.	Application no. Case name Lodged on	Applicant Year of birth Place of residence Nationality	Represented by	Type and size of the property (according to the ownership documents)	Amounts awarded/paid at the domestic level	Just satisfaction claims	Amounts awarded by the Court
6.	753/18 Karimova v. Azerbaijan 21/12/2017	Ilhama Gudrat gizi KARIMOVA 1964 Baku Azerbaijani	Shahla HUMBATOVA	One room from 1/3 of a house	AZN 52,000 - approximately EUR 30,160 at the relevant time	EUR 89,000 in respect of pecuniary damage; EUR 50,000 in respect of non-pecuniary damage; EUR 8,360 for legal services, translation costs and postal expenses.	EUR 8,000 in respect of pecuniary damage; EUR 3,000 in respect of non-pecuniary damage; EUR 1,000 for costs and expenses.