



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

THIRD SECTION

CASE OF RAFIYEV v. AZERBAIJAN

(Application no. 81028/17)

JUDGMENT

Art 9 • Freedom of religion • Arrest and subsequent administrative conviction of follower of Nurism teachings of Islam for participating in unauthorised religious meeting on private premises • Interference not “prescribed by law”
Art 5 § 1 • Deprivation of liberty • Applicant escorted to police station and retained there for several hours • Unrecorded, unjustified and arbitrary detention

Art 6 § 1 (criminal) • Fair hearing • Lack of adequate reasoning

Prepared by the Registry. Does not bind the Court.

STRASBOURG

8 July 2025

FINAL

08/10/2025

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

In the case of Rafiyev v. Azerbaijan,

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

Peeter Roosma, *President*,

Lətif Hüseynov,

Darian Pavli,

Diana Kovatcheva,

Úna Ní Raifeartaigh,

Mateja Đurović,

Canòlic Mingorance Cairat, *judges*,

and Olga Chernishova, *Deputy Section Registrar*,

Having regard to:

the application (no. 81028/17) 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 Vugar Karim oğlu Rafiyev (*Vüqar Kərim oğlu Rəfiyev* – “the applicant”), on 6 November 2017;

the decision to give notice to the Azerbaijani Government (“the Government”) of the complaints concerning Article 5 § 1, Article 6 §§ 1 and 3 (b) and (c) and Article 9 of the Convention and to declare the remainder of the application inadmissible;

the decision of the President of the Section to give Mr A. Mustafayev leave to represent the applicant in the proceedings before the Court (Rule 36 § 4 (a) *in fine* of the Rules of the Court);

the parties’ observations;

Having deliberated in private on 17 June 2025,

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

INTRODUCTION

1. The case concerns the arrest and subsequent conviction of the applicant, a follower of the Nurism teachings of Islam, for the administrative offence of holding an unauthorised religious meeting on private premises.

THE FACTS

2. The applicant was born in 1980 and lives in Sumgayit. He was represented by Mr R. Mustafazade and Mr A. Mustafayev, lawyers based in Azerbaijan.

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

4. The facts of the case, as submitted by the parties, may be summarised as follows.

5. The applicant is a follower of the Nurism teachings of Islam, which originated in the writings of Said Nursi, a Sunni Muslim theologian.

6. On 4 March 2017 the applicant went to Guba to attend a funeral ceremony. Afterwards, the applicant, together with others, visited their friend, T.A., at his private house. At around 1 p.m. several police officers raided the premises and took the applicant and twenty-one other individuals to the Guba District Police Office.

7. It appears from the documents in the case file that at 5 p.m. on 4 March 2017 a record of personal search and check of items in person's possession (*şəxsi axtarış və fiziki şəxsdə olan şeyləri yoxlama haqqında protokol*) was drawn up at the police office. An administrative-offence report (*inzibati xəta haqqında protokol*) was also issued in respect of the applicant. The report stated that at around 1 p.m. on 4 March 2017 the applicant had violated the rules on holding religious meetings (*dini yığıncaqların keçirilməsi qaydasını pozmuşdur*) in Guba city at the house owned by T.A. and that he had committed an administrative offence under Article 515.0.2 of the Code of Administrative Offences ("the CAO").

8. According to the applicant, he was held in detention at the police office until midnight when he was taken to the Guba District Court. According to the Government, the applicant was brought before the Guba District Court at 10.30 p.m.

9. On 4 March 2017 the Guba District Court found the applicant guilty of violating the legislative rules on organising and holding religious meetings under Article 515.0.2 of the CAO and fined him 1,500 Azerbaijani manats (AZN – approximately 810 euros (EUR) at the material time). According to the official record, the hearing began at 10.50 p.m. on 4 March 2017 and ended at 11.10. p.m. on the same day. The court based its decision on the statement of the police officer who had compiled the administrative-offence report and on the statement of the applicant, who had said that following the funeral ceremony he had gone to the house owned by T.A., where he had prayed, and that he had not known that praying at T.A.'s house had constituted a religious meeting.

10. On an unspecified date the applicant lodged an appeal against the decision of 4 March 2017, submitting that he had not been engaged in any unlawful activities and that he had been arbitrarily deprived of his liberty by the police. In particular, he noted that his right to freedom of religion was guaranteed by the Constitution and the relevant domestic law, that praying at the house owned by T.A. was not prohibited by the domestic law and that there had been no requirement to obtain authorisation for it. He also alleged that the first-instance court had failed to give reasons for its decision.

11. On 23 May 2017 the Sumgayit Court of Appeal dismissed the appeal and upheld the first-instance court's decision. The appellate court summoned and questioned several witnesses, including T.A., a police officer who had participated in the police raid and an expert from the State Committee on Religious Affairs. Relying on Article 12 of the Law on freedom of religious belief, it held that any religious association could operate only after its State

registration and in the place of worship indicated as its legal address during its registration. It found that T.A.'s house was a non-residential property resembling a mosque and operated as a religious association used for holding religious meetings, and that the applicant had breached the legislative rules on holding religious meetings by participating in the religious meeting held at T.A.'s house. The court's decision was silent as to the applicant's complaint concerning his alleged unlawful arrest and detention by the police. That decision was not amenable to appeal.

RELEVANT LEGAL FRAMEWORK

I. THE CONSTITUTION OF THE REPUBLIC OF AZERBAIJAN

12. At the material time, the relevant provisions of the Constitution provided as follows:

Article 7 – Azerbaijani State

“I. The Azerbaijani State is a democratic, secular, unitary republic governed by the rule of law. ...”

Article 18 – Religion and State

“I. Religion is separated from the State in the Republic of Azerbaijan. All religions shall be equal before the law. ...”

Article 48 – Freedom of conscience

“I. Everyone shall enjoy freedom of conscience.

II. Everyone shall have the right to freely determine his or her attitude to religion, to profess, individually or together with others, any religion, or to profess no religion, and to express and disseminate his or her beliefs concerning his or her attitude to religion.

III. [People] shall be free to hold religious ceremonies, provided that [those ceremonies] do not violate public order or public morals. ...”

II. THE LAW ON FREEDOM OF RELIGIOUS BELIEF OF 20 AUGUST 1992

13. Article 1 of the Law on freedom of religious belief, as in force at the material time, provided that everyone had the right to profess, individually or together with others, any religion, and to express and disseminate his or her beliefs concerning his or her attitude to religion. No obstacles were to be placed in the way of the expression of an individual's religious beliefs, his or her participation in worship, religious rites and meetings or of his or her study of religion. Article 12 provided that a religious organisation could only operate after its State registration by the relevant executive authority and its inclusion in the State register of religious entities. It could operate in the place of worship indicated as its legal address during its registration following the appointment of a clergyman. Article 21 provided that people were free to hold

services of religious worship, rites and ceremonies at places of worship and adjacent areas, shrines, cemeteries, religious organisations, and citizens' houses and apartments.

III. CODE OF ADMINISTRATIVE OFFENCES

14. At the material time the relevant part of Article 515 of the CAO provided as follows:

Article 515. Violation of the rules concerning the establishment and activities of religious organisations

“515.0. Violations of the rules concerning the establishment and activities of religious organisations, namely:

...

515.0.2. Violations of the rules provided for by the legislation in respect of the organisation and the holding of religious meetings, marches and other religious ceremonies;

...

- shall be punishable by a fine in the amount of AZN 1,500-2,000 for individuals, and in the amount of AZN 7,000-8,000 for officials.”

IV. RELEVANT INTERNATIONAL DOCUMENT

15. The relevant extracts from the Joint Opinion (opinion no. 681/2012; CDL-AD (2012)022) on the Law on freedom of religious belief of the Republic of Azerbaijan by the European Commission for Democracy through Law (Venice Commission) and the OSCE/ODIHR adopted by the Venice Commission at its 92nd Plenary Session (12-13 October 2012), read as follows (footnotes omitted):

Article 12. State registration of religious associations

“79. According to Article 12, paragraph 1, religious associations can only operate in Azerbaijan after state registration. This provision appears to be quite strict and may well interfere with the right of everyone to manifest and practice religion. Registering an association should be optional and not a legal requirement. There may, of course, be certain benefits to legal registration and hence it may be appropriate to impose certain necessary formalities upon religious communities for the purpose of registration. Nevertheless, making registration mandatory goes against the fundamental principle of freedom of religion and the applicable international human rights standards, also as regards freedom of association, protected under Article 11 of the [Convention] and Article 22 of the [International Covenant on Civil and Political Rights].”

THE LAW

I. THE GOVERNMENT’S REQUEST FOR THE APPLICATION TO BE STRUCK OUT UNDER ARTICLE 37 § 1 OF THE CONVENTION

16. Article 37 § 1 of the Convention provides as follows:

“1. The Court may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that

(a) the applicant does not intend to pursue his application; or

(b) the matter has been resolved; or

(c) for any other reason established by the Court, it is no longer justified to continue the examination of the application.

However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the Protocols thereto so requires.”

17. On 5 September 2019 the Government submitted a unilateral declaration with a view to resolving the issues raised by the present application. They requested that the Court strike the application out of its list of cases in accordance with Article 37 of the Convention.

18. The applicant disagreed with the terms of the declaration, mainly arguing that the amount of compensation was too low and that the Government had failed to undertake to put in place any general measures in order to prevent similar violations in the future.

19. The Court reiterates that it may be appropriate in certain circumstances to strike out an application, or part thereof, under Article 37 § 1 of the Convention, on the basis of a unilateral declaration by the respondent Government even where the applicant wishes the examination of the case to be continued. Whether this is appropriate in a particular case depends on whether the unilateral declaration offers a sufficient basis for finding that respect for human rights as defined in the Convention does not require the Court to continue its examination of the case (see *Tahsin Acar v. Turkey* (preliminary objections) [GC], no. 26307/95, § 75, ECHR 2003-VI, and *Jeronovičs v. Latvia* [GC], no. 44898/10, § 64, 5 July 2016).

20. In the present case the Court notes that, although the Government acknowledged in their unilateral declaration the violation of the applicant’s rights guaranteed under the Convention, the amount of compensation proposed is substantially lower than the amount the Court would have awarded in similar cases (compare *Nasirov and Others v. Azerbaijan*, no. 58717/10, § 86, 20 February 2020, and *Alakbarov and Others v. Azerbaijan* [Committee], nos. 55503/15 and 6 others, § 38, 10 June 2021).

21. The Court therefore refuses the Government’s request for it to strike the application out of its list of cases under Article 37 § 1 of the Convention and will accordingly pursue its examination of the admissibility and merits of the case.

II. ALLEGED VIOLATION OF ARTICLE 5 § 1 OF THE CONVENTION

22. The applicant complained under Article 5 of the Convention that his arrest and detention had been unlawful. The Court considers that the present complaint falls to be examined under Article 5 § 1 of the Convention, which 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:

- (a) the lawful detention of a person after conviction by a competent court;
- (b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation 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;
- (d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
- (e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;
- (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.”

A. Admissibility

23. The Government submitted that the applicant had not been detained or arrested within the meaning of Article 5 of the Convention but had been taken to the police station so that an administrative-offence report could be compiled. The Government also submitted that no record of administrative detention had been drawn up in respect of the applicant who had been in the police station for a period of around eight and a half hours.

24. The applicant contested the Government’s objection, arguing that he had been deprived of his liberty during his stay in the police station.

25. The Court notes that it has already addressed an identical objection regarding the applicability of Article 5 of the Convention in *Nasirov and Others* (cited above, §§ 32-37) and found that the taking of the applicants to police stations (whether or not specifically with recourse to the procedure of administrative escorting) and their retention there for a certain period of time, taken as a whole, did fall within the scope of Article 5 § 1 of the Convention. The Court does not see any reason to depart from that finding in the present case since it is undisputed that the applicant was taken to the police station by police officers and that he was not free to leave the premises without their

authorisation. The Court thus considers that there was an element of coercion which was indicative of a deprivation of liberty within the meaning of Article 5 § 1 (see *Gillan and Quinton v. the United Kingdom*, no. 4158/05, § 57, ECHR 2010 (extracts); *Foka v. Turkey*, no. 28940/95, §§ 74-79, 24 June 2008; and *Khalikova v. Azerbaijan*, no. 42883/11, § 102, 22 October 2015). In these circumstances the Court finds that the applicant was deprived of his liberty within the meaning of Article 5 § 1.

26. Accordingly, the Court finds that Article 5 applies to the complaint and rejects the Government's objection in this connection.

27. 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

28. The applicant maintained his complaint, stating that his arrest and detention by the police had been unlawful.

29. The Government submitted that the applicant had been briefly deprived of his liberty so that an administrative-offence report could be compiled. His deprivation of liberty had been lawful and not arbitrary.

30. The Court refers to the general principles established in its case-law as set out in *Nasirov and Others* (cited above, §§ 46-47), which are equally pertinent to the present case.

31. The Court notes that the legal issues raised by the applicant under Article 5 of the Convention in the present case are similar to those examined in *Nasirov and Others* (ibid., §§ 48-50).

32. In particular, as in that case, the applicant was escorted to the police station so that an administrative-offence report could be compiled; however, no reference has been made to any obstacles preventing the report in question from being drawn up at the place where the offence had been discovered. Similarly, no record of administrative arrest was made in respect of the applicant once he had been taken to the police station. Lastly, neither the domestic authorities nor the Government before the Court provided any justification for the applicant's arrest, nor did they indicate that without such a measure it would have been "impossible" to achieve the goals laid down in the relevant legislation, such as, for example, to ensure the expedient and correct examination of his case (ibid.).

33. As regards the absence of a record of the applicant's arrest indicating the exact times when his deprivation of liberty began and ended on 4 March 2017, the Court considers it necessary to reiterate that the unrecorded detention of an individual is a complete negation of the fundamentally important guarantees contained in Article 5 of the Convention, and discloses a grave violation of that provision (see *Anguelova v. Bulgaria*, no. 38361/97, § 154, ECHR 2002-IV; *Nagiyev v. Azerbaijan*, no. 16499/09, § 64, 23 April

2015; and *Mammadov and Abbasov v. Azerbaijan*, no. 1172/12, § 53, 8 July 2021).

34. The foregoing considerations are sufficient to enable the Court to conclude that the applicant's deprivation of liberty was unjustified and arbitrary, irrespective of its duration (see *Nasirov and Others*, cited above, § 51).

35. There has accordingly been a violation of Article 5 § 1 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

36. Relying on Article 6 of the Convention, the applicant complained that he had not had a fair hearing, as the domestic courts had not sufficiently examined his arguments and had failed to provide adequate reasons for their decisions. The relevant part of Article 6 § 1 of the Convention reads as follows:

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

A. Admissibility

37. 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

38. The applicant reiterated his complaint, claiming that the domestic courts had failed to establish the existence of a religious meeting. He also submitted that there was no evidence that he had organised a religious meeting and that the domestic courts had found him guilty of breaching the legislative rules on organising and holding religious meetings solely on the basis of the fact that he had prayed in a house.

39. The Government submitted that the domestic proceedings had been fair and that the domestic courts had carefully examined the applicant's arguments and had weighed them against the statements of the police officers and other evidence in the case file.

40. The Court would refer to the general principles established in its case-law and set out in *Gafgaz Mammadov v. Azerbaijan* (no. 60259/11, §§ 83-84, 15 October 2015), and *Huseynli and Others v. Azerbaijan* (nos. 67360/11 and 2 others, §§ 119-20, 11 February 2016), which are equally pertinent to the present case.

41. The Court notes at the outset that there is a significant degree of similarity between the legal issues raised by the applicant under Article 6 of

the Convention in the present case and previous cases against Azerbaijan concerning the administrative conviction of applicants under the CAO (see *Gafgaz Mammadov*, cited above, §§ 85-87, and *Huseynli and Others*, cited above, §§ 121-24).

42. In the present case, the Court observes that the domestic courts relied on the statements of the police officers and the expert from the State Committee on Religious Affairs when convicting the applicant for breaching the legislative rules on organising and holding religious meetings. However, the domestic courts failed to provide adequate reasons as to why they considered the statements of those witnesses more objective and reliable than those of the applicant and T.A.

43. It follows that the domestic courts merely accepted the authorities' version of events and the charges as presented in the relevant police report without addressing the applicant's specific arguments and without attempting to clarify the disputed facts. In particular, they failed to identify and assess the applicant's role in organising the meeting in question, having regard to the undisputed fact that the applicant was not the owner of the premises where the meeting took place and had only been there as a guest.

44. The Court has previously held, in examining the fairness of criminal proceedings, that by ignoring a specific, pertinent and important point made by the accused, the domestic courts had fallen short of their obligations under Article 6 § 1 of the Convention (see *Nechiporuk and Yonkalo v. Ukraine*, no. 42310/04, § 280, 21 April 2011, and *Karimov and Others v. Azerbaijan*, nos. 24219/16 and 2 others, §§ 30 and 34, 22 July 2021). Taking the view that in the present case the domestic courts' decisions lacked adequate reasoning, the Court concludes that the administrative-offence proceedings against the applicant, considered as a whole, were not in conformity with the guarantees of a fair hearing.

45. There has accordingly been a violation of Article 6 § 1 of the Convention.

IV. ALLEGED VIOLATION OF ARTICLE 9 OF THE CONVENTION

46. The applicant complained under Article 9 of the Convention that the unlawful interference by the domestic authorities with his freedom of worship and religious practice had amounted to a violation of his Convention rights. Article 9 reads as follows:

“1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.”

A. Admissibility

47. The Government submitted that the applicant had failed to exhaust domestic remedies, as he had not complained in the domestic courts of a violation of his rights under Article 9 of the Convention.

48. The applicant contested the Government's submissions and referred to the text of his appeal lodged with the Sumgayit Court of Appeal, in which he had expressly complained of an unlawful interference with his right to freedom of religion.

49. The Court observes that although the Government submitted that the applicant had not complained in the domestic courts of a violation of his rights under Article 9, it is clear from the documents in the case file that the applicant did complain of an interference with his right to freedom of religion in his appeal (see paragraph 10 above). Accordingly, although the applicant did not expressly refer to the relevant provisions of the Convention in his submissions before the domestic courts, he raised the complaint in issue before them "at least in substance". The Court therefore considers that the Government's objection should be dismissed.

50. 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

51. The applicant submitted that he had been unlawfully arrested, detained, prosecuted and convicted because of his religious beliefs. He argued that the interference with his religious practice in which he had engaged with others had not been prescribed by law and had not been necessary in a democratic society.

52. The Government agreed that there had been an interference by the domestic authorities with the religious meeting that the applicant had attended. That interference had been prescribed by Article 515.0.2 of the CAO and Article 12 of the Law on freedom of religious belief. In that connection, they submitted that the house where the religious meeting had taken place had been uninhabited and had special places for prayer and ablution as found in a mosque. The interference had pursued the legitimate aim of protecting public order and had to be regarded as necessary in a democratic society for the purposes of Article 9 of the Convention.

2. *The Court's assessment*

(a) **General principles**

53. As enshrined in Article 9, freedom of thought, conscience and religion is one of the foundations of a “democratic society” within the meaning of the Convention. This freedom is, in its religious dimension, one of the most vital elements that go to make up the identity of believers and their conception of life, but it is also a precious asset for atheists, agnostics, sceptics and the unconcerned. The pluralism indissociable from a democratic society, which has been dearly won over the centuries, depends on it. That freedom entails, *inter alia*, freedom to hold or not to hold religious beliefs and to practise or not to practise a religion (see, among other authorities, *Kokkinakis v. Greece*, 25 May 1993, § 31, Series A no. 260-A; *Buscarini and Others v. San Marino* [GC], no. 24645/94, § 34, ECHR 1999-I; *S.A.S. v. France* [GC], no. 43835/11, § 124, ECHR 2014; and *İzzettin Doğan and Others v. Turkey* [GC], no. 62649/10, § 103, 26 April 2016).

54. Religious freedom is primarily a matter of individual thought and conscience. This aspect of the right set out in the first paragraph of Article 9, to hold any religious belief and to change religion or belief, is absolute and unqualified. However, as further set out in Article 9 § 1, freedom of religion also encompasses the freedom to manifest one's belief alone and in private, but also to practise in community with others and in public. The manifestation of religious belief may take various forms, namely worship, teaching, practice and observance (see *Kokkinakis*, cited above, § 31; *Leyla Şahin v. Turkey* [GC], no. 44774/98, § 105, ECHR 2005-XI; and *Sardar Babayev v. Azerbaijan*, nos. 34015/17 and 26896/18, § 72, 1 February 2024). Since the manifestation by one person of his or her religious belief may have an impact on others, the drafters of the Convention qualified this aspect of freedom of religion in the manner set out in Article 9 § 2 (see *Eweida and Others v. the United Kingdom*, nos. 48420/10 and 3 others, § 80, ECHR 2013 (extracts), and *Nasirov and Others*, cited above, § 60).

(b) **Application of the general principles to the present case**

(i) *Whether there has been an interference*

55. It is undisputed by the parties, and the Court agrees, that there was an interference with the applicant's right to freedom of religion on account of his arrest and subsequent conviction for participation in a religious gathering. It remains to be determined whether that interference satisfied the requirements of Article 9 § 2, that is whether it was “prescribed by law”, pursued a legitimate aim for the purposes of that provision and was “necessary in a democratic society”.

(ii) *Whether the interference was justified*

56. The Court notes that the Government relied on Article 515.0.2 of the CAO and Article 12 of the Law on freedom of religious belief (see paragraph 52 above) as a legal basis for the interference with the applicant's right.

57. The Court reiterates that the expression "prescribed by law" not only refers to a statutory basis in domestic law, but also requires that the law be formulated with sufficient precision to enable the individual to foresee the consequences which a given action may entail. The law must afford a measure of legal protection against arbitrary interferences by public authorities with the rights safeguarded by the Convention and indicate with sufficient clarity the scope of any discretion conferred on the competent authorities and the manner of its exercise (see *Taganrog LRO and Others v. Russia*, nos. 32401/10 and 19 others, § 214, 7 June 2022, and *Hamzayan v. Armenia*, no. 43082/14, § 47, 6 February 2024).

58. The Court observes that Article 515.0.2 of the CAO, which was relied upon as the legal basis for the interference with the applicant's rights by the domestic courts, regulates the administrative offences related to a breach of the rules on the establishment and operation of religious organisations. However, neither the Government nor the domestic courts referred to any provisions of the national legislation setting out a requirement that a religious gathering on private premises could not take place without registration or to any domestic law or provisions which could constitute the legal basis for the dispersal of a gathering held in places which were in private ownership (see, *mutatis mutandis*, *Emin Huseynov v. Azerbaijan*, no. 59135/09, § 98, 7 May 2015). On the contrary, Article 21 of the Law on freedom of religious belief provided that, subject to the requirements of Article 1, people were free to hold services of religious worship, rites and ceremonies at places of worship and adjacent areas, shrines, cemeteries, religious organisations, and citizens' houses and apartments (see paragraph 13 above).

59. Moreover, as is clear from the meaning of Article 515.0.2 of the CAO, in order to fall under its scope, an administrative offence had to be committed by an individual who either established a religious organisation or operated one. Given that the applicant was not the owner of the private residence at which he was arrested and was merely in attendance there with his friends, it is unclear how he could have been regarded as having committed an administrative offence under Article 515.0.2 of the CAO. Nor does the Court lose sight of its findings under Article 6 of the Convention, noting that the domestic courts failed to provide adequate reasons for the applicant's conviction. It appears from the reasoning of their decisions that the applicant was found guilty of an offence merely because of his participation in the religious meeting (compare *Sheveli and Shengelaya v. Azerbaijan* [Committee], no. 42730/11, § 32, 5 November 2020).

60. In any event, even assuming that the private residence where the applicant assembled with others was used as a place of religious worship as argued by the Government, the Court finds it necessary to reiterate that, while States can put in place a requirement that religious denominations be registered in a manner compatible with Articles 9 and 11 of the Convention, it does not follow that sanctioning an individual member of an unregistered religious organisation for praying or otherwise manifesting his or her religious belief is compatible with the Convention (see *Hamzayan*, cited above, § 51). To accept the contrary would amount to the exclusion of minority religious beliefs which are not formally registered with the State, and consequently would amount to admitting that a State can dictate what a person can or cannot believe (see *Masaev v. Moldova*, no. 6303/05, § 26, 12 May 2009, and *Ossewaarde v. Russia*, no. 27227/17, § 46, 7 March 2023).

61. The foregoing considerations are sufficient to enable the Court to conclude that the interference in question was not “prescribed by law” within the meaning of Article 9 § 2 of the Convention.

62. Having reached that conclusion, the Court does not need to satisfy itself that the other requirements of Article 9 § 2 (in respect of a “legitimate aim” and the “necessity of the interference”) have been met.

63. Consequently, there has been a violation of Article 9 of the Convention.

V. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

64. The applicant further complained under Article 6 of the Convention that he had not had a public hearing before the first-instance court, that he had not been given sufficient time and facilities to prepare his defence and that he had not been provided with the opportunity to defend himself through effective legal assistance.

65. Having regard to the facts of the case, the submissions of the parties, and its findings above (see paragraphs 38-45 above), the Court considers that there is no need to examine the admissibility and merits of these complaints (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

66. 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

67. The applicant claimed 8,000 euros (EUR) in respect of non-pecuniary damage.

68. The Government submitted that the amount claimed by the applicant was unsubstantiated and excessive and that a finding of a violation would constitute sufficient just satisfaction.

69. The Court considers that the applicant has suffered non-pecuniary damage which cannot be compensated for solely by the finding of violations, and that an award should therefore be made on that account. Making its assessment on an equitable basis, as required by Article 41 of the Convention, the Court awards the applicant the sum of EUR 3,000 under this head, plus any tax that may be chargeable on that amount.

B. Costs and expenses

70. The applicant claimed EUR 1,600 for legal services incurred in the proceedings before the domestic courts and the Court. In support of his claim, the applicant submitted a contract entered into with his representative, Mr R. Mustafazade, concerning legal services before the Court. According to the contract, the amounts due (EUR 1,600) were to be paid in the event that the Court found a violation of the applicant's rights. The applicant asked that the award in respect of costs and expenses be paid directly into the bank account of his representative Mr R. Mustafazade.

71. The Government argued that the claim was unsubstantiated and excessive. They submitted that the contract in question concerned only legal services before the Court and that the costs and expenses had not actually been incurred, because the amounts claimed had not been paid by the applicant.

72. The Court notes at the outset that, although the applicant has not yet actually paid the legal fees, he is required to pay them pursuant to a contractual obligation. Accordingly, in so far as the lawyer is entitled to seek payment of his fees under the contract, the applicant may claim reimbursement of those fees (see *Pirali Orujov v. Azerbaijan*, no. 8460/07, § 74, 3 February 2011; *Rizvanov v. Azerbaijan*, no. 31805/06, § 89, 17 April 2012; *Malik Babayev v. Azerbaijan*, no. 30500/11, § 97, 1 June 2017; *Merabishvili v. Georgia* [GC], no. 72508/13, §§ 371-72, 28 November 2017; and *Ahmadov v. Azerbaijan*, no. 32538/10, § 62, 30 January 2020). 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 have been actually and necessarily incurred and are reasonable as to quantum. Having regard to the amount of legal work necessary in the present case, the Court considers that the amount claimed in respect of legal fees is excessive and should be awarded only in part. In these circumstances, having regard to the documents

in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 1,000, covering costs under all heads, to be paid directly into the bank account of his representative Mr R. Mustafazade.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints under Article 5 § 1 (alleged unlawful arrest and detention), Article 6 § 1 (alleged lack of reasoning in the domestic courts' decisions) and Article 9 of the Convention (alleged violation of the right to freedom of religion) admissible;
2. *Holds* that there has been a violation of Article 5 § 1 of the Convention;
3. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
4. *Holds* that there has been a violation of Article 9 of the Convention;
5. *Holds* that there is no need to examine separately the admissibility and merits of the remaining complaints;
6. *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 3,000 (three thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 1,000 (one thousand 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 his representative, Mr R. Mustafazade;
 - (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;
7. *Dismisses* the remainder of the applicant's claim for just satisfaction.

RAFIYEV v. AZERBAIJAN JUDGMENT

Done in English, and notified in writing on 8 July 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova
Deputy Registrar

Peeter Roosma
President