



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

## THIRD SECTION

### **CASE OF IDRIS AKHUNDOV v. AZERBAIJAN**

*(Application no. 22824/21)*

## JUDGMENT

Art 1 P1 • Peaceful enjoyment of possessions • Domestic courts' failure to refer to any provision of domestic law allowing for the discontinuance of a former police officer's old-age pension on the ground that he had allegedly been granted political asylum in Germany • Interference not in compliance with "conditions provided for by law"

Prepared by the Registry. Does not bind the Court.

STRASBOURG

26 May 2026

*This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.*



**In the case of Idris Akhundov v. Azerbaijan,**

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

Ioannis Ktistakis, *President*,

Lətif Hüseynov,

Darian Pavli,

Diana Kovatcheva,

Úna Ní Raifeartaigh,

Mateja Đurović,

Vasilka Sancin, *judges*,

and Milan Blaško, *Section Registrar*,

Having regard to:

the application (no. 22824/21) 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 Idris Axunbala oğlu Akhundov (*İdris Axunbala oğlu Axundov* – “the applicant”), on 26 April 2021;

the decision to give notice to the Azerbaijani Government (“the Government”) of the complaint under Article 1 of Protocol No. 1 to the Convention and to declare the remainder of the application inadmissible;

the parties’ observations;

Having deliberated in private on 28 April 2026,

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

## INTRODUCTION

1. The application concerns the discontinuance of the old-age pension (*yaşa görə əmək pensiyası*) received by the applicant, a former police officer, as he had allegedly been granted political asylum in Germany.

## THE FACTS

2. The applicant was born in 1967 and lives in Mainz, Germany. He was represented by Mr A. Rasulov, 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.

5. The applicant is a former officer of the Ministry of Internal Affairs (“the MIA”). He worked in various positions in the Khachmaz District Police Office under the MIA between June 1993 and May 2016. The applicant was relieved from his duties upon reaching retirement age and was granted an old-age pension for life from 8 May 2016.

6. According to the applicant, following his retirement he was persecuted by the employees of the MIA because he had participated in a number of events, organised by one of the opposition parties, criticising the political

regime in the country and, in particular, the activities of the law-enforcement agencies. As a result, he left Azerbaijan for Germany in 2017.

7. On an unspecified date the MIA requested that the State Social Protection Fund (“the SSPF”) under the Ministry of Labour and Social Protection of the Population discontinue the applicant’s pension payments on the grounds that he had been granted political asylum in Germany. The applicant’s pension payments were discontinued as of 1 November 2017.

8. On 21 October 2018 the applicant brought proceedings against the MIA in Baku Administrative-Economic Court no. 1. He asked that the SSPF be involved in the proceedings as a third party. He further amended his claim, requesting that the first-instance court designate the SSPF as the defendant and the MIA as a third party. The applicant complained that the discontinuance of his pension payments had been unlawful and asked the court to order the SSPF to resume the relevant payments as of 31 October 2017.

9. The SSPF lodged an objection with the first-instance court. It noted that the applicant had received his pension until 31 October 2017, but that the payments had been discontinued as of 1 November 2017 following the MIA’s request to discontinue his pension payments on the grounds that he had been granted political asylum in Germany (see paragraph 7 above). Relying on the definition of refugee set out in the 1951 Convention relating to the Status of Refugees (see paragraph 26 below), it alleged that the applicant had voluntarily refused to benefit from the protection of Azerbaijan and had been granted political asylum in Germany on the grounds that he was being persecuted in Azerbaijan; he would not otherwise have been granted asylum. It therefore argued that the discontinuance of the applicant’s pension had been lawful and justified.

10. On 17 July 2019 the first-instance court dismissed the applicant’s claim. It endorsed the reasons indicated in the SSPF’s appeal and concluded that the defendant’s decision to discontinue the applicant’s pension payments had been lawful and justified.

11. The applicant appealed, submitting that he was not a refugee. He argued that, even if that had been the case, it could not have served as a basis for revoking the social rights he had acquired in his country of origin. He therefore argued that the court had misinterpreted the 1951 Convention and had failed to apply Article 38 of the Constitution (see paragraph 18 below).

12. On 3 October 2019 the Baku Court of Appeal, reiterating the reasons given by the first-instance court, dismissed the applicant’s appeal.

13. The applicant lodged a cassation appeal with the Supreme Court, reiterating his previous arguments (see paragraphs 8 and 11 above). He also submitted that, although the court had concluded that he had been granted political asylum in Germany, the defendant and the third party had failed to present any evidence in that regard.

14. On 18 December 2019 the Supreme Court allowed in part the applicant's cassation appeal and remitted the case to the Baku Court of Appeal for fresh examination. It concluded that the lower court had failed to comply with the requirements of Articles 12.1 and 58.7 of the Code of Administrative Procedure (see paragraphs 23 and 25 below) and had based its decision on assumptions. In particular, it found that there was no evidence in the case file showing that the applicant had been granted political asylum in Germany and that the lower court had failed to carry out any examination in that regard. The Supreme Court further concluded that both the MIA and the Baku Court of Appeal had failed to cite any legal provision which could serve as a basis for the discontinuance of the applicant's pension payments.

15. On 21 July 2020 the Baku Court of Appeal upheld the first-instance court's judgment (see paragraph 10 above). The appellate court concluded that the applicant had left Azerbaijan on 18 November 2016 and had moved to Germany. It also referred to a letter from the Prosecutor General's Office addressed to the applicant's lawyer, which indicated that criminal proceedings had been initiated against the applicant under Articles 318-1.2.3 (organisation of illegal migration), 320.1 and 320.2 (forgery, unlawful production, sale, or use of official documents) of the Criminal Code. It found that, although the applicant had denied having been granted asylum in Germany, he had failed to explain on what basis he had been residing there for the last four years. It reiterated that the applicant had voluntarily renounced the protection of Azerbaijan; he would not have otherwise been granted asylum in Germany. It held that the applicant could not benefit from the social protection systems of two States Parties to the 1951 Convention simultaneously.

16. The applicant lodged a cassation appeal, reiterating his previous arguments (see paragraphs 8, 11 and 13 above).

17. On 27 October 2020 the Supreme Court dismissed the cassation appeal, upholding the reasons given by the Baku Court of Appeal (see paragraph 15 above).

## RELEVANT LEGAL FRAMEWORK

### I. RELEVANT DOMESTIC LAW

#### A. The 1995 Constitution

18. Article 38 of the Constitution provides as follows:

##### **Right to social security**

"I. Everyone has the right to social security.

...

III. Everyone, upon reaching the age limit established by law, has the right to social security in the event of illness, disability, loss of the family's breadwinner, loss of capacity to work, unemployment, and in other cases provided for by law.

IV. The minimum level of pensions and social allowances is determined by law.

..."

## **B. Law of 7 February 2006 on Work Pensions**

19. Article 29 of the Law on Work Pensions provides for annual indexation of work pensions on the basis of a decision of the relevant executive authority.

20. Article 32.1 of the Law provides that an old-age pension shall be granted for life.

21. Article 37 of the Law, as in force at the material time, provided:

### **Rules for the payment (delivery) of work pensions and pension supplements**

"...

37.8. Payment of work pensions and pension supplements established by this Law shall be discontinued (*dayandırılır*) from the date on which the following circumstances occur:

37.8.1. the pensioner dies;

37.8.2. the pensioner's widow or widower remarries;

37.8.3. circumstances arise that fail to meet the conditions for granting work pensions and pension supplements established by this Law."

22. Article 43 of the Law provides:

### **Payment of work pensions to persons who have moved abroad**

"43.1. For Azerbaijani citizens living abroad, work pensions received in the Republic of Azerbaijan may be transferred, at their request, either to a bank account in the Republic of Azerbaijan or, at their own expense, in their State of residence.

..."

## **C. The 2009 Code of Administrative Procedure**

23. Article 12 of the Code of Administrative Procedure, as in force at the material time, provided:

### **Principle of examination of the circumstances of the case**

"12.1. The court, rather than being limited to the explanations, requests and proposals of the parties and other participants in the proceedings, the evidence submitted by them, or any other materials in the case file, is obliged, by virtue of its official duty, to examine all the factual circumstances relevant to the proper resolution of the case.

12.2. The court is obliged, independently on its own initiative or at the request of the parties and other participants in the proceedings, to collect any other evidence as necessary. The court may require additional information and evidence from the parties.

12.3. The parties and other participants in the proceedings are obliged to assist the court in the examination of the factual circumstances related to the case and in the collection of evidence.

12.4. It is prohibited for the parties and other participants in the proceedings to destroy or conceal any evidence or to obstruct the examination of such evidence in any way. In such circumstances, the court may, taking into account all the circumstances of the particular case, adopt a ruling on the reversal of the burden of proof.”

24. Article 14 of the Code provides as follows:

**Burden of proof**

“14.1. The administrative authority which has adopted the disputed administrative act must prove the existence of circumstances requiring the adoption of that act.

14.2. In claims for protection against unlawful interference by an administrative authority not related to the adoption of an administrative act and directly violating the rights and freedoms of a person, the burden of proving the existence of circumstances necessitating such interference lies with the relevant administrative authority.

14.3. In requests for the adoption of an administrative act (compulsion), the burden of proving the existence of circumstances requiring the adoption of such an act lies with the claimant. However, where the administrative authority refers to the existence of circumstances which, in the specific case, exclude the adoption of the administrative act requested by the claimant, the burden of proving the existence of such circumstances lies with that administrative authority.”

25. Article 58 of the Code provides:

**Rules on the examination of evidence**

“ ...

58.7. Evidence shall be assessed by the court after being fully and comprehensively examined.

...”

**II. RELEVANT INTERNATIONAL MATERIAL**

26. Article 1 of the 1951 Convention relating to the Status of Refugees provides in its relevant part as follows:

**Definition of the term “refugee”**

“A. For the purposes of the present Convention, the term ‘refugee’ shall apply to any person who:

...

(2) ... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the

country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

...”

## THE LAW

### I. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 1 TO THE CONVENTION

27. The applicant complained that he had been deprived of his possessions on account of the domestic authorities’ decision to discontinue his pension payments. He relied on Article 1 of Protocol No. 1 to the Convention, which reads as follows:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

#### A. Admissibility

28. The principles which apply generally in cases under Article 1 of Protocol No. 1 are equally relevant when it comes to pensions. Thus, that provision does not guarantee the right to acquire property. Nor does it guarantee, as such, any right to a pension of a particular amount. However, where a Contracting State has in force legislation providing for the payment as of right of a pension – whether or not conditional on the prior payment of contributions – that legislation has to be regarded as generating a proprietary interest falling within the ambit of Article 1 of Protocol No. 1 for individuals who satisfy its requirements (see *Philippou v. Cyprus*, no. 71148/10, § 59, 14 June 2016, with further references).

29. In the present case, it is not in dispute between the parties that the applicant’s entitlement to an old-age pension constituted a “possession” within the meaning of Article 1 of Protocol No. 1 to the Convention. The Court sees no reason to hold otherwise (compare *Fábián v. Hungary* [GC], no. 78117/13, § 62, 5 September 2017, and *Grudić v. Serbia*, no. 31925/08, § 77, 17 April 2012).

30. The Court notes that the application is not manifestly ill-founded, nor is it inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.



**B. Merits***1. The parties' submissions***(a) The applicant**

31. The applicant submitted that he had not been granted asylum in Germany but had immigrated there together with his family in order to give his children a better education. He argued that the MIA had not referred to any official documents regarding his alleged refugee status in Germany when deciding to discontinue his pension payments and that, in any event, it had not had the authority to do so under domestic law. He submitted that his entitlement to a pension was established by the Constitution and could not be restricted by any State authority.

32. The applicant further submitted that the Government had also failed to provide any documents showing that he had been granted political asylum in Germany and that there had therefore been an unlawful interference with his property rights. He also submitted that, as a citizen of the Republic of Azerbaijan, the discontinuance of his pension payments had been contrary to the public interest and had placed a heavy burden on him.

**(b) The Government**

33. The Government contended that the applicant had been granted refugee status in Germany in 2017, which showed that he was “unable or unwilling to avail himself of the protection granted [to] him by Azerbaijan”. They argued that any interference had been in the public interest and in accordance with the conditions provided for under international law. They further argued that the applicant’s refugee status had meant that he had had access to all the relevant social programmes in that country, which had, *ab initio*, removed any excessive burden alleged by him.

*2. The Court's assessment*

34. It is common ground between the parties, and the Court sees no reason to disagree, that the discontinuance of the applicant’s old-age pension payments in the present case constituted an interference with his right to the peaceful enjoyment of his possessions (compare *Fábián*, cited above, § 62, and *Pejčić v. Serbia*, no. 34799/07, § 58, 8 October 2013).

35. The Court reiterates that Article 1 of Protocol No. 1 to the Convention, which guarantees in substance the right to property, comprises three distinct rules. The first rule, which is set out in the first sentence of the first paragraph, is of a general nature and enunciates the principle of peaceful enjoyment of property. The second rule, contained in the second sentence of the first paragraph, covers the deprivation of possessions and subjects it to certain conditions. The third rule, stated in the second paragraph, recognises that the Contracting States are entitled, amongst other things, to control the

use of property in accordance with the general interest, by enforcing such laws as they deem necessary for the purpose. However, the rules are not “distinct” in the sense of being unconnected. The second and third rules are concerned with particular instances of interference with the right to peaceful enjoyment of property and should therefore be construed in the light of the general principle enunciated in the first rule (see, among many other authorities, *Sargsyan v. Azerbaijan* [GC], no. 40167/06, § 217, ECHR 2015).

36. The Court considers that the interference with the applicant’s property rights in the present case falls to be considered under the first rule mentioned above, namely the general principle of peaceful enjoyment of property (compare *Fábián*, cited above, § 64, and *Klein v. Austria*, no. 57028/00, § 49, 3 March 2011).

37. In the present case, the SSPF decided to discontinue the payment of the applicant’s old-age pension on the grounds that he had allegedly been granted political asylum in Germany. When dismissing the applicant’s claim, the domestic courts also referred to that argument in their reasoning, concluding that he could not benefit from the social protection systems of two countries simultaneously. The applicant denied having been granted refugee status and argued before the courts that the defendant had failed to provide any documentary evidence in that regard in the domestic proceedings. The Supreme Court, in its judgment of 18 December 2019, noted that the case file contained no evidence in that regard and that the lower court had failed to address the issue. It therefore remitted the case for fresh examination. Following the remittal, the Baku Court of Appeal concluded that although the applicant had denied having been granted political asylum in Germany, he had failed to explain on what basis he had been living there (see paragraph 15 above).

38. In his application lodged with the Court, the applicant submitted that he had been persecuted by the MIA for his participation in a number of events organised by an opposition party (see paragraph 6 above). In his observations he reiterated that he had not been granted political asylum in Germany and had simply immigrated there in order to give his children a better education, whereas the Government, relying on the conclusions of the domestic courts, argued to the contrary (see paragraphs 31-33 above). The Court notes that no documents were submitted by the parties in support of their respective positions. However, it does not find it necessary to resolve this matter, because the interference in the present case was, in any event, in breach of Article 1 of Protocol No. 1 to the Convention for the following reasons.

39. The Court reiterates that the first and most important requirement of Article 1 of Protocol No. 1 is that any interference by a public authority with the peaceful enjoyment of possessions should be lawful. This concept requires firstly that the impugned measures should have a basis in domestic law. It also refers to the quality of the law in question, requiring that it be accessible to the persons concerned, precise and foreseeable. Although it is

primarily for the national authorities to interpret and apply domestic law, the Court is required to verify whether the way in which the domestic law is interpreted and applied produces consequences consistent with the principles of the Convention, as interpreted in the light of the Court's case-law (see *Democracy and Human Rights Resource Centre and Mustafayev v. Azerbaijan*, nos. 74288/14 and 64568/16, § 67, 14 October 2021, with further references).

40. The Court firstly observes that an old-age pension shall be granted for life under domestic law (see paragraph 20 above). Article 37 of the Law on Work Pensions sets out a list of grounds on the basis of which a pension could be discontinued, none of which appear to be relevant to the circumstances of the present case (see paragraph 21 above).

41. The Court further observes that, despite the applicant's repeated complaints in the domestic courts that the interference with his property rights had been unlawful (see paragraphs 8, 11 and 13 above), the courts simply referred to the general definition of "refugee" set out in the 1951 Convention and failed to refer to any provisions of domestic law which could serve as a legal basis for the interference in question (compare *Par and Hyodo v. Azerbaijan*, nos. 54563/11 and 22428/15, § 55, 18 November 2021, and *Godlevskaya v. Russia*, no. 58176/18, §§ 52-61, 7 December 2021). In this connection, the Court notes that the Supreme Court specifically pointed out that defect in its judgment of 18 December 2019 when remitting the case for fresh examination (see paragraph 14 above). However, following the remittal, neither the Baku Court of Appeal, nor the Supreme Court which subsequently upheld the appellate court's judgment, referred to any provision of domestic law allowing for the discontinuance of the applicant's old-age pension payments (see paragraphs 15 and 17 above).

42. The Government also failed to cite any legal provision that could have served as a basis for the interference in question.

43. In such circumstances, the Court concludes that the interference with the applicant's right to the peaceful enjoyment of his possessions was not in compliance with "conditions provided for by law" (compare *Grudić*, cited above, §§ 78-81, and *Damjanac v. Croatia*, no. 52943/10, § 104, 24 October 2013). That conclusion makes it unnecessary to ascertain whether the interference in question pursued a legitimate aim in the public interest or whether a fair balance was struck between the demands of the general interest of the community and the requirements of the protection of the applicant's fundamental rights (see, for example, *Maharramov v. Azerbaijan*, no. 5046/07, § 65, 30 March 2017).

44. There has accordingly been a violation of Article 1 of Protocol No. 1 to the Convention.

## II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

45. 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

46. The applicant claimed 60,233.08 euros (EUR) in respect of pecuniary damage, which consisted of an amount in respect of outstanding pension payments from November 2017 onwards, including indexation. He further claimed EUR 30,000 in respect of non-pecuniary damage.

47. The Government asked the Court to dismiss the applicant’s claims. They submitted that any damage allegedly suffered by the applicant had been a result of his own actions, namely the fact that he had voluntarily renounced the protection of Azerbaijan. They further submitted that, in the alternative, the finding of a violation would constitute sufficient reparation in respect of non-pecuniary damage.

48. As regards the applicant’s claim in respect of pecuniary damage, the Court holds that the respondent Government must pay the applicant his outstanding pension payments from 1 November 2017 onwards, including indexation (compare *Grudić*, § 92, and *Pejčić*, § 81, both cited above). The Court further notes that the applicant has certainly suffered non-pecuniary damage. Making its assessment on an equitable basis, as required by Article 41 of the Convention, it awards the applicant EUR 3,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

### B. Costs and expenses

49. The applicant also claimed EUR 8,000 for the costs and expenses incurred before the domestic courts and the Court.

50. The Government asked the Court to reject the applicant’s claim under this head, submitting that the applicant had not initially been represented by a lawyer before the Court. They further submitted that no copies of a contract for legal services had been submitted by the applicant in support of his claim.

51. 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, the applicant failed to submit any relevant documents in support of his claim. The Court therefore dismisses his claim under this head.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;
2. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to the Convention;
3. *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, his pension arrears from 1 November 2017 onwards, including indexation, in respect of pecuniary damage, and EUR 3,000 (three thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
  - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 26 May 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško  
Registrar

Ioannis Ktistakis  
President