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

THIRD SECTION

CASE OF ABDULALIYEV AND ISMAYILOV v. AZERBAIJAN

(Applications nos. 64510/17 and 39664/18)

JUDGMENT

Art 3 (procedural) • Ineffective investigations into arguable complaints of ill-treatment by police officers during the applicants' arrest and detention
Art 3 (substantive) • Inhuman or degrading treatment • Excessive force by using firearms and rubber bullets against the applicants during their arrest, in the course of the "Nardaran events", resulting in injuries • Force used not rendered strictly necessary by their own conduct
Art 3 (substantive) • Court unable to reach any conclusion as to the applicants' alleged ill-treatment during detention deriving, at least in part, from the authorities' failure to conduct effective investigations
Art 3 (substantive) • Inhuman or degrading treatment • Lack of adequate medical care following the applicants' arrest and during their detention

Prepared by the Registry. Does not bind the Court.

STRASBOURG

8 September 2026

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Abdulaliyev and Ismayilov v. Azerbaijan,

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

Ioannis Ktistakis, *President*,
Lətif Hüseynov,
Diana Kovatcheva,
Úna Ní Raifeartaigh,
Mateja Đurović,
Canòlic Mingorance Cairat,
Vasilka Sancin, *judges*,
and Milan Blaško, *Section Registrar,*

Having regard to:

the applications (nos. 64510/17 and 39664/18) 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 two Azerbaijani nationals, Shamil Adil oglu Abdulaliyev (*Şamil Adil oğlu Abduləliyev* – “the first applicant”) and Agil Azer oglu Ismayilov (*Aqil Azər oğlu İsmayılov* – “the second applicant”), on 21 August 2017 and 11 August 2018, respectively;

the decision to give notice of the complaints concerning Articles 3 and 13 of the Convention to the Azerbaijani Government (“the Government”) and to declare inadmissible the remainder of the applications;

the parties’ observations;

Having deliberated in private on 23 June 2026,

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

INTRODUCTION

1. The present applications primarily concern the applicants’ complaints under Article 3 of the Convention about the alleged excessive use of force against them; the failure to provide them with adequate medical treatment; their ill-treatment during their detention; and the absence of any effective investigations into their complaints of ill-treatment.

THE FACTS

2. The applicants were born in 1985 and 1995 respectively, and at the time when the applications were lodged they were serving prison sentences in Baku. The first applicant was represented by Mr E. Sadigov and Ms Z. Sadigova, lawyers based in Baku. The second applicant was represented by Mr Y. Imanov, a lawyer based in Sumgayit.

3. The Azerbaijani Government (“the Government”) were represented by their Agent, Mr Ç. Əsgərov.

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

I. POLICE OPERATION IN NARDARAN

5. The applicants were supporters of an unregistered religious movement, Müsəlman Birliyi (“the MB”), which was established by a group of Shia Muslims at the beginning of 2015.

6. On 26 November 2015 the so-called “Nardaran events” occurred. On that day armed police officers from the Organised Crime Department (*Baş Mütəşəkkil Cinayətkarlıqla Mübarizə İdarəsi* – “the OCD”) of the Ministry of Internal Affairs (“the MIA”) carried out an operation in Nardaran (a suburb of Baku) during which members and supporters of the MB – including the applicants – were arrested in a house belonging to Mr A. Bunyatov (who is one of the applicants in application no. 365/20, pending before the Court).

7. The operation had not been authorised by a court order. According to a search-and-seizure record issued by K.A. (a senior officer of the OCD) dated 26 November 2015 (“the record of 26 November 2015”), the decision to conduct the operation was taken following the receipt of information that the leader of the MB (that is, Mr T. Bagirov, who is one of the applicants in application no. 47347/18, which is pending before the Court) and several others had “created an armed group ... and for this purpose had acquired and stored firearms, ammunition [and] explosives; regularly held meetings with [Mr T. Bagirov’s] supporters; and conducted preparatory activities and propaganda in [Mr A. Bunyatov’s] house”, and that they were, *inter alia*, gathering in the above-mentioned house to make “preparations for a violent seizure of power, mass disorder and terrorist acts”. According to the same record, the purpose of the operation was to verify that information.

8. During the operation shots were fired. Six people were killed: three Nardaran residents attending the gathering (A.B., S.S. and R.B.) died at the scene; another Nardaran resident (F.B.) and two police officers (V.N. and I.T.) were wounded and died later; many others were injured, including the applicants.

9. According to the record of 26 November 2015, the operation began at 12.15 p.m. The record stated that:

> “A group of police officers armed with weapons arrived at the location and deployed in an operational position around the above-mentioned house. At around 1 p.m. they entered the yard of the house. ...
>
> After that, despite being warned several times not to open fire at [the police officers], the people in the house and the yard threw a hand grenade at the police officers and opened fire with machine guns. ... Since firearms were being used against the police, the police officers repeatedly fired warning shots and demanded that the people in the house stop using weapons. However, they did not obey the demand and fired intensively at [the police officers]. Accordingly, the police officers opened fire ... [in reply]. ...
>
> As a result of the shooting, which lasted for 10-15 minutes, the supporters of [Mr T. Bagirov and the MB] were neutralised; ... attesting witnesses were then invited at the scene [for their participation in the search-and-seizure measure, identification of the arrested people and other measures]. ...

The search-and-seize measure began at 1 p.m. and finished at 1.55 p.m. The [arrested] individuals were invited to [the OCD] for the finalisation of the [paperwork].

The drawing-up of the record began at 2.35 p.m. and was finalised at 3.20 p.m."

10. The record of 26 November 2015 contained statements given by the police officers who had participated in the operation. They stated in particular that the members and supporters of the MB had been shooting and attempting to throw hand grenades at the police, attacking (or attempting to attack) them by other means (such as with knives, nunchakus and metal "knuckledusters"), and/or resisting by "making hand and arm movements". Officers V.N. and I.T. (the two police officers who died later) had been wounded by the above-mentioned residents of Nardaran, S.S. and A.B. (see paragraph 8 above). S.S. had shot and wounded officer V.N. with a machine gun, and A.B. had detonated a hand grenade and wounded Officers V.N. and I.T. The MB members and supporters who had been injured or who had died at the scene (S.S., A.B. and R.B.) had been injured or killed during the process of their being "neutralised".

11. According to the same record, 18 persons had been disarmed and arrested, and their identity had been established at the scene. Numerous items had been found on them and seized from them and from the scene – including weapons, explosive substances, other ammunition (such as bullets), and copies of booklets containing calls for violence.

12. The individuals arrested during the Nardaran events were later charged with a number of serious crimes: murder; preparing terrorist acts; inciting terrorism; inciting mass disorder; illegally acquiring, possessing and carrying weapons, explosive substances and other ammunition; committing actions aimed at a violent seizure of power; forming armed units or groups; inciting insurrection; inciting national, racial or religious hostility; and engaging in violence posing a danger to the life and health of a representative of the State.

II. DETAILS CONCERNING THE APPLICANTS' ARREST AND THEIR ALLEGED ILL-TREATMENT

13. The applicants were among those arrested and injured during the Nardaran events (the injuries in the first applicant's abdomen and legs were later identified as three penetrating bullet wounds (gunshots), while the second applicant's major injuries were later identified as having possibly been caused by rubber bullets; see paragraphs 21-22 below). According to the record of 26 November 2015:

"...when the police entered the yard, [the first applicant] tried to attack Officer M.T. and other officers with a bayonet and a hand grenade. Officer M.T. handed over a hand grenade and stated that he had seized it from [the first applicant] during the latter's neutralisation; and that [the first applicant] had received injuries as a result of his resisting [the police]. Officers M.T. and F.M., with the participation of attesting witnesses D.G. and H.M., questioned [the first applicant] in order to establish his identity. [The first applicant] confirmed that the hand grenade belonged to him. In addition, a knife was seized from [the first applicant's] left hand. ... An ambulance crew invited to the scene provided first aid to [the first applicant and to some other arrested persons]. After that [the first applicant] was sent to Clinical Hospital no. 3".

14. According to the same police record:

"...when the police entered the yard, [the second applicant] tried to attack Officer K.M. and other officers with a nunchaku. Officer K.M. handed over a nunchaku and stated that he had seized it from [the second applicant] during the latter's neutralisation, and that [the second applicant] had received injuries as a result of his resisting the police. Officer K.M., with the participation of attesting witnesses R.M. and A.G., questioned [the second applicant] in order to establish his identity. [The second applicant] confirmed that the nunchaku belonged to him. In addition, a hand grenade and a booklet were seized from [the second applicant's] pockets. After that [the second applicant] was [taken] to the OCD."

15. Both applicants were later questioned as accused and gave self-incriminating statements and statements incriminating other people arrested during the Nardaran events. Those statements were largely in line with the above-mentioned charges and official records. According to the relevant records, the questioning was carried out with the participation of State-appointed lawyers.

16. On various dates the relevant domestic courts ordered that the applicants be placed in pre-trial detention.

17. Each applicant submitted to the Court a different account of the events surrounding their arrests and detentions. According to the first applicant, he did not offer any resistance to the police and he was the victim of excessive use of force. On the day of the Nardaran events, he was attending a religious gathering organised in Mr A. Bunyatov's house. He was in the yard when the police officers entered and began shooting indiscriminately and wounded him. There were no attesting witnesses. After being seriously wounded, he was left at the scene and only later some individuals (inhabitants of Nardaran) took him by car to a nearby emergency centre (a centre providing emergency medical care – *təcili və təxirəsalınmaz tibbi yardım stansiyası*). He was later transferred to Clinical Hospital No. 3 ("the hospital"), where doctors stitched up his wounds. However, two bullet fragments (*qəlpə*) were left in his leg. The nurses in the hospital told him that the police officers had not allowed the doctors to remove the bullets. In his view, the police officers had done so in order to use his vulnerable state to pressure him into making incriminating statements against Mr T. Bagirov. In the hospital, the police officers made him sign some documents and forced him to give false statements. According to the first applicant, he was also subjected to ill-treatment during his detention in the Baku pre-trial detention facility. He submitted that during that period he had not been given adequate medical care despite being seriously wounded, and that he had been incarcerated in solitary confinement for some time without any help or care.

18. According to the second applicant, on the day of the Nardaran events the police entered the yard of Mr A. Bunyatov's house and began shooting. Some officers knocked him (the second applicant) to the ground, kicked him in the area of his left kidney and tied his hands behind his back with zip-tie handcuffs. Then one of the police officers shot him with a rubber bullet from close range in the back of his head. Then the police officers transported him in a furniture van to an OCD temporary detention facility. There he was subjected to ill-treatment (namely, he was insulted, struck in the genitals, and subjected to threats that he would be sodomised with a bottle) and forced to give false statements. He was kept in the OCD temporary detention facility (instead of being detained, as ordered by the court, in a proper detention facility – namely, the Baku pre-trial detention facility) until 14 December 2015 without being provided with any adequate medical treatment.

III. INVESTIGATIONS INTO THE ALLEGED ILL-TREATMENT

A. Proceedings instituted by the investigating authorities of their own motion

19. It appears that on 26 November 2015 the Prosecutor General's Office began an investigation into the actions of the police officers who had conducted the operation (including the above-mentioned police officers who had participated in the applicants' arrest).

20. The investigators ordered a forensic medical examination of each of the applicants. Those examinations were carried out on 27 November 2015 in the case of the first applicant and between 26 November 2015 and 30 November 2015 in the case of the second applicant.

21. The relevant expert report dated 27 November 2015 (report no. 1624) concluded that the first applicant had sustained "one blind firearms (bullet) wound [that is, an entry wound without a corresponding exit wound] to the pubic area, damaging the small intestine and anterior wall of the bladder, [as well as] the ilium and femoral neck (the direction of the fire having been from the front to the back, from left to right); one blind firearms (bullet) wound to the soft tissue of the right calf (the direction of the fire having been from the back to the front); and one gunshot (bullet) wound [that had passed through] the soft tissue of the left foot (the direction of the fire having been from above to below)". The report also concluded that metal foreign objects were found in the right calf and in the right femoral neck area. The wound that had passed through the left foot and the "blind wound" to the calf were classified as minor wounds (*sağlamlığa yüngül zərərvurma*), while the "blind wound" to the pubic area was classified as a serious wound (*sağlamlığa ağır zərərvurma*).

22. The expert report, dated 30 November 2015 (no. 545/MESH), concluded that the second applicant had "surgically stitched-up crush wounds

on the right frontal parietal and left frontal temporal areas of the head, an abrasion on the neck, a bruise on the bridge of the nose”. The report further concluded that the wounds on the head could have been caused by rubber bullet shots, and the remaining wounds on the neck and the nose could have been caused by a blunt object. All those wounds were classified as minor wounds (*sağlamlığa yüngül zərərvurma*).

23. Both reports indicated that all the above-noted injuries corresponded to 26 November 2015 (that is, the time of the Nardaran events).

24. It appears from the case-file material that after conducting other investigative measures, the investigators concluded, *inter alia*, that the available evidence did not confirm that the injuries sustained by the applicants had been the result of criminal actions on the part of the police officers. Consequently, the criminal case against the police officers (including the officers who had participated in the applicants’ arrest) was closed for lack of *corpus delicti* (a copy of the relevant decision(s) was/were not submitted to the Court). It appears from the case-file material that the applicants were not informed of this investigation at that time.

B. Proceedings concerning the applicants’ complaints of ill-treatment

25. On various dates between January and May 2016, the first applicant’s family applied to several domestic authorities to be allowed to see him, alleging that since the operation they had not been able to see or visit him. According to the applicant, these requests were unsuccessful.

26. In July 2016 the applicants’ trial began. During the trial lawyers of the applicants’ own choosing (hired by their families) joined the proceedings.

27. On 26 August 2016 the second applicant and on 31 August 2016 the first applicant lodged complaints with the relevant prosecuting authorities, alleging that they had been subjected to ill-treatment during their arrest and police custody and had been forced to give false statements (the wording of those complaints contained the account of the events summarised in paragraphs 17-18 above). The first applicant also complained that the bullets left in his body continued causing him serious suffering and that he had not been provided with adequate medical care in that regard.

28. In support of his allegation that after being seriously wounded he had been left at the scene of the above-detailed events and only later taken to the emergency centre by certain inhabitants of Nardaran (see paragraph 17 above), the first applicant submitted to the prosecuting authority a letter dated 14 June 2016 in which the emergency centre confirmed that the first applicant had been brought to them “by an unknown person by car” (the car registration number was also noted in the letter) and that after having his diagnosis determined and after being provided with first aid, the first applicant had been transferred to the hospital.

29. Earlier, on 18 August 2016, the first applicant lodged a complaint similar to the above-mentioned complaint of 31 August 2016 (see paragraph 27 above) with the trial court (namely the Baku Court of Serious Crimes). He also requested that he be subjected to another forensic examination with a view to establishing whether there were any contraindications to the removal of the bullets from his body. The trial court granted that request. The resulting expert report, dated 14 November 2016 (report no. 376), concluded, *inter alia*, that there were metal fragments (*metal qəlpə*) in the first applicant's right femoral neck area and in his calf (*sağ bud sümüyünün boynu və baldır*) and that there was a fracture to the femoral neck. The report also concluded that there were no "medical contraindications to the surgical removal of the bullet from the calf". (The report did not make any conclusions about the bullet fragments that was in the femoral neck area.)

30. On 31 October 2016 the prosecuting authority rejected as groundless the first applicant's complaint of 31 August 2016 alleging ill-treatment and refused to open a criminal investigation. The prosecuting authority based that decision primarily on the above-mentioned expert report of 27 November 2015 (see paragraph 21 above) and the statements given by Officers M.T. and F.M. The decision stated, in particular, the following:

> "During the investigation, Officer ... M.T. stated that ... [during the operation], at the entrance to the yard, a man [later identified as the first applicant] had moved towards the members of the operational group with a bayonet in his hand and had tried to injure the police officers by stabbing them. ... When he [(M.T.)] had tried to seize the bayonet, ... [the applicant] had resisted and had tried to take a hand grenade from his pocket and to throw it [at the police officers]. In view of the possibility of ... a real threat to the lives of the operational group members, a firearm had been used against [the applicant]. When [the applicant] had continued to resist and had not wanted to relinquish the hand grenade, he [(M.T.)] had executed a [certain] "sporting move" (*idman fəndi*), and as a result, [the applicant] had fallen to the ground. [The applicant's identity] ... had been established with the participation of attending witnesses D.G. and H.M. During his inspection it was established that [the applicant] had received injuries to his face, abdomen, right calf and left talon when he had been resisting the police officers. Nobody had beaten [the applicant] or ordered the doctors not to remove the bullet fragments from his body. ...
>
> [In his statement] Officer F.M. ... [gave the same account of events] as Officer M.T. ...
>
> Consequently, as a result of the investigation it was established that ... [the first applicant] had resisted the police officers and had thus been injured when [Mr Taleh Bagirov's supporters] had been neutralised. The [occurrence] of psychological or physical pressure against [the applicant] have not been confirmed."

31. On 3 February 2017 the first applicant lodged a complaint with the Sabail District Court against the above-mentioned decision of 31 October 2016 under the "judicial supervision" procedure. He complained that the prosecuting authority had relied on the statements of the OCD officers (including those implicated in the alleged events), had failed to question other witnesses (such as other people arrested during the same events, the first

applicant's cellmates at the OCD detention facility or at the Baku pre-trial detention facility), and had failed to conduct other investigative measures in order to secure evidence. By a judgment of 15 February 2017, the Sabail District Court rejected the first applicant's complaint. Following an appeal lodged by the first applicant, that judgment was upheld by the Baku Court of Appeal on 21 February 2017. The courts found that the decision of 31 October 2016 had been lawful and properly substantiated.

32. On 10 June 2017 the second applicant again lodged a complaint with the prosecuting authority. That complaint was similar to his above-mentioned complaint of 26 August 2016 (see paragraph 27 above). He also complained that following his arrest he had not been provided with adequate medical care for his injuries.

33. On 25 August 2017 the prosecuting authority rejected the second applicant's complaint of ill-treatment as groundless and refused to open a criminal investigation. They based that decision on (i) statements given by Officer K.A. (the senior OCD officer who had issued the operation record in Nardaran – see paragraph 7 above), Officers I.A. and Sh.J. (who had participated in the operation) and Officer G.G. (who was the head of the OCD temporary detention facility), and (ii) a new forensic report dated 20 July 2017 (according to which the second applicant had scar tissue on the head – namely, marks left by two crush wounds; the condition of those injuries suggested that they (i) had been inflicted at the time of the Nardaran events by hard, blunt objects, and (ii) had not posed any serious harm to health – compare the earlier report summarised in paragraph 22 above). The decision of 25 August 2017 stated, in particular, the following:

> "During the investigation, ... Officer I.A. stated that no one had inflicted any psychological or physical harm on [the second applicant]. ... [During the operation in Nardaran, the applicant] had disobeyed [the police officers] and had tried to escape from them. At that time, no one had intentionally knocked [the applicant] to the ground, hit him in the area of his left kidney or beaten him. When [the applicant] had been detained in the [OCD] temporary detention facility, no illegal acts [had been committed] against him either. ...
>
> The above assertions by Officer I.A. were fully confirmed by [the OCD officers] K.A. and Sh.J.
>
> During the investigation, G.G. stated that ... [the second applicant's allegations] were false and did not reflect the truth, ... [as the applicant] had been brought to the [OCD] temporary detention facility and had been detained there, in accordance with the relevant documents. ...
>
> In a letter ... dated 7 August 2017, ... the [MIA] indicated that ... pre-trial detention had been ordered in respect of [the second applicant] and that he had been transferred to the Baku pre-trial detention facility. ...
>
> As appears [from the above-mentioned investigation material], the ... allegations that ... [the second applicant] had been beaten by the officers of the OCD, subjected to torture and inhuman treatment, and forced to sign statements under torture, have not been confirmed."

34. According to the official records, the copy of the above-mentioned decision of 25 August 2017 was sent to the second applicant. According to the second applicant, he did not receive it. That is why on 20 October and 25 December 2017 and 19 March 2018, he sent letters to the prosecuting authority, requesting information about the investigation (if any) into his complaints of ill-treatment. As he did not receive any response to those enquiries, the second applicant lodged a complaint with the Sabail District Court concerning the inaction of the prosecuting authority. On 4 May 2018 the Sabail District Court refused to examine on the merits the second applicant's complaint. In that regard, the court held that it had jurisdiction under Article 449 of the Code of Criminal Procedure ("the CCrP") to review only "decisions" and "actions" of a prosecuting authority. On 15 May 2018 the second applicant appealed against that decision. He argued, *inter alia*, that according to a decision of the Constitutional Court dated 5 August 2009 (see paragraph 46 below), a complaint under Article 449 of the CCrP could also be lodged against "inaction" on the part of prosecuting authority.

35. On 17 May 2018 the second applicant received a letter dated 27 April 2018 from the prosecuting authority saying that it had refused to open a criminal investigation as his complaints of ill-treatment had been deemed to be groundless. A copy of the decision was not attached to the letter.

36. On an unspecified date the second applicant submitted an addition to his appeal in which he informed the appellate court of the above-mentioned letter of 17 May 2018. On 6 June 2018 the Baku Court of Appeal upheld the decision of the first-instance court; the appellate court's reasoning was the same as that contained in the decision of 4 May 2018. As regards the letter of 17 May 2018, the appellate court noted that "since the decision [referred to in that letter] was not submitted [for consideration] to the [appellate] court and was not [included] in the case material, its existence was doubtful".

IV. FURTHER DEVELOPMENTS

37. On 25 January 2017 the applicants were convicted as charged (see paragraph 12 above) and then transferred to a prison to serve their sentences.

38. On 18 March 2021 the applicants received a presidential pardon and were later released.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. THE CODE OF CRIMINAL PROCEDURE (AS IN FORCE AT THE MATERIAL TIME)

39. Under Article 37 of the Code of Criminal Procedure ("the CCrP") – as in force at the material time – criminal proceedings were to be instituted

on the basis of a complaint lodged by the victim of an alleged criminal offence.

40. Under Article 207.5 of the CCrP, a person (a police officer) in charge of preliminary inquiry or investigation (*təhqiqatçı*), an investigator (*müstəntiq*) or a prosecutor (*ibtidai araşdırmaya prosessual rəhbərliyi həyata keçirən prokuror*), after examining information concerning the commission of a criminal offence, was to take a decision instituting criminal proceedings, a decision refusing to institute criminal proceedings or a decision transferring that information to the relevant investigating authority or to the appropriate court in the event of a private criminal prosecution.

41. Chapter LII of the CCrP (Articles 442-454 of the CCrP) laid down the so-called "judicial supervision" procedure. Under this procedure, the relevant courts were responsible for conducting several supervisory functions in respect of various aspects of criminal prosecution. This included the review of the lawfulness of procedural actions or decisions.

42. Under Article 449, actions or decisions taken by various "authorities in charge of criminal proceedings" (*cinayət prosesini həyata keçirən orqan*) could be challenged in court – for example, (i) actions or decisions taken by various prosecuting authorities, such as a person (a police officer) in charge of a preliminary inquiry or investigation, an investigator or a prosecutor, or (ii) actions or decisions taken by the authority in charge of a person's detention (Article 449.1). The criminal proceedings in question did not necessarily need to be against an individual who wished to lodge a complaint under the judicial supervision procedure; an aggrieved person (victim) or his or her legal representative and other persons whose rights and freedoms had been violated by the decision or procedural action could also complain (Article 449.2). Moreover, the criminal proceedings in question did not have to be ongoing: for example, a complaint could concern a refusal to accept for examination a criminal complaint (that is, a request for the opening of a criminal investigation into certain factual allegations), a refusal to institute criminal proceedings, or the suspension or termination of criminal proceedings (Article 449.3).

43. According to Article 451 of the CCrP, the judge examining the lawfulness of the above-mentioned authorities' actions or decisions had to quash them if he or she found them to be unlawful. The judge's decision could be challenged before an appellate court in accordance with the procedure set out in Articles 452 and 453 of the CCrP.

II. THE LAW ON PROSECUTOR'S OFFICE OF 7 DECEMBER 1999

44. Article 20 of the Law on Prosecutor's Office of 7 December 1999 provided that applications, complaints or information about a crime must be examined without delay.

45. Article 28 of the Law provided that the prosecuting authority's both actions and inaction could be challenged before the supervising prosecutor or the court.

III. DECISION OF 5 AUGUST 2009 OF THE PLENUM OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF AZERBAIJAN

46. In a decision dated 5 August 2009 (which concerned certain aspects of Article 449.2.3 of the CCrP), the Plenum of the Constitutional Court of the Republic of Azerbaijan noted that a "complaint [could be lodged] against decisions and actions ([or] *inaction*) of the officials of the authorities conducting a criminal prosecution".

IV. THE RELEVANT DOMESTIC PRACTICE IN RESPECT OF COMPLAINTS LODGED UNDER ARTICLE 449 OF THE CCRP REGARDING THE "INACTION" OF INVESTIGATING AUTHORITIES

47. The domestic practice concerning complaints regarding the alleged inaction of the authorities in charge of criminal proceedings – including inaction on the part of prosecuting authorities – is contradictory. In some cases, the domestic courts admit for examination on the merits complaints of inaction on the part of those authorities (see *Igbal Hasanov v. Azerbaijan*, no. 46505/08, §§ 20-21, 15 January 2015, and *Mammadov and Abbasov v. Azerbaijan*, no. 1172/12, §§ 13-14, 8 July 2021). However, in most cases the domestic courts refuse to accept this type of complaint for examination on the merits, citing various reasons (see the examples given in *Aytaj Ahmadova v. Azerbaijan*, no. 30551/18, § 35, 11 March 2025). Furthermore, the domestic courts do not accept a civil complaint in this regard either (see *Haji and Others v. Azerbaijan* [Committee], no. 3503/10, § 92, 1 October 2020); and under domestic law there is no indication that any other remedy is available in respect of inaction on the part of the authorities conducting criminal proceedings (see *Aytaj Ahmadova*, cited above, § 38).

THE LAW

I. JOINDER OF THE APPLICATIONS

48. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

49. The applicants complained under Article 3 of the Convention that (i) they had been subjected to excessive use of force during their arrest, (ii) that they had not been provided with adequate medical treatment and had been ill-treated during their detention, and (iii) the domestic authorities had failed to conduct an effective investigation into their complaints of ill-treatment. Article 3 of the Convention reads as follows:

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

A. Admissibility

1. The parties' submissions

50. The Government submitted that the second applicant's application (no. 39664/18) should be declared inadmissible because he had failed to exhaust domestic remedies. The Government argued, in particular, that instead of complaining about the alleged inaction of the prosecuting authority, the second applicant should have lodged a complaint against the decision of 25 August 2017 adopted by the same authority. The Government submitted to the Court copies of two letters dated 25 August 2017 and addressed to the second applicant and his lawyer Mr Y. Imanov. Those letters indicated that a copy of "the [adopted] decision was attached [to them]".

51. The Government also argued that Article 449 of the CCrP did not allow the lodging of a complaint regarding alleged "inaction" on the part of the authorities in charge of criminal proceedings. Consequently, the domestic courts had been correct in refusing to examine the applicant's complaint on the merits.

52. The second applicant disagreed with the Government. He argued that he had appealed to the domestic courts against the prosecuting authority's inaction; only after that, when his appeal had already been lodged, had he received the letter from the prosecuting authority informing him of existence of the decision of 25 August 2017 (see paragraph 35 above). Neither he, nor his lawyer ever received a copy of that decision.

2. The Court's assessment

53. The Court reiterates that the rule of exhaustion of domestic remedies referred to in Article 35 § 1 of the Convention obliges applicants to use first the remedies that are normally available and sufficient in the domestic legal system to enable them to obtain redress for the breaches alleged. The existence of the remedies must be sufficiently certain, in practice as well as in theory, failing which they will lack the requisite accessibility and effectiveness. Article 35 § 1 also requires that the complaints intended to be

brought subsequently before the Court should be made first to the appropriate domestic body – at least in substance and in compliance with the formal requirements laid down in domestic law (although there is no obligation to have recourse to remedies that are inadequate or ineffective). The Court has also frequently emphasised the need to apply the exhaustion rule with some degree of flexibility and without excessive formalism (see *Akdivar and Others v. Turkey*, 16 September 1996, §§ 65-67, *Reports of Judgments and Decisions* 1996-IV; *Vučković and Others v. Serbia* (preliminary objection) [GC], nos. 17153/11 and 29 others, §§ 71-73, 25 March 2014; and *Communauté genevoise d'action syndicale (CGAS) v. Switzerland* [GC], no. 21881/20, §§ 138-46, 27 November 2023).

54. Furthermore, the object and purpose of the Convention, a treaty for the collective enforcement of human rights and fundamental freedoms, requires that its provisions be interpreted and applied in the light of its special character and so as to make its safeguards practical and effective (see *Yaşa v. Turkey*, 2 September 1998, § 64, *Reports* 1998-VI).

55. The Court has already found in numerous cases against Azerbaijan that an effective remedy concerning alleged ill-treatment or the unlawful use of force by law-enforcement authorities is, firstly, lodging a criminal complaint with the police or the relevant prosecutor's office (both of which are the authorities vested with the power to investigate such complaints), and then, secondly, challenging the decisions of those authorities before the domestic courts under the so-called "judicial supervision procedure" set out primarily in Article 449 of the CCrP (see *Akif Mammadov v. Azerbaijan* (dec.), no. 46903/07, § 29, 13 May 2014, with further references; see also the relevant domestic provisions summarised in paragraphs 41-43 above).

56. Turning to the circumstances of the present case, the Court observes that the Government did not submit any evidence demonstrating that the above-mentioned letters dated 25 August 2017 (see paragraph 50 above) had indeed been sent and had actually been delivered to the second applicant or his lawyer. The Court also observes that a copy of the decision was not attached to the letter of 17 May 2018 either (see paragraph 35 above). Consequently, the Court does not accept the Government's argument that the second applicant should have lodged a complaint against the decision of 25 August 2017 adopted by the prosecuting authority. The Court does not see how the second applicant could have effectively challenged the decision in question in the domestic courts, without first receiving it and studying its contents (compare *Estamirova v. Russia*, no. 27365/07, § 94, 17 April 2012, and *Huseynova v. Azerbaijan*, no. 10653/10, § 82, 13 April 2017).

57. As to the Government's argument summarised in paragraph 51 above, the Court observes that there are several indications in the domestic law and practice demonstrating that the domestic legal system allowed the lodging of a complaint under Article 449 of the CCrP regarding "inaction" of the

authorities conducting criminal proceedings (such as, for example, a failure by an investigator from the police or at the prosecutor's office to investigate criminal complaints lodged with them). The Court notes in this regard the explicit references to "inaction" contained in the above-mentioned decision of the Plenum of the Constitutional Court of 5 August 2009 and in the Law on Prosecutor's Office of 7 December 1999 (see paragraphs 45-46 above). The Court also observes that the domestic practice in this regard is inconsistent and contradictory: in some cases the domestic courts examined on the merits complaints of inaction, while in others they declared them inadmissible (see paragraph 47 above). Moreover, in contrast with the present case, in *Aytaj Ahmadova v. Azerbaijan* (no. 30551/18, § 35, 11 March 2025), the Government argued the diametrically opposite thing: that a complaint regarding alleged "inaction" was possible under Article 449 of the CCrP (ibid., §§ 30 and 38). The Court also notes that in his complaints before the domestic courts the second applicant referred to the above-mentioned decision of the Plenum of the Constitutional Court when he argued that he had the right to complain of inaction of the investigating authorities (see paragraph 34 above). However, the domestic courts remained silent in respect of this argument.

58. The Court emphasises that thoroughly examining complaints of ill-treatment and informing the victims about the course and result of the investigation are among the elements constituting the domestic authorities' procedural obligations under Article 3 of the Convention. In view of the above-mentioned inconsistencies and contradictions in domestic practice – and given the fact that the second applicant first lodged his ill-treatment complaint with the prosecuting authorities, and then, after receiving no response, attempted to challenge that inaction by filing a complaint under Article 449 of the CCrP, and bearing in mind the fact that the exhaustion rule must be applied with a degree of flexibility and without excessive formalism, the Court considers that the applicant should be regarded as having sought redress through the appropriate national channels (compare *Sandra Janković v. Croatia*, no. 38478/05, § 37, 5 March 2009; *Remetin v. Croatia*, no. 29525/10, § 76, 11 December 2012; and *Kerimli v. Azerbaijan*, no. 3967/09, § 40, 16 July 2015). The Court rejects the Government's objection as to the exhaustion of domestic remedies, and concludes that the second applicant did in fact bring the substance of his present complaint under Article 3 of the Convention to the notice of the national authorities.

59. The Court also notes that the applicants' complaints under Article 3 are neither manifestly ill-founded nor inadmissible on any other of the grounds listed in Article 35 of the Convention. They must therefore be declared admissible.

B. Merits

1. The parties' submissions

60. The applicants complained that they had been subjected to excessive use of force during their respective arrests because firearms (the first applicant) and rubber bullets (the second applicant) had been used against them (despite their not having offered any resistance to the police).

61. The second applicant alleged that the firing of rubber bullets had been deliberate, and that prior to those shots his hands had been tied behind his back with zip tie handcuffs and he had been kicked in the area of his left kidney.

62. The first applicant further complained that following the operation and during his detention he had not been given adequate medical treatment. That treatment which he had been given had not been prompt or proper (in particular, because he had been left at the scene of the operation, and subsequently, the bullet fragments had not been removed from his body). The second applicant complained that, despite having been seriously injured by rubber bullets fired from a short distance, he had been detained in the OCD temporary detention facility until 14 December 2015 without any legal grounds and without proper medical care.

63. The applicants also complained that they had been subjected to further ill-treatment during their transportation from the scene of the operation to the OCD temporary detention facility (the second applicant) and/or detention (both applicants). The first applicant alleged that during his stay in hospital the police officers had not allowed the doctors to remove the bullets and had threatened him in order to use his vulnerable state to pressure him into making incriminating statements against Mr T. Bagirov. The second applicant alleged that after his arrest he had been transported to the above-mentioned OCD temporary detention facility in an ordinary furniture removal van. Furthermore, during his detention at the OCD he had been insulted, struck in the genitals and subjected to threats that he would be sodomised with a bottle. Both applicants submitted that the purpose of the ill-treatment had been to extract self-incriminating statements from them and statements incriminating other people.

64. The applicants also complained that the domestic authorities had failed to conduct an effective investigation into their complaints of ill-treatment.

65. The Government submitted that the authorities had received operational information about the planning of armed insurrection and other crimes, and that all the relevant decisions and reports issued in order to verify that information and to conduct the operation had been in accordance with the relevant legislation. The Government also submitted that the applicants had not been subjected to any ill-treatment. Force had been used against them during their arrests because they had resisted the police using weapons. The

use of force had been strictly necessary because there had been a real risk that the applicants could cause serious harm to others. The applicants' injuries had been inflicted during their clashes with the police. Moreover, the applicants had been given adequate medical care during their arrest and detention. Furthermore, the domestic authorities had conducted an effective investigation into the applicants' allegations of ill-treatment.

2. *The Court's assessment*

(a) Applicable principles

(i) Principles related to excessive use of force and ill-treatment during arrest or detention

66. The Court reiterates that Article 3 enshrines one of the most fundamental values of democratic societies. Unlike most of the substantive clauses of the Convention, Article 3 makes no provision for exceptions, and no derogation from it is permissible under Article 15 § 2 – even in the event of a public emergency threatening the life of the nation. Even in the most difficult circumstances, such as the fight against terrorism and organised crime, the Convention prohibits in absolute terms torture and inhuman or degrading treatment or punishment irrespective of the conduct of the person concerned (see *Selmouni v. France* [GC], no. 25803/94, § 95, ECHR 1999-V; *El-Masri v. the former Yugoslav Republic of Macedonia* [GC], no. 39630/09, §195, ECHR 2012; and *Bouyid v. Belgium* [GC], no. 23380/09, §§ 81-88, ECHR 2015).

67. Article 3 does not prohibit the use of force in certain well-defined circumstances. However, such force may be used only if it is indispensable, and it must not be excessive (see, among other authorities, *Anzhelo Georgiev and Others v. Bulgaria*, no. 51284/09, § 66, 30 September 2014; *Shmorgunov and Others v. Ukraine*, nos. 15367/14 and 13 others, § 359, 21 January 2021; *Tsaava and Others v. Georgia* [GC], nos. 13186/20 and 4 others, §§ 341-42, 11 December 2025; and *mutatis mutandis*, *Giuliani and Gaggio v. Italy* [GC], no. 23458/02, §§ 174-82, ECHR 2011 (extracts)).

68. The Court also emphasises that when a person is confronted by the police or other State agents, recourse to physical force that has not been rendered strictly necessary by the person's own conduct diminishes human dignity and in principle constitutes an infringement of the right set forth in Article 3 of the Convention (see *Kop v. Turkey*, no. 12728/05, § 27, 20 October 2009; *Timtik v. Turkey*, no. 12503/06, § 47, 9 November 2010; and *Bouyid*, cited above, § 88). Such a strict proportionality approach has been accepted by the Court also in respect of situations in which an individual was already under the full control of the police (see, among other authorities, *Milan v. France*, no. 7549/03, § 45, 24 January 2008; *Rachwalski and Ferenc v. Poland*, no. 47709/99, § 59, 28 July 2009; and *Şakir Kaçmaz v. Turkey*, no. 8077/08, § 80, 10 November 2015). The Court attaches

particular importance also to the type of injuries sustained and the circumstances in which force was used (see *Timtik*, cited above, § 49; *Najafli v. Azerbaijan*, no. 2594/07, § 38, 2 October 2012; *Şakir Kaçmaz*, cited above, § 80; and *Gevorgyan v. Armenia*, no. 231/16, § 53, 22 May 2025).

69. Where injuries have been sustained at the hands of the police, the burden of showing the necessity of the force used rests on the Government (see, among other authorities, *Anzhelo Georgiev and Others*, cited above, § 67, and *Lenev v. Bulgaria*, no. 41452/07, § 113, 4 December 2012).

70. In assessing evidence, the Court adopts the standard of proof "beyond reasonable doubt". Such proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact (see, among many other authorities, *Mansouri v. Italy* (dec.) [GC], no. 63386/16, § 132, 29 April 2025, and *Tsaava and Others*, cited above, § 328). The Court is sensitive to the subsidiary nature of its role and recognises that it must be cautious in taking on the role of a first-instance tribunal of fact, where this is not rendered unavoidable by the circumstances of a particular case (see *El-Masri*, cited above, § 155). Nevertheless, where allegations are made under Article 3 of the Convention, the Court must apply particularly thorough scrutiny – even if certain domestic proceedings and investigations have already taken place (see *Avşar v. Turkey*, no. 25657/94, §§ 283-84, ECHR 2001-VII, and *Muradova v. Azerbaijan*, no. 22684/05, § 99, 2 April 2009).

(ii) Principles related to lack of adequate medical care

71. The Court reiterates that the State must ensure that a person is detained in conditions which are compatible with respect for human dignity, that the manner and method of the execution of the measure of deprivation of liberty do not subject him to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention and that, given the practical demands of imprisonment, his health and well-being are adequately secured (see *Kudła v. Poland* [GC], no. 30210/96, §§ 92-94, ECHR 2000-XI, and *Popov v. Russia*, no. 26853/04, § 208, 13 July 2006).

72. The "adequacy" of medical assistance remains the most difficult element to determine. The Court insists, in particular, that authorities must ensure that diagnosis and care are prompt and accurate (see *Sadretdinov v. Russia*, no. 17564/06, § 67, 24 May 2016; *Vasenin v. Russia*, no. 48023/06, § 93, 21 June 2016; and *G. v. Russia*, no. 42526/07, § 79, 21 June 2016) and that – where necessitated by the nature of a medical condition – supervision is regular and systematic and involves a comprehensive therapeutic strategy aimed at successfully treating the detainee's health problems or preventing their aggravation (see *Ivko v. Russia*, no. 30575/08, § 94, 15 December 2015; *Kolesnikovich v. Russia*, no. 44694/13, § 70, 22 March 2016; *Litvinov v. Russia*, no. 32863/13, § 86, 22 March 2016; and *Fernandez Iradi v. France*, no. 23421/21, §§ 52-55, 4 December 2025).

73. On the whole, the Court reserves a fair degree of flexibility in defining the required standard of health care, deciding on a case-by-case basis. That standard should be "compatible with the human dignity" of a detainee, but should also take into account "the practical demands of imprisonment" (see *Aleksanyan v. Russia*, no. 46468/06, § 140, 22 December 2008).

(iii) Principles relating to the conduct of an effective investigation

74. Where an individual makes a credible assertion that he has suffered treatment infringing Article 3 at the hands of the police or other similar agents of the State, that provision – read in conjunction with the State's general duty under Article 1 of the Convention to "secure to everyone within their jurisdiction the rights and freedoms defined in ... [the] Convention" – requires by implication that there should be an effective official investigation (see *Labita v. Italy* [GC], no. 26772/95, § 131, ECHR 2000-IV; *Assenov and Others v. Bulgaria*, 28 October 1998, § 102, *Reports* 1998-VIII; and *Gäfgen v. Germany* [GC], no. 22978/05, § 117, 1 June 2010). The authorities must make a serious attempt to find out what happened and should not rely on hasty or ill-founded conclusions to close their investigation (see *Assenov and Others*, cited above, §§ 103 et seq.).

75. The general principles with respect to the procedural obligation of the High Contracting Parties under Article 3 of the Convention to investigate acts of ill-treatment by State agents have been set out in detail in *Bouyid* (cited above, §§ 115-23).

(b) Application of the above-noted principles to the present case

(i) The alleged excessive use of force and ill-treatment of the applicants during their arrest

(α) Substantive limb

76. At the outset, the Court notes that the first applicant sustained three gunshot wounds, one of which caused serious damage to his internal organs. The use of potentially lethal force may, depending on its nature, degree and surrounding circumstances, engage Article 2 of the Convention even where the person concerned survives (*Makaratzis v. Greece* [GC], no. 50385/99, § 55, ECHR 2004-XI). However, the present complaint was formulated and communicated under Article 3 of the Convention. Having regard to the manner in which the case was pleaded and examined by the parties, the Court considers it appropriate to assess the impugned use of force under that provision.

77. The Court observes that the applicants were arrested during the so-called "Nardaran events", when the armed police carried out an operation in Nardaran (see paragraph 6 above). In the course of that operation shots were fired, as a result of which four people attending the gathering (who were allegedly members or supporters of the MB) and two police officers died, and

many other people were injured – including the applicants (see paragraph 10 above). According to the official records, the police fired at the participants of the gathering because they had offered armed resistance, despite “being warned not to open fire” (see paragraph 9 above).

78. The Court observes that during their respective arrests the applicants suffered several injuries: in particular, the first applicant suffered three bullet shots to his abdomen, leg and foot which, *inter alia*, seriously damaged his internal organs, while the second applicant suffered two rubber bullet injuries that required stitching and left permanent scars on his head (see paragraphs 22 and 33 above). The parties are in dispute regarding the events surrounding the arrests – in particular as to whether the recourse to physical force had been rendered strictly necessary by the applicants’ own conduct. The Court will therefore examine the disputed events, taking into account, *inter alia*, the type of injuries sustained by the applicants and the circumstances in which force was used against them.

79. All the information concerning the applicants’ conduct during their arrest comes from statements made by Officers M.T. and F.M. (regarding the first applicant) and Officers K.M., K.A., I.A. and Sh.J. (regarding the second applicant) (see paragraphs 13-14, 30 and 33 above). However, even these official accounts contradict each other and lack important details (see paragraphs 80-81 below).

80. In connection with the arrest of the first applicant, the Court notes in particular that the official records do not contain any details concerning the statement given by Officer F.M. regarding that arrest. Furthermore, there are gaps and inconsistencies in the statements provided by Officer M.T. for the search-and-seizure record (see paragraph 13 above) and to the prosecuting authority (see paragraph 30 above). Thus, from these statements it is not clear (i) how exactly the applicant attacked or resisted Officer M.T. (specifically, whether he held the knife and the grenade in his hands at the same time, or whether he took the grenade out of his pocket at a later point); and (ii) who else, apart from Officer M.T., the applicant attacked or resisted. Most importantly, it is not clear (iii) how exactly the applicant was disarmed, and (iv) at what point in time he was hit by each of the three gunshots and what the shooting sequence was. Officer M.T.’s statements in this regard were confused: these statements suggest that Officer M.T. disarmed the applicant by executing a “sports technique” against him (apparently, a certain martial arts move); however, the statements also suggest that the applicant was “neutralised” (that is disarmed) by the use of firearms. Furthermore, it is not clear whether the applicant was shot after he had “moved towards the members of the operational group with a bayonet in his hand” or after he had “tried to take a hand grenade from his pocket and to throw it” (in view of the seriousness of his injuries, it is not clear how in this case the applicant could have still remained standing and been able to offer resistance, compelling Officer M.T. to execute the above-mentioned “sports technique”), or whether

the applicant was shot after falling to the ground following the use of the "sports technique" against him (in which case, it is not clear why firearms were used against him at all). Other important questions – such as (v) which of the officers had shot the applicant (M.T., F.M. or someone else) and (vi) from what distance had the applicant been shot – were not clarified either. The Court notes in this connection that, according to the expert report of 27 November 2015, the shots were fired from different angles and directions (see paragraph 21 above). The differing directions of the gunshot wounds are not readily reconcilable with the official account that firearms were used in a targeted manner in response to a specific and immediate threat. In absence of any ballistic examination or reconstruction, the Government has not demonstrated that each of the shots fired was strictly necessary. Neither the prosecuting authorities nor the domestic courts examining the incident addressed all these important circumstances or tried to clarify the contradictions and inconsistencies contained in the statements given by Officer M.T. Those statements (which were "confirmed" by Officer F.M.) were accepted by the authorities at face value, without any other relevant investigative measures being taken.

81. As regards the arrest of the second applicant, the Court notes in particular that the official records do not contain any details concerning the statements given by Officers K.A. and Sh.J. regarding the arrest. In addition, the prosecuting authority in charge of investigating the applicant's complaint of ill-treatment did not question Officer K.M. (who the applicant had allegedly attacked and resisted during his arrest – see paragraphs 14 and 33 above). Furthermore, there are gaps in the statements provided by Officer K.M. for the search-and-seizure record (see paragraph 14 above) and the statements given by Officer I.A. to the prosecuting authority (see paragraph 33 above). There are also contradictions between these two statements. Thus, from these statements it is not clear (i) what the second applicant's actions were during his arrest (according to Officer K.M., the applicant attacked him with a nunchaku; according to Officer I.A., the applicant "disobeyed" the police and tried to escape) and (ii) who else, apart from Officer K.M., the applicant attacked or resisted. As with the arrest of the first applicant, it is not clear (iii) how exactly the second applicant was disarmed, and (iv) at what point in time he was hit in the head by the two rubber bullets and what was the shooting sequence. The officers' statements in this regard do not contain any important details. It is not clear whether the applicant was shot in response to his alleged attempt to attack the police officers with a nunchaku or during his attempt to escape, or whether he was shot after Officer K.M. had seized the nunchaku. Neither was any explanation given as to why the use of rubber bullets had been necessary under the circumstances (according to the search-and-seizure record, a hand grenade was later seized from the applicant's pocket; however, there is no indication that during his arrest he tried to use it). Other important circumstances – such

as (v) which among the officers had shot the applicant (was it Officer K.M. or someone else) and (vi) from what distance had the applicant been shot and from which direction – were not clarified either. As in the case of the first applicant, the prosecuting authorities and the domestic courts failed to address all of these important issues; the authorities accepted at face value the statements given by Officer I.A. (which were "confirmed" by Officers K.A. and Sh.J.).

82. In view of the above-detailed circumstances, the Court concludes that the Government failed in its burden of proving the necessity of the force used against the applicants. The Court considers that there are cogent elements in the present case that prompt it to doubt the credibility of the official account of the events surrounding the applicants' arrest. The material before the Court allows it to draw strong, clear and concordant inferences to the effect that the force used against the applicants was not rendered strictly necessary by their own conduct.

83. As to the second applicant's other allegations of ill-treatment during his arrest (see paragraph 61 above), having regard to the evidence before it, the Court cannot draw any conclusions in this regard that would be beyond reasonable doubt.

(β) Procedural limb

84. The Court observes that the applicants' complaints to the domestic authorities about the alleged excessive use of force during their arrests contained enough specific information to constitute an arguable claim in respect of which those authorities were under an obligation to conduct an effective investigation. The allegations of ill-treatment were supported by medical evidence (see paragraphs 21-22, 29 and 33 above).

85. Nevertheless, the prosecuting authorities, having conducted initial inquiries, refused to open criminal cases. The domestic courts in their turn upheld the decision of the prosecuting authority in respect of the first applicant and refused to examine on the merits the complaint of the second applicant.

86. In view of the material in its possession and the parties' submissions, the Court considers that the criminal investigations into the applicants' respective complaints were plagued by a combination of the same or similar defects (see paragraphs 78-81 above). In particular, the prosecuting authorities did not assess the necessity and proportionality of the force used against the applicants. As to the domestic courts, they appear to have simply rubber-stamped the decision of the prosecuting authority in the case of the first applicant, without addressing the arguments and the requests made by him. In the case of the second applicant, the domestic courts declared inadmissible – without any valid grounds – the complaints regarding the alleged lack of action on the part of the prosecuting authority. Given those

circumstances, the Court cannot but conclude that the investigations into the allegations of ill-treatment during the applicants' arrests were ineffective.

(ii) Alleged lack of adequate medical care following the applicants' respective arrests and during their detention

87. The parties are in dispute as to whether following the operation and during their detention the applicants were provided with adequate medical treatment. The Court will therefore examine the disputed circumstances – taking into account, *inter alia*, the available information about the time at which medical aid was provided and the nature of that medical aid.

88. As regards the timeliness of the medical aid, according to the official records immediately after the operation the first applicant was given first aid by an emergency brigade invited by the police to the scene; he was then sent to the hospital (see paragraph 13 above). However, when complaining to the domestic authorities of the alleged lack of adequate medical treatment, the first applicant submitted evidence (the above-mentioned letter dated 14 June 2016 from the emergency centre) in support of his allegation that following the operation he had been left behind and not been taken to hospital by the police (see paragraph 28 above). The prosecuting authority and the courts ignored that evidence and did not conduct any investigative measures in respect of the allegation.

89. As to the nature of the medical treatment provided to the first applicant for his bullet wounds, the Court notes that the first applicant alleged before the domestic authorities that the medical treatment he had received had been inadequate because the bullet fragments had been left in his body and continued to cause him pain. However, despite these allegations and his requests that the fragments be removed, no action was taken in that respect. In this connection, the Court emphasises in particular that the forensic expert report dated 14 November 2016 concluded that there were no medical contraindications to the surgical removal of the bullet from the applicant's calf. The report did not reach any conclusions concerning the bullet fragment that was in the femoral neck area. The Court notes that, for the purposes of deciding on the first applicant's claim alleging negligent medical treatment constituting ill-treatment under Article 3 of the Convention, the crucial issue is not whether the metal fragments absolutely had to be removed, but whether a timely, specialised evaluation was conducted, whether a well-reasoned treatment decision was made, and whether there were systematic monitoring, pain management and reassessment. These circumstances, including in particular, the absence of a comprehensive therapeutic strategy, demonstrate that the medical treatment given to the first applicant was inadequate.

90. As regards the second applicant, according to the official records, immediately after the operation he was taken to the OCD. Apparently, by the time the forensic expert report of 30 November 2015 was issued, his rubber bullet wounds had been stitched up (see paragraph 22 above). The second

applicant alleged before the prosecuting authority that he had been detained – without any legal grounds – in the OCD temporary detention facility until 14 December 2015 without any proper medical care (see paragraphs 32 above). In dismissing this allegation, the prosecuting authority simply referred to the statement of the head of the temporary detention facility of the OCD (Officer G.G.) that the second applicant had been brought to that facility and detained there "in accordance with the relevant documents". The prosecuting authority also referred to the MIA's letter of 7 August 2017, which had stated that "pre-trial detention had been ordered in respect of [the second applicant] and that he had been transferred to the Baku pre-trial detention facility" (see paragraph 33 above). However, the prosecuting authority did not examine relevant issues, such as: when the applicant had been transferred to the Baku pre-trial detention facility; whether the OCD temporary detention facility had been properly equipped to provide medical care to a person with rubber-bullet injuries; and when the applicant had had his wounds stitched up and what kind of medical care (if any) he had received afterwards. Although the relevant medical and correctional records were exclusively under the Government's control, no information in this regard was submitted by the Government either. In view of the fact that the above-mentioned elements support the second applicant's version of the events, and in the absence of any convincing evidence to the contrary, the Court concludes that the second applicant was not provided either with adequate medical assistance in a timely manner.

(iii) Alleged ill-treatment during the applicants' detention

(α) Substantive limb

91. The applicants also alleged that they had been subjected to further ill-treatment during their detention (see paragraph 63 above). The Government denied those allegations.

92. The Court observes that in the present case the applicants presented a detailed description of their alleged ill-treatment during their detention. In particular, the first applicant alleged that during his stay at the hospital the police officers had not allowed the doctors to remove the bullet fragments from his body with a view to use his vulnerable state to pressure him into making incriminating statements (see paragraphs 17-18 above). The applicants and their lawyers raised the same allegations before the domestic authorities (see paragraph 27 above).

93. However, in light of the material in its possession and having regard to the parties' submissions, the Court considers that the evidence before it does not enable it to find beyond reasonable doubt that the applicants were subjected to the treatment contrary to Article 3, as alleged by them (see also *Jannatov v. Azerbaijan*, no. 32132/07, §§ 59-60, 31 July 2014, and *Igbal Hasanov v. Azerbaijan*, no. 46505/08, §§ 46-48, 15 January 2015).

94. The Court emphasises, however, that its inability to reach any conclusions as to whether there was, in substance, any treatment prohibited by Article 3 of the Convention derives – at least in part – from the failure of the domestic authorities to carry out effective investigations (see in this connection paragraphs 95-96 below).

(β) Procedural limb

95. In their complaints before the domestic authorities, the applicants also presented arguable claims of ill-treatment during their respective detentions.

96. Nevertheless, the authorities failed to conduct effective investigations into these complaints, just as they failed to conduct effective investigations into the alleged ill-treatment suffered by the applicants during their respective arrests (see paragraphs 84-86 above). In particular, the prosecuting authorities relied heavily on the statements of the OCD officers (including those officers implicated in the alleged events), failed to identify and question other witnesses (such as doctors, nurses, and cellmates of the applicants) and to examine the places where the alleged ill-treatment had taken place or surveillance camera recordings (if any). Moreover, the question of whether the alleged refusal to remove the bullet fragments from the first applicant's body was deliberate warranted particularly careful scrutiny, as intentionality constitutes a fundamental element in assessing the nature and gravity of the alleged ill-treatment.

(iv) Overall conclusion

97. In view of all these circumstances, the Court concludes that there has been a violation of Article 3 of the Convention under its substantive limb on account of the excessive use of force during the applicants' arrests (namely, the use of firearms and rubber bullets).

98. The Court further concludes that that there has been a violation of Article 3 of the Convention in respect of both applicants owing to the failure to provide them with adequate medical treatment.

99. In respect of the applicants' detention, the Court concludes that there has been no violation of Article 3 of the Convention under its substantive limb.

100. The Court concludes lastly that there has been a violation of Article 3 of the Convention under its procedural limb, as the investigations into the applicants' allegations of ill-treatment during their arrests and detention were ineffective.

101. In view of the above findings, there is no need to examine the second applicant's allegation of ill-treatment during his transportation.

III. OTHER ALLEGED VIOLATION OF THE CONVENTION

102. Both applicants also complained under Article 13 of the Convention that they had not had effective remedies for their complaints under Article 3 of the Convention. Having regard to the facts of the case, the submissions of the parties, and its findings above, the Court considers that it has dealt with the main legal questions raised by the case and that there is no need to examine the admissibility or merits of this remaining complaint (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

103. 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

104. The first applicant claimed 80,000 euros (EUR) in respect of non-pecuniary damage and EUR 40,000 in respect of pecuniary damage for medical treatment and the removal of the bullet fragments from his body. The second applicant claimed EUR 25,000 in respect of non-pecuniary damage.

105. The Government submitted that the applicants' claims were unsubstantiated and excessive.

106. The Court rejects the first applicant's claim in respect of pecuniary damage, as he did not submit any relevant documentary evidence supporting this claim. Consequently, it awards each applicant EUR 10,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

107. The first applicant claimed EUR 8,800 for the costs and expenses incurred before the domestic courts and the Court. The second applicant claimed 4,500 manats (AZN – approximately EUR 2,534) for legal services and AZN 12.20 in respect of postal expenses (approximately EUR 6). He also requested that any award under this head be paid directly into his representative's bank account.

108. The Government submitted that the claims were excessive and asked the Court to take a strict approach to the applicants' claims.

109. 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 documents in its possession, the Court considers it reasonable to award each applicant EUR 1,500 in respect of all costs and expenses, plus any tax that may be chargeable to the applicants.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;

2. *Declares* the applicants' complaints under Article 3 of the Convention admissible;

3. *Holds* that there has been a violation of Article 3 of the Convention under its substantive limb on account of the excessive use of force during the applicants' arrests;

4. *Holds* that there has been a violation of Article 3 of the Convention owing to the failure to provide adequate medical treatment in respect of both applicants;

5. *Holds* that there has been no violation of Article 3 of the Convention under its substantive limb on account of the applicants' detention;

6. *Holds* that there has been a violation of Article 3 of the Convention under its procedural limb owing to the lack of effective investigation into the applicants' complaints of ill-treatment during their arrests and detention;

7. *Holds* that there is no need to examine the complaint under Article 13 of the Convention;

8. *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 following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
   (i) EUR 10,000 (ten thousand euros) to each applicant, plus any tax that may be chargeable, in respect of non-pecuniary damage;
   (ii) EUR 1,500 (one thousand five hundred euros) to the first applicant, plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
   (iii) EUR 1,500 (one thousand five hundred euros) to the second applicant, 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 second applicant's representative, Mr Y. Imanov);

(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;

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

Done in English, and notified in writing on 8 September 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško Registrar	Ioannis Ktistakis President