



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

FIRST SECTION

CASE OF KUNQUROVA v. AZERBAIJAN

(Application no. 5117/03)

JUDGMENT
(Striking out)

STRASBOURG

13 April 2006

FINAL

13/07/2006

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 Kunqurova v. Azerbaijan,

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

Mr C.L. ROZAKIS, *President*,

Mr L. LOUCAIDES,

Mrs S. BOTOUCHAROVA,

Mr A. KOVLER,

Mrs E. STEINER,

Mr K. HAJIYEV,

Mr D. SPIELMANN, *judges*,

and Mr S. NIELSEN, *Section Registrar*,

Having deliberated in private on 23 March 2006,

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

PROCEDURE

1. The case originated in an application (no. 5117/03) 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, Mrs Farida Kunqurova (“the applicant”), on 16 July 2002.

2. The applicant, who had been granted legal aid, was represented by Mr E. Osmanov, a lawyer practising in Baku. The Azerbaijani Government (“the Government”) were represented by their Agent, Mr C. Asgarov.

3. The applicant alleged that her ten-day “administrative detention” for contempt of the police had been in violation of the safeguards provided by Articles 5 and 6 of the Convention.

4. The application was allocated to the First Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1.

5. By a decision of 23 June 2005 the Court declared the application partly admissible.

6. The applicant and the Government each filed observations on the merits (Rule 59 § 1).

THE FACTS

7. The applicant was born in 1974 and lives in Baku.

8. On 6 March 2001 the applicant and her neighbour got involved in a quarrel which escalated into a serious fight during which the applicant

allegedly produced a knife and threatened to kill the neighbour. After this incident, criminal proceedings were instituted against the applicant based on a criminal complaint filed by her neighbour.

9. On 24 April 2002, at about 11:00 a.m., several police officers came to the applicant's apartment and "invited" her to follow them to a police station for interrogation concerning the criminal complaint filed against her by the neighbour. The applicant resisted and the police officers took her to the police station by force. At the station, they issued a "protocol on administrative offence" (*inzibati xəta barədə protokol*), accusing the applicant of the contempt of their lawful order to follow them to the police office for interrogation.

10. On the same day, the applicant was brought before a judge of the Sabail District Court, who sentenced the applicant to an immediate ten-day "administrative detention" for contempt of the police under Article 310.1 of the Code on Administrative Offences (*İnzibati Xətalər Məcəlləsi*). She was found guilty of resisting the "lawful order" of the police and making insulting and disrespectful statements about the Azerbaijani law and law-enforcement authorities.

11. While the applicant was serving her ten-day sentence, her lawyer filed an appeal against the Sabail District Court's decision of 24 April 2002. He argued that there was no lawful ground for convicting the applicant for contempt of the police, because the police officers had entered the applicant's apartment without any arrest warrant or summons to attend the police office, and arrested her without any lawful reason. On 2 May 2002, the Court of Appeal upheld the Sabail District Court's decision, without specifically replying to these arguments. In accordance with the domestic law on administrative procedure, no appeal could be lodged against the Court of Appeal's decision concerning an administrative offence.

12. After the applicant had been released upon the expiry of the ten-day term of the "administrative detention", she was charged with a criminal offence for beating her neighbour and threatening her with a knife. On 17 July 2002 the Nasimi District Court found the applicant guilty of "hooliganism with the use of weapons" under Article 221.3 of the Criminal Code and sentenced her to three-years' imprisonment. On 10 May 2004, by virtue of a presidential pardon decree, she was released from serving the remainder of her sentence.

THE LAW

13. On 15 September 2005 the applicant sent a letter to the Court, expressing her "distrust" in the Court and stating that she wished to withdraw her application. On 28 September 2005 the applicant sent another

letter where she repeated her request to terminate the examination of her case. In reply to the Court's request to clarify the reasons for the withdrawal, on 28 October 2005 the applicant insisted that the Court immediately terminate the proceedings concerning her application without submitting any such explanation.

14. Upon an enquiry by the Court, on 12 November 2005 the applicant's lawyer, E. Osmanov, confirmed that it was the applicant's genuine wish to withdraw the application because she had apparently lost any interest in defending her rights both on the domestic and international level.

15. It does not transpire from the above-mentioned correspondence that the applicant was somehow unduly influenced to withdraw her application. Accordingly, Court finds that the applicant has lost interest in her application and no longer intends to pursue it before the Court.

16. In these circumstances, the Court concludes that it is no longer justified to continue the examination of the application within the meaning of Article 37 § 1 (c) of the Convention. Furthermore, the Court finds no reasons of a general character, as defined in Article 37 § 1 *in fine*, which would require the examination of the application by virtue of that Article.

17. Accordingly, the case should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

Decides to strike the case out of the list.

Done in English, and notified in writing on 13 April 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President