



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

FIRST SECTION

CASE OF AKIMOVA v. AZERBAIJAN

(Application no. 19853/03)

JUDGMENT
(just satisfaction – friendly settlement)

STRASBOURG

9 October 2008

In the case of Akimova v. Azerbaijan,

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

Christos Rozakis, *President*,

Nina Vajić,

Anatoly Kovler,

Elisabeth Steiner,

Khanlar Hajiyeu,

Dean Spielmann,

Sverre Erik Jebens, *judges*,

and André Wampach, *Deputy Section Registrar*,

Having deliberated in private on 18 September 2008,

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

PROCEDURE

1. The case originated in an application (no. 19853/03) 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 Valentina Akimova (“the applicant”), on 25 April 2003.

2. In a judgment delivered on 27 September 2007 (“the principal judgment”), the Court held that there had been a violation of Article 1 of Protocol No. 1 to the Convention and that no separate examination was necessary of the applicant’s complaint under Article 6 § 1 of the Convention. It found that the formal postponement, for an indefinite period of time, of the enforcement of a domestic judgment ordering eviction of internally displaced persons unlawfully occupying the applicant’s apartment constituted an interference with the applicant’s right to peaceful enjoyment of her possessions (see *Akimova v. Azerbaijan*, no. 19853/03, §§ 39-51, 27 September 2007).

3. Under Article 41 of the Convention the applicant sought, in the absence of restitution of the property in question, compensation in the principal amount of 51,525 United States dollars (USD) which, according to her, constituted the market value of her apartment at the date of submission of her just satisfaction claim, to be increased by 1.3% for each month from the date of submission of her just satisfaction claim until the date of the Court’s decision on just satisfaction. She also sought USD 30,000 in respect of non-pecuniary damage.

4. Since the question of the application of Article 41 of the Convention was not ready for decision, the Court reserved it and invited the Government and the applicant to submit their written observations on that

issue and, in particular, to notify the Court of any agreement they might reach (*ibid.*, § 59, and point 3 of the operative provisions).

5. By a letter of 17 April 2008 the Government notified the Court that the parties had reached a friendly settlement. The following declaration, signed both by Mr Chingiz Asgarov, Agent of the Republic of Azerbaijan before the Court, and the applicant, was enclosed with the letter:

“Following the invitation of the Court to the Government and the applicant to notify of any agreement that they may reach, the Government held direct contacts between the parties in the past weeks with a view to securing a friendly settlement of the matter. That being the case, the Government hereby wishes to express its acknowledgment of the unreasonable duration of the domestic proceedings in which the applicant was involved.

This conclusion was also adopted by the Plenum of the Supreme Court of the Republic of Azerbaijan in its decision of 21 January 2008, in which it quashed the judgments of the lower instance courts in the present case in the part concerning the delay in enforcement of the judgment.

Consequently, the Government of the Republic of Azerbaijan are ready to pay 10,000 New Azerbaijani manats (AZN) to Ms Valentina Akimova with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment will constitute the final resolution of the case.”

6. Enclosed with the Government’s letter of 17 April 2008 was also the following declaration signed by the applicant:

“I, Valentina Akimova, inform the Court that the decision of the Plenum of the Supreme Court of the Republic of Azerbaijan of 21 January 2008 was enforced on 14 March 2008.

I also note that the Government of the Republic of Azerbaijan are prepared to pay me the sum of 10,000 New Azerbaijani manats (AZN) with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. 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.

I accept the proposal and waive any further claims against Azerbaijan in respect of the facts giving rise to this application. I declare that this constitutes a final resolution of the case.”

7. By a letter of 24 April 2008 the Court requested the applicant to confirm the authenticity of her declaration submitted by the Government.

8. On 12 June 2008 the Court received the following declaration signed by the applicant’s representative:

“In reply to your letter dated 24 April 2008 regarding the friendly settlement of the above case I would like to inform you that the applicant has accepted the terms of the agreement submitted by the Government to the Court.”

THE LAW

9. Following its principal judgment the Court has been informed that a friendly settlement has been reached between the Government and the applicant with respect to the latter’s claims under Article 41 of the Convention.

10. In addition, the Court has regard to the fact that, following the decision of the Plenum of the Supreme Court of 21 January 2008, the applicant’s possession of her apartment was restored on 14 March 2008.

11. Having regard to its terms, the Court finds the agreement reached by the parties equitable within the meaning of Rule 75 § 4 of the Rules of Court and that it is based on respect for human rights as defined in the Convention or its Protocols (Article 37 § 1 *in fine* of the Convention and Rule 62 § 3 of the Rules of Court). Consequently, it takes formal note of the agreement and considers it appropriate to strike the case out of the list pursuant to that provision.

12. 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 9 October 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

André Wampach
Deputy Registrar

Christos Rozakis
President