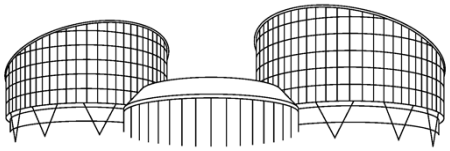

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF AYTAJ AHMADOVA v. AZERBAIJAN

(Application no. 30551/18)

JUDGMENT

Art 8 • Positive obligations • Private life • Failure to examine journalist's complaint about the publication on Facebook of her private photographs and video-recordings, allegedly stored only on her computer which was seized and retained by the State authorities, together with insults and threats • Acts sufficiently serious to form the basis of a valid complaint • Prosecuting authority neither commenced criminal proceedings nor refused to do so • Domestic courts rejected applicant's complaint in a formalistic manner

Prepared by the Registry. Does not bind the Court.

STRASBOURG

11 March 2025

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 Aytaj Ahmadova v. Azerbaijan,

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

Ioannis Ktistakis*, President*,
Peeter Roosma,
Lətif Hüseynov,
Darian Pavli,
Oddný Mjöll Arnardóttir,
Diana Kovatcheva,
Úna Ní Raifeartaigh*, judges*,
and Milan Blaško, *Section Registrar,*

Having regard to:

the application (no. 30551/18) 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 an Azerbaijani national, Ms Aytaj Soltan gizi Ahmadova (*Aytac Soltan qızı Əhmədova* - "the applicant"), on 11 June 2018;

the decision to give notice to the Azerbaijani Government ("the Government") of the complaints under Articles 8, 10 and 13 of the Convention and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated in private on 11 February 2025,

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

INTRODUCTION

1. The application concerns the alleged failure by the domestic authorities to examine the applicant's complaints about the publication of her private photographs and videos on Facebook, accompanied by insults and threats addressed to her.

THE FACTS

2. The applicant was born in 1993 and lives in Baku. She was represented by Ms Z. Sadigova, 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 journalist and had been working with Meydan TV, an online news portal, since 2015.

6. The applicant alleged that on 16 September 2015 she was forcibly detained by persons in civilian clothes and was taken to the Organised Crime Department ("the OCD") of the Ministry of Internal Affairs of the Republic of Azerbaijan, where she was questioned about Meydan TV and its activities. On the same day, employees of the OCD conducted a search of her flat

allegedly without a warrant or court order and seized her computer. The applicant subsequently asked for the return of her computer several times, without success. It appears from the case file that the applicant's computer was added to the investigation file of criminal proceedings against Meydan TV by the Serious Crimes Investigation Department ("the SCID") of the Prosecutor General's Office, and was retained by them at the time of the events described below. Domestic proceedings about the detention of the applicant, the search of her flat and the seizure of her computer are the subject matter of a separate application currently pending before the Court (application no. 16121/17).

7. From 14 September 2016 onwards personal photographs and video-recordings that had been made by the applicant at home with her family or at the beach were published on various Facebook accounts which appeared to belong to fake individuals. The posts were accompanied by captions which suggested that the applicant should be "hanged by her tongue", "hanged naked in front of everyone" and so on.

8. On 14 October 2016 the applicant complained to the Prosecutor General's Office, the Ministry of Internal Affairs and the State Security Service. She submitted that personal photographs and video-recordings stored on her computer, which had been unlawfully retained for more than a year, and which had not previously been shared anywhere had started to be published online, accompanied by insulting headlines and suggestions that she should be killed and hanged naked. She further submitted that when she had written through Facebook to E.K., the person who had shared the photographs of her and her mother that had been taken at the beach, and asked her to delete the photographs in question, E.K. had threatened to publish her photographs all over the Internet, accused her of betraying her country and insulted her. The applicant also submitted that she was still being insulted on various Facebook pages. She asserted that since the video-recordings in question had only been stored on the computer that had been seized by the authorities and the photographs and video-recordings in question dated back to previous years, the OCD and SCID must be responsible for the present situation. She further alleged that her photographs and video-recordings had been published and she had been insulted and threatened because of her journalistic work. She therefore asked the authorities to identify the persons who had published her photographs and video-recordings and had insulted and threatened her and to commence criminal proceedings against them.

9. It appears that the applicant received no reply to her complaint. On 14 February 2017 she again addressed the same complaint to the same State authorities, attaching a copy of her previous complaint. Again, she received no reply. On 29 September 2017 the applicant made the same complaint for the third time, this time addressing it only to the Prosecutor General's Office, but yet again she received no reply.

10. On 17 October 2017 the applicant lodged a complaint with the Sabail District Court under the judicial supervision procedure. She repeated her above-mentioned complaints. She also complained that despite the fact that she had applied to the Prosecutor General's Office several times, she had received no information or decision in respect of her complaints, no investigation had been carried out and no one had been brought to justice. She submitted that because of that, she considered the Prosecutor General's Office to have refused to commence criminal proceedings in respect of her complaint. The applicant also made the following requests:

(i) for her computer that had been seized by the OCD on 16 September 2015 to be produced to the court for examination;

(ii) for an expert examination of the computer to determine, among other things, whether the computer had been accessed while it was in the SCID's possession; whether the photographs stored in it had been opened and transferred; and whether any information had been changed or deleted;

(iii) for the IP addresses of persons who had published her photographs or video-recordings or threatened her online to be identified by the Fight Against Cybercrime department of the Ministry of Internal Affairs, the State Security Service, and the Prosecutor General's Office;

(iv) for the OCD employees who had seized the computer to be summoned to the court hearing as witnesses;

(v) for the "relevant" investigators from the SCID, where the computer was retained, to be summoned to the hearing as witnesses.

The applicant asked the first-instance court to declare the Prosecutor General's decision refusing to commence criminal proceedings unlawful and to annul it, to order the Prosecutor General's Office to commence criminal proceedings and to identify the perpetrators of the acts complained of and to hold them to account, and to recognise that there had been violations of her rights under Articles 3, 8, 10, 13, 14 and 18 of the Convention.

11. On 10 and 28 November 2017 the Sabail District Court rejected the applicant's complaint, referring to, *inter alia*, Article 449.3 of the Code of Criminal Procedure (see paragraph 18 below). It held that it would be impossible to examine the applicant's complaint because the decision she was asking them to annul was "uncertain" and there was no information about "its existence". It did not address the applicant's requests or arguments.

12. On 29 November 2017 the applicant appealed, reiterating her previous arguments and requests (see paragraph 10 above). She also complained that the first-instance court had unlawfully dismissed her complaint without examining it. She submitted that at the hearing the first-instance court had asked her either to produce a copy of the Prosecutor General's decision refusing to commence criminal proceedings or to lodge a complaint about the Prosecutor General's refusal to act on her criminal complaint, and that her lawyer, in reply, had submitted that since the prosecuting authority had failed to reply to her letters, they were unable to obtain a copy of any such decision,

but that the court had more powers and could require information from the prosecuting authority. She also complained that the first-instance court should have obtained the case material from the prosecuting authority but had failed to do so and had failed to summon the prosecuting authority to the court hearing.

13. By a final decision of 11 December 2017 the Baku Court of Appeal upheld the first-instance court's decision, giving the same reasons. It added that while the applicant had provided the court with copies of the complaints she had made to the various State authorities (see paragraphs 8-9 above), she had failed to file any proof that her above-mentioned complaints had actually been sent and delivered to those authorities. It also appears from the record of the court hearing that the appellate court dismissed the applicant's requests (see paragraph 10 above), holding that they were not relevant to her appeal.

RELEVANT LEGAL FRAMEWORK

I. THE 1995 CONSTITUTION

14. Article 32 of the Constitution provides as follows:

Article 32. Right to personal inviolability

"I. Everyone has the right to personal inviolability.

II. Everyone has the right to keep their private and family life secret. It is prohibited to interfere with a person's private or family life, except where permitted by law. Everyone has the right to be protected from unlawful interference in his or her private and family life.

III. No one may collect, keep, use or publish information about a person's private life without his or her consent. Except in cases prescribed by law, no one may be subjected to being followed, videotaped, photographed or tape recorded or subjected to other similar action without his or her knowledge or against his or her will.

IV. The State guarantees everyone the right to the confidentiality of their correspondence, telephone communications, post, telegraph messages and information sent by other means of communication. This right may be restricted by a procedure provided for by law in order to prevent crime or to discover the facts when investigating a criminal case.

V. Except where otherwise prescribed by law, everyone may have access to information about him or her. Everyone has a right to request the correction or deletion of information about him or her which does not correspond to the truth, is incomplete or has been collected in violation of the requirements of the law. ..."

15. Article 46 of the Constitution provides:

Article 46. Right to defend the honour and dignity

"I. Everyone has the right to defend his or her honour and dignity.

II. The dignity of a person is protected by the State. No circumstance can justify the humiliation of a person by an affront to that person's dignity. ..."

II. THE 2000 CRIMINAL CODE

16. Article 156 of the Criminal Code provides as follows:

"156.1. The illegal collection of information constituting private or family secrets, and the publication, selling or sharing with others of documents, video or photographic materials or audio recordings of such information –

is punishable by a fine of one thousand to two thousand manats, or community work for a period of two hundred and forty hours to four hundred and eighty hours, or corrective work for a period of up to one year.

156.2. The same acts:

156.2.1. when committed by a public official in his official position;

...

are punishable by restriction of liberty for a period of up to two years or imprisonment for a period of up to two years, with or without deprivation of the right to hold certain posts or engage in certain activities for a period of up to three years."

III. THE 2000 CODE OF CRIMINAL PROCEDURE

17. Article 199 of the Code of Criminal Procedure ("the CCrP") provides as follows:

"199.1. During criminal proceedings measures shall be taken under this Code and other laws of the Republic of Azerbaijan to protect information constituting personal or family secrets.

199.2. It shall be prohibited to collect, publish or use information relating to the private life of any person, and other information of a personal nature which that person considers must be kept secret, unnecessarily in the course of any procedure. At the request of an investigator, prosecutor or court, participants in investigations or court procedures shall be under an obligation not to publish such information, and shall give a written undertaking to this effect.

199.3. If the prosecuting authority asks any person for details of his private life in accordance with a court order, that person shall have the right to check that the collection of that information is necessary for the purposes of a current criminal case; otherwise he shall have the right to refuse to provide it. If the prosecuting authority asks a person for information about his own or another person's private life on the grounds that it is necessary, the authority shall include reasons why this information is required in the record of the questioning or other investigative action.

199.4. Evidence which discloses personal or family secrets shall be examined by the court in camera.

199.5. Damage caused to any person as a result of a breach of the inviolability of privacy or the publication of personal or family secrets shall be compensated under the procedure provided in the legislation of the Republic of Azerbaijan."

18. Article 449 of the Code, as in force at the relevant time, provided as follows:

> "...
>
> 449.2. The following persons shall have the right to lodge a complaint about procedural acts or decisions taken by an authority conducting criminal proceedings:
>
> 449.2.1. the accused person or suspect and his or her defence counsel;
>
> 449.2.2. the victim and his or her legal representative;
>
> 449.2.3. other persons whose rights and freedoms have been violated as a result of the procedural decision or act.
>
> 449.3. The persons referred to in Article 449.2 of this Code shall have the right to lodge a complaint with a court about procedural acts or decisions of an authority conducting criminal proceedings in connection with the following matters:
>
> 449.3.1. a refusal to act on a criminal complaint;
>
> 449.3.2. arrest or detention;
>
> 449.3.3. a breach of the rights of an arrested or detained person;
>
> 449.3.3.1. the transfer of a detained person from a remand prison to a temporary detention facility;
>
> 449.3.4. the infliction of torture or other inhuman treatment on a detained person;
>
> 449.3.5. a refusal to commence criminal proceedings or the suspension or termination of criminal proceedings;
>
> 449.3.6. the coercive conduct of an investigative measure, the use of a measure of procedural compulsion or the carrying out of a search without a court order;
>
> 449.3.7. removal of the defence counsel of an accused person or a suspect."

In its decision of 12 March 2015, the Constitutional Court held that the list of procedural acts and decisions in Article 449.3 of the CCrP was exhaustive and that no complaint could be made about any other procedural act or decision of an authority in the course of its conduct of criminal proceedings.

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

19. Article 20 of the Law on Prosecutor's Office of 7 December 1999 provides that a prosecuting authority must examine applications and complaints in accordance with the procedure established by law where that lays within its powers. Applications, complaints or information about a crime must be examined without delay. Where any application, complaint or information about a crime is received, the prosecutor must ensure, where it is within his or her powers provided by the law, the appointment of an expert from State bodies to check the facts stated in the application, complaint or information, and must give a decision based on whether or not the facts arrived at by the investigation provide sufficient grounds for the commencement of criminal proceedings.

20. Article 28 of the Law provides that the prosecuting authority's actions or inaction can be challenged to the supervising prosecutor or the court.

V. THE LAW ON CITIZENS' APPLICATIONS OF 30 SEPTEMBER 2015

21. Article 7 of the Law on Citizens' Applications provides that the relevant State authorities and their officials must accept, register, and ensure the examination of written applications (which by definition includes complaints) submitted in accordance with that Law.

22. Article 10 of the Law provides that, save in exceptional circumstances, applications must be examined within 15 working days at the latest or 30 working days at the latest in cases where additional examination and verification is required.

23. Article 12 of the Law provides that the relevant State authorities and their officials must examine complaints and respond to them in the manner and within the time limits established by that Law. When doing this, the State officials must, among other things, inform the person who made the application or complaint about the result of the examination in writing, giving reasons for the dismissal of the application or complaint and explaining the procedure for contesting the dismissal.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

24. The applicant complained under Articles 6 and 8 of the Convention that there had been an interference with her right to respect for her private life as a result of the publication of her photographs and video-recordings and that the domestic authorities had failed to examine her complaints in that respect.

25. Being the master of the characterisation to be given in law to the facts of a case (see, for example, *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 126, 20 March 2018), the Court considers that this complaint falls be examined solely under Article 8 of the Convention, which reads as follows:

> "1. Everyone has the right to respect for his private and family life, his home and his correspondence.
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

A. Admissibility

1. Applicability

(a) The parties' submissions

26. The Government referred to the general principles established by the Court regarding the applicability of Article 8 and asserted that the attack on the applicant's reputation in the present case was of a "low level of severity". They submitted that the applicant was not a well-known figure but an ordinary citizen who worked as a journalist and that the publication of her photographs and video-recordings, which were not of an intimate nature, had not attracted public interest or caused any debate.

27. The applicant did not make any specific submissions as regards the applicability of Article 8 of the Convention.

(b) The Court's assessment

28. The Court reiterates that the concept of private life extends to aspects relating to personal identity, such as a person's name or photograph, or to physical and moral integrity: the guarantee afforded by Article 8 of the Convention is primarily intended to ensure the development, without outside interference, of the personality of each individual in his or her relations with other human beings. There is therefore a zone within which a person interacts with others which, even in a public context, may fall within the scope of private life. The publication of a photograph may therefore intrude upon a person's private life even where that person is a public figure. Regarding photographs, the Court has stated that a person's image constitutes one of the chief attributes of his or her personality, as it reveals the person's unique characteristics and distinguishes the person from his or her peers. The right to the protection of one's image is therefore one of the essential components of the development of a person's individuality. It mainly presupposes the individual's right to control the use of that image, including the right to refuse publication of it (see *Margari v. Greece*, no. 36705/16, §§ 27-28, 20 June 2023). The Court has previously held that even a neutral photograph accompanying a story portraying an individual in a negative light constitutes a serious intrusion into the private life of a person who does not seek publicity (see *Rodina v. Latvia*, nos. 48534/10 and 19532/15, § 131, 14 May 2020).

29. The Court observes that in the present case the applicant's photographs and video-recordings of her with her family members, which the applicant said had been stored only in the computer that had been seized and retained by the State authorities and which had never been shared by her, were published on a social network accompanied by insulting language and threats addressed to the applicant (see paragraph 7 above; contrast *Vučina v. Croatia* (dec.), no. 58955/13, § 38, 24 September 2019, and compare *Abbasaliyeva v. Azerbaijan*, no. 6950/13, § 24, 27 April 2023). In the light of

these circumstances and having regard to the general principles established under its case-law (see paragraph 28 above), the Court concludes that Article 8 of the Convention is applicable in the present case.

2. Exhaustion of domestic remedies

(a) The parties' submissions

30. The Government submitted that it was obvious that the prosecuting authorities had not formally refused to commence criminal proceedings. They argued that the applicant had therefore failed to exhaust domestic remedies, as she should have lodged a complaint about the prosecuting authorities' inaction under Article 449 of the CCrP, instead of contesting a decision which had never been made.

31. The applicant submitted that the domestic courts had refused to examine her complaint on its merits and had failed to inform her how to proceed. She argued that there was no adequate legal remedy available in the circumstances of her case.

(b) The Court's assessment

32. The Court reiterates that Article 35 § 1 requires that for a complaint to be made under the Convention it should previously have been made to the appropriate domestic body, at least in substance and in compliance with the formal requirements and time-limits laid down in domestic law and, further, that any procedural means that might prevent a breach of the Convention should have been used. Where an applicant has failed to comply with these requirements, his or her application should in principle be declared inadmissible for failure to exhaust domestic remedies. However, there is no obligation to have recourse to remedies which are inadequate or ineffective. In addition, according to the "generally recognised rules of international law" there may be special circumstances which absolve the applicant from the obligation to exhaust the domestic remedies at his or her disposal. The Court has also frequently underlined the need to apply the exhaustion rule with some degree of flexibility and without excessive formalism (see *Vučković and Others v. Serbia* (preliminary objection) [GC], nos. 17153/11 and 29 others, §§ 72-73 and 76, 25 March 2014).

33. In the present case, the applicant lodged a complaint under Article 449 of the CCrP asking the courts to declare the Prosecutor General's refusal to commence criminal proceedings unlawful and to annul it, to require the Prosecutor General's Office to commence criminal proceedings and to identify the perpetrators of the acts complained about. The Government argued that she should have lodged a complaint about the inaction of the prosecuting authority, under the same provision.

34. The Court observes that Article 449.3 of the CCrP provides an exhaustive list of the acts or decisions of the investigating authorities that can

be contested in the domestic courts (see paragraph 18 above). Its text does not explicitly refer to the "inaction" of the authorities. Article 28 of the Law on Prosecutor's Office, on the other hand, provides that the inaction of a prosecuting authority can be contested in the courts (see paragraph 20 above).

35. In several cases against Azerbaijan that have previously been examined by the Court, the domestic courts had refused to examine a complaint by an applicant under Article 449 of the CCrP about the inaction of a prosecuting authority and its failure to conduct an effective investigation in a comparable situation:

- because the matter complained of was not on the exhaustive list of the types of decisions and steps by prosecuting authorities set out in Articles 449.3.1 to 449.3.7 of the CCrP and that could be challenged under the judicial supervision procedure (see *Khadija Ismayilova v. Azerbaijan*, nos. 65286/13 and 57270/14, §§ 40 and 42-43) or;

- because the complaint did not concern any decision of the prosecuting authorities but rather their alleged failure to investigate (see *Tagiyeva v. Azerbaijan*, no. 72611/14, §§ 39-41, 7 July 2022) or;

- because judicial review of the prosecuting authority's inaction was not "allowed" (see *Haji and Others v. Azerbaijan* [Committee], no. 3503/10, §§ 94-95, 1 October 2020).

36. The Government have not provided any examples of decisions of the domestic courts where a complaint under the above-mentioned provision about the inaction of the prosecuting authority was examined, nor have they suggested that any other appropriate remedy was available. However, in view of its conclusion below, the Court does not find it necessary to decide in the present case whether the remedy suggested by the Government was ineffective and whether there was no other adequate remedy to make use of, as alleged by the applicant (see paragraph 31 above).

37. The Court notes that, in the present case, there was no refusal to commence criminal proceedings from the Prosecutor General which the applicant could challenge. However, it observes that at the hearing before the first-instance court and in her complaints lodged with the domestic courts the applicant clearly indicated that the complaints she had made to the prosecuting authority were left unanswered, and, as mentioned above, asked them to require the Prosecutor General's Office to commence criminal proceedings and to identify the perpetrators of the acts complained about (see paragraphs 10, 12 and 33 above).

38. In the light of the foregoing and of the specific circumstances of the present case, the Court concludes that the applicant did bring the substance of her complaint, that is the prosecuting authority's failure to examine her complaints, to the notice of the national authorities. Also, having regard to the fact that the applicant had lodged her complaint under Article 449 of the CCrP, that is the same provision as the one suggested by the Government (see paragraph 33 above) and bearing in mind the need to apply the exhaustion

rule with some degree of flexibility and without excessive formalism (see paragraph 32 above), as well as, the absence of any indication by the Government of the availability of any other remedy under domestic law (see paragraph 36 above), the applicant must 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).

39. Accordingly, the Court finds that the applicant's complaint cannot be rejected for non-exhaustion of domestic remedies, and that the Government's objection in this regard must be dismissed.

3. Conclusion

40. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

41. The applicant reiterated the arguments she had made to the domestic authorities (see paragraphs 8, 10 and 12 above). In particular, she argued that the photographs and video-recordings in question had never been shared anywhere before and that she had not been blackmailed with them prior to the seizure of her computer by the OCD. In addition, she argued that the present case was similar to *Khadija Ismayilova* (cited above), with the sole difference that her personal data had been taken from her computer while it was in the possession of the OCD. She submitted that the State authorities had an obligation to protect the data stored on her computer. The applicant further alleged that the Ministry of Internal Affairs had published her photographs and video-recordings in order to humiliate and threaten her. In support of her allegation, she relied on the Quarterly Adversarial Threat Report (#1 (Q1'2022) (fb.com)) prepared in April 2022 by Meta (formerly the Facebook company), which contained, among other things, information about the disruption of a network in Azerbaijan allegedly engaged in cyber espionage and in targeting activists, opposition members and journalists, and operated by the Ministry of Internal Affairs.

42. Referring to the conclusions of the domestic courts (see paragraphs 11 and 13 above), the Government argued that there had been no violation of Article 8 of the Convention in the present case. In their observations, dated 29 August 2023, the Government further submitted that the publication of photographs and video-recordings of the applicant which had been stored in the computer in question was currently "under reopened investigation" and

that the applicant would be informed about its result in accordance with the law. In their latest observations, dated 15 January 2024, the Government did not provide any update regarding the reopened investigation.

2. The Court's assessment

43. The Court reiterates that, although the object of Article 8 is essentially to protect the individual against arbitrary interference by public authorities, it does not merely compel the State to abstain from such interference. In addition to this primarily negative undertaking, there may be positive obligations inherent in an effective respect for private or family life. These obligations may require measures to be taken which are designed to secure respect for private and family life even in the sphere of the relations of individuals between themselves. It is for the competent domestic authorities to determine the most appropriate means to secure their compliance with Article 8 in such cases, the Court's task being limited to reviewing under the Convention the decisions that those authorities have taken in the exercise of their power of appreciation (compare *Alković v. Montenegro*, no. 66895/10, § 67, 5 December 2017). Moreover, the boundaries between the State's positive and negative obligations under Article 8 do not always lend themselves to precise definition. The applicable principles are nonetheless similar. In particular, in both instances regard must be had to the fair balance which has to be struck between the competing interests (see *Odièvre v. France* [GC], no. 42326/98, § 40, ECHR 2003-III).

44. The Court notes at the outset that since the prosecuting authority in the present case did not examine the applicant's complaint and no criminal proceedings were commenced, the identity of those who committed the acts about which the applicant complains is unknown and the question of whether the acts were linked to State agents abusing their official power, as alleged by the applicant, remains an open one. While the Court must remain sensitive to potential evidential difficulties, it is not possible, on the basis of the case file and, in particular, the report presented by the applicant (see paragraph 41 above), which deals with general issues and does not give specific information in respect of the applicant's complaint, to conclude beyond reasonable doubt that there was an interference which was attributable to the State. Having regard to the parties' arguments, the factual circumstances of the case and the available material, and due to the lack of an investigation that could have shed light on whether the photographs and video-recordings in question had been leaked by the State authorities, the Court considers that the present complaint must be examined from the standpoint of the State's positive obligations under Article 8 of the Convention (compare *Khadija Ismayilova*, cited above, §§ 111 and 113-14).

45. The Court has previously held that appropriate safeguards should be available to prevent disclosure of information of a private nature, and that when such disclosure has taken place, the positive obligation inherent in the

effective respect for private life implies an obligation to carry out effective inquiries in order to rectify the matter to the extent possible (see *Craxi v. Italy (no. 2)*, no. 25337/94, § 74, 17 July 2003; *Giorgi Nikolaishvili v. Georgia*, no. 37048/04, § 130, 13 January 2009; and *M.D. and Others v. Spain*, no. 36584/17, § 65, 28 June 2022).

46. The Court observes that the acts complained of were sufficiently serious to form the basis of a valid complaint, especially considering the applicant's allegation that the photographs and video-recordings had been stored solely in the computer that was seized by the OCD and retained by the State authorities. Breach of the right to inviolability of a person's private life was punishable under Article 156 of the Criminal Code and the commission of that criminal offence by an official abusing his or her power was an aggravating circumstance (see paragraph 16 above). Having regard to the seriousness of the applicant's allegation, and the method of protection actually chosen by the domestic authorities, the Court considers that practical and effective protection of the applicant required that effective steps be taken with a view to clarifying the circumstances of the case and identifying and, if appropriate, prosecuting the perpetrators of the acts complained of (compare *Alković*, § 67, and *Khadija Ismayilova*, § 117, both cited above).

47. Article 20 of the Law on Prosecutor's Office required that criminal complaints be examined without any delay. However, as set out above, in the present case the prosecuting authority neither commenced criminal proceedings nor made any refusal to commence proceedings (compare *Mitkus v. Latvia*, no. 7259/03, § 80, 2 October 2012). In fact, it completely ignored the three complaints made to it by the applicant, whereas under the provisions of domestic law it had an obligation to inform the applicant of its decision (see paragraphs 19 and 23 above).

48. When the applicant applied to the domestic courts, they rejected her complaint in a formalistic manner without making any effort to examine the circumstances of the case. In particular, it does not appear from the case file that the courts summoned the prosecuting authority to the hearings or required it to produce any information about the applicant's complaints. Moreover, while in her appeals the applicant had made pertinent requests, for example for the computer in question which was still in the possession of the State authority, to be produced for examination in order to find out whether any of her data had been accessed and transferred, the courts either totally ignored (the first-instance court) or summarily dismissed her requests without giving any reasons (the appellate court) (see paragraphs 11 and 13 above).

49. While the Government, in their submissions before the Court, submitted that the applicant's complaint was being examined under a reopened investigation and that she would be informed about the result (see paragraph 42 above), the Court has not been informed of any decision taken on the matter to date.

50. In the light of the foregoing considerations, the Court cannot but conclude that the domestic authorities in the present case have failed to comply with their positive obligations under Article 8 of the Convention. There has accordingly been a violation of that provision.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

51. Relying on Article 10 the Convention, the applicant complained that since her photographs and video-recordings had been published and she had been insulted and threatened because of her journalistic work, her right to freedom of expression had been violated. She also complained under Article 13 of the Convention that the failure by the State authorities to examine her complaints had amounted to a breach of her right to an effective remedy.

52. Having regard to the conclusions reached above under Article 8 of the Convention (see paragraphs 43-50 above) and to the parties' submissions, the Court considers that there is no need to give a separate ruling on the admissibility and merits of those complaints in the present case (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

53. 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

54. The applicant claimed 11,000 euros (EUR) in respect of non-pecuniary damage.

55. The Government considered that finding of a violation would in itself constitute sufficient reparation in the present case.

56. The Court considers that the applicant has suffered non-pecuniary damage which cannot be compensated for solely by the finding of a violation, and that compensation should therefore be awarded. Making its assessment on an equitable basis, as required by Article 41 of the Convention, it awards the applicant EUR 4,500 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

57. The applicant also claimed EUR 7,000 for the costs and expenses incurred before the domestic courts and the Court. She asked that the compensation in respect of costs and expenses be paid directly into her representative's bank account. She submitted a copy of a contract for legal services concluded with her representative and another lawyer, Mr E. Sadigov.

58. The Government submitted that the amount claimed was excessive.

59. 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, regard being had to the documents in its possession, the fact that Mr E. Sadigov had not represented the applicant either in the domestic courts or before the Court, and the above criteria, the Court considers it reasonable to award the sum of EUR 1,000 covering costs under all heads, plus any tax that may be chargeable to the applicant.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Article 8 of the Convention admissible;

2. *Holds* that there has been a violation of Article 8 of the Convention;

3. *Holds* that there is no need to examine the complaints under Articles 10 and 13 of the Convention;

4. *Holds*
   (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 4,500 (four thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 1,000 (one thousand euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses, to be paid directly into the bank account of her representative, Ms Z. Sadigova;
   (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;

5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 11 March 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško Registrar	Ioannis Ktistakis President