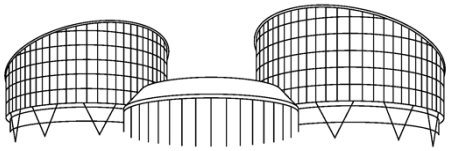

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

CASE OF HUSEYNOV AND OTHERS v. AZERBAIJAN

(Applications nos. 34262/14, 35948/14, 38276/14, 56232/14, 62138/14 and 63655/14)

JUDGMENT

"This version was rectified on 13 December 2016 under Rule 81 of the Rules of Court."

STRASBOURG

24 November 2016

This judgment is final but it may be subject to editorial revision.

In the case of Huseynov and Others v. Azerbaijan,

The European Court of Human Rights (Fifth Section), sitting as a Committee composed of:

Faris Vehabović, *President,*
Khanlar Hajiyev,
Carlo Ranzoni, *judges,*

and Anne-Marie Dougin, *Acting Deputy Section Registrar,*

Having deliberated in private on 3 November 2016,

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

PROCEDURE

1. The case originated in six applications (nos. 34262/14, 35948/14, 38276/14, 56232/14, 62138/14 and 63655/14) 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 six Azerbaijani nationals, Mr Ilham Telman oglu Huseynov ("the first applicant"), Mr Tazakhan Maharram oglu Miralamli ("the second applicant"), Mr Bahruz Gazanfar oglu Hasanov ("the third applicant"), Mr Tofig Israyil oglu Dadashov ("the fourth applicant"), Mr Turkel Ahmad oglu Alisoy ("the fifth applicant") and Mr Agaverdi Khudamali oglu Rushanov ("the sixth applicant"), on various dates in 2014 (see Appendix).

2. All the applicants were represented by Mr R. Mustafazade and Mr A. Mustafayev, lawyers practising in Azerbaijan. The Azerbaijani Government ("the Government") were represented by their Agent, Mr Ç. Asgarov.

3. On 21 April 2015 the complaints concerning Articles 5, 6, 11 and 14, raised in all the applications, Article 10, raised only in application no. 56232/14, and Articles 13 and 18, raised only in applications nos. 62138/14 and 63655/14, were communicated to the Government. On the same date the remainder of the applications was declared inadmissible.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

4. The applicants' dates of birth and places of residence are given in the Appendix.

A. Background information

5. At the material time all the applicants were members of an opposition party, the Popular Front Party of Azerbaijan ("the PFPA"), which together with some other parties formed a political union, Milli Shura. The first applicant was chairman of the Youth Committee of the PFPA and a journalist for the *Azadlig* newspaper. The fourth applicant was a member of that committee and the fifth applicant was a member of its board. The second applicant was chairman of the Jalilabad district branch of the PFPA and had also been a candidate of the PFPA-Musavat political bloc in the parliamentary elections of 2010. The third and sixth applicants were bodyguards for a chairman of the PFPA, Mr A.K.

6. It appears that the period from 2011 to 2013 was marked by an increase in political sensitivity in the country generated, *inter alia*, by the presidential elections, which took place in October 2013.

7. During the same period all the applicants participated in a number of peaceful opposition demonstrations. In the course of many of them, most of the applicants were arrested and subsequently convicted, as the assemblies had not been authorised. In particular, the second and third applicants were arrested during a demonstration on 20 October 2012 and the fourth and fifth applicants were arrested during a demonstration on 26 January 2013. The second and fourth applicants were also arrested during a demonstration on 11 March 2013.

8. According to the applicants, they had also intended to participate in upcoming protests planned by Milli Shura (including a protest scheduled for 9 March 2014, which was eventually cancelled). In addition, the fourth applicant was an organiser of a protest scheduled for 23 February 2014. According to him, he had created a Facebook group calling for the resignation of the Baku city mayor, who had allegedly insulted the Azeri nation in a speech by saying that the only man in the country was the President. The group had invited the public to participate in a demonstration against the mayor.

B. Administrative arrests

9. All the applicants were arrested in either February or March 2014. The fourth applicant was arrested on 22 February, the first, second and third applicants on 27 February, and the sixth applicant on 5 March. The fifth applicant claimed that he had also been arrested on 5 March, but according to the official records, he was arrested early in the morning (at around 7 a.m.) on 6 March.

10. According to the official records:

(a) the first applicant was arrested for disobeying a lawful order of a police officer to stop swearing loudly without addressing anyone in particular;

(b) the police approached (stopped) the second and sixth applicants because they had been noticed "behaving suspiciously", the third applicant because he was suspected of committing a traffic accident, the fifth applicant because there was a complaint against him by a certain Ms K.N., and the fourth applicant because there was "information" about him. All those applicants were arrested because when police officers had approached (stopped) them, they had deliberately failed to comply with an order to produce an identity document and/or had been rude or "showed resistance".

11. All the applicants contested the official version of their arrest:

(a) The first, second and third applicants claimed that they had been approached by police officers and had been requested to follow them to a police station or office, and that they had obeyed those requests. The third applicant also submitted that he had been requested to show his identity document and that he had obeyed that request too. Furthermore, the first and second applicants argued that the reasons given by the police officers for arresting them had been different from the official versions. Thus, the police had demanded that the first applicant follow them to a police station because "there was a problem with a loan he had obtained from a bank". He went to the police station together with his father. Sometime later, his father was requested to leave the police station, while the first applicant remained in police custody. The police demanded that the second applicant follow them to a police office because "the chief of police wanted to see him".

(b) The fourth, fifth and sixth applicants submitted that they had been arrested by people in plain clothes, without any explanations, and that initially they had not known that those persons were police officers. In particular, the fourth applicant claimed that he had been arrested at his flat and that the persons who had arrested him had also seized his computer and had taken him to a police station. Later the police accessed his Facebook account through that computer and put a notice on it that the demonstration planned for 23 February 2014 had been cancelled. The fifth applicant claimed that he had been arrested in the evening of the day before the officially recorded date and had spent the night in custody.

12. At the respective police stations or offices, administrative offence reports (*inzibati xəta haqqında protokol*) were issued against the applicants, setting out the charges against them. All the applicants were charged with an administrative offence under Article 310.1 of the Code of Administrative Offences ("the CAO") (failure to comply with a lawful order of a police officer). The first applicant was also charged under Article 296 of the CAO (minor hooliganism).

13. According to the applicants, they were never served with copies of the administrative offence reports or with other documents from their case files. They were also not given access to a lawyer after their arrest or while they were in police custody.

14. According to a record (*protokol*) issued by a police officer (who had arrested the fifth applicant and prepared an administrative offence report on him) and signed by that police officer and the fifth applicant, a State-funded lawyer was proposed to the applicant, but the applicant refused his assistance. The lawyer's name and signature are missing from that record.

15. According to a statement (*ərizə*) written by the fourth applicant at a police office on the day of his arrest, he had refused the services of a lawyer.

C. Court proceedings against the applicants

16. On various dates the applicants were brought before the respective first-instance courts, which adopted their decisions on the merits on the same dates (see Appendix).

17. According to all the applicants, they were not given an opportunity to appoint lawyers of their own choosing. State-funded lawyers were appointed to assist them.

18. According to the documents in the respective case files, the first, third, fifth and sixth applicants refused the assistance of State-funded lawyers and decided to defend themselves in person.

19. According to the transcripts of the respective hearings, in their oral submissions the State-funded lawyer for the second applicant (Mr K.K.) briefly asked the court to discontinue the administrative case, and the State-funded lawyer for the fourth applicant (Ms S.H.) briefly asked the court to consider the young age of the applicant.

20. In their statements before the courts the first, second, third, fourth and sixth applicants contested (see paragraph 11 above) the police officers' versions of the events. The first applicant argued that he had been arrested for his political activity. The third applicant argued that the police's allegation that they were investigating a car accident was a lie and that the police had wanted to frame him. The fourth applicant argued that he had been arrested for the comments he had posted on Facebook against the Baku city mayor.

21. The courts disregarded those statements.

22. The fifth applicant, however, gave a self-incriminatory statement confirming the police officers' account of the events. He subsequently claimed that he had done so because the previous day he had been threatened with more serious charges and had still felt under the control of the police.

23. During the hearings with regard to the first, second, fourth and fifth applicants only the police officers who, according to the official records, had arrested the applicants and/or issued administrative offence reports on them were questioned as witnesses. In their statements those police officers reiterated the official version of the reasons for the applicants' arrests (see paragraph 10 above).

24. In the case of the third applicant the court questioned three prosecution witnesses. All three stated that the applicant "had argued with the police officers, resisted and insulted them, saying to a police major 'why have you brought these puppies here?'".

25. In the case of the sixth applicant the court did not question any witnesses.

26. The courts found that the applicants had committed the administrative offences attributed to them (see paragraph 10 above). They convicted the applicants under Article 310.1 of the CAO and sentenced them to periods of administrative detention varying from ten to twenty days (see Appendix). The first applicant was also convicted under Article 296 of the CAO.

27. On various dates the applicants lodged appeals with the Baku Court of Appeal, presenting their version of the facts surrounding their arrests, and arguing that they had been unlawfully arrested for their political activity, including their active participation in demonstrations (the first, second, third, fifth and sixth applicants) or the comments they had posted on social media (the fourth applicant). The applicants also complained that the hearings before the respective first-instance courts had not been fair.

28. In addition, the fifth applicant submitted that previously he had given self-incriminatory statements for fear of being framed for the offence of illegal possession of drugs. He also complained that he had been kept in the police station overnight from 5 to 6 March 2014 without any official decision or record of his detention.

29. All the applicants were represented before the Baku Court of Appeal by lawyers of their own choosing.

30. On various dates the Baku Court of Appeal dismissed the applicants' appeals and upheld the decisions of the respective first-instance courts, stating that the conclusions reached by those courts were correct (see Appendix).

II. RELEVANT DOMESTIC LAW AND INTERNATIONAL DOCUMENTS

31. Article 410 of the Code of Administrative Offences of 2000 ("the CAO") provided, at the material time, as follows:

Article 410
Administrative-offence report

"... 410.3. A copy of the administrative-offence report shall be given to an individual who is subject to administrative-offence proceedings ..."

32. The relevant extracts of Resolution 1917 (2013) of the Parliamentary Assembly of the Council of Europe, "The honouring of obligations and commitments by Azerbaijan", read as follows:

"... 12. Recently adopted amendments to the Criminal Code and the Administrative Code, which have increased penalties for the organisers of, and participants in, "unauthorised" gatherings, raise concern. Considering the authorities' ongoing blanket ban on protests in the Baku city centre, these amendments are likely to have a further negative impact on freedom of assembly and freedom of expression. ..."

33. The relevant extracts of Resolution 2062 (2015) of the Parliamentary Assembly of the Council of Europe, "The functioning of democratic institutions in Azerbaijan", adopted on 23 June 2015, read as follows:

"... 6. [T]he lack of independence of the judiciary remains a concern in Azerbaijan, where the executive branch is alleged to continue to exert undue influence. Dubiously motivated criminal prosecutions and disproportionate sentences remain a concern. Fairness of trials, equality of arms and respect for the presumption of innocence are other major concerns. ...

10. The Assembly is alarmed by reports by human rights defenders and international NGOs, confirmed by the Council of Europe Commissioner for Human Rights, concerning the increase in criminal prosecutions against NGO leaders, journalists, lawyers and others who express critical opinions, based on alleged charges in relation to their work ... The Assembly calls on the authorities to end the systemic harassment of those who are critical of the government and to release those wrongfully detained. ..."

34. The European Parliament in its Resolution (2015/2840(RSP)) of 10 September 2015 emphasises, *inter alia*, that "the overall human rights situation in Azerbaijan has deteriorated continuously over the last few years, with growing intimidation and repression and intensification of the practice of criminal prosecution of NGO leaders, human rights defenders, journalists and other civil society representatives" and that "peaceful protesters have been effectively banned from demonstrating in central Baku since 2006, and new, harsh fines and longer periods of administrative detention for those who organise or participate in unauthorised public gatherings have recently been introduced".

35. Amnesty International in its Report of May 2014, "Behind Bars: Silencing Dissent in Azerbaijan", refers, *inter alia*, to decrease of public protests, due to the harshening from 1 January 2013 of penalties for breach of rules on organisation and holding of peaceful assemblies. It also emphasises that "those who have called for public protest have been dealt with harshly, with criminal proceedings initiated against them under fabricated charges".

36. In the public statement of 7 March 2014, "Azerbaijan: Opposition party loses HQ after explosion and sees seven members arrested within 2 weeks", Amnesty International reports, *inter alia*, on numerous detentions and arrests of the activists of the Popular Front Party of Azerbaijan during the late February and the early March 2014. It also reports on an explosion which occurred on 3 March 2014 in the basement of a building housing this political party and on allegations of the owner of the property that prior to the explosion he had been pressured to evict the party.

37. For a summary of the relevant provisions concerning administrative proceedings, the relevant provisions concerning freedom of assembly, and the relevant extracts from international documents and press releases, see the judgment in the case of *Huseynli and Others v. Azerbaijan* (nos. 67360/11, 67964/11 and 69379/11, §§ 67-77, 11 February 2016).

THE LAW

I. JOINDER OF THE APPLICATIONS

38. Given the similarity of the facts and complaints raised in all six applications, the Court has decided to join the applications in accordance with Rule 42 § 1 of the Rules of Court.

II. ALLEGED VIOLATION OF ARTICLE 11 OF THE CONVENTION

39. The applicants complained that their arrest and conviction had been measures used by the authorities to punish them for their political activity and to prevent them from participating in opposition protests. They invoked Article 11 of the Convention, which reads as follows:

Article 11

"1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, 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. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State."

40. The fourth applicant also complained that his arrest and conviction had been in breach of his freedom of expression, as provided for in Article 10 of the Convention, which reads as follows:

Article 10

"1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent states from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

A. Admissibility

41. The Court considers, in the light of the parties' submissions, that these complaints raise serious issues of fact and law under the Convention, the determination of which requires an examination of the merits. It therefore concludes that the complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that they are not inadmissible on any other grounds. They must therefore be declared admissible.

B. Merits

1. The scope of the fourth applicant's complaints (application no. 56232/14)

42. The Court notes that the protection of personal opinions, secured by Article 10, is one of the objectives of freedom of peaceful assembly enshrined in Article 11. Accordingly, the issue of freedom of expression cannot be separated from that of freedom of assembly and it is not necessary to consider each provision separately. In the circumstances of the present case, the Court considers that Article 11 takes precedence as the *lex specialis* for assemblies and will deal with the case principally under this provision, whilst interpreting it in the light of Article 10 (see *Ezelin v. France*, 26 April 1991, §§ 35 and 37, Series A no. 202, and *Kudrevičius and Others v. Lithuania* [GC], no. 37553/05, §§ 85-86, 15 October 2015).

2. The parties' submissions

43. The applicants submitted that they were known to be members of the opposition and active participants in opposition protests. Their arrests and convictions had been unlawful and aimed at punishing them for their political activity. Furthermore, the arrests and convictions served the purpose of discouraging or preventing them from participating in upcoming opposition protests, and in the case of the fourth applicant also from organising a protest scheduled for 23 February 2014.

44. The Government submitted that there had been no interference with the applicants' rights under Article 11 of the Convention since they had been arrested and convicted for various administrative offences in circumstances unrelated to any public assembly.

3. The Court's assessment

45. Having regard to the material in the case files and the parties' submissions, the Court notes that the issues raised by the present complaints are similar to those examined in the *Huseynli and Others* judgment (cited above). Based on the analysis of international and domestic reports, the Court concluded in that case that at the material time, opposition activists had been routinely deterred or prevented from participating in demonstrations; punished for having done so; and punished for advocating or showing support for those demonstrations (ibid., §§ 85-91). Furthermore, having examined the circumstances in which the applicants had been arrested and convicted, the Court concluded that the administrative proceedings against them had equally sought to deter them from protesting and to punish them for doing so (ibid., §§ 92-97). Consequently, the Court concluded that the applicants' arrests and administrative detention had amounted to arbitrary and unlawful interference with their right to freedom of assembly (ibid., §§ 98-101).

46. The facts of the *Huseynli and Others* case and the present cases are similar in essence.

47. In particular, the Court notes that the period following 2011 (which was the year when the applicants in the *Huseynli and Others* case were arrested and convicted) were likewise of increased political sensitivity. There are many international reports alleging that in 2014 (the year in which the applicants in the present cases were arrested and convicted) the authorities continued to resort to various arbitrary measures against those expressing critical opinions (see paragraphs 32-36 above). For example, the PACE in its Resolution of 23 June 2015 stated that "dubiously motivated criminal prosecutions and disproportionate sentences remain[ed] a concern" and called on the authorities in Azerbaijan "to end the systemic harassment of those who [were] critical of the government and to release those wrongfully detained" (see paragraph 33 above).

48. Furthermore, the circumstances of the applicants' arrests and convictions in the *Huseynli and Others* case and the present cases are similar. Firstly, in the present cases it appears that the applicants' affiliation with the opposition was likewise generally known, as all of them were members of the PFPA and had actively participated in various protests held by the opposition (see paragraphs 5 and 7 above). Secondly, all of the applicants were arrested within a short time frame (see paragraph 9 above) on dubious grounds and in similar circumstances (see paragraph 10 above). Thus, the first applicant was accused of "swearing aloud" at no one in particular and for no apparent reason. All the other applicants were suspected of either "suspicious behaviour" or some offence. However, none of those suspicions received any follow-up whatsoever and they were quickly forgotten once the applicants had been charged with disobeying police orders. No specific sources or reasons for those initial suspicions were ever indicated. Thirdly, the domestic courts failed to establish facts that were disputed between the parties – the police and the applicants – by carrying out an objective and thorough examination. They ignored the applicants' submissions that the arrests had been politically motivated, and merely recapitulated the circumstances and the charges as presented by the police (see paragraphs 20-21, 26-28 and 30 above).

49. Having regard to the facts of the present cases and their similarity to those of the *Huseynli and Others* case on all the relevant and crucial points, the Court sees no particular circumstances that could compel it to deviate from its findings in that judgment (see *Huseynli and Others*, cited above, §§ 97-98). It finds that the proceedings against the applicants in the present cases and the ensuing administrative detention were arbitrary and unlawful measures aimed at punishing the applicants for their political activity, including their previous participation in opposition protests, and preventing them from participating in or organising such protests.

50. The applicants' arrests and administrative detention could not but have had the effect of discouraging them from participating in political rallies. Those measures undoubtedly had a chilling effect, which deters other opposition supporters and the public at large from attending demonstrations, and, more generally, from participating in open political debate.

51. There has accordingly been a violation of Article 11 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

52. The applicants complained under Article 6 of the Convention that in the proceedings concerning the alleged administrative offence, they had not had a fair hearing. The relevant parts of Article 6 of the Convention read as follows:

"1. In the determination of ... any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law...

3. Everyone charged with a criminal offence has the following minimum rights:

(a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;

(b) to have adequate time and facilities for the preparation of his defence;

(c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require; ..."

A. Admissibility

53. The Court notes that these complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that they are not inadmissible on any other grounds. They must therefore be declared admissible.

B. Merits

1. The parties' submissions

54. The applicants submitted, in particular, that they had not been served, either prior to the hearing before the respective first-instance courts or subsequently, with a copy of the administrative offence reports issued on them or with other material from their respective case files. They further submitted that they had not been represented by a lawyer at the pre-trial stage. They had not been given an opportunity to appoint a lawyer of their own choosing to represent them before the respective first-instance courts. They had either been only formalistically represented by State-funded lawyers, or had not been represented by a lawyer at all. The fifth and sixth applicants argued that they had doubted the effectiveness of representation by the State-funded lawyers and had therefore refused their assistance.

55. The applicants also argued that the courts had ignored their arguments about the political motives behind their arrests. The courts had merely based their findings on the administrative offence reports prepared by the police, and in some cases also on the statements of police officers who had been the sole witnesses questioned at the respective first-instance hearings (the first, second, fourth, fifth and sixth applicants) or on the statements of other prosecution witnesses (the third applicant).

56. The Government submitted that the applicants had been offered legal assistance during the trial before the respective first-instance courts. Some of the applicants had not objected to being represented by State-funded lawyers, while others had refused State-funded legal assistance and had

decided to defend themselves in person. The Government also submitted that the applicants had not requested the appearance of any witnesses on their behalf, either before the first-instance courts or before the Court of Appeal.

2. The Court's assessment

57. Similar facts and complaints have already been examined in the *Huseynli and Others* judgment (cited above) in which the Court found a violation of Article 6 § 3 taken together with Article 6 § 1 of the Convention (see *Huseynli and Others*, cited above, §§ 110-35; see also *Gafgaz Mammadov v. Azerbaijan*, no. 60259/11, §§ 74-96, 15 October 2015; and *Ibrahimov and Others v. Azerbaijan*, nos. 69234/11, 69252/11 and 69335/11, § 93-115, 11 February 2016). As in that case, the applicants in the present cases were arrested and convicted following an accelerated procedure under the CAO. They were held in police custody without any contact with the outside world, presented with charges, without receiving a copy of the administrative offence reports, and shortly afterwards (in a matter of hours or in the case of the fourth applicant in two days) taken to a court and convicted. None of the applicants was given an opportunity to appoint a lawyer of his own choosing at the pre-trial stage or for the proceedings before the first-instance court. In the cases where the applicants did not refuse State-funded legal assistance, representation by the appointed lawyers was purely formalistic: they did not put forward any reasoning and limited themselves to simply orally asking the respective courts "to discontinue the case" or "to consider the young age of the applicant" (see *Huseynli and Others*, cited above, § 133). Neither the first-instance courts nor the Court of Appeal took note of the applicants' arguments that they had been arrested for their activities as members of the opposition. The courts failed to clarify the facts that were disputed between the parties: they merely accepted the police's versions of the facts and the charges as presented in the relevant police reports. In view of the similarities between the present cases and *Huseynli and Others*, the Court sees no particular circumstances that could compel it to deviate from its findings in that judgment, and finds that the administrative proceedings in the present cases, considered as a whole, were not in conformity with the guarantees of a fair hearing.

58. There has accordingly been a violation of Article 6 §§ 1 and 3 of the Convention.

59. Having already established that the administrative proceedings, considered as a whole, were not in conformity with the guarantees of a fair hearing, the Court finds it unnecessary to rule on the issue whether refusal of State-funded legal assistance at the pre-trial stage (applications nos. 62138/14 and 56232/14) or at the trial (applications nos. 34262/14, 38276/14, 62138/14 and 63655/14) constituted an unequivocal waiver of the right to a lawyer.

IV. ALLEGED VIOLATION OF ARTICLE 5 OF THE CONVENTION

60. The applicants further complained that their arrest, custody and administrative detention had been in breach of Article 5 of the Convention, the relevant parts of which read as follows:

> "1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
>
> (a) the lawful detention of a person after conviction by a competent court; ...
>
> (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so; ...
>
> 2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.
>
> 3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial."

A. Admissibility

61. The Court considers, in the light of the parties' submissions, that these complaints raise serious issues of fact and law under the Convention, the determination of which requires an examination of the merits. It therefore concludes that the complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that they are not inadmissible on any other grounds. They must therefore be declared admissible.

B. Merits

1. The parties' submissions

62. The applicants argued that their arrest and administrative detention had been unlawful since the alleged offences giving rise to the deprivation of their liberty had been fabricated. The institution of administrative proceedings on various pretexts against opposition activists was an arbitrary practice aimed at preventing or discouraging them from participating in political rallies being held in the country at the material time, or punishing them for having done so. The applicants alleged that they were victims of such practice.

63. The applicants further submitted that they had not been promptly informed of the reasons for their arrest, and that their arrest and custody had

not been in conformity with domestic procedural rules, in particular because they had not been given an opportunity to contact their relatives; and their rights, including the right to have a lawyer, had not been properly explained to them. The fourth, fifth and sixth applicants also submitted that they had been arrested by people in plain clothes.

64. The Government asserted that the applicants' arrests had been in conformity with the CAO. Their administrative detention had resulted from lawful court decisions by which they had been found guilty of certain administrative offences.

65. The Government also submitted that the applicants had been duly informed about the reasons for their arrests, even if some of the applicants had failed to sign the administrative-offence reports. They further argued that the applicants had not duly complained about the failure to serve the administrative-offence reports on them.

2. The Court's assessment

66. Having regard to the material in the case files and the parties' submissions, the Court notes that there is a significant degree of similarity between the facts of the present cases and the issues under Article 5 of the Convention raised by them and those examined in the *Huseynli and Others* case (cited above). It considers that the analysis and conclusions made in the *Huseynli and Others* judgment (ibid., §§ 146-48) also apply to the present cases. In that case, the Court noted that the measures applied by the authorities, namely arrest and custody followed by several days of imprisonment, had pursued aims unrelated to the formal ground relied on to justify the deprivation of liberty, and implied an element of bad faith and arbitrariness (ibid., § 147). Having regard to the above, the Court found that the deprivation of liberty of the applicants in the *Huseynli and Others* case had been arbitrary (ibid.).

67. Having regard to the facts of the present cases and their similarity to those of the *Huseynli and Others* case on all the relevant and crucial points, the Court sees no particular circumstances that could compel it to deviate from its findings in that judgment, and finds that in the present cases each applicant's right to liberty was breached for the same reasons as those outlined above.

68. Accordingly, there has been a violation of Article 5 § 1 of the Convention.

69. In view of the nature and the scope of its finding above, the Court does not consider it necessary to examine the applicants' other complaints under Article 5 of the Convention.

V. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

70. Referring to Article 14 of the Convention, all the applicants complained that the real reason or motive for their arrest and conviction had been their political activism. In raising that complaint, the fifth and sixth applicants also invoked Article 18.

71. Lastly, the fifth and sixth applicants complained that, in violation of Article 13 of the Convention, they did not have an effective remedy to protect their right to freedom of assembly. They argued that the domestic courts never upheld complaints against politically motivated arrests or convictions.

72. The Government argued, with respect to the complaints under Articles 14 and 18 of the Convention, that the applicants had failed to adduce any evidence showing a direct link between their political activities and the authorities' actions against them. The criminal proceedings against the applicants had been based on suspicions that they had committed an offence. The accusation against them had not remotely concerned their political activities *stricto sensu*.

73. The Government did not submit any observations with respect to the complaints under Article 13 of the Convention raised by the fifth and sixth applicants.

74. The Court notes that the applicants' complaints of a violation of the right to an effective remedy, discrimination on political grounds and restriction of their rights for purposes other than those prescribed in the Convention are linked to the complaints examined above, and must therefore likewise be declared admissible.

75. However, having regard to its above findings in relation to Articles 5, 6 and 11 of the Convention, the Court considers that it is not necessary to examine whether there has been a violation of Article 13, taken in conjunction with Article 11, or a violation of Articles 14 and 18, taken in conjunction with Article 5.

VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

76. 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

77. In respect of non-pecuniary damage, the first, third, fifth and sixth applicants claimed 26,000 euros (EUR) each, the second applicant claimed EUR 24,000, and the fourth applicant claimed EUR 21,000.

78. The Government submitted that the applicants' claims were unsubstantiated and unreasonable. They considered that, in any event, an award of 3,000 Azerbaijani manats (AZN)[1] each would constitute sufficient just satisfaction.

79. The Court considers that the applicants have suffered non-pecuniary damage which cannot be compensated for solely by the finding of a violation, and that compensation should thus be awarded. Making its assessment on an equitable basis, as required by Article 41 of the Convention, the Court awards each applicant the sum of EUR 12,000 under this head, plus any tax that may be chargeable on this amount.

B. Costs and expenses

80. The applicants claimed EUR 3,000 each for legal fees incurred before the Court. In support of their claims, they submitted contracts for legal and translation services.

81. The Government considered that the applicants' claims were excessive and could not be regarded as reasonable as to quantum. In particular, they argued that the applicants had failed to produce any evidence concerning translation services. They submitted that, taking into account the above considerations, the applicants could claim AZN 300[2] each under this head.

82. 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. The Court notes that in the proceedings before it all the applicants were represented by the same lawyers, Mr R. Mustafazade and Mr A. Mustafayev, whose submissions in all six cases were similar.

83. Taking the above considerations into account, the Court awards a total amount of EUR 6,000 to all the applicants jointly in respect of the legal services rendered by Mr R. Mustafazade and Mr A. Mustafayev.

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[1] Rectified on 13 December 2016: the text was: "EUR 3,000"

[2] Rectified on 13 December 2016: the text was: "EUR 300"

C. Default interest

84. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;

2. *Declares* the applications admissible;

3. *Holds* that there has been a violation of Article 11 of the Convention on account of the applicants' arrest and conviction;

4. *Holds* that there has been a violation of Article 6 §§ 1 and 3 of the Convention;

5. *Holds* that there has been a violation of Article 5 of the Convention;

6. *Holds* that there is no need to examine the complaints under Articles 13, 14 and 18 of the Convention;

7. *Holds*:
   (a) that the respondent State is to pay the applicants, within three months, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 12,000 (twelve thousand euros), plus any tax that may be chargeable, to each applicant, in respect of non-pecuniary damage;
      (ii) EUR 6,000 (six thousand euros), plus any tax that may be chargeable to the applicants, to the applicants jointly, in respect of costs and expenses, to be paid directly into the applicants' representatives' bank account;
   (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;

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

Done in English, and notified in writing on 24 November 2016, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Anne-Marie Dougin Acting Deputy Registrar	Faris Vehabović President

APPENDIX

No.	Application no.	Lodged on	Applicant name date of birth place of residence	Sanction	First-instance judgment	Appellate judgment
1.	34262/14	23/04/2014	**Ilham HUSEYNOV** 1983 Baku	20 days' administrative detention	Decision of the Khazar District Court of 28 February 2014	Decision of the Baku Court of Appeal of 14 March 2014
2.	35948/14	26/04/2014	**Tazakhan MIRALAMLI** 1970 Baku	15 days' administrative detention	Decision of the Narimanov District Court of 27 February 2014	Decision of the Baku Court of Appeal of 17 March 2014
3.	38276/14	07/05/2014	**Bahruz HASANOV** 1981 Baku	20 days' administrative detention	Decision of the Surakhani District Court of 27 February 2014	Decision of the Baku Court of Appeal of 13 March 2014
4.	56232/14	19/05/2014	**Tofig DADASHOV** 1990 Kurdamir	10 days' administrative detention	Decision of the Binagadi District Court of 24 February 2014	Decision of the Baku Court of Appeal of 3 March 2014
5.	62138/14	29/08/2014	**Turkel ALISOY** 1991 Baku	20 days' administrative detention	Decision of the Khatai District Court of 6 March 2014	Decision of the Baku Court of Appeal of 19 March 2014
6.	63655/14	09/09/2014	**Agaverdi RUSHANOV** 1963 Baku	20 days' administrative detention	Decision of the Sabunchu District Court of 5 March 2014	Decision of the Baku Court of Appeal of 19 March 2014