



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

FIRST SECTION

DECISION

Application no. 15405/04
JUMA MOSQUE CONGREGATION and Others
against Azerbaijan

The European Court of Human Rights (First Section), sitting on 8 January 2013 as a Chamber composed of:

Isabelle Berro-Lefèvre, *President*,
Elisabeth Steiner,
Khanlar Hajiyev,
Mirjana Lazarova Trajkovska,
Julia Laffranque,
Linos-Alexandre Sicilianos,
Erik Møse, *judges*,

and André Wampach, *Deputy Section Registrar*,

Having regard to the above application lodged on 28 April 2004,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicants,

Having deliberated, decides as follows:

THE FACTS

1. The applicant organisation, the Juma Mosque Congregation (*Cümə Məscidi Dini İcması* – “the Congregation”), was a Muslim religious community in Baku. The individual applicants, Mr Ilgar Allahverdiyev, Mr Azer Samedov, Mr Azad Isayev, Mr Ilgar Alizade, Mr Najaf Allahverdiyev, Mr Adil Huseynov, Mr Ramin Tahirov, Mr Parviz Hajiyev, Mr Eldar Sultanov and Mr Namin Akhundov (“the applicants”), are Azerbaijani nationals.

2. They were represented before the Court by Mr B. Bowring, a lawyer practising in London. The Azerbaijani Government (“the Government”) were represented by their Agent, Mr Ç. Asgarov.

A. The circumstances of the case

3. The facts of the case, as submitted by the parties, may be summarised as follows.

1. Background

4. All of the individual applicants were members of the Congregation.

5. Juma Mosque (*Cümə Məscidi*), or “Friday Mosque”, was built in the eleventh century. It is located within an ancient area of Baku known as the Inner City (*İçəri Şəhər*), which is a UNESCO World Heritage Site. The mosque was used as a Muslim house of worship until Azerbaijan became part of the Soviet Union. In 1937 the mosque was closed to the public. For a time it was used as a warehouse and in 1968 the Soviet government converted it into a carpet museum.

6. Shortly after Azerbaijan declared its independence in August 1991, the carpet museum was moved to the former Lenin Museum building. In 1992 the applicants formed a new local community of Muslims and took possession of the former Juma Mosque.

7. Following a formal request by that community, on 28 December 1992 the Sabail District Executive Authority (“SDEA”) decided to allow the establishment of the Juma Mosque Congregation as a religious organisation and recommended that the Ministry of Justice register it as a legal entity.

8. On 3 March 1993 the Ministry of Justice registered the Congregation as a religious organisation. It thereby acquired legal personality.

9. Juma Mosque was added to a list of State-protected historical and cultural monuments, established by a decision of 2 August 2001 signed by the Prime Minister.

2. Proceedings concerning the re-registration of the Congregation

10. On 7 June 1996 amendments were made to the Freedom of Religion Act 1992, subordinating all Muslim religious organisations and local communities in Azerbaijan to the Caucasus Muslims Board (“CMB”), a Muslim ecclesiastical authority which was formally independent of the Government. However, the Congregation did not take any steps to submit to the authority of the CMB. The amendments also introduced a new procedure for the State registration of religious organisations, requiring all such organisations to re-register with the relevant authorities.

11. By a presidential order of 21 June 2001 the State Committee for the Affairs of Religious Organisations (*Dini Qurumlarla İş üzrə Dövlət*

Komitəsi – “the SCARO”) was created. The SCARO Regulations, adopted on 20 July 2001, designated the committee as the relevant authority responsible for the State registration of religious organisations in accordance with the procedure set out in the 1996 amendments to the Freedom of Religion Act.

12. In 2002 the SCARO announced that it would require all previously registered religious organisations to apply for re-registration in order to ensure compliance with the new legislation. On 28 January 2002 the Congregation made such an application. However, on an unspecified date in 2002, the SCARO advised the Congregation orally that its incorporation documents did not comply with legislation and that it had failed to submit a recommendation from the CMB as part of its application.

13. On 27 January 2004, the Congregation submitted a further re-registration application to the SCARO.

14. By a letter of 30 January 2004, the SCARO stated that the Congregation had already been informed of the non-compliance of its incorporation documents with the legislation. It also advised the Congregation that a recommendation from the CMB and information about the Congregation’s registered address were missing, both of which were required for registration.

3. Arrest and trial of the applicant Ilgar Allahverdiyev

15. Mr Ilgar Allahverdiyev was the leader of the Congregation and assumed the role of an imam leading public prayers. Mr Allahverdiyev was also a co-founder of three different non-governmental organisations, all of which had encountered problems associated with State registration with the Ministry of Justice.

16. In December 2003 Mr Allahverdiyev was arrested in connection with his alleged involvement in events that took place on 16 October 2003, when an unauthorised demonstration held by a number of opposition supporters contesting the results of the presidential election of 15 October 2003 had escalated into mass disorder and violent clashes between demonstrators and law-enforcement authorities. Mr Allahverdiyev was charged with the offences of “organising public disorder” and “using violence against State officials” and was put in pre-trial detention. On 2 April 2004 he was convicted and given a suspended sentence of five years’ imprisonment. His release was conditional on his notifying the authorities of any change of residence.

17. The events concerning Mr Allahverdiyev’s arrest and trial in connection with the events of October 2003 are the subject of a separate application (no. 36083/05).

4. Proceedings in the domestic courts

18. On 16 January 2004 the Inner City State Historical Architectural Reserve (*İçəri Şəhər Dövlət Tarixi-Memarlıq Qoruğu* – “the Reserve”), a State authority responsible for the administration of historical monuments in the Inner City, sent a letter to the applicants demanding that they vacate the mosque within fifteen days.

19. The Reserve also lodged an application with the Sabail District Court, seeking the eviction of the Congregation from Juma Mosque. The Reserve claimed to be the registered owner of the building, asserting that the Congregation was not an officially registered religious organisation and that it did not have a lease or any other proprietary rights to Juma Mosque. The SCARO was joined to the proceedings as a third-party intervener in support of the claimant.

20. On 1 March 2004 the Sabail District Court granted the Reserve’s request to evict the Congregation from Juma Mosque. It found that the building was located within the boundaries of the territory controlled by the Reserve. The right to use such buildings by private persons could only be granted by way of an agreement with the relevant administrative authorities, namely the Inner City Reserve Administration, which was under the joint control of the Ministry of Culture and the Baku City Executive Authority. The court further found that the Congregation had not been registered with the SCARO as a religious organisation in accordance with the procedure set out in the Freedom of Religion Act. Moreover, it had never acquired any lawful right to occupy Juma Mosque. The court concluded that the Reserve, as the registered owner of the building, had a right to demand the eviction of its unlawful occupiers.

21. On 18 March 2004 the applicants appealed against the judgment of 1 March 2004. They alleged, in particular, that the court had failed to examine their claim to the mosque and all the documents relating thereto. They insisted that the Congregation had been registered as a legal entity by the State authorities and that the SDEA had authorised it to use Juma Mosque for religious purposes.

22. On 31 March 2004 the Becket Fund for Religious Liberty, a non-governmental organisation established in the United States of America, submitted a letter to the Court of Appeal arguing on behalf of the Congregation that the applicants’ rights under Articles 9, 10 and 11 of the Convention had been breached.

23. On 22 April 2004 the Court of Appeal upheld the Sabail District Court’s judgment of 1 March 2004 that the Congregation had no lawful right to occupy Juma Mosque.

24. On 11 August 2004 the Supreme Court upheld the Court of Appeal’s judgment.

5. *Eviction of the Congregation from the mosque*

25. The following is the applicants' version of events.

26. On 22 June 2004 law-enforcement officers entered Juma Mosque in the middle of a prayer and demanded that the Congregation vacate the building. However, Mr I. Allahverdiyev, who was leading the prayer, refused to speak to the officers before completing the prayer and the officers then left.

27. In the morning of 30 June 2004 a large number of police officers surrounded the mosque and dragged the worshippers out. According to the applicants, the police used excessive force. After clearing the building, the police set up an "exclusion zone" around the mosque. However, by noon, around 700 people showed up for the noon prayer. After intervention by some foreign ambassadors, the police relented and allowed the worshippers into the mosque for the prayer.

28. From then on, the police allowed the Congregation members to enter the mosque for only two prayers a day. The CMB attempted to send its own imam to lead these prayers, but the Congregation refused to join prayers with that imam and continued to pray under the leadership of Mr I. Allahverdiyev.

29. On 4 July 2004, when an imam sent by the CMB finished an evening prayer with several of his "supporters", Mr Adil Huseynov, who had taken the place of Mr I. Allahverdiyev on that occasion, began the prayer service for a large number of the Congregation. At that moment, police raided and broke up the service, arresting Mr Huseynov and three other persons and detaining them until the next morning.

30. On the morning of 5 July 2004 five worshippers arrived at the mosque but were arrested by the police. They were later released without charge. On the same day, eleven female worshippers from the Congregation were arrested and interrogated for one and a half hours at the police station. The applicants alleged that the police pressured the detainees to sign statements that they would not attend the mosque again. Those who refused were fined 50,000 Azerbaijani manats (approximately 8 euros at the time) for holding an unauthorised religious meeting under Article 299 of the Code of Administrative Offences.

31. On 9 July 2004 the mosque was "closed for repairs" and completely fenced off.

32. On 30 July some members of the Congregation met at a private residence after a funeral service. Mr I. Allahverdiyev was leading them in a prayer when the police surrounded the house. Without showing a warrant, the police officers entered the house and arrested twenty-six people, who were taken to a police station where they were held for approximately two hours.

33. When contacted by the press in connection with the incident, the Head of the Yasamal District police station stated that the Congregation was

not registered as a religious organisation and that its leader was conducting “propaganda against the government” during his prayer services. He also stated that it was not allowed to hold prayer services in private residences and that, if Muslims wanted to pray, they could go to any functioning mosque in the city, of which there were seven in his district alone.

B. Relevant domestic law

34. The Freedom of Religion Act 1992, as amended on 7 June 1996 and as in force at the material time, provided as follows:

Section 8: Religious congregations

“... Islamic religious congregations in the Republic of Azerbaijan shall be subordinate to the Caucasus Muslims Board in organisational matters. Non-Islamic religious congregations shall have the right to be affiliated to religious centres (organisations) in the Republic of Azerbaijan and abroad and to change their affiliation.”

Section 12: State registration of religious organisations

“In order to obtain State registration of a religious organisation, at least ten of its founder members who have reached the age of majority shall submit to the religious centre [the Caucasus Muslims Board in cases concerning Islamic organisations] a statement confirming the establishment of the organisation and its incorporation documents. Within fifteen days, the religious centre shall send these documents, together with its recommendation, to the relevant State authority for religious affairs [the State Committee for the Affairs of Religious Organisations]. ...

Within fifteen days, the relevant State authority for religious affairs shall send these documents, together with its opinion, to the authority responsible for registering legal entities [the Ministry of Justice] ...

The State registration of religious organisations, refusals to register and the settlement of disputes and the right to apply to court are carried out in accordance with the relevant legislation of the Republic of Azerbaijan.”

35. The SCARO Regulations, approved by the presidential decree of 20 July 2001 and as in force at the material time, provided as follows:

“8. The Committee carries out the following functions ...:

8.1. verifies the compliance of the incorporation documents and by-laws of religious organisations with the legislation and carries out the State registration of religious organisations ...;

8.2. maintains the State Register of religious organisations and publishes information concerning the State registration of religious organisations in the mass media; ...”

COMPLAINTS

36. The applicants complained under Articles 9 and 11 of the Convention that the domestic authorities' refusal to re-register the Congregation and making such registration conditional on submission to the Caucasus Muslims Board had violated the Congregation members' rights to freedom of religion and freedom of association.

37. The applicants complained under Articles 9, 10 and 11 of the Convention that the eviction of the Congregation from Juma Mosque, which they had previously occupied for twelve years without any interference, had violated the Congregation members' rights to manifest their beliefs publicly in community with each other and their rights to freedom of expression and assembly.

38. Mr I. Allahverdiyev and a number of unnamed applicants complained under Articles 3 and 5 of the Convention that, on several occasions, they had been ill-treated by the police and arbitrarily detained. Relying on Article 8 of the Convention, the applicants complained that some of them believed themselves to be under telephone and other forms of electronic surveillance by the authorities. They also complained that on 30 July 2004 the authorities had unlawfully raided a private residence and detained several Congregation members.

39. The applicants complained under Articles 6 and 13 of the Convention that the proceedings before the domestic courts had been unfair and ineffective. In particular, they complained that the courts had not been independent and impartial and that the domestic proceedings had been in breach of the "reasonable time" requirement in that they had taken a "much shorter time than is normal in Azerbaijan".

40. The applicants complained under Article 1 of Protocol No. 1 to the Convention that, when the Congregation had been forcibly removed from Juma Mosque, the police had seized personal property kept by the applicants inside the mosque, such as a laptop computer and cash, without offering any compensation.

41. The applicants complained under Article 14, in conjunction with Articles 9, 10 and 11 of the Convention, that they had been subjected to discrimination on the basis of their religious beliefs and political opinions.

THE LAW

A. Complaint concerning the Congregation's registration as a religious organisation

42. Relying on Articles 9 and 11 of the Convention, the applicants complained that the refusal by the SCARO to register the Congregation as a religious organisation violated their rights to freedom of religion and association. Article 9 provides as follows:

“1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.”

43. Article 11 reads as follows:

“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.”

44. The Government submitted that part of the events giving rise to the applicants' complaint fell outside the Court's competence *ratione temporis*. The Government also submitted that the applicants had failed to exhaust all domestic remedies as they had never taken legal action against the SCARO for its refusal to register the Congregation as a religious organisation. In particular, the Government argued that the domestic proceedings concerning the eviction of the Congregation from Juma Mosque had not concerned the Congregation's registration.

45. The applicants disagreed with the Government's submissions and maintained their complaints. As regards the Government's allegation of non-exhaustion of domestic remedies, they pointed out that in its letter to the Court of Appeal of 31 March 2004, the Becket Fund for Religious Liberty had, on the applicants' behalf, raised complaints under Articles 9, 10 and 11 of the Convention.

46. As regards the merits of the case, the applicants argued that the SCARO had unlawfully refused to register the Congregation and that, in any event, the new legislation requiring religious organisations already in existence to re-register with the SCARO, and all Muslim congregations to submit to the authority of CMB, was in breach of the Congregation's rights under Articles 9 and 11 of the Convention.

47. At the outset the Court notes that it only has the competence to examine complaints of violations of the Convention arising from events that have occurred after the Convention entered into force in respect of the High Contracting Party concerned (see *Ismayilov v. Azerbaijan*, no. 4439/04, § 25, 17 January 2008, and *Kazimova v. Azerbaijan (dec.)*, no. 40368/02, 6 March 2003). Accordingly, the Court has the competence to examine only the events that took place after 15 April 2002, the date of the Convention's entry into force in respect of Azerbaijan.

48. In so far as part of the events concerning re-registration by the SCARO occurred after 15 April 2002, the Court reiterates that the rule of exhaustion of domestic remedies referred to in Article 35 of the Convention obliges those seeking to bring their case against the State before the Court to first use the remedies provided by the national legal system, thus dispensing States from answering to an international body for their actions before they have had an opportunity to put matters right through their own legal systems. In order to comply with this rule, normal recourse should be had by an applicant to remedies which are available and sufficient to afford redress of the breaches alleged (see *Aksoy v. Turkey*, 18 December 1996, §§ 51-52, *Reports of Judgments and Decisions 1996-VI*, and *Akdivar and Others v. Turkey*, 16 September 1996, §§ 65-66, *Reports 1996-IV*).

49. The Court notes that the Freedom of Religion Act, as in force at the material time, provided for a judicial avenue for challenging any decision concerning registration or refusal to register religious organisations (see paragraph 34 above). Therefore, relying on these provisions, the applicants could bring a court action against the SCARO challenging its refusal to register the Congregation, whereupon the courts would be called upon to examine the arguments raised by the applicants and, should they find in their favour, order the SCARO to register the organisation or possibly declare the requirements introduced by the 1996 amendments to the Freedom of Religion Act to be in breach of the Congregation's rights under Articles 9 and 11 of the Convention. The Court observes, however, that the applicants have never brought such an action before the domestic courts. Moreover, the applicants did not make any submissions as to whether there were special circumstances in the present case dispensing them from the obligation of challenging the SCARO's refusal to register the Congregation in the domestic courts.

50. As regards the applicants' argument that they had raised such a complaint by way of a letter sent by the Becket Fund for Religious Liberty

to the Court of Appeal in the course of the eviction proceedings, the Court cannot accept that argument for the following reasons. Firstly, the applicants failed to show that the Becket Fund for Religious Liberty had been properly authorised to represent them in the proceedings in accordance with the applicable domestic civil procedure rules. Furthermore, the Court notes that those domestic proceedings concerned the Reserve's request for the applicants' eviction from Juma Mosque, which was arguably a related, but nevertheless separate, matter. The SCARO was a third-party intervener in the proceedings, but not a defendant. It had not raised any separate claims of its own and had no claims brought against it. Even if the applicants (in their capacity as defendants) had argued against the SCARO's refusal to register the Congregation as a line of defence, the domestic courts were not called upon, and did not have the competence, to rule on the lawfulness of the SCARO's decision in the framework of those proceedings, because no proper civil claim in that regard had ever been brought by the applicants against the SCARO. The SCARO registration matter was merely considered by the domestic courts to constitute a factual circumstance which had not yet been the subject of litigation. Furthermore, as the proceedings had concerned a different claim, the scope of the case could not be widened at the appellate stage to take into account any new civil claims brought by the defendants before the Court of Appeal.

51. It follows that this part of the applicants' complaints must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

B. Complaint concerning the eviction of the Congregation from Juma Mosque

52. The applicants complained under Articles 9, 10 and 11 of the Convention that the eviction of the Congregation from Juma Mosque, which they had previously occupied for twelve years without any interference, had violated the right of the Congregation members to manifest their beliefs publicly in community with each other as well as their rights to freedom of expression and peaceful assembly. The Court considers that this complaint falls to be examined under Article 9 of the Convention, interpreted in the light of Article 11.

53. The Government submitted that the applicants had not exhausted all available and effective domestic remedies, as they had failed to lodge a constitutional complaint with the Constitutional Court. The Government further submitted that the Congregation had no proprietary rights or lawful right to occupy Juma Mosque. Therefore, the Congregation's eviction from Juma Mosque – which had belonged to the Reserve and had featured on a list of State-protected historical and architectural monuments – had been lawful.

54. The applicants disagreed with the Government and reiterated their complaints. They argued in particular that the Congregation's eviction had been unlawful, that the SDEA decision of 28 December 1992 had given them a lawful right to occupy the mosque, and that the domestic authorities had avoided granting a lease to the Congregation despite numerous requests to that effect.

55. The Court reiterates its previous finding that a constitutional complaint to the Constitutional Court does not amount to an ordinary and effective remedy which applicants are required to use for the purposes of Article 35 § 1 of the Convention (see *Ismayilov*, cited above, § 40). The Court therefore rejects the Government's objection of non-exhaustion of domestic remedies.

56. However, the Court considers that the present complaint should be declared inadmissible for the following reasons.

57. The Court reiterates that, as enshrined in Article 9, freedom of thought, conscience and religion is one of the foundations of a "democratic society" within the meaning of the Convention. It is, in its religious dimension, one of the most vital elements that go to make up the identity of believers and their conception of life, but it is also a precious asset for atheists, agnostics, sceptics and the unconcerned. The pluralism indissociable from a democratic society, which has been dearly won over the centuries, depends on it (see *Metropolitan Church of Bessarabia and Others v. Moldova*, no. 45701/99, § 114, ECHR 2001-XII).

58. While religious freedom is primarily a matter of individual conscience, it also implies, *inter alia*, freedom to "manifest [one's] religion" alone and in private or in community with others, in public and within the circle of those whose faith one shares. Since religious communities traditionally exist in the form of organised structures, Article 9 must be interpreted in the light of Article 11 of the Convention, which safeguards associative life against unjustified State interference. Seen in that perspective, the right of believers to freedom of religion, which includes the right to manifest one's religion in community with others, encompasses the expectation that believers will be allowed to associate freely, without arbitrary State intervention. Indeed, the autonomous existence of religious communities is indispensable for pluralism in a democratic society and is thus an issue at the very heart of the protection which Article 9 affords. The State's duty of neutrality and impartiality, as defined in the Court's case-law, is incompatible with any power on the State's part to assess the legitimacy of religious beliefs (see *Metropolitan Church of Bessarabia and Others*, cited above, §§ 118 and 123, and *Hasan and Chaush v. Bulgaria* [GC], no. 30985/96, § 62, ECHR 2000-XI).

59. Turning to the circumstances of the present case, the Court observes that the present complaint concerns the Congregation's eviction from Juma Mosque as a result of the domestic court's judgment. Accordingly, the

Court has to establish whether the Congregation's eviction in itself amounted to an interference with the exercise of the applicants' right to freedom of religion under Article 9, interpreted in the light of Article 11 of the Convention.

60. In this connection, the Court notes that at the time of the Convention's entry into force in respect of Azerbaijan the Congregation had no proprietary rights to Juma Mosque under domestic law. The SDEA decision of 28 December 1992 allowed the Congregation to be established as an organisation and recommended its State registration (see paragraph 7 above); however, it did not contain any provisions granting the organisation any proprietary rights to Juma Mosque or, as the applicants put it, "charging the organisation with the use and care of Juma Mosque". By the time of the Convention's entry into force, no lease existed between the Congregation and the Reserve nor was there any other document that would have granted the Congregation a lawful right to occupy the building. The applicants admitted in the domestic proceedings that they had applied to the Reserve for a lease to be granted in their favour, but that their request had been refused. No plausible and convincing argument has been put before the Court showing that there existed an obligation on the part of the Reserve (the registered owner of the State-owned building) to lease it specifically to the applicants. Furthermore, the Court cannot find that the mere fact that the public authorities tolerated the applicants' continued use of the State-owned building for religious purposes for a number of years gave rise to any type of positive obligation under Article 9.

61. The Court reiterates that the Convention cannot be interpreted as giving a right to a religious community to obtain a place of worship from the public authorities (see *Griechische Kirchengemeinde München und Bayern e.V. v. Germany* (dec.), 52336/99, 18 September 2007).

62. The Court further considers that the present case differs from the case of *Manoussakis and Others v. Greece* (26 September 1996, § 36, *Reports* 1996-IV) in which members of a local Jehovah's Witness community were convicted for operating an "unauthorised place of worship" despite the fact that they had a lease to the premises in question. Unlike in *Manoussakis*, in the present case the Congregation was evicted from Juma Mosque, which it had occupied without any lease or other lawful right to occupy the building. The eviction, in itself, did not amount to any form of punishment for conducting religious services *per se*, or to a ban on the Congregation's functioning as such, or to a restriction of its ability to lawfully establish a new place of worship elsewhere. Furthermore, the Court considers that the Congregation's eviction, as such, did not restrict its individual members' "freedom to manifest [their] religion" as it did not prevent them from performing their religious activities in other mosques or places of worship available for religious activity, even if the Congregation did not establish a new place of worship itself. In this connection, the Court

also notes that the applicants have not argued that the Congregation members belonged to a particular denomination with a set of religious beliefs differing from those of other Muslim denominations existing in Azerbaijan, or that the site of Juma Mosque had any special sacred role in their community rather than merely being a place where they worshipped.

63. Accordingly, the Court considers that, in the circumstances of the present case, the eviction of the Congregation from a building which it had no lawful right to occupy did not amount to an unjustified interference with the applicants' right to freedom of religion, as guaranteed by Article 9 interpreted in the light of Article 11 of the Convention. It follows that this complaint is inadmissible under Article 35 § 3 as manifestly ill-founded and must be rejected pursuant to Article 35 § 4 of the Convention.

C. Complaints concerning the alleged persecution of the Congregation members

64. Relying on Articles 3 and 5 of the Convention, some of the applicants complained that they had been arbitrarily detained and ill-treated by the police and that their complaints in this regard had not been investigated. They also complained under Article 8 of the Convention that some of them had been under telephone and other means of electronic surveillance by the authorities and that on 30 July 2004 the authorities had unlawfully raided a private home and arrested several members of the Congregation.

65. However, the applicants did not submit any evidence in support of those allegations, such as medical records, detention orders, or copies of complaints lodged with the domestic authorities. Nor does it appear from the material submitted that they have ever lodged any complaints with the domestic authorities in connection with these allegations.

66. As regards the arrest and conviction of Mr I. Allahverdiyev, the Court finds that those events were not directly relevant to the subject matter of the present application and, in any event, are the subject of a separate examination within the framework of application no. 36083/05 (see paragraph 17 above).

67. Thus, in the light of all the material in its possession, and in so far as the matters complained of are within its competence and do not relate to the issues raised in the above-mentioned application no. 36083/05, the Court considers that this part of the application does not disclose any appearance of a violation of the Convention. It follows that it is inadmissible under Article 35 § 3 as manifestly ill-founded and must be rejected pursuant to Article 35 § 4 of the Convention.

D. The remainder of the application

68. The applicants complained under Articles 6 and 13 of the Convention that the domestic proceedings concerning their eviction from Juma Mosque had been unfair and ineffective. In particular, they complained that the domestic courts had not been independent and impartial and that the proceedings had been in breach of the “reasonable time” requirement in that they had taken a “much shorter time than is normal in Azerbaijan”.

69. However, in the light of all the material in its possession, and in so far as the matters complained of are within its competence, the Court considers that this part of the application does not disclose any appearance of a violation of the Convention. It follows that it is inadmissible under Article 35 § 3 as manifestly ill-founded and must be rejected pursuant to Article 35 § 4 of the Convention.

70. The applicants further complained under Article 1 of Protocol No. 1 to the Convention that the police had seized some personal property belonging to the applicants from the mosque, such as a laptop computer and cash, without offering any compensation.

71. However, the Court observes that the applicants have never raised this complaint with the domestic authorities. It follows that this part of the applicants’ complaints must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

72. The applicants complained under Article 14, in conjunction with Articles 9, 10 and 11 of the Convention, that they had been subjected to discrimination on the basis of their religious beliefs and political opinions.

73. However, in the light of all the material in its possession, and in so far as the matters complained of are within its competence, the Court considers that this part of the application does not disclose any appearance of a violation of the Convention. It follows that it is inadmissible under Article 35 § 3 (a) as manifestly ill-founded and must be rejected pursuant to Article 35 § 4 of the Convention.

For these reasons, the Court unanimously

Declares the application inadmissible.

André Wampach
Deputy Registrar

Isabelle Berro-Lefèvre
President