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

FIRST SECTION

DECISION

This version was rectified on 10 January 2024.

Applications nos. 41105/14 and 54846/14
Abdul ABILOV against Azerbaijan
and Omar MAMMADOV against Azerbaijan

The European Court of Human Rights (First Section), sitting on 17 October 2023 as a Committee composed of:

Krzysztof Wojtyczek*, President*,
Lətif Hüseynov,
Erik Wennerström*, judges*,
and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to the applications nos. 41105/14 and 54846/14 lodged on 17 May 2014 and 21 July 2014 respectively,

Having regard to the declarations submitted by the respondent Government on 16 June 2023 requesting the Court to strike the applications out of the list of cases and the applicants' replies to those declarations,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. The applicants, Mr Abdul Abdulmanaf oglu Abilov (application no. 41105/14) and Mr Omar Elyar[1] oglu Mammadov (application no. 54846/14), are Azerbaijani nationals, who were born in 1982 and 1995 respectively, and live in Baku. They were represented before the Court by Mr K. Bagirov, a lawyer based in Azerbaijan.

2. The Azerbaijani Government ("the Government") were represented by their Agent, Mr Ç. Əsgərov.

[1] Rectified on 10 January 2024: applicant's full name was changed from "Mr Omar Aliyev oglu Mammadov" to "Mr Omar Elyar oglu Mammadov".

3. The applicants complained under Article 5 §§ 1 and 3 of the Convention about the unlawfulness of their pre-trial detention and the lack of justification for its continued application.

4. The applicants' complaints were communicated to the Government, as were, *ex officio*, an issue under Article 18 of the Convention.

5. In their observations, the applicants also argued under Article 18 of the Convention taken in conjunction with Article 5 of the Convention that their Convention rights had been restricted for purposes other than those prescribed in the Convention.

THE LAW

A. Joinder of the applications

6. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single decision.

B. Alleged violation of Article 5 §§ 1 and 3 of the Convention

7. After unsuccessful friendly-settlement negotiations, by a letter of 16 June 2023 the Government informed the Court that they proposed to make unilateral declarations with a view to resolving the issues raised by these complaints. They further requested the Court to strike out the applications in accordance with Article 37 of the Convention.

8. The Government acknowledged violations of the applicants' rights guaranteed under Article 5 of the Convention. They offered to pay each applicant the sum of 6,500 euros (EUR) to cover any pecuniary and non-pecuniary damage and EUR 1,500 to cover any costs and expenses, plus any tax that may be chargeable to the applicants on these amounts. The amounts would be converted into the currency of the respondent State at the rate applicable on the date of payment and would be payable within three months from the date of notification of the Court's decision. In the event of failure to pay these amounts within the above-mentioned three-month period, the Government undertook to pay simple interest on them, from the expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

The payment will constitute the final resolution of the cases.

9. By a letter of 1 July 2023, the applicants indicated that they were not satisfied with the terms of the unilateral declarations on the ground that the Government had omitted to acknowledge a violation of their rights guaranteed under Article 18 of the Convention taken in conjunction with Article 5 of the Convention. Moreover, the amounts of compensation were too low.

10. The Court observes that Article 37 § 1 (c) enables it to strike a case out of its list if:

> "for any other reason established by the Court, it is no longer justified to continue the examination of the application."

11. Thus, it may strike out an application under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government even if the applicant wishes the examination of the case to be continued (see, in particular, *Tahsin Acar v. Turkey* (preliminary objections) [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI).

12. The Court has established clear and extensive case-law concerning the complaints relating to the unlawfulness of the applicants' pre-trial detention and the lack of justification for its continued application (see *Farhad Aliyev v. Azerbaijan*, no. 37138/06, §§ 174-79 and 184-95, 9 November 2010; *Zayidov v. Azerbaijan*, no. 11948/08, §§ 61-70, 20 February 2014; and *Isayeva v. Azerbaijan*, no. 36229/11, §§ 67-70 and 83-93, 25 June 2015).

13. Having regard to the nature of the admissions contained in the Government's declarations, as well as the amounts of compensation proposed – which are consistent with the amounts awarded in similar cases – the Court considers that it is no longer justified to continue the examination of the applications in the part covered by the unilateral declarations (Article 37 § 1 (c)).

14. In the light of the above considerations, the Court is satisfied that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue the examination of this part of the applications (Article 37 § 1 *in fine*).

15. Finally, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declarations, the applications could be restored to the list in accordance with Article 37 § 2 of the Convention (see *Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

16. In view of the above, it is appropriate to strike the applications out of the list of cases as regards the complaints under Article 5 §§ 1 and 3 of the Convention.

C. Alleged violation of Article 18 of the Convention taken in conjunction with Article 5 of the Convention

17. Having regard to the facts of the case, the Government's unilateral declarations and the Court's decision to strike out the complaints under Article 5 §§ 1 and 3 of the Convention, the Court considers that the main legal questions raised in the present applications have been resolved. It concludes, therefore, that there is no need to examine this part of the applications (see *Namazov v. Azerbaijan* [Committee] (dec.), no. 23036/19, § 16, 11 July 2023; *Szopa and Others v. Poland* [Committee] (dec.), nos. 63624/09 and 3 others, § 16, 18 December 2018; *Proda v. Albania* [Committee] (dec.),

no. 20127/16, 5 May 2022; and *Jovanovski v. North Macedonia* [Committee] (dec.), no. 30244/18, 3 February 2022).

For these reasons, the Court, unanimously,

Decides to join the applications;

Takes note of the terms of the respondent Government's declarations concerning Article 5 §§ 1 and 3 of the Convention and of the arrangements for ensuring compliance with the undertakings referred to therein;

Decides to strike the applications out of its list of cases as regards the complaints under Article 5 §§ 1 and 3 of the Convention in accordance with Article 37 § 1 (c) of the Convention;

Decides that there is no need to examine the remaining part of the applications.

Done in English and notified in writing on 9 November 2023.

Liv Tigerstedt Deputy Registrar	Krzysztof Wojtyczek President