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

THIRD SECTION

DECISION

Application no. 11431/15
Suraya AYVAZOVA
against Azerbaijan

The European Court of Human Rights (Third Section), sitting on 30 September 2025 as a Committee composed of:

Canòlic Mingorance Cairat*, President*,
Lətif Hüseynov,
Vasilka Sancin*, judges*,

and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 11431/15) 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") on 27 February 2015 by an Azerbaijani national, Ms Suraya Masim gizi Ayvazova (*Surayə Məsim qızı Ayvazova* – "the applicant"), who was born in 1956, lives in Baku, and was represented by Mr A. Shahverdi, a lawyer based in Azerbaijan;

the decision to give notice of the application to the Azerbaijani Government ("the Government"), represented by their Agent, Mr Ç. Əsgərov;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case mainly concerns the applicant's complaint that the demolition of her property had been unlawful and that she had been awarded inadequate compensation by the domestic courts.

2. The applicant owned a house measuring 106.9 sq. m located on a State-owned plot of land at 21 N. Rafibayli Street in Baku.

3. By an order of 10 December 2003, the Narimanov District Executive Authority ("the NDEA") granted authorisation to the applicant to rebuild her

house in accordance with the project approved by the General Department of Architecture and Urban Planning.

4. It appears from the case file that on an unspecified date the applicant demolished her house and erected a car wash measuring 20 sq. m in its place, without any authorisation. She did not register her title to the property.

5. According to the applicant, on 16 November 2012 she was requested by the deputy head of the NDEA to vacate her property and to hand over the plot of land to the State Agency for Public Service and Social Innovations ("the ASAN"). She refused to do so.

6. On an unspecified date in November 2012 the applicant lodged a complaint against the NDEA with Baku Administrative-Economic Court No. 2. She subsequently amended her complaint, alleging that the NDEA had acted unlawfully and seeking compensation in the amount of 2,500,000 Azerbaijani manats (AZN) in respect of pecuniary damage and AZN 50,000 in respect of non-pecuniary damage. She submitted an expert valuation report issued on 29 November 2012 by a non-governmental organisation according to which the market value of her house and the plot of land was AZN 1,200,000. The report did not include any photographs of the property but mentioned that it was unrenovated and currently being used for a non-residential purpose.

7. On 28 November 2012, while the court proceedings were still ongoing, the applicant's property was demolished by representatives of the NDEA.

8. On 15 January 2014 Baku Administrative-Economic Court No. 2 allowed the applicant's claims in part, ruling that the 20 sq. m car wash that had been "in her use" had been demolished by the NDEA, and awarding her AZN 36,500 (AZN 1,500 per square metre, plus an additional 20% compensation in accordance with Presidential Decree no. 689 of 2 December 2007) in respect of pecuniary damage. The court found that, having obtained authorisation from the NDEA to rebuild her house in accordance with the approved project (see paragraph 3 above), the applicant had demolished her house and built a car wash without having obtained any authorisation or registering her title to it. The court also found that the applicant had failed to submit any documents confirming her rights in respect of the plot of land. The court dismissed the remaining claims as unsubstantiated.

9. The applicant appealed, complaining mainly about the amount of compensation and adding that she had been forced to operate a car wash on the plot of land in view of her financial situation.

10. On 17 July 2014 the Baku Court of Appeal upheld the first-instance court's judgment, endorsing its reasoning and observing that (i) at the time of its demolition the property had been used as a car wash; (ii) the expert valuation report submitted by the applicant did not contain any photographs of the property; and (iii) the stated total surface area of the property did not correspond to the area indicated in the official documents for the house, had

largely been based on vague and general descriptions, and was therefore unsubstantiated.

11. On 6 November 2014 the Supreme Court dismissed a cassation appeal lodged by the applicant.

12. It appears from the documents in the case file that the applicant has received the amount awarded by the domestic courts.

13. The applicant complained under Article 1 of Protocol No. 1 to the Convention that the demolition of the property in question and the expropriation by the State authorities of the plot of land underlying and attached to it had been unlawful and that she had not been awarded fair compensation. She further complained under Article 6 of the Convention that her right to a reasoned judgment had been violated.

THE COURT'S ASSESSMENT

14. The Court, being the master of the characterisation to be given in law to the facts of the case, will examine the complaints under Article 1 of Protocol No. 1 to the Convention only (see, for a similar approach, *Orujova v. Azerbaijan* [Committee] (dec.), no. 1776/09, § 49, 17 June 2021, and *Asadov v. Azerbaijan* [Committee] (dec.), nos. 64762/09 and 54136/12, § 21, 8 September 2022).

15. The Government argued that the applicant had not complied with the conditions of the authorisation granted to her by the NDEA (see paragraph 3 above), in so far as she had built a car wash instead of a house. They also submitted that, despite having no title to the demolished property, the applicant had been awarded compensation for it. The applicant contended that she had not demolished her house and that, even if the house had no longer existed at the time of the property's demolition, as the domestic courts had found, the demolition of the car wash would have required a court order.

16. The Court's case-law on the concept of "possessions" within the meaning of Article 1 of Protocol No. 1 to the Convention has been summarised in, *inter alia*, *Akhverdiyev v. Azerbaijan* (no. 76254/11, § 73, 29 January 2015), *Aliyeva and Others v. Azerbaijan* (nos. 66249/16 and 6 others, §§ 102-04, 21 September 2021) and *Alif Ahmadov and Others v. Azerbaijan* (no. 22619/14, § 35, 4 May 2023).

A. Non-residential property

17. The Court notes that under domestic law, a residential building, construction, facility, or other immovable property erected on a plot of land not allocated for construction purposes or without obtaining the necessary permits or as a result of a serious breach of town-planning and building regulations is considered an unauthorised construction. The party that has erected an unauthorised construction cannot acquire ownership rights to the

construction in question and is not entitled to dispose of it by sale, deed of gift, lease or by any other means (see *Ahmadova v. Azerbaijan*, no. 9437/12, §§ 12-14, 18 November 2021).

18. In the present case, the domestic courts established that the applicant had demolished her house and had built a car wash in breach of the conditions of the permission granted by the NDEA (see paragraphs 3 and 4 above), without obtaining any authorisation to do so. While the applicant argued that she had not demolished the house herself, she failed to provide any proof in that regard before either the domestic courts or the Court. In particular, the report submitted by the applicant stated that the property was currently being used for a non-residential purpose.

19. In this connection, the Court observes that there was no uncertainty in the domestic provisions on unauthorised constructions which could have caused the applicant to believe that those provisions would not be applied in respect of the car wash (see *Alif Ahmadov and Others*, cited above, §§ 23 and 43).

20. However, despite the above-mentioned circumstances and without recognising the applicant's right of ownership over the property in question, the domestic courts awarded her compensation in respect of pecuniary damage. In doing so, they dismissed the valuation report submitted by the applicant, providing reasons as to why they chose to do so (see paragraphs 10 and 11 above; compare *Giuffrè and Others v. Italy* [Committee], no. 50827/11, § 40, 5 September 2024). The applicant has failed to demonstrate that the compensation awarded by the courts was not reasonably related to the actual value of the property or that her rights have been otherwise infringed (see, for general principles, *Kostov and Others v. Bulgaria*, nos. 66581/12 and 25054/15, §§ 62-64, 14 May 2020, with further references, and compare *Rahimova and Kaspi-Merkuri Firm v. Azerbaijan* [Committee], nos. 32780/12 and 15435/14, § 20, 29 April 2025, with further references).

21. Therefore, even assuming that Article 1 of Protocol No. 1 is applicable, this part of the complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

B. Plot of land

22. As regards the plot of land underlying and attached to the property in question, the Court observes that, as established by the domestic courts, the applicant failed to provide any documents confirming her rights in respect of it (see paragraph 8 above). Furthermore, she demolished her house and built a non-residential building in its place without registering her title to it. In such circumstances, prior to the demolition of the property, the applicant had no legally exercisable right to have any part of the land underlying and attached to it transferred into her ownership. The Court reiterates in this connection

that a conditional claim which lapses as a result of the non-fulfilment of the condition cannot be considered a "possession" within the meaning of Article 1 of Protocol No. 1 (see *Aliyeva and Others*, cited above, §§ 104 and 113). Accordingly, it has not been demonstrated in the present case that the applicant ever had a "legitimate expectation" of acquiring ownership over the land in question.

23. It follows that this part of the complaint is incompatible *ratione materiae* with the provisions of the Convention and the Protocols thereto within the meaning of Article 35 § 3 (a) and must be rejected in accordance with Article 35 § 4.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 23 October 2025.

Olga Chernishova
Deputy Registrar

Canòlic Mingorance Cairat
President