

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

FIFTH SECTION

CASE OF AHMADLI v. AZERBAIJAN

(Application no. 52286/11)

JUDGMENT

STRASBOURG

30 June 2022

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



In the case of Ahmadli v. Azerbaijan,

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

Mārtiņš Mits, *President,*
Ivana Jelić,
Kateřina Šimáčková, *judges,*
and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 52286/11) 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 4 July 2011 by an Azerbaijani national, Mr Rovshan Gubad oglu Ahmadli (*Rövşən Qubad oğlu Əhmədli* – "the applicant"), born in 1958 and living in Baku, who was represented by Mr E. Mustafayev, a lawyer based in Azerbaijan;

the decision to give notice of the complaints concerning Articles 5 and 6 of the Convention to the Azerbaijani Government ("the Government"), represented by their Agent, Mr Ç. Əsgərov, and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated in private on 9 June 2022,

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

SUBJECT MATTER OF THE CASE

1. The present case concerns the applicant's conviction in administrative proceedings against him on the charge of failure to comply with the lawful order of a police officer. The applicant alleged that his rights protected under Article 5 § 1 and Article 6 § 1 of the Convention had been breached by the domestic authorities.

2. At noon on 9 January 2011 the applicant was arrested by the police officers and taken to the Binagadi District Police Station. According to the applicant, he was arrested at home in the presence of his wife and son by police officers who came to his home and asked him to follow them to the police station, without giving any explanation of the reasons for his arrest.

3. On the day of the arrest, an administrative-offence report (*inzibati xəta haqqında protokol*) was issued. According to the report, the applicant had been making noise in front of the building, had failed to comply with a lawful order of the police officers to stop making noise and had resisted the police officers, in breach of Article 310.1 (failure to comply with a lawful order of a police officer) of the Code of Administrative Offences ("the CAO"). The applicant refused to sign the report.

4. On the same day, the first-instance court found the applicant guilty under Article 310.1 of the CAO and sentenced him to ten days' administrative

detention. The court relied only on the administrative-offence report drafted by the police officers and the witness testimony given by one of them.

5. On 10 January 2011 the applicant lodged an appeal against the first-instance court's judgment of 9 January 2011, arguing that he was not guilty of the offence in question and that the first-instance court's judgment lacked adequate reasoning. The applicant requested that the appellate court examine other witnesses. He also produced written testimonies from his wife and son, who stated that at noon on 9 January 2011 the officers had come to their home and arrested the applicant without any explanation, and from his neighbours, who stated that they had seen the police officers entering the building in which the applicant resided and, subsequently, had seen them taking him to the police car.

6. On 14 January 2011 the Baku Court of Appeal, after having heard the police officers who had arrested the applicant, upheld the first-instance court's judgment and dismissed the applicant's appeal as unsubstantiated. That decision was final and not subject to any further appeal.

THE COURT'S ASSESSMENT

7. Relying on Articles 5 and 6 of the Convention, the applicant complained that he had not committed any administrative offence and that he had not had a fair hearing, since the domestic courts' decisions had lacked adequate reasoning. The Court considers that this complaint falls to be examined solely under Article 6 § 1 of the Convention.

8. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

9. The Court notes at the outset that there is a significant degree of similarity between the legal issues raised by the applicant under Article 6 of the Convention in the present case and those raised in previous cases against Azerbaijan concerning the administrative convictions of applicants under the CAO (see, among many other authorities, *Gafgaz Mammadov v. Azerbaijan*, no. 60259/11, §§ 74-96, 15 October 2015; *Ibrahimov and Others v. Azerbaijan*, nos. 69234/11 and 2 others, §§ 93-115, 11 February 2016; *Huseynli and Others v. Azerbaijan*, nos. 67360/11 and 2 others, §§ 110-35, 11 February 2016; *Savalanli v. Azerbaijan* [Committee], no. 30608/14, §§ 20-24, 14 January 2021; *Ibrahimov v. Azerbaijan* [Committee], no. 39466/16, §§ 18-20, 14 January 2021; and *Hasanov and Majidli v. Azerbaijan*, nos. 9626/14 and 9717/14, §§ 33-41, 7 October 2021).

10. In particular, as in the cases cited above, the domestic courts in the present case referred only to the administrative-offence report and the witness testimony of the police officers given during the hearing, without giving any further reasons for their decisions. It follows that the domestic courts merely accepted the police's versions of the facts and the charges as presented in the

relevant police report and the witness testimony given by the police officers during the hearing, without considering any other explanations, addressing the serious allegations raised by the applicant or attempting in some other way to clarify the disputed facts. In that regard, the Court reiterates its previous findings, in the context of examining the fairness of criminal proceedings, that by ignoring a specific, pertinent and important point made by the accused, the domestic courts fall short of their obligations under Article 6 § 1 of the Convention (see *Nechiporuk and Yonkalo v. Ukraine*, no. 42310/04, § 280, 21 April 2011, and *Aliyev v. Azerbaijan* [Committee], no. 76236/11, § 18, 11 June 2020). Taking the view that in the present case the domestic courts' decisions lacked adequate reasoning, the Court concludes that the administrative proceedings against the applicant, considered as a whole, were not in conformity with the guarantees of a fair hearing under Article 6 § 1 of the Convention (see *Gafgaz Mammadov*, § 96; *Ibrahimov and Others*, § 115; *Huseynli and Others*, § 135; *Savalanli*, § 24; and *Ibrahimov*, § 20, all cited above).

11. Accordingly, there has been a violation of Article 6 § 1 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

12. The applicant claimed 30,000 euros (EUR) in respect of non-pecuniary damage. He also claimed EUR 2,914 in respect of the legal costs incurred in the proceedings before the domestic courts and the Court and submitted a contract with his representative in support of his claim.

13. The Government submitted that the finding of a violation would constitute sufficient reparation for the applicant in the present case and that the applicant had failed to produce any evidence that the legal costs had actually been incurred and paid.

14. The Court awards the applicant EUR 3,600 in respect of non-pecuniary damage, plus any tax that may be chargeable on that amount.

15. Having regard to the documents in its possession, the Court considers it reasonable to award the applicant EUR 500 covering costs under all heads, plus any tax that may be chargeable to the applicant.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

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

3. *Holds*

(a) that the respondent State is to pay the applicant, 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 3,600 (three thousand six hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

(ii) EUR 500 (five hundred euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;

(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;

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

Done in English, and notified in writing on 30 June 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller	Mārtiņš Mits
Deputy Registrar	President