

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

FIFTH SECTION

CASE OF GULIYEVA v. AZERBAIJAN

(Application no. 51424/08)

JUDGMENT

STRASBOURG

23 September 2021

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



In the case of Guliyeva v. Azerbaijan,

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

Mārtiņš Mits, *President,*
Lətif Hüseynov,
Mattias Guyomar, *judges,*
and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application 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 an Azerbaijani national, Ms Sugra Ahmadali gizi Guliyeva (*Suğra Əhmədalı qızı Quliyeva* - "the applicant"), on 18 October 2008;

the decision to give notice to the Azerbaijani Government ("the Government") of the complaints under Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention and to declare inadmissible the remainder of the application;

the parties' observations;

Having deliberated in private on 2 September 2021,

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

INTRODUCTION

1. The application concerns alleged unlawful expropriation of the applicant's plot of land and raises issues under Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention.

THE FACTS

2. The applicant was born in 1956 and lives in Absheron. The applicant was represented by Mr G. Jannatov, a lawyer based in Azerbaijan.

3. The Government were represented by their Agent, Mr Ç. Əsgərov.

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

5. On 24 October 2004, the Saray municipality ("the Municipality") issued a decision to sell to the applicant a plot of land measuring 0.3 hectares for agricultural production. The decision noted that if any construction were planned on the land, the project for such a construction had to be approved by the Architectural Service, and permission to start construction work had to be obtained from several State authorities.

6. On 28 February 2005 the Head of the Absheron District Executive Authority ("the ADEA") issued order no. 55. According to this order, a protection zone was to be established around a military unit of the Ministry for National Security ("the MNS") located on lands belonging to Saray and

Jeyranbatan municipalities, based on mutual agreement with those municipalities. The heads of these municipalities were requested not to allow any construction work in the protected perimeter of the military unit and the area around it.

7. On unspecified dates in 2005 the applicant built, on the plot of land to be purchased from the Municipality, an agricultural production facility which was 200 sq. m in area and a house which was 80 sq. m in area ("the buildings") without obtaining any construction permit or other authorisation.

8. On 10 February 2006 the applicant and the Municipality signed a purchase deed in respect of the plot of land, confirming that she had paid the purchase price in full.

9. On 13 March 2006 the Absheron District Department of the State Land and Cartography Committee ("the SLCC") issued a title deed (*torpağa mülkiyyət hüququna dair dövlət aktı*) to the applicant in respect of the plot of land, specifying that the land was designated for agricultural use.

10. On 12 July 2006 the Absheron District Agrarian Reform Commission ("the ADARC") issued decision no. 72, which stated that plots of land located in the prohibition zone of the MNS military unit were to be expropriated and allocated to the MNS for permanent use. The applicant's plot of land was located in that zone. The decision also stated that other plots of land had to be given to the owners in compensation for their expropriated lands, in accordance with the Rules on filing and examining requests on alienation of lands and their allocation for State and public needs ("the Rules" - see paragraphs 32-33 below). The implementation of this decision was entrusted to the Saray Municipality and the Absheron District Department of the SLCC.

11. According to the applicant, in June 2006 the Head of the Municipality showed her another plot of land of 0.45 hectares and asked her to move her buildings there, without any formal decision on allocation of the land. According to the applicant, she moved her production facility of 200 sq. m to this other plot of land, but on 12 July 2006 the Head of the Municipality took back 0.10 hectares of the land from her and allocated it to another individual, and later refused to issue a decision on allocation of that plot of land to her.

12. On 25 July 2006 the Municipality issued a decision to allocate new plots of land to twenty-one owners of land situated within the protection zone to be established. The applicant's name was not included on that list.

13. On 16 August 2006 the applicant lodged a complaint with the Absheron District Court against the Municipality and the MNS. She complained that her plot of land had been fenced with barbed wire, allegedly by the MNS, and that she did not have access to it. She argued that her property had been unlawfully expropriated for State needs without prior payment of compensation. Relying on Article 180.3 of the Civil Code (see

paragraph 26 below), the applicant also asked the first-instance court to recognise her title to the buildings constructed on the land and asked for compensation of 178,000 Azerbaijani manats (AZN) for the expropriated land and buildings. She further stated that, if she were granted another plot of land of the same size and of a quality acceptable to her, she would reduce her claim for compensation to AZN 118,000.

14. On 6 October 2006 the Municipality lodged a counterclaim with the Absheron District Court, arguing that the applicant had constructed a house on land allocated to her for agricultural use, contrary to the requirements of domestic law and designation of the land. It asked the court to order the applicant's eviction from the land in question in exchange for another plot of land of equal size, demolition of the unlawfully-constructed buildings and invalidation of the title deed of 13 March 2006.

15. On 9 February 2007 the case was transferred to the Yasamal District Court.

16. On 14 May 2007, owing to an increase in market prices and relying on a statement (*arayış*) of 23 April 2007 by an NGO named Property Market Participants *("Əmlak Bazarı İştirakçıları" İctimai Birliyi*) estimating the average price of a plot of land of 0.01 ha in Saray municipality at 3,500 United States dollars (USD), the applicant changed the amount of her compensation claim to AZN 90,825 for the land and AZN 118,000 for the buildings, making AZN 208,825 in total. She also submitted that, since the land had already been expropriated for State needs, it was no longer meaningful for her to attempt to apply formally to the relevant authorities for registration of title to the buildings and issue of relevant ownership documents. Therefore, she asked the court to recognise her right to the buildings and award her compensation for them.

17. On 18 June 2007 the Yasamal District Court dismissed the applicant's claims and accepted the Municipality's counterclaims. Referring to point 6 of the Rules, Articles 157.9, 246.1-246.3, 247.3 of the Civil Code, Articles 70.1 and 73.1 of the Land Code and paragraph 19 of decision no. 2 by the Plenum of the Supreme Court on certain issues concerning the application of land legislation by courts (see paragraphs 24, 28-31, 33 and 36 below) and to the fact that the plot of land in question was situated in the protection zone, the court found that the alienation of the land for important State needs by terminating the applicant's ownership rights was lawful, and ordered the Municipality to give the applicant another plot of land of the same size in compensation. It also declared invalid the title deed of 3 March 2006. With regard to the house and the buildings on the plot of land in question, the court ordered their demolition, holding that they were unauthorised constructions since they had been unlawfully built without a construction permit or other authorisation and contrary to the land's designated use. The court concluded that under domestic law the applicant

had not acquired property rights to the unauthorised constructions and therefore could not demand compensation for them.

18. The applicant appealed, complaining that, even though she had asked for monetary compensation, the first-instance court ordered the Municipality to give her another plot of land without taking into account whether she agreed to accept this specific new plot of land. She argued that under domestic law, in-kind compensation in the form of another plot of land could be ordered only subject to the parties' mutual agreement, and that there had not been such an agreement in the present case. She further reiterated that, since the land had been in her ownership, the court had to recognise her ownership rights to the buildings under Article 180.3 of the Civil Code (see paragraph 26 below) and award her compensation for them.

19. On 22 November 2007 the Baku Court of Appeal upheld the first-instance court's judgment, noting that in-kind compensation in the form of another plot of land was "more correct" and specified the location of the plot of land to be given to the applicant. It did not address the applicant's arguments concerning the recognition of her title to the constructions.

20. On 22 April 2008 the Supreme Court upheld this judgment, reiterating the same reasoning.

21. It is not clear from the documents in the case file whether the applicant has taken possession of the new plot of land.

RELEVANT LEGAL FRAMEWORK

A. The 1995 Constitution of the Republic of Azerbaijan

22. Article 13 § I of the Constitution provided as follows:

> "Property in the Republic of Azerbaijan is inviolable and is protected by the State."

23. Article 29 § IV of the Constitution provided as follows:

> "No one shall be deprived of his or her property without a court decision. Total confiscation of property is not permitted. Alienation of property for State needs may be permitted only subject to prior and fair compensation corresponding to its value."

B. The 2000 Civil Code

24. Article 157.9 of the Code, as in force at the material time, provided:

> "Private property may be alienated by the State if required for State needs or public needs only in the cases permitted by law for the purposes of building roads or other communication lines, delimiting the State border strip or constructing defence facilities, by a decision of the relevant State authority [the Cabinet of Ministers], and subject to prior payment of compensation in an amount corresponding to its market value."

25. Presidential decree no. 386 of 25 August 2000 dealing with various aspects of implementation of the 2000 Civil Code, as amended by Presidential decree no. 78 of 17 June 2004 and as in force at the material time, designated the Cabinet of Ministers as "the relevant State authority" referred to in Article 157.9 of the Civil Code.

26. Under Article 180.1 of the Code a house, building, other construction or other immovable property built on a plot of land not allocated for that purpose, or without the requisite permission, or with substantial violations of town-planning and building norms and rules was considered an unauthorised construction. Article 180.2 stipulated that the person who built an unauthorised construction could not acquire ownership rights in respect of it and thus had no right to sell, donate, lease or enter into any other agreements in respect of the construction. According to Article 180.3, the right of ownership of an unauthorised construction could be recognised by the court in respect of a person who owned the plot of land on which the unauthorised construction was built. The right to own an unauthorised construction could not be recognised if keeping that construction infringed the rights and lawful interests of other persons or posed a threat to the life and health of others.

27. Article 203.5 of the Code provided:

> "The alienation of property owned by individuals and legal persons for State or public needs shall be carried out in accordance with paragraph IV of Article 29 of the Constitution of the Republic of Azerbaijan."

28. Article 246.1 of the Code, as in force at the material time, provided that the decision on alienation of a plot of land for State or public needs in accordance with Article 157.9 of the Civil Code had to be made by the relevant executive authority (the Cabinet of Ministers). Article 246.2 of the Code, as in force at the material time, provided that the decision on alienation had to be entered in the State registry of immovable property. Under Article 246.3 of the Code, the executive authority issuing a decision on alienation of a plot of land had to send written notification to the owner.

29. Article 247.3 of the Code, as in force at the material time, provided that, subject to agreement with the owner, another plot of land could be allocated to him or her for the alienated land.

C. The 1999 Land Code

30. Article 70.1 of the Code, as in force at the material time, provided that lands in ownership, use or lease could be alienated for State, municipal or public needs. Under Article 70.8, the owner or the user (lessee) could be given another plot of land of the same size and quality based on mutual agreement.

31. Article 73.1 of the Code, as in force at the material time, established the determination by law of the necessity of alienation of lands for State,

municipal or public needs as one of the grounds for termination of legal and physical persons' ownership, use or lease rights.

D. The Rules on filing and examining requests on alienation of lands and their allocation for State and public needs, approved by decision no. 42 of the Cabinet of Ministers, 15 March 2000

32. Point 5 of the Rules provided that State and municipal lands in legal or physical persons' use could be alienated for State needs, subject to the land user's consent, by a decision of the local executive authority or municipality in accordance with the conditions set out in the Land Code. The compulsory alienation of lands used free of charge had to be conducted by a court decision on the basis of a request by the local executive authority or municipality.

33. According to point 6 of the Rules, alienation for State needs of plots of land in legal or physical persons' ownership was regulated by the provisions of the Civil Code.

E. Decision no. 2 of the Plenum of the Supreme Court on certain issues concerning the application of land legislation by courts, 14 February 2003

34. Paragraph 8 of the decision, in force at the material time, provided that a plot of land in ownership, use or lease could be alienated for State, municipal and public needs. Compulsory alienation of lands in ownership, use or lease was to be conducted on the basis of a court judgment at the request of the relevant executive authority or the municipality. The compulsory purchase of a plot of land in private ownership was allowed only for important State, municipal or public needs.

35. Paragraph 10 provided that municipalities could exercise ownership rights and lodge claims in respect of lands which were allocated to them in accordance with the Law on municipal territories and lands.

36. Paragraph 19 provided that the rights of legal and physical persons over plots of land were terminated on the grounds listed in Article 73 of the Land Code.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 1 TO THE CONVENTION

37. The applicant complained that the domestic courts had unlawfully expropriated her plot of land and unlawfully forced her to accept another plot of land in compensation. She also complained about the demolition of

the buildings without any compensation. She relied on Article 1 of Protocol No. 1 to the Convention, which reads as follows:

> "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
>
> The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

A. Admissibility

1. Applicability of Article 1 of Protocol No. 1

(a) The parties' submissions

(i) The Government

38. The Government did not submit any comments as to the existence of the applicant's "possessions" in respect of the plot of land. However, they argued that the applicant could not have had a "legitimate expectation" of obtaining effective enjoyment of a property right in respect of the buildings constructed on the land, because the Municipality's decision on allocation of the plot of land clearly stated that the applicant could build on it only if necessary permits and authorisations were obtained. However, the applicant had failed to do so.

39. The Government further submitted that, having regard to the short lapse of time between the decision of the Municipality on allocation of the plot of land to the applicant and the decision of the local executive authority on its allocation to the MNS, the applicant had built those constructions in a relatively short period of time and the public authorities could not have been aware of their existence.

40. The Government also submitted that it did not appear from the case file that any utilities had been connected to the buildings and, even assuming that that was the case, it was not within the competence of the utility companies to verify whether buildings to be connected to their network had been lawfully built. They argued that the applicant's house could not be rendered compliant with the law as it was built in an agricultural area in a protection zone where no construction was allowed. Unlike the case of *Öneryıldız v. Turkey* ([GC], no. 48939/99, ECHR 2004 XII), there was no uncertainty in domestic law as to the legal status of the house in question. Therefore, the applicant had built constructions in contravention of the requirements of domestic law, without making any attempt to apply for the relevant permits in advance or to ascertain whether or not the buildings could be made compliant afterwards.

(ii) The applicant

41. The applicant argued that, since the land in question was in her ownership, the domestic courts had to recognise her ownership rights to the buildings on it under Article 180.3 of the Civil Code and award her compensation.

(b) The Court's assessment

42. The Court reiterates that an applicant may allege a violation of Article 1 of Protocol No. 1 only in so far as the impugned decisions relate to his or her "possessions" within the meaning of that provision. The concept of "possessions" is not limited to "existing possessions" but may also cover assets, including claims, in respect of which the applicant can argue that he or she has at least a reasonable and "legitimate expectation" of obtaining effective enjoyment of a property right. An "expectation" is "legitimate" if it is based on either a legislative provision or a legal act which has a bearing on the property interest in question. In each case the issue that needs to be examined is whether the circumstances of the case, considered as a whole, conferred on the applicant title to a substantive interest protected by Article 1 of Protocol No. 1 (see *Saghinadze and Others v. Georgia*, no. 18768/05, § 103, 27 May 2010, and *Keriman Tekin and Others v. Turkey,* no. 22035/10, § 41, 15 November 2016).

43. In so far as the applicant's complaint concerns both the plot of land and the buildings, it is necessary to determine whether they constituted her "possessions" within the meaning of Article 1 of Protocol No. 1.

(i) The plot of land

44. The Court notes that it is not in dispute that on 13 March 2006 the applicant officially acquired ownership rights to the plot of land, which was designated for agricultural use. Therefore, the plot of land in question constituted the applicant's "possessions" within the meaning of Article 1 of Protocol No. 1 to the Convention. Accordingly, that provision is applicable to the part of the complaint concerning the plot of land.

(ii) The buildings

45. As for the buildings constructed by the applicant on that plot of land, the Court observes that the applicant had not acquired any required authorisations or permits before carrying out the construction work, despite a stipulation to that effect in the Municipality's decision on allocation of the land. Moreover, the land had been designated for agricultural use and no residential buildings were allowed.

46. Article 180.2 of the Civil Code provided that a person who built an unauthorised construction did not acquire any rights to it. However, Article 180.3 of the same Code provided the possibility of recognition of the

right to property by a court for an unauthorised construction on two conditions: (i) the plot of land where a person built an unauthorised construction had to be in his or her ownership, and (ii) preserving this construction should not have violated the rights of others or pose a risk to their life and health. However, the Court observes that the applicant had never applied to domestic courts or taken any other action in order to obtain formal recognition of her rights in respect of the buildings prior to expropriation of her land. She raised this issue for the first time in the subsequent compensation proceedings.

47. The Court notes that, despite its request to provide the exact date of the construction of the buildings, the applicant has failed to submit this information. The Government submitted that the authorities had not been aware of the unauthorised buildings before the court proceedings. In any case, the Court finds that in the present case, having regard to the approximate date of construction of the buildings and the date of the first-instance court's judgment ordering their demolition, there could not have been a significantly long period of tolerance by the State authorities in respect of the unauthorised constructions (contrast *Saghinadze*, §§ 106-07, and *Öneryildiz,* §§ 105-06, both cited above).

48. Moreover, it has not been argued or demonstrated that there is settled case-law in Azerbaijan to the effect that unauthorised constructions may be objects of the right to property (contrast *Ivanova and Cherkezov v. Bulgaria*, no. 46577/15, § 68, 21 April 2016).

49. In these circumstances, the Court cannot conclude that the applicant's hope of having her rights to the unauthorised constructions recognised one day, in the absence of any concrete steps taken to establish her rights in that respect, constituted a claim of a kind that was sufficiently established to be enforceable in the courts and hence a distinct "possession" within the meaning of the Court's case-law (see *Kopecký v. Slovakia* [GC], no. 44912/98, §§ 25-26, ECHR 2004-IX).

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

2. Conclusion as regards admissibility

51. The Court further notes that the part of the complaint concerning the plot of land is neither manifestly ill-founded nor inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. *The parties' submissions*

52. The applicant submitted that, in compensation for her unlawfully expropriated plot of land, the domestic courts had unlawfully allocated to her another plot of land, which was located 13 km away from the Saray settlement and did not have any utility lines, without her consent and despite her request for monetary compensation.

53. The Government submitted that the applicant's property had been expropriated by the authorities for public needs, in accordance with the ADEA's order of 28 February 2005 and the ADARC's decision no. 72 of 12 July 2006.

54. The Government further submitted that there had been "no expropriation in the strict sense of this notion", and the applicant was offered another plot of land in the vicinity and of equal value.

55. The Government maintained that the public authority's interference with the applicant's property rights had been necessary in a democratic society in the interests of national security and was in line with the domestic legislation. Taking into account the aforementioned, the Government submitted that the applicant's rights under Article 1 of Protocol No. 1 had not been violated.

2. *The Court's assessment*

56. The relevant case-law principles are summarised, in particular, in the Court's judgments in the cases of *Akhverdiyev v. Azerbaijan* (no. 76254/11, §§ 79-82, 29 January 2015); *Khalikova v. Azerbaijan* (no. 42883/11, §§ 134-36, 22 October 2015); and *Maharramov v. Azerbaijan* (no. 5046/07, §§ 56-60, 30 March 2017).

57. In the present case, following the ADARC's decision of 12 July 2006, the applicant's plot of land was fenced off with barbed wire and she was unable to access it (see paragraph 13 above). Her title to the land was later revoked by a court decision. Therefore, there was an interference with the applicant's right to the peaceful enjoyment of her possessions which amounted to a "deprivation of possessions" within the meaning of the second sentence of Article 1 of Protocol No. 1.

58. In their submissions, the Government referred to the ADEA's order of 28 February 2005 and the ADARC's decision of 12 July 2006 as a lawful basis for expropriation of the applicant's land. The Court notes that the ADEA's order of 28 February 2005 did not concern the expropriation of the applicant's land, but the establishment of a protection zone (see paragraph 6 above). In any case, under domestic law the ADEA, as a local executive authority, had no power to make decisions expropriating privately-owned property (see *Akhverdiyev*, cited above, § 92; *Khalikova*, cited above, § 138;

Maharramov, cited above, § 61; and *Abdullayeva*, cited above, § 28). It has not been demonstrated either that the ADARC was vested with such power under domestic law or was expressly delegated such power by a competent authority in the present case (which appears to be the Cabinet of Ministers; see paragraphs 25 and 28 above). Therefore, there was no lawful expropriation order issued by a competent State authority and the interference with the applicant's possessions by the ADARC thus constituted a *de facto* deprivation of possessions.

59. As to the domestic court decisions terminating the applicant's ownership right over the plot of land and finding its expropriation lawful, the Court notes the following. Firstly, it appears that under domestic law the municipalities could only lodge a claim in respect of lands which belonged to them and file a request for alienation of municipal lands which were in other legal or physical persons' "use", and not ownership (see paragraphs 32 and 35 above). However, as of 13 March 2006, that is the date of issuance of the relevant title deed, the plot of land in question was in the applicant's ownership. Therefore, even though under Article 73.1 the necessity of alienating a plot of land for State needs was identified as one of the grounds for termination of ownership rights, the Municipality was not authorised under domestic law to request the domestic courts to evict the applicant from the plot of land that she owned and invalidate the title deed issued to her.

60. Secondly, the first-instance court relied on several provisions of domestic law, including Article 157.9 of the Civil Code (see paragraph 24 above) as the legal basis for depriving the applicant of her land. The Court notes that, indeed, after 1 September 2000 this provision set out the applicable legal framework for expropriation of private property (see *Abdullayeva v. Azerbaijan*, no. 29674/07, § 24, 14 March 2019).

61. However, the Court observes that there was no decision of the Cabinet of Ministers in respect of the alienation of the applicant's land. Considering that Article 157.9 of the Civil Code explicitly refers to a decision by the relevant State authority, the Cabinet of Ministers being expressly designated by Presidential decree no. 386 of 25 August 2000 (see paragraph 25 above), the Court finds that the requirement of Article 157.9 of the Civil Code concerning the relevant State authority has not been met.

62. Moreover, domestic law required prior payment of compensation in cases of alienation of land for State needs (see paragraphs 23-24 above). Article 70.8 of the Land Code and Article 247.3 of the Civil Code provided that another plot of land could be allocated in lieu of the alienated land, but only subject to the owner's agreement (see paragraphs 29-30 above).

63. In the instant case, the applicant had asked the domestic courts to award her monetary compensation and refused to accept the specific plot of land offered to her. The domestic courts referred to Article 247.3 of the Civil Code and decided to allocate her another plot of land. However, as

noted above, the owner's consent was required for allocation of another plot of land instead of monetary compensation under that provision. Despite the applicant's clear position that she did not agree to accept the specified new plot of land in compensation, the domestic courts failed to address this issue and explain why they considered the allocation of that land "more correct" than awarding monetary compensation. In such circumstances, the Court finds that the in-kind compensation offered to the applicant without her consent was not in accordance with the requirements of domestic law.

64. Taking into account the above reasons, the Court concludes that the interference in the present case was not carried out in compliance with "conditions provided for by law" (compare *Akhverdiyev,* cited above, § 99). That conclusion makes it unnecessary to ascertain whether a fair balance was struck between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights (see, for example, *Abdullayeva*, cited above, § 30).

65. There has accordingly been a violation of Article 1 of Protocol No. 1 to the Convention.

II. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

66. The applicant complained under Article 6 of the Convention that the domestic courts had delivered unreasoned judgments by failing to verify the compliance of the expropriation of her plot of land with the applicable domestic legislation. Article 6 § 1 provides as follows:

> "In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by [a] ... tribunal ..."

67. The Government contested the applicant's arguments, mainly relying on the substance of their observations made in respect of the complaint under Article 1 of Protocol No. 1 to the Convention.

68. The applicant maintained her complaint.

69. The Court notes that this complaint is linked to the one examined above and must therefore likewise be declared admissible.

70. However, having regard to the finding relating to Article 1 of Protocol No. 1 to the Convention (see paragraphs 64-65 above), the Court considers that it is not necessary to examine also whether, in this case, there has been a violation of Article 6 of the Convention (see *Akhverdiyev*, cited above, § 105, and *Khalikova*, cited above, § 147).

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

71. 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."

72. The applicant claimed 232,750 Azerbaijani manats (AZN) in respect of pecuniary damage, comprising AZN 114,750 for the plot of land and AZN 118,000 for the buildings. She also claimed an unspecified amount for "lost benefit".

73. The applicant also claimed 20,000 euros (EUR) in respect of non-pecuniary damage and an unspecified amount in respect of costs and expenses.

74. The Government argued that the amounts claimed by the applicant did not represent the real market price of the plot of land. They also argued that the amount claimed in respect of non-pecuniary damage was unsubstantiated. The Government further asked the Court to reject the applicant's claims in respect of the buildings and costs and expenses.

75. The Court considers that the question of the application of Article 41 is not ready for decision. It is therefore necessary to reserve the matter, due regard being had to the possibility of an agreement between the respondent State and the applicant (Rule 75 §§ 1 and 4 of the Rules of Court).

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the part of the complaint under Article 1 of Protocol No. 1 to the Convention concerning the plot of land and the complaint under Article 6 of the Convention admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to the Convention;

3. *Holds* that there is no need to examine the complaint under Article 6 of the Convention;

4. *Holds* that the question of the application of Article 41 of the Convention is not ready for decision; accordingly,
   (a) reserves the said question in whole;
   (b) invites the Government and the applicant to submit, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, their written observations on the matter and, in particular, to notify the Court of any agreement that they may reach;
   (c) reserves the further procedure and delegates to the President of the Committee the power to fix the same if need be.

Done in English, and notified in writing on 23 September 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller Deputy Registrar	Mārtiņš Mits President