

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

THIRD SECTION

CASE OF JABRAYILZADE v. AZERBAIJAN

(Application no. 18180/14)

JUDGMENT

STRASBOURG

14 October 2025

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Jabrayilzade v. Azerbaijan,

The European Court of Human Rights (Third Section), sitting 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. 18180/14) 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 17 December 2013 by an Azerbaijani national, Mr Ramin Natig oglu Jabrayilzade (*Ramin Natiq oğlu Cəbrayılzadə* – "the applicant"), who was born in 1987 and was represented by Mr P. Hughes, a lawyer based in London;

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 in private on 23 September 2025,

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

SUBJECT MATTER OF THE CASE

1. The present application concerns the applicant's complaints under Articles 6, 10 and 13 of the Convention that his right of access to information of public interest, allegedly held by the State, had been violated, that the domestic proceedings initiated by him in that regard had been unfair, and that there had been a lack of effective remedies at his disposal for his complaints.

2. The applicant is a journalist. According to his submissions, he was working at the material time for the newspaper *Azadliq* and carrying out research on transparency in the use of public funds and the State's provision of housing to individuals.

3. On 12 June 2012 the applicant sent an information request to the President's Office, asking (a) for a list of prominent figures (such as artists, athletes and public servants) who had been provided with flats on the basis of presidential orders; (b) about the sources of the housing fund from which those flats had been provided; (c) whether the State owned any other housing funds and whether the head of the Baku City Executive Authority had authority over those funds.

4. Having received no response, the applicant lodged a claim against the President's Office with Baku Administrative-Economic Court no. 1, asking it to order that the President's Office provide the requested information. By a decision of 24 December 2012, the court declared the applicant's claim inadmissible, stating that the President's Office had not been included in the

list of "administrative authorities" identified by the Cabinet of Ministers in its decision no. 136 of 28 August 2007 and could not therefore act as a respondent in administrative proceedings.

5. Further appeals by the applicant were dismissed on 26 February and 19 June 2013 by the Baku Court of Appeal and the Supreme Court respectively. The appellate court upheld the lower court's decision, stating, *inter alia*, that the information request had been sent to an authority that had not possessed the information in question and that the applicant had a right to send the same request to the unspecified "relevant executive authority" which was in possession of it. The Supreme Court essentially endorsed the reasoning of the lower courts.

6. The applicant complained under Articles 6, 10 and 13 of the Convention that the domestic proceedings had been unfair, that his right to freedom of expression had been violated and that the domestic legal framework had not provided an effective remedy for his complaints.

THE COURT'S ASSESSMENT

I. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

A. Admissibility

1. Applicability of Article 10 of the Convention

7. The Government submitted that Article 10 of the Convention was not applicable in the present case, as the criteria set out in *Magyar Helsinki Bizottság v. Hungary* ([GC], no. 18030/11, §§ 149-80, 8 November 2016) had not been met, and that, accordingly, the complaint should be rejected as being incompatible *ratione materiae* with the provisions of the Convention.

8. The applicant disagreed.

9. The Court reiterates that Article 10 does not confer on the individual a right of access to information held by a public authority or oblige the Government to impart such information to the individual. However, such a right or obligation may arise where access to the information is instrumental for the individual's exercise of his or her right to freedom of expression, in particular "the freedom to receive and impart information", and where its denial constitutes an interference with that right (see *Magyar Helsinki Bizottság*, cited above, § 156). In determining this question, the Court will have regard to the principles laid down in *Magyar Helsinki Bizottság*, in particular the following criteria: (a) the purpose of the information request; (b) the nature of the information sought; (c) the role of the applicant; and (d) whether the information was ready and available (ibid., §§ 149-80).

10. As regards the purpose of the information request and the role of the applicant, the Court observes that in his request to the President's Office, the applicant expressly stated that he was an employee of *Azadlıq* and that he

needed the information because he was carrying out research on the use of public funds and the provision of housing to individuals (compare *Adilov v. Azerbaijan,* [Committee], no. 51856/14, § 12, 17 October 2024). Thus, in view of the applicant's role and the purpose for which he sought the information in question, the Court is satisfied that he was acting as a journalist exercising the function of a "public watchdog" and that the requested information was instrumental for the performance of his professional duties (see *Rovshan Hajiyev v. Azerbaijan*, nos. 19925/12 and 47532/13, § 46, 9 December 2021).

11. As to the nature of the information, the Court does not accept the Government's argument that none of the information was of public interest. The Court observes that the requested information concerned an important social issue, that is, the provision of State-funded housing to individuals and the source of the funds from which those individuals, including members of parliament, well-known artists and other public figures, had been provided with flats. The Court is therefore satisfied that the requested information was of public interest.

12. Lastly, as to whether the information was "ready and available", the Court observes that the applicant requested information from the President's Office about the relevant presidential orders and the housing funds from which flats had been provided to the individuals in question. While the Government argued that the President's Office had not possessed that information, they failed to advance any relevant arguments in that respect. The Court observes that the President's Office prepares the drafts of presidential decrees, orders and instructions, and oversees their execution. The Court, having no information to the effect that it would pose practical difficulties or an unreasonable burden for the President's Office to gather the requested information, given its very nature and the functions of the President's Office, will have to assume that the information in question was in principle ready and available (see, *mutatis mutandis*, *Yuriy Chumak v. Ukraine*, no. 23897/10, § 32, 18 March 2021, and *Romanenko v. Ukraine*, [Committee], nos. 51010/13 and 2843/16, § 16, 18 April 2024).

13. It follows that Article 10 of the Convention is applicable.

2. The Government's objection regarding the non-exhaustion of domestic remedies

14. The Government further submitted that, since the applicant's claim had been declared inadmissible by the domestic courts, the present complaint should be rejected for non-exhaustion of domestic remedies. The Government reiterated the domestic courts' finding that the applicant's domestic complaint was inadmissible because the President's Office was not an administrative authority which could act as a respondent in administrative proceedings.

15. The applicant disagreed.

16. The Court reiterates that it is incumbent on the Government claiming non-exhaustion to satisfy the Court that the remedy was an effective one, available in theory and in practice at the relevant time (see *Gherghina v. Romania* (dec.) [GC], no. 42219/07, § 88, 9 July 2015). The Court observes, however, that the Government failed to identify a specific remedy of which the applicant should have made use in respect of his complaints against the President's Office (compare *Kutayev v. Russia*, no. 17912/15, § 113, 24 January 2023).

17. In view of the fact that the applicant attempted to raise his complaints under Article 10 of the Convention against the President's Office before the domestic administrative courts and that the Government did not show the existence of any other available and effective remedy in this respect, the Court finds that the applicant's complaint cannot be rejected for non-exhaustion of domestic remedies and that the Government's objection in this regard must be dismissed.

18. 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.

B. Merits

19. Having regard to the failure by the President's Office to respond to the applicant's information request, the Court finds that there was an "interference" with his right to receive and impart information.

20. The Court notes that such interference infringes the Convention if it does not satisfy the requirements of Article 10 § 2. It should therefore be determined whether it was "prescribed by law", whether it pursued one or more of the legitimate aims set out in that paragraph, and whether it was "necessary in a democratic society" in order to achieve those aims.

21. The relevant applicable domestic law and the Court's case-law on the "lawfulness" of an interference have been summarised in *Rovshan Hajiyev* (cited above, §§ 25-37 and 57-58, with further references).

22. Having regard to the considerations set out in paragraph 12 above and to the fact that the President's Office never responded to the applicant's information request, that its representative never attended the court hearings, and that it never expressly denied that it possessed the requested information, the Court cannot accept the Government's argument that the President's Office did not possess the requested information. Indeed, in the light of the above considerations, the domestic courts' decisions and the Government's submissions, it is unclear how they drew that inference.

23. Even assuming, as the Government argued, that the President's Office did not possess the information sought, then in accordance with Article 23.1 of the Law on Access to Information of 30 September 2005, it should have first determined the relevant information holder, forwarded the request to it

and informed the applicant accordingly. If the President's Office was unable to determine the actual information holder, then in accordance with Article 21.1.2 it should have informed the applicant of that fact in a clear and substantiated manner and refused the request. In both cases, the applicant should have been informed about the measures taken.

24. The Court, however, observes that in the present case the President's Office not only failed to determine the actual information holder and forward the request to it, but also failed to respond to the applicant (compare *Rovshan Hajiyev*, cited above, §§ 59-60). The domestic courts never addressed that failure on the part of the President's Office, noting that the applicant had applied to the wrong authority and had a right to submit the same request to the (unspecified) authority which possessed the information in question (see paragraph 5 above). Consequently, the Court considers that the President's Office's "inaction" in respect of the applicant's request was not compliant with the relevant domestic law.

25. The above-mentioned considerations are sufficient to enable the Court to conclude that the interference with the applicant's right in the present case was not "prescribed by law". Having reached that conclusion, the Court does not consider it necessary to determine whether the interference pursued a legitimate aim or was necessary in a democratic society in accordance with Article 10 § 2 of the Convention.

26. There has accordingly been a violation of Article 10 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION IN CONJUNCTION WITH ARTICLE 10

A. Admissibility

27. The Government argued that Article 13 was not applicable to the present case as the rights and freedoms of the applicant had not been violated.

28. The applicant maintained his complaints.

29. Article 13 of the Convention requires a domestic remedy only in respect of Convention complaints which are arguable. In the present case, analysis both of whether the complaint under Article 10 of the Convention was compatible *ratione materiae* with the provisions of the Convention and also of the merits of that complaint indicates clearly that it was arguable. It follows that the Government's objection on the point must be dismissed, and that Article 13 of the Convention is applicable (see *Girginova v. Bulgaria*, no. 4326/18, § 101-03, 4 March 2025, and the cases cited therein).

30. Moreover, this complaint is not manifestly ill-founded or inadmissible on any other grounds. Accordingly, it must be declared admissible.

B. Merits

31. The Court observes that the Government have not identified any other possible remedy against the inactivity of the President's Office or sought to explain why any such remedy would be effective in respect of the applicant's complaints. Nor was any such remedy alluded to at domestic level (ibid., § 116).

32. The Court reiterates its conclusions concerning the non-exhaustion objection raised by the Government under Article 10 (see paragraphs 16 and 17 above). It considers that, in the present case, faced with the inaction of the President's Office in respect of his information request and the courts' finding that his complaint was inadmissible, the applicant did not have a remedy enabling him to complain to the national authorities about his situation and about the alleged violation of his right to freedom of expression, and capable of providing redress in respect of his complaint and offering reasonable prospects of success (compare *Guseva v. Bulgaria*, no. 6987/07, § 69, 17 February 2015).

33. Accordingly, there has been a violation of Article 13 in conjunction with Article 10.

III. OTHER COMPLAINTS

34. The applicant also complained, under Article 6 of the Convention, that the domestic courts did not provide adequate reasoning for their inadmissibility decisions. Having regard to the facts of the case, the submissions of the parties, and its findings above, the Court considers that it has dealt with the main legal questions raised by the case and that there is no need to examine the admissibility and merits of this complaint (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

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35. The applicant claimed 5,000 euros (EUR) in respect of non-pecuniary damage and EUR 3,400 in respect of the costs and expenses incurred before the domestic courts and the Court.

36. The Government argued that the applicant's claim in respect of non-pecuniary damage was excessive and unsubstantiated, and that the applicant had failed to provide documentary evidence in support of his claims in respect of costs and expenses. They therefore asked the Court to reject the applicant's claims.

37. The Court considers that the finding of violations constitutes, in the specific circumstances of the present case, sufficient just satisfaction for any non-pecuniary damage which the applicant may have sustained and therefore

makes no award under this head (compare, in particular, *Rovshan Hajiyev*, cited above, § 73, and *Adilov*, cited above, § 33)

38. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. The Court also points out that under Rule 60 of the Rules of Court any claim for just satisfaction must be itemised and submitted in writing together with the relevant supporting documents or vouchers, failing which the Chamber may reject the claim in whole or in part (see *Malik Babayev v. Azerbaijan*, no. 30500/11, § 97, 1 June 2017). In the present case the applicant failed to produce any contract concerning his representation by Mr P. Hughes or any other relevant documents showing that he had paid or was under a legal obligation to pay the fees charged by his representative (see, for example, *Nasirov and Others v. Azerbaijan*, no. 58717/10, § 89, 20 February 2020). Accordingly, the Court dismisses the claim for costs and expenses.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints under Articles 10 and 13 of the Convention admissible;

2. *Holds* that there has been a violation of Article 10 of the Convention;

3. *Holds* that there has been a violation of Article 13 of the Convention in conjunction with Article 10 of the Convention;

4. *Holds* that there is no need to examine separately the admissibility and merits of the complaint under Article 6 of the Convention;

5. *Holds* that the finding of violations constitutes in itself sufficient just satisfaction for any non-pecuniary damage sustained by the applicant;

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

Done in English, and notified in writing on 14 October 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova Deputy Registrar	Canòlic Mingorance Cairat President