

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

FIRST SECTION

CASE OF JAHANGIR v. AZERBAIJAN

(Application no. 42111/22)

JUDGMENT

STRASBOURG

11 July 2024

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



In the case of Jahangir v. Azerbaijan,

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

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

Having regard to:

the application (no. 42111/22) 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 16 August 2022 by an Azerbaijani national, Ms Saadat Gabil gizi Jahangir (*Səadət Qabil qızı Cahangir* – "the applicant"), who was born in 1968, lives in Baku and was represented by Mr T. Agayev, 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 applicant's observations;

Having deliberated in private on 18 June 2024,

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

SUBJECT MATTER OF THE CASE

1. The case concerns a travel ban imposed on the applicant by the investigating authorities, in the absence of any judicial decision, within the framework of criminal proceedings in which she had been a witness.

2. On 2 February 2022 the applicant learned that a restriction on her right to leave Azerbaijan had been imposed and that she was no longer free to leave the country.

3. It appears from the case file that the restriction was imposed by the investigating authorities on 13 May 2020, in the absence of any judicial decision, within the framework of criminal proceedings relating to the activities of some members of a political party of which the applicant was also a member. The applicant was not convicted, accused or a suspect in those criminal proceedings.

4. The applicant challenged the lawfulness of the restriction imposed on her by lodging a complaint with the ordinary courts under the procedure concerning the review of the lawfulness of procedural actions or decisions by the prosecuting authorities.

5. By a final decision of 1 July 2022, the Baku Court of Appeal dismissed the applicant's complaint on the grounds that the criminal proceedings within the framework of which the travel ban had been imposed on the applicant were still ongoing and that she might also be charged with a criminal offence within those criminal proceedings.

6. The applicant complained under Article 2 of Protocol No. 4 to the Convention and Article 13 of the Convention that her right to leave Azerbaijan had been violated by the travel ban imposed on her by the domestic authorities and that she had no effective remedy at the domestic level in respect of that travel ban.

THE COURT'S ASSESSMENT

I. ALLEGED VIOLATION OF ARTICLE 2 OF PROTOCOL No. 4 TO THE CONVENTION

7. The Court refers to the general principles established in its case-law and set out in *Mursaliyev and Others v. Azerbaijan* (nos. 66650/13 and 10 others, §§ 29-31, 13 December 2018), which are equally pertinent to the present case.

8. Turning to the circumstances of the present case, the Court notes that in *Mursaliyev and Others* (ibid., §§ 29-36), having examined an identical complaint based on the same facts, it found that the imposition of a travel ban on the applicants, who had only been witnesses in criminal proceedings, by the investigating authorities in the absence of any judicial decision had not been "in accordance with the law". The Court considers that the analysis and finding it made in *Mursaliyev and Others* also apply to the present case and sees no reason to deviate from that finding.

9. Accordingly, this complaint is admissible and reveals a violation of the applicant's right to leave her country, as guaranteed by Article 2 of Protocol No. 4, on account of the travel ban imposed on her by the prosecuting authorities.

II. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

10. The Court refers to the general principles established in its case-law and set out in *Mursaliyev and Others* (cited above, §§ 42-43), which are equally pertinent to the present case.

11. The Court observes that the domestic courts held that the restriction of the applicant's right to leave the country had been justified, without referring to any legal grounds for it or addressing its proportionality (see paragraph 5 above). In that connection, the Court considers it necessary to reiterate that such a limited scope of review by the domestic courts, failing to establish the legal basis of the restriction in question and to address the proportionality of the measure taking into account its duration and other particular circumstances of each case, cannot satisfy the requirements of Article 13 of the Convention in conjunction with Article 2 of Protocol No. 4 (ibid., § 46).

12. Having regard to the foregoing, the Court considers that the applicant did not have an effective remedy under Azerbaijani law affording her the opportunity to raise her complaints of Convention violations. Accordingly, this complaint is likewise admissible and reveals a violation of Article 13 taken together with Article 2 of Protocol No. 4 to the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

13. The applicant claimed 10,000 euros (EUR) in respect of non-pecuniary damage and EUR 1,795 in respect of costs and expenses incurred in the proceedings before the domestic courts and the Court.

14. The Government contested the amounts as excessive and unsubstantiated.

15. Ruling on an equitable basis, the Court awards the applicant EUR 3,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

16. Having regard to the documents in its possession, the Court considers it reasonable to award EUR 500 in respect of costs and expenses incurred in the proceedings before the domestic courts and the Court, plus any tax that may be chargeable to the applicant, to be paid directly to the applicant's representative.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 2 of Protocol No. 4 to the Convention;

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

4. *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 3,000 (three thousand 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, to be paid directly to the applicant's representative's bank account;
   (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;

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

Done in English, and notified in writing on 11 July 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt Deputy Registrar	Krzysztof Wojtyczek President