

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

THIRD SECTION

CASE OF KARIMOVA v. AZERBAIJAN

(Application no. 70227/14)

JUDGMENT

STRASBOURG

25 February 2025

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



In the case of Karimova v. Azerbaijan,

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

Darian Pavli*, President*,
Lətif Hüseynov,
Úna Ní Raifeartaigh*, judges*,
and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 70227/14) 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 14 October 2014 by an Azerbaijani national, Ms Solmaz Ali gizi Karimova (*Solmaz Əli qızı Kərimova* – "the applicant"), who was born in 1953, lives in Gabala and was represented by Ms Sh. Jamalzade, 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 in private on 28 January 2025,

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

SUBJECT MATTER OF THE CASE

1. The present case concerns the allegedly unlawful demolition of the applicant's property.

2. The applicant was the owner of a three-room flat with a total surface area of 69.54 sq. m located in a two-storey residential building in Gabala and lived there with her three minor children. At the beginning of 2012, representatives of the Gabala District Executive Authority ("the GDEA") and the Ministry of Emergency Situations of the Republic of Azerbaijan ("the Ministry") informed the building's residents, including the applicant, that it was scheduled for demolition as a matter of urgency. They offered the residents new flats with a larger surface area in a newly built building nearby. The applicant was offered a two-room flat with a total surface area of 90.1 sq. m. However, she turned down the offer and demanded to be given a three-room flat in the same building. The applicant alleges that on 14 July 2012, at 11 p.m., she and her three minor children were forcibly taken to the Gabala District Police Department ("the GDPD") and kept there for several hours. During that time the representatives of the GDEA and the Ministry took all the belongings of the applicant and her family, without their consent, out of their flat and moved these into a new two-room flat allocated to them. On the same date their building was demolished by the representatives of the GDEA and the Ministry.

3. The applicant brought administrative proceedings against the GDEA, the Ministry and the GDPD before the Shaki Administrative-Economic Court, requesting the allocation of a three-room flat in the new building, along with the relevant ownership documents, in exchange for her demolished flat. Additionally, she claimed 20,000 Azerbaijani manats (AZN) in respect of non-pecuniary damage and AZN 14,000 for lost profit.

4. On 11 December 2012 the court dismissed the applicant's claim. In particular, it held that the demolition of the applicant's flat and allocation to her of a new two-room flat with a larger surface area had been lawful since the building in question had been in a state of urgent disrepair and that consequently its occupants had had to be relocated immediately. The court referred to a report of the Ministry dated 10 June 2011, which described the building as having been in such a state as to be beyond repair.

5. On 2 May 2013 the Shaki Court of Appeal dismissed an appeal by the applicant and upheld the first-instance court's judgment.

6. Subsequently, the applicant lodged a cassation appeal. In particular, she complained that the specific procedure for the renovation of dilapidated buildings, as set out in Article 28 of the Housing Code, had not been followed by the State authorities. She argued, in particular, that no court decision confirming that her flat was in a state of disrepair had been obtained prior to its demolition, as required under the Housing Code.

7. By a judgment of 18 September 2013, the Supreme Court partially quashed the appellate court's judgment on the grounds that the lower courts had failed to address whether the flat offered to the applicant constituted fair compensation for her demolished property.

8. On 6 December 2013 the Shaki Court of Appeal upheld the first-instance court's judgment. During the fresh examination, the appellate court carried out a comparative analysis between the demolished flat and the one offered to the applicant and concluded that the latter one had constituted adequate compensation. In particular, it noted that the new flat was 21.66 sq. m larger than the old one, was located in a modern residential area on the central street of the city, and had all the necessary amenities, such as a modern heating system and a parking space.

9. By a final judgment of 27 March 2014, the Supreme Court dismissed the applicant's cassation appeal.

10. According to the applicant, she has never taken possession of the new flat and has never moved in there.

11. The applicant complained under Article 1 of Protocol No. 1 to the Convention that she had been unlawfully deprived of her property. She also complained under Articles 6 and 8 of the Convention that there had been a violation of her right to a reasoned judgment and her right to respect for her home.

THE COURT'S ASSESSMENT

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

12. The Government accepted that the demolition of the applicant's flat had constituted an interference with her property rights. They argued, however, that the demolition of the building in question had served the protection of the residents' health and safety, and had been carried out in accordance with the provisions of domestic law. They submitted that the allocation of a new flat to the applicant had constituted appropriate and sufficient redress. The applicant disagreed.

13. It is not disputed by the parties that the demolished flat had been in the applicant's ownership and, as such, had constituted her "possession".

14. In so far as the Government's submissions may be understood as an objection regarding the applicant's victim status, the Court reiterates that an applicant is deprived of his or her status as a victim if the national authorities have acknowledged, either expressly or in substance, and then afforded appropriate and sufficient redress for, a breach of the Convention (see *Bagirova and Others v. Azerbaijan*, nos. 37706/17 and 5 others, § 40, 31 August 2023, with further references). In the present case, the domestic courts held that the demolition of the applicant's property had been lawful (see paragraphs 4-5 and 7-8 above). The Government reiterated the same position (see paragraph 12 above). There was therefore no acknowledgment of a breach of Article 1 of Protocol No. 1 in the present case. In the absence of any such acknowledgment, the Court considers that the applicant can still claim to be a victim of the alleged violation and 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.

15. In the present case there was an interference with the applicant's possessions, as the building where her flat had been situated was demolished by the State authorities. This interference amounted to a "deprivation of possessions" within the meaning of the second sentence of Article 1 of Protocol No. 1.

16. The applicable principles concerning Article 1 of Protocol No. 1 have been summarised, in particular, in *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).

17. The Court observes that Article 28 of the Housing Code established an explicit procedure for the reconstruction and renovation of flats and residential buildings in a state of urgent disrepair, which consisted of several steps. The fact that the flat or building in question was indeed in such a

condition, as well as the impossibility of renovating it, had to be confirmed by a court decision. If the owner had refused to demolish or rebuild the property within the time-limit set by the court, it could have been sold at public auction or purchased directly by the State.

18. In the present case, no court decision regarding the condition of the building where the applicant's flat had been situated and the impossibility of renovating it had been obtained prior to its demolition, and, consequently, the relevant domestic procedure was not followed.

19. The foregoing considerations are sufficient for the Court to conclude 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.

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

II. OTHER COMPLAINTS

21. Turning to the applicant's complaints under Articles 6 and 8 of the Convention (see paragraph 11 above), and 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 question raised by the case and that there is no need to examine the remaining complaints (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

APPLICATION OF ARTICLE 41 OF THE CONVENTION

22. The applicant claimed 111,500 Azerbaijani manats (AZN) in respect of pecuniary damage, comprising AZN 55,000 for the market value of the flat, AZN 11,000 as additional 20% compensation in accordance with Presidential Decree no. 689 of 26 December 2007, and AZN 45,500 for total lost profit.

23. She also claimed AZN 50,000 in respect of non-pecuniary damage, AZN 5,000 in respect of legal fees for representation before the domestic courts, and an additional AZN 2,000 for postal and other expenses.

24. The Government asked the Court to dismiss the applicant's claims under all heads as being unsubstantiated and excessive.

25. The Court notes that in the domestic proceedings the applicant asked the domestic courts to award her in-kind compensation in the form of a new flat with a greater number of rooms in the same building as the flat that had been offered to her. As established by the domestic courts, the applicant was

provided with a flat in a newly constructed building, the surface area of which was 21.66 sq. m larger than the applicant's demolished flat (see paragraph 8 above). In such circumstances and in the absence of substantiated arguments to the contrary, the Court dismisses the applicant's claim in respect of the market value of the demolished flat. Furthermore, the Court rejects the applicant's claim in respect of lost profit, as she failed to substantiate that part of the claim. As regards the claim concerning the additional 20% compensation, the Court notes that the applicant had not raised the issue of the applicability of the relevant decree (see paragraph 22 above) in her appeals before the domestic courts. Nor had she raised that issue in her application before the Court. Accordingly, neither the domestic courts nor the Court were given an opportunity to determine whether, in the present case, the applicant had a legitimate expectation under domestic law of being awarded the increase claimed, which is a question related to the admissibility and merits of the complaint under Article 1 of Protocol No. 1. For these reasons, this part of the claim should also be dismissed (compare *Akhverdiyev v. Azerbaijan* (just satisfaction), no. 76254/11, § 31, 21 March 2019).

26. However, the Court accepts that the applicant suffered some distress as a result of the violation found. It therefore awards her EUR 3,000 in respect of non-pecuniary damage, plus any tax that may be chargeable on that amount.

27. Given that the applicant did not submit any copies of a contract for legal services or of invoices for postal and other expenses, the Court dismisses the claim for costs and expenses (see *Malik Babayev v. Azerbaijan*, no. 30500/11, § 97, 1 June 2017, and *Tagiyeva v. Azerbaijan*, no. 72611/14, § 92, 7 July 2022).

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Article 1 of Protocol No. 1 to the Convention admissible;

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 admissibility and merits of the complaints under Articles 6 and 8 of the Convention;

4. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, EUR 3,000 (three thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount 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 25 February 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova	Darian Pavli
Deputy Registrar	President