

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

THIRD SECTION

CASE OF MIRAGAYEV v. AZERBAIJAN

(Application no. 29550/14)

JUDGMENT

STRASBOURG

9 December 2025

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Miragayev 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. 29550/14) 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 9 April 2014 by an Azerbaijani national, Mr Zaka Pirali oglu Miragayev (*Zəka Pirəli oğlu Mirağayev* – "the applicant"), who was born in 1982 and lives in Baku, and was represented by Mr I. Aliyev, 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 decision of the President of the Section to give Mr I. Aliyev leave to represent the applicant in the proceedings before the Court (Rule 36 § 4 (a) *in fine* of the Rules of Court);

the parties' observations;

Having deliberated in private on 13 November 2025,

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

SUBJECT MATTER OF THE CASE

1. The application concerns the allegedly unlawful entry into and search of the applicant's flat, on the basis of a complaint made by a neighbour to the police, and the seizure of religious books and a sum of money, as well as fairness of proceedings. The applicant referred to Articles 6, 8 and 34 of the Convention. The facts were partially disputed by the parties.

I. THE APPLICANTS' VERSION OF THE EVENT OF 31 MAY 2012

2. On 31 May 2012, while the applicant was in the Gabala District, approximately six police officers and officers from the Ministry of National Security (MNS) raided the applicant's home in Baku. The police seized 30 copies of the Koran and 24 other books. They also took 34 Azerbaijani manats and 500 United States dollars. The police detained the applicant's co-tenants and some other friends who were in his apartment during the search, took them to the police station and released them after six hours.

II. THE GOVERNMENT'S VERSION OF THE EVENT OF 31 MAY 2012

3. On 31 May 2012 a neighbour of the applicant complained to the police that suspicious men were entering and leaving the apartment where the applicant had allegedly been staying. When the police officers went to the apartment, one of the residents let the police officers in. The applicant was not present in the apartment. The residents of the apartment could not produce their identity documents and were asked to come to the police station for further identification. After the residents were identified, they were released. The police officers did not carry out any investigation or search. Nor did they seize any objects belonging to the applicant.

III. DOMESTIC PROCEEDINGS

4. In September 2012 the applicant lodged a complaint with Baku Administrative and Economic Court no. 2, asking that the actions of the police officers (entry, search and seizure) be declared unlawful and claiming an award in respect of pecuniary and non-pecuniary damage. He complained, in particular, that the police officers had forcibly entered his flat without any court decision, in violation of the provisions of domestic law.

5. On 25 January 2013 the court dismissed the applicant's complaint for lack of evidence. It briefly held that there had been no violation of the applicant's rights: the police officers had not conducted any investigation or search in the applicant's flat or seized any of the applicant's belongings. It did not provide any relevant reasoning as regards the applicant's arguments contesting the lawfulness of the police officers' entry into the flat or the witness statements provided by the applicant's friends (some of whom were present during the event in question) at the court hearing.

6. On 11 June 2013 the Baku Court of Appeal dismissed the applicant's appeal and upheld the first-instance court's judgment, providing the same reasons.

7. A cassation appeal lodged by the applicant was dismissed by the Supreme Court on 26 September 2013. The applicant and his lawyer were not present at the hearing.

THE COURT'S ASSESSMENT

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

8. The applicant complained under Article 8 of the Convention about the allegedly unlawful entry, search and seizure at his flat.

A. Admissibility

9. The Court reiterates that the concept of "home" within the meaning of Article 8 is not limited to premises which are lawfully occupied or which have been lawfully established. It is an autonomous concept which does not depend on classification under domestic law. Whether or not particular premises constitute a "home" which attracts the protection of Article 8 will depend on the factual circumstances, namely the existence of sufficient and continuous links with a specific place (see *Prokopovich v. Russia*, no. 58255/00, § 36, ECHR 2004-XI (extracts)).

10. In the present case, it was undisputed that the applicant rented and lived in the flat in question. The Court therefore finds that the applicant had sufficient and continuous links with the flat in issue for it to be considered his "home" for the purposes of Article 8 of the Convention.

11. 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.

12. The general principles concerning the entry and search of residential premises have been reiterated in, *inter alia*, *Bože v. Latvia* (no. 40927/05, §§ 66-85, 18 May 2017), and *Sabani v. Belgium* (no. 53069/15, §§ 41-58, 8 March 2022).

B. Merits

1. Allegedly unlawful entry

13. The applicant submitted that the police officers' forcible entry into his flat constituted an interference with his right to respect for his home. The Government argued that one of the residents had cooperated voluntarily and let the police in.

14. The Court notes that it was not disputed between the parties that the police officers entered the applicant's home without a search warrant. In the proceedings before the domestic courts, the applicant repeatedly submitted that the police officers had forcibly entered his flat and he presented arguments and witness statements in support of his version of the event in question. While the Government argued that one of the applicant's co-tenants had let the police in (see paragraph 13 above), the domestic courts did not make any such finding. In fact, they limited themselves to endorsing the police authorities' version of the event without addressing the applicant's arguments in that regard. Furthermore, there is nothing in the case file to support the Government's argument. In such circumstances, the Court finds that the police officers' entry into the applicant's flat constituted an interference with his right to respect for his home (compare *Sabani,* cited above, § 47).

15. In accordance with Article 24 of the Law on Police, a police officer may enter a residence against the will of its occupants and without a court order only if there is precise information that one of the following conditions exists: concealment of evidence related to a crime against a person or State authority; hiding of a person who has committed or is preparing to commit such a crime, or who has escaped custody; presence of a human corpse; a real threat to life or health; or direct pursuit of a suspect ("hot pursuit"). In the present case, the police officers' only basis for their actions was a complaint from a neighbour (see paragraph 3 above), whose identity was never revealed. In any event, it has not been argued or demonstrated that any of the circumstances listed above existed in the present case. The Court therefore concludes that the interference was not "in accordance with the law" within the meaning of Article 8 § 2 of the Convention.

16. There has accordingly been a violation of Article 8 of the Convention.

2. Allegedly unlawful search and seizure

17. Having regard to the facts of the case, the submissions of the parties and its finding above (see paragraphs 12-16 above), the Court considers that there is no need to examine the remaining complaint related to unlawful search and seizure (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no.47848/08, § 156, ECHR 2014).

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

18. The applicant further complained under Article 6 of the Convention that his right to a fair trial had been violated because he had not been duly notified of the hearing before the Supreme Court and had therefore not been able to attend the hearing. He maintained that he had not received the official notification letters.

19. The Government argued that the applicant and his lawyer had been duly informed of the date and place of the hearing and that it was highly doubtful that both the applicant and his lawyer had not received the notification sent by the Supreme Court.

20. The Court notes that the applicant's 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.

21. The relevant general principles have been summarised in, among other authorities, *Andrejeva v. Latvia* ([GC], no. 55707/00, §§ 96-102, ECHR 2009), and *Gankin and Others v. Russia* (nos. 2430/06 and 3 others, §§ 25-28, 31 May 2016).

22. In the present case, it was undisputed by the parties that on 26 September 2013 the Supreme Court heard the applicant's cassation appeal in his and his lawyer's absence (see paragraph 7 above).

23. Although the Government submitted a copy of the official notification letter, there is no evidence that the notice was ever actually delivered to the applicant or his lawyer. Lacking any evidence of proper notification, the Court accepts the applicant's submissions that he had not been aware of the date and venue of the final cassation hearing and that this had prevented him from attending and defending his rights (compare *Gurbanov v. Azerbaijan* [Committee], no. 10616/17, § 12, 7 September 2023, with further references).

24. In view of the considerations above, the Court concludes that the applicant's right to be informed of the court hearing in question was not respected. There has accordingly been a violation of Article 6 § 1 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 34 OF THE CONVENTION

25. On 28 August 2014 the applicant's representative, Mr I. Aliyev, introduced a new complaint, arguing that the seizure from his office of the entire case file relating to the applicant's pending application before the Court, together with all the other case files, had amounted to a hindrance to the exercise of the applicant's right of individual petition under Article 34 of the Convention.

26. The submissions made by the applicant and the Government were similar to those made by the parties in respect of the same complaint raised in *Annagi Hajibeyli v. Azerbaijan* (no. 2204/11, §§ 57-60, 22 October 2015).

27. The Court, therefore, likewise finds that the respondent State has failed to comply with its obligations under Article 34 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

28. The applicant claimed, without submitting any supporting documents, 745 euros (EUR) in respect of pecuniary damage. He further claimed EUR 20,000 in respect of non-pecuniary damage and EUR 2,000 in respect of the costs and expenses incurred before the Court.

29. The Government submitted that the applicant's claims should be rejected.

30. The Court does not discern any causal link between the violations found and the pecuniary damage alleged. The Court therefore rejects the applicant's claims in respect of pecuniary damage. However, it awards the applicant EUR 1,600 in respect of non-pecuniary damage, plus any tax that may be chargeable.

31. Having regard to the documents in its possession, the Court considers it reasonable to award 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 complaints under Articles 6 § 1 and 8 of the Convention, in respect of the allegedly unlawful entry by the police officers, admissible;

2. *Holds* that there has been a violation of Article 8 of the Convention on account of the police officers' unlawful entry into the applicant's flat;

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

4. *Holds* that there is no need to examine the admissibility and merits of the remaining complaints under Article 8 of the Convention;

5. *Holds* that the respondent State has failed to comply with its obligations under Article 34 of the Convention;

6. *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 1,600 (one 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;

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

Done in English, and notified in writing on 9 December 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova Deputy Registrar	Canòlic Mingorance Cairat President