

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

THIRD SECTION

CASE OF SEYIDOV v. AZERBAIJAN

(Application no. 38203/12)

JUDGMENT

STRASBOURG

15 May 2025

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Seyidov v. Azerbaijan,

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

Oddný Mjöll Arnardóttir*, President*,
Úna Ní Raifeartaigh,
Mateja Đurović*, judges*,
and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 24 April 2025,

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

PROCEDURE

1. The case originated in an application against Azerbaijan lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 22 May 2012.

2. The applicant was represented by Mr A. Mustafayev and Mr R. Mustafazade, lawyers based in Azerbaijan.

3. The Azerbaijani Government ("the Government") were given notice of the application.

THE FACTS

4. The applicant's details and information relevant to the application are set out in the appended table.

5. The applicant complained of the lack of justification for his pre-trial detention under Article 5 § 3 of the Convention. He also raised other complaints under Articles 3 and 5 of the Convention.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 5 § 3 OF THE CONVENTION

6. Relying on Article 5 § 3 of the Convention, the applicant complained that the domestic courts had failed to justify the necessity for the application of preventive measure of pre-trial detention in his case.

7. In the leading cases of *Farhad Aliyev v. Azerbaijan,* no. 37138/06, 9 November 2010; *Isayeva v. Azerbaijan,* no. 36229/11, 25 June 2015; and *Zayidov v. Azerbaijan,* no. 11948/08, 20 February 2014, the Court already found a violation in respect of issues similar to those in the present case.

8. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the admissibility and merits of this complaint. Having regard to its case-law on the subject, the Court considers that in the instant case the

domestic courts failed to justify the need for the applicant's pre-trial detention.

9. This complaint is therefore admissible and discloses a breach of Article 5 § 3 of the Convention.

II. OTHER ALLEGED VIOLATIONS UNDER WELL-ESTABLISHED CASE-LAW

10. The applicant also raised a complaint under Article 5 § 1 of the Convention concerning his detention without a valid court order between 6 and 29 March 2013, during which period his pre-trial detention authorised by the court had expired and his case had been transmitted to the trial court. This complaint is covered by the well-established case-law of the Court. It is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor is it inadmissible on any other ground. Accordingly, it must be declared admissible. Having examined all the material before it, the Court concludes that the complaint discloses a violation of Article 5 § 1 of the Convention owing to the fact that the applicant was kept in detention without a court order (see, among many others, *Isayeva*, cited above, §§ 67-70, and *Haziyev v. Azerbaijan*, no. 19842/15, §§ 29-31, 6 December 2018).

11. In view of the above findings (see paragraphs 8-10 above), the Court considers that there is no need to deal separately with the applicant's remaining complaints under Article 5 § 1 of the Convention concerning his initial detention allegedly in excess of the maximum forty-eight-hour period permitted by domestic law prior to being brought before a judge (between 10 a.m. on 27 March 2012 and 6.50 p.m. on 29 March 2012), and under Article 5 § 4 of the Convention concerning the alleged lack of effective review of the lawfulness of his pre-trial detention (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

III. REMAINING COMPLAINT

12. Relying on Article 3 of the Convention, the applicant also complained that his detention had not been compatible with the state of his health and that he had not been provided with adequate medical care in detention.

13. The Court considers that, in the light of all the material in its possession, and in so far as the matters complained of are within its competence, this complaint either does not meet the admissibility criteria set out in Articles 34 and 35 of the Convention or does not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

14. It follows that this complaint must be rejected in accordance with Article 35 § 4 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

15. Regard being had to the documents in its possession and making its assessment on an equitable basis, the Court considers it reasonable to award the sums indicated in the appended table and dismisses the remainder of the applicant's claims for just satisfaction.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints under Article 5 § 1 (concerning the unlawful detention without a valid court order between 6 and 29 March 2013) and Article 5 § 3 (concerning lack of justification for pre-trial detention) of the Convention admissible and the complaint under Article 3 of the Convention inadmissible, and *finds* that there is no need examine separately the admissibility and merits of the remaining complaints;

2. *Holds* that this application discloses a breach of Article 5 § 1 of the Convention concerning the applicant's detention without a valid court order during the period between 6 and 29 March 2013;

3. *Holds* that this application discloses a breach of Article 5 § 3 of the Convention concerning the lack of justification for pre-trial detention;

4. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the amounts indicated in the appended table, 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 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 claims for just satisfaction.

Done in English, and notified in writing on 15 May 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina Acting Deputy Registrar	Oddný Mjöll Arnardóttir President

APPENDIX

Application raising complaints under Article 5 §§ 1 and 3 of the Convention (unlawful detention and lack of justification for pre-trial detention)

Application no. Date of introduction	Applicant's name Year of birth	Period of detention	Length of detention	Specific defects	Other complaints under well-established case-law	Amount awarded for non-pecuniary damage per applicant (in euros)[1]	Amount awarded for costs and expenses per application (in euros)[2]
38203/12 22/05/2012	**Elnur Rafig oglu SEYIDOV** 1971	27/03/2012 to 29/03/2013	1 year and 3 days	fragility of the reasons employed by the courts; failure to examine the possibility of applying other measures of restraint; fragility and repetitiveness of the reasoning employed by the courts as the case progressed	Art. 5 (1) – detention without a valid court order between 06/03/2013 and 29/03/2013 (*Isayeva*, cited above, §§ 67-70, and *Haziyev*, cited above, §§ 29-31)	4,300	500

[1] Plus any tax that may be chargeable to the applicant.
[2] Plus any tax that may be chargeable to the applicant.