

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

FIRST SECTION

CASE OF SHARIFOV v. AZERBAIJAN

(Application no. 50513/12)

JUDGMENT
(Merits)

STRASBOURG

5 September 2024

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



In the case of Sharifov 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. 50513/12) 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 25 July 2012 by an Azerbaijani national, Mr Lazim Shirali oglu Sharifov (*Lazım Şirəli oğlu Şərifov* – "the applicant"), who was born in 1954 and lives in Baku, and was represented by Mr K. Bagirov, a lawyer practising 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 2 July 2024,

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

SUBJECT MATTER OF THE CASE

1. The application mainly concerns the applicant's complaint about an allegedly unlawful expropriation of his properties by the State authorities.

2. The facts of the present application are similar in several respects to those in *Khalikova v. Azerbaijan* (no. 42883/11, 22 October 2015). In the present case, the applicant's two non-residential properties (79.1 sq. m and 25.3 sq. m) were demolished by the Baku City Executive Authority ("the BCEA"), on the basis of an order issued by the head of the BCEA on 16 February 2011, which stated that the buildings and houses located on certain streets were to be demolished for the purpose of constructing a new garden-park complex ("the Winter Park") and the residents were to be relocated. The applicant was initially offered a residential property in a building far from the city centre as compensation. Following his refusal, he was offered 1,500 Azerbaijani manats (AZN) per square metre of his properties. The BCEA offered to make the payments not as compensation for expropriation, but on the basis of contracts of sale to be entered into by the applicant and the representative of the BCEA. On an unspecified date the applicant entered into a contract of this nature after the demolition of his properties and received the total amount of AZN 156,600 on 18 November 2011 and 3 December 2011.

3. In the meantime, in August 2011 the applicant lodged a complaint with Baku Administrative-Economic Court No. 1, asking the court to declare the

order of 16 February 2011 invalid. He complained that the actions of the resettlement commission, comprised of employees of the BCEA and the State Committee on Property Issues, seeking to demolish his properties had been unlawful, and claimed compensation for pecuniary (in kind or at market price) and non-pecuniary damage (AZN 1,000,000) in respect of the above-mentioned properties. On an unspecified date in August 2011, while the court proceedings were still pending, the BCEA demolished the applicant's properties. On 24 October 2011 the applicant amended his initial claims, asking for additional compensation of AZN 9,857.40 for his possessions (construction materials) that had allegedly been destroyed during the demolition of his properties.

4. On 8 December 2011 Baku Administrative-Economic Court No. 1 ruled partly in favour of the applicant and awarded him AZN 1,500 per square metre of his properties in respect of pecuniary damage. It held that the applicant had failed to provide any proof showing that the value of his properties was higher than that amount. It also held that, although the applicant had submitted a list of construction materials, he had failed to present any evidence showing that those possessions had been destroyed. It further held that the applicant's claim in respect of non-pecuniary damage had been unsubstantiated.

5. On 1 March 2012 the Baku Court of Appeal upheld the first-instance court's judgment, endorsing its reasoning and holding that the compensation awarded had been reasonable and fair.

6. On 16 May 2012 the Supreme Court upheld the appellate court's judgment.

7. The applicant complained of violations of his rights under Articles 6 and 13 of the Convention as well as Article 1 of Protocol No. 1 to the Convention.

THE COURT'S ASSESSMENT

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

8. The applicant complained that the *de facto* expropriation, by way of demolition, of his non-residential properties had amounted to an unlawful and unjustified interference with his property rights under Article 1 of Protocol No. 1 to the Convention. He further complained that the amount of compensation that had been offered for the properties had been very low. The applicant also complained that he had not been paid any compensation for his possessions that had allegedly been destroyed during the demolition of his properties.

A. Non-residential properties

9. It is undisputed that the non-residential properties in question had been in the applicant's private ownership.

10. 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.

11. The general principles concerning Article 1 of Protocol No. 1 have been summarised in *Akhverdiyev v. Azerbaijan* (no. 76254/11, §§ 79-82, 29 January 2015), and *Khalikova* (cited above, §§ 134-36).

12. The Court reiterates that the first and most important requirement of Article 1 of Protocol No. 1 is that any interference by a public authority with the peaceful enjoyment of possessions should be "lawful" (see, among many other authorities, *Yavuz Özden v. Turkey*, no. 21371/10, § 78, 14 September 2021, and *Par and Hyodo v. Azerbaijan*, nos. 54563/11 and 22428/15, § 52, 18 November 2021).

13. In *Khalikova* (cited above, §§ 137-41) the Court found that the expropriation of the applicant's property had not been carried out in compliance with "conditions provided for by law". It concluded, in particular, that (i) the BCEA did not have the authority to expropriate private property; (ii) no lawful expropriation order had been issued by a competent State authority; and (iii) the interference with the applicant's possessions thus constituted a *de facto* deprivation of possessions. The Court also found it irrelevant that a contract of sale had been signed between the applicant and the person acting on behalf of the BCEA after the demolition of her property. 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 in the present case. It thus considers that the expropriation of the applicant's properties was not carried out in compliance with "conditions provided for by law" (compare also *Bagvanov and Others v. Azerbaijan* [Committee], nos. 77919/11 and 13 others, § 17, 10 November 2022).

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

B. Allegedly destroyed possessions

15. The Government submitted that, although the applicant had submitted a list of construction materials that had allegedly been destroyed during the demolition of his properties, he had failed to produce any reasonable evidence in support of his claim. The applicant disagreed.

16. The Court notes that the applicant failed to substantiate his claims in respect of the destroyed possessions either before the domestic courts or before the Court. This part of the complaint is therefore manifestly

ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention (see *Bagvanov and Others*, cited above, § 19).

II. OTHER COMPLAINTS

17. The applicant also complained under Article 6 (right to a reasoned judgment) and Article 13 of the Convention that there had been a violation of his Convention rights. 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 the remaining complaints (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014; see also *Bagvanov and Others*, cited above, § 23, and *Bagirova and Others v. Azerbaijan*, nos. 37706/17 and 5 others, §§ 55-56, 31 August 2023).

APPLICATION OF ARTICLE 41 OF THE CONVENTION

18. The applicant claimed 256,124 euros (EUR) in respect of pecuniary damage, comprising EUR 244,296 for the demolished properties and EUR 11,828 for the construction materials that had allegedly been destroyed during the demolition of his properties and EUR 14,000 in respect of non-pecuniary damage. He also claimed EUR 5,170 in respect of costs and expenses, comprising EUR 4,570 for legal expenses and EUR 600 for translation services, incurred before the domestic courts and the Court.

19. The Government asked the Court to reject the applicant's claim for pecuniary damage. They also argued that his claim for non-pecuniary damage was excessive. The Government further submitted that the part of the claim in respect of legal expenses had not been supported by valid documentary evidence and that the part of the claim in respect of translation costs was excessive.

20. The Court considers that the question of the application of Article 41 is not ready for decision. It is therefore necessary to reserve the matter in its entirety, due regard being had to the possibility of an agreement between the respondent State and the applicant (Rule 75 §§ 1 and 4 of the Rules of Court).

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Article 1 of Protocol No. 1 concerning the non-residential properties admissible, and the part concerning the allegedly destroyed possessions inadmissible;

2. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to the Convention concerning the non-residential properties;

3. *Holds* that there is no need to examine the admissibility and merits of the complaints under Articles 6 and 13 of the Convention;

4. *Holds* that the question of the application of Article 41 of the Convention is not ready for decision; accordingly,
   (a) *reserves* the said question in whole;
   (b) *invites* the Government and the applicant to submit, within three months, their written observations on the matter and, in particular, to notify the Court of any agreement that they may reach;
   (c) *reserves* the further procedure and delegates to the President of the Committee the power to fix the same if need be.

Done in English, and notified in writing on 5 September 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt Deputy Registrar	Krzysztof Wojtyczek President