

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

THIRD SECTION

CASE OF ZAKIYEV v. AZERBAIJAN

(Application no. 52999/14)

JUDGMENT

STRASBOURG

17 June 2025

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



In the case of Zakiyev v. Azerbaijan,

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

Oddný Mjöll Arnardóttir*, President*,
Lətif Hüseynov,
Canòlic Mingorance Cairat*, judges*,
and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 52999/14) 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 7 July 2014 by an Azerbaijani national, Mr Fuad Mirzaga oglu Zakiyev (*Fuad Mirzə-ağa oğlu Zəkiyev* "the applicant"), who was born in 1949, lives in Baku and was represented by Ms S. Jamalzade, a lawyer based in Azerbaijan;

the decision to give notice to the Azerbaijani Government ("the Government") represented by their Agent, Mr Ç. Əsgərov, of the complaints under Articles 6 (right to reasoned judgment) and 8 (right to respect for home) of the Convention and under Article 1 of Protocol No. 1 to the Convention and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated in private on 27 May 2025,

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

SUBJECT MATTER OF THE CASE

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

2. The applicant was the owner of apartment no. 17, which had a total surface area of 28.29 sq. m and was situated on 73/3 H. Aliyev Avenue, Narimanov district, Baku, where he lived.

3. On an unspecified date in 2009 the applicant's apartment was demolished by representatives of the Baku City Executive Authority ("the BCEA"), the Narimanov District Executive Authority ("the NDEA") and the State Committee on Property Issues ("the SCPI") for the purpose of constructing a cultural centre called "Heydar Aliyev Centre", on the basis of Order no. 446 on the relocation of a number of residential buildings in connection with reconstruction works on Heydar Aliyev Avenue, which had been issued by the head of the BCEA on 25 November 2009.

4. It appears from the case file that the applicant was provided with a fully renovated flat of 84.6 sq. m in a recently constructed building situated on A. Aliyev Street, Narimanov district, as compensation for the demolished flat, under an occupancy voucher issued in his name on 30 July 2009 pursuant to an order of the NDEA of 17 July 2009. The applicant accepted and signed the occupancy voucher on 30 July 2009.

5. On an unspecified date in July 2011, the applicant lodged a complaint with Baku Administrative-Economic Court No. 2 against the BCEA, the NDEA and the SCPI and later amended it, asking the court to restore his unlawfully demolished apartment and seeking 300 Azerbaijani manats (AZN) per month (counting from the time of the demolition until restoration of his apartment) for lost profit and AZN 50,000 for non-pecuniary damage.

6. By a judgment of 12 March 2013, Baku Administrative-Economic Court No. 2 dismissed the applicant's claims as groundless. That judgment was subsequently upheld on 31 July 2013 and 5 December 2013 by the Baku Court of Appeal and the Supreme Court respectively. In particular, the domestic courts found that the actions of the State authorities had been lawful, and that the applicant had been provided with a new and larger, renovated apartment in the vicinity of his demolished apartment and that he had accepted the occupancy voucher for the apartment without complaint and had lodged a complaint with the courts only two years later.

7. The applicant complained under Article 6 of the Convention that his right to a reasoned judgment had been violated. He also complained under Article 8 of the Convention that his right to respect for his home had been violated. He further complained under Article 1 of Protocol No. 1 to the Convention that the expropriation of his flat had amounted to an unlawful and unjustified interference with his property rights.

THE COURT'S ASSESSMENT

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

8. The Government accepted that the demolition of the apartment in question had constituted an interference with the applicant's property rights. They argued, however, that the allocation of the new flat, which was three times larger than the applicant's flat, constituted sufficient compensation for any pecuniary or non-pecuniary damage suffered by the applicant.

9. It is undisputed that the flat in question (see paragraph 2 above) had been in the applicant's private ownership.

10. 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), *Khalikova v. Azerbaijan* (no. 42883/11, §§ 134-36, 22 October 2015) and *Maharramov v. Azerbaijan* (no. 5046/07, §§ 56-60, 30 March 2017).

11. 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).

12. 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. 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 property was not carried out in compliance with "conditions provided for by law" (compare *Akhverdiyev*, § 99, and *Maharramov*, § 65, both cited above).

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

II. OTHER COMPLAINTS

14. Turning to the applicant's complaints under Article 6 and Article 8 of the Convention (see paragraph 7 above), 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 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* [Committee], nos. 77919/11 and 13 others, § 23, 10 November 2022, and *Bagirova and Others v. Azerbaijan*, nos. 37706/17 and 5 others, §§ 55-56, 31 August 2023).

APPLICATION OF ARTICLE 41 OF THE CONVENTION

A. Damage

15. The applicant claimed 117,000 Azerbaijani manats (AZN) for the demolished flat, AZN 26,600 for lost profit, AZN 34,000 for relocation expenses and AZN 40,950 as interest for late payment. He also claimed AZN 50,000 in respect of non-pecuniary damage.

16. The Government asked the Court to reject these claims as unsubstantiated and excessive, reiterating their previous arguments (see paragraph 8 above).

17. It appears from the documents in the case file and the domestic courts' judgments that the State authorities compensated the loss of the applicant's

old flat by way of providing him with a new and larger flat, situated in the same district.

18. In the light of the above consideration, and in the absence of substantiated arguments to the contrary, the Court dismisses the applicant's claim in respect of pecuniary damage (compare *Karimova v. Azerbaijan* [Committee], no. 70227/14, § 25, 25 February 2025).

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

B. Costs and expenses

20. The applicant claimed AZN 7,000 in respect of costs and expenses, comprising AZN 5,000 for legal expenses and AZN 2,000 for transportation, translation, postal and other expenses, incurred before the domestic courts and the Court, without providing any supporting documents.

21. The Government submitted that the applicant had not provided any evidence proving that he had actually incurred any costs and expenses and asked the Court to reject his claims under this head.

22. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. Under Rule 60 of the Rules of Court, all claims for just satisfaction must be itemised and submitted in writing together with any relevant supporting documents, failing which the Court may reject the claim in whole or in part. In the present case, the claims were neither itemised nor supported by any documentary evidence. The Court therefore rejects the applicant's claims in respect of costs and expenses (see *Aliyeva and Others v. Azerbaijan*, nos. 66249/16 and 6 others, § 155, 21 September 2021).

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 17 June 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova Deputy Registrar	Oddný Mjöll Arnardóttir President