

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

FIRST SECTION

DECISION

Application no. 6299/14
CIN-TELEKOM
against Azerbaijan
(see appended table)

The European Court of Human Rights (First Section), sitting on 11 July 2024 as a Committee composed of:

Krzysztof Wojtyczek*, President*,
Lətif Hüseynov,
Erik Wennerström*, judges*,
and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 29 December 2013,

Having regard to the declaration submitted by the respondent Government requesting the Court to strike the application out of the list of cases,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant company's and its representative's details are set out in the appended table.

The applicant company's complaint under Article 6 § 1 of the Convention that it had not been duly notified of the hearing of the appellate court concerning its civil claim was communicated to the Azerbaijani Government ("the Government").

THE LAW

A. Alleged violation of Article 6 § 1 of the Convention

The Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issues raised by this complaint. They further requested the Court to strike out the application in accordance with Article 37 of the Convention.

The Government acknowledged that the domestic authorities had violated "the applicant company's rights guaranteed in the Convention". They offered to pay the applicant company the amounts detailed in the appended table and invited the Court to strike the application out of the list of cases in accordance with Article 37 § 1 (c) of the Convention. The amounts would be converted into the currency of the respondent State at the rate applicable on the date of payment and would be payable within three months from the date of notification of the Court's decision. In the event of failure to pay these amounts within the above-mentioned three-month period, the Government undertook to pay simple interest on them, from the expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. They further undertook to take all measures to reopen the cassation appeal proceedings in order to guarantee the examination of the applicant company's cassation appeal in accordance with the requirements of Article 6 of the Convention.

The applicant company was sent the terms of the Government's unilateral declaration several weeks before the date of this decision. The Court has not received a response.

The Court observes that Article 37 § 1 (c) enables it to strike a case out of its list if:

> "... for any other reason established by the Court, it is no longer justified to continue the examination of the application".

Thus, it may strike out applications under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government even if the applicant wishes the examination of the case to be continued (see, in particular, the *Tahsin Acar v. Turkey* judgment (preliminary objections) [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI).

The Court has established clear and extensive case-law concerning complaints relating to the failure by the domestic courts to duly notify the applicants and/or their lawyers of the hearings (see, for example, *Abbasov v. Azerbaijan*, no. 24271/05, §§ 28-34, 17 January 2008; *Maksimov v. Azerbaijan*, no. 38228/05, §§ 36-43, 8 October 2009; *Pirali Orujov v. Azerbaijan*, no. 8460/07, §§ 40-46, 3 February 2011; *Religious Community of Jehovah's Witnesses and Hansen v. Azerbaijan* [Committee], no. 52682/07, 30 January 2020; and *Gurbanov v. Azerbaijan* [Committee], no. 10616/17, 7 September 2023).

Having regard to the nature of the admissions contained in the Government's unilateral declaration, as well as the scope and extent of the various undertakings given therein, together with the amount of compensation proposed – which is consistent with the amounts awarded in similar cases – the Court considers that it is no longer justified to continue the examination of the application in the part covered by the unilateral declaration (Article 37 § 1 (c)).

In the light of the above considerations, the Court is satisfied that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue the examination of this part of the application (Article 37 § 1 *in fine*).

Finally, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declaration, the application may be restored to the list in accordance with Article 37 § 2 of the Convention (see *Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

In view of the above, it is appropriate to strike the application out of the list of cases as regards the complaint under Article 6 § 1 of the Convention.

B. Other alleged violations of the Convention

The applicant company also complained under Articles 13 and 14 of the Convention taken in conjunction with Article 6 of the Convention. In the light of all the material in its possession, and in so far as the matters complained of are within its competence, the Court considers that the remainder of the application does not disclose any appearance of a violation of any of the above Articles of the Convention. It follows that these complaints are inadmissible under Article 35 § 3 as manifestly ill-founded and must be rejected pursuant to Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

Takes note of the terms of the respondent Government's declaration concerning Article 6 § 1 of the Convention and of the arrangements for ensuring compliance with the undertakings referred to therein;

Decides to strike the application out of its list of cases as regards the complaint under Article 6 § 1 of the Convention in accordance with Article 37 § 1 (c) of the Convention;

Declares the remainder of the application inadmissible.

Done in English and notified in writing on 5 September 2024.

Viktoriya Maradudina Acting Deputy Registrar	Krzysztof Wojtyczek President

APPENDIX

Application raising complaint under Article 6 § 1 of the Convention (right to a fair trial)

Application no. Date of introduction	Applicant company's name Year of registration and location	Representative's name and location	Date of receipt of Government's declaration	Amount awarded for pecuniary and non-pecuniary damage per applicant (in euros)[1]	Amount awarded for costs and expenses per application (in euros)[2]
6299/14 29/12/2013	**CIN-TELEKOM** **2008** **Baku**	Etibar PASHAYEV Baku	30/04/2024	3,600	500

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