

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

FIRST SECTION

DECISION

Application no. 60545/14
Malik KARIMOV
against Azerbaijan

The European Court of Human Rights (First Section), sitting on 26 September 2024 as a Committee composed of:

Raffaele Sabato*, President*,
Lətif Hüseynov,
Alain Chablais*, judges*,

and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to:

the application (no. 60545/14) 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 25 August 2014 by an Azerbaijani national, Mr Malik Ismayil oglu Karimov (*Malik İsmayıl oğlu Kərimov* – "the applicant"), who was born in 1960, lives in Baku and was represented by Mr Y. Agazade, 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 Government's observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The present case concerns the allegedly unlawful expropriation of the applicant's property and the alleged unfairness of the related civil proceedings.

2. The applicant lived in house no. 6V, situated on 3 Alatava Street, Nasimi, Baku. He did not have an ownership certificate in respect of the house.

3. According to the "characteristics of the building" (*tikinti xarakteristikası*), the applicant's house, which was an unauthorised construction, had a surface area of 55 sq. m.

4. By an order of the head of the Baku City Executive Authority of 26 April 2011, the area surrounding J. Salimov Street in the Nasimi district of Baku, which included the applicant's house, was allocated for the purpose of constructing a new metro station.

5. On 6 February 2013 the applicant received compensation in the amount of 51,942 Azerbaijani manats (AZN) from the Baku Metro authority. That amount consisted of compensation for the house, the surface area of which was determined to be 39.35 sq. m. (AZN 1,100 per square metre), and an additional 20% in accordance with Presidential Decree no. 689 of 26 December 2007.

6. The applicant disagreed with the amount of compensation received, arguing that he was entitled to AZN 109,200 because (i) the total surface area of the house was 52 sq. m.; (ii) he should have been paid AZN 1,500 per square metre; and (iii) the amount should have included additional calculations.

7. On 2 May 2013 the applicant lodged a claim with Baku Administrative-Economic Court No. 1, seeking additional compensation in the amount of AZN 57,258.

8. By a judgment of 7 August 2013, Baku Administrative-Economic Court No. 1 dismissed the applicant's claim as groundless. That judgment was subsequently upheld on 12 November 2013 and 27 February 2014 by the Baku Court of Appeal and the Supreme Court respectively. In particular, the courts held that despite having no ownership rights over the house in question, which had a surface area of 39.35 sq. m, the applicant had received compensation for it.

9. The applicant complained under Article 1 of Protocol No. 1 to the Convention that his private property had been unlawfully expropriated and that the amount of compensation paid to him had been inadequate. He also complained under Article 6 of the Convention that the domestic courts had not provided reasoned decisions in that respect.

THE COURT'S ASSESSMENT

10. The Court, being the master of the characterisation to be given in law to the facts of the case, finds it appropriate to examine the complaints solely under Article 1 of Protocol No. 1 to the Convention (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 126, 20 March 2018; and compare *Orujova v. Azerbaijan* [Committee] (dec.), no. 1776/09, § 49, 17 June 2021).

11. The Government submitted that the applicant did not have title to the house in question. The applicant did not submit any observations in reply to the Government.

12. The Court's case-law on the concept of "possessions" within the meaning of Article 1 of Protocol No. 1 to the Convention has been summarised in *Akhverdiyev v. Azerbaijan* (no. 76254/11, § 73, 29 January

2015) and *Aliyeva and Others v. Azerbaijan* (nos. 66249/16 and 6 others, §§ 102-04, 21 September 2021).

13. Turning to the circumstances of the present case, the Court notes that the applicant never formally registered any ownership rights over the house in question and that he has been unable to produce any documentary evidence in support of that claim.

14. Furthermore, the Court observes that the applicant had already received compensation for the house from the Baku Metro authority prior to lodging a claim with the domestic courts. The courts, in turn, providing reasoned decisions, did not award him any compensation but merely noted in their judgments the fact that he had already obtained compensation, while emphasising that he had had no ownership rights over the house. Therefore, the domestic courts in the present case never recognised that the applicant had had a proprietary interest in the house, given the absence of the relevant documentation (contrast *Rahimov v. Azerbaijan* [Committee] (dec.), no. 40026/09, § 18, 7 July 2022).

15. In addition, the Court does not lose sight of the fact that the applicant's house was an unauthorised construction (see paragraph 3 above). In this respect, the Court notes that under Azerbaijani law, unauthorised constructions cannot form the subject of property rights (see *Ahmadova v. Azerbaijan*, no. 9437/12, §§ 14 and 29, 18 November 2021, and *Alif Ahmadov and Others v. Azerbaijan*, no. 22619/14, §§ 23 and 36, 4 May 2023).

16. In such circumstances, and in the absence of any substantiated arguments, it cannot be established that the house in question constituted the applicant's "possession" within the meaning of Article 1 of Protocol No. 1 to the Convention.

17. It follows that the application is incompatible *ratione materiae* with the provisions of the Convention and the Protocols thereto within the meaning of Article 35 § 3 (a) and must be rejected in accordance with Article 35 § 4.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 17 October 2024.

Liv Tigerstedt Deputy Registrar	Raffaele Sabato President