

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

FIFTH SECTION

DECISION

Applications nos. 29742/18 and 42506/19
Mahammad MUSTAFAYEV against Azerbaijan
and Jeyhun SULEYMANOV against Azerbaijan
(see appended table)

The European Court of Human Rights (Fifth Section), sitting on 20 January 2022 as a Committee composed of:

Lado Chanturia, *President,*
Lətif Hüseynov,
Arnfinn Bårdsen, *judges,*
and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above applications lodged on the various dates indicated in the appended table,

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

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The list of applicants and their representatives is set out in the appended table.

The applicants' complaints under Article 5 § 5 of the Convention concerning their right to enforceable compensation for unlawful detention were communicated to the Azerbaijani Government ("the Government").

THE LAW

Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single decision.

The Government informed the Court that they proposed to make unilateral declarations with a view to resolving the issues raised by these complaints. They further requested the Court to strike out the applications in accordance with Article 37 of the Convention.

The Government acknowledged the violation of the applicants' rights guaranteed under the Convention. They offered to pay the applicants the amounts detailed in the appended table and invited the Court to strike the applications out of the list of cases in accordance with Article 37 § 1 (c) of the Convention. The amounts 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.

The payment will constitute the final resolution of the cases.

The applicants indicated that that they were not satisfied with the terms of the unilateral declarations on the grounds that the amount of the compensation proposed by the Government was not sufficient.

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 applicants wish the examination of the cases 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 right to enforceable compensation for unlawful detention (see, for example, *Vasilevskiy and Bogdanov v. Russia*, nos. 52241/14 and 74222/14, 10 July 2018, and *Norik Poghosyan v. Armenia*, no. 63106/12, 22 October 2020).

Noting the admissions contained in the Government's declarations as well as 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 applications (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 the applications (Article 37 § 1 *in fine*).

Finally, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declarations, the applications 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 cases out of the list.

For these reasons, the Court, unanimously,

Decides to join the applications;

Takes note of the terms of the respondent Government's declarations and of the arrangements for ensuring compliance with the undertakings referred to therein;

Decides to strike the applications out of its list of cases in accordance with Article 37 § 1 (c) of the Convention.

Done in English and notified in writing on 10 February 2022.

Viktoriya Maradudina Acting Deputy Registrar	Lado Chanturia President

APPENDIX

List of applications raising complaints under Article 5 § 5 of the Convention

No.	Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Date of receipt of Government's declaration	Date of receipt of applicant's comments	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros)[1]
1.	29742/18 08/06/2018	**Mahammad Ibadullah oglu MUSTAFAYEV** 1975	Aynura Mustafayeva Baku	14/09/2021	13/10/2021	7,500
2.	42506/19 08/07/2019	**Jeyhun Shahid oglu SULEYMANOV** 1981	Mubariz Yolchuyev Baku	14/09/2021	13/10/2021	7,500

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