



Delayed registration as candidates in 2010 election led to violation of rights of three Azeri citizens'

In today's **Chamber judgment**¹ in the case of [Abdalov and others v. Azerbaijan](#) (application no. 28508/11 and 2 others) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 3 of Protocol No. 1 (right to free elections) of the European Convention on Human Rights, and,

a violation of Article 34 (right to individual petition) in respect of the second and third applicants.

The case concerned the applicants' complaint about facing such long delays in registering as candidates for November 2010 parliamentary elections that they had had no time to campaign and compete effectively.

The Court found in particular that they had suffered from the kind of procedural shortcomings it had identified in similar cases against Azerbaijan and had been subjected to delays attributable to the electoral commissions and the courts. Their individual electoral rights had been curtailed to such an extent as to significantly impair their effectiveness, breaching the Convention.

Principal facts

The applicants, Ikhtiyar Alish oglu Abdalov, Ibrahim Zabit oglu Ahmadzade, and Tariel Adishirin oglu Shirinli, are three Azerbaijani nationals who were born in 1964, 1975, and 1955 and live in Baku, Sumgayit, and Imishli (all in Azerbaijan) respectively.

The three applicants planned to stand in 7 November 2010 parliamentary elections in single-mandate constituencies. However, their constituency electoral commissions found that many of the signatures they had collected to support their nominations were invalid and that they had not reached the necessary threshold of 450.

The applicants challenged those decisions before the Central Electoral Commission, the appeal court and the Supreme Court, arguing that the findings of the constituency electoral commissions were incorrect and in breach of the procedural safeguards afforded to them by law. During the proceedings, on 15 October 2010, official campaigning for the election began.

The applicants' appeals were eventually upheld and the domestic courts ordered the electoral commissions to register them as candidates. The first applicant received his candidate registration card on 4 November, the second on 2 November and the third on 5 November 2010, the last full day of campaigning. Owing to their late registration, the applicants asked for the ballots in their constituencies to be postponed, but they were refused. They were not elected.

All three complained to the electoral authorities and the courts about their delayed registration and that they had not been able to compete on an equal footing with other candidates. They also

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

requested that the election results in their constituencies be declared invalid. The electoral authorities and the courts dismissed their complaints.

In August 2014 the authorities began criminal proceedings against the second and third applicants' lawyer, Mr I. Aliyev, raiding his office and seizing files related to clients who had complained to the Court. Some files were returned in October 2014, including those of the second and third applicants.

Complaints, procedure and composition of the Court

Relying on Article 3 of Protocol No. 1 (right to free elections) to the Convention, the applicants complained that arbitrary decisions initially refusing to register them as candidates and the subsequent delayed registrations after appeals had prevented them from taking part in the elections under the same conditions as other candidates owing to the very short time left to campaign. They also alleged a breach of Article 13 (right to an effective remedy) in relation to their first complaint.

Mr Aliyev also complained on behalf of the second and third applicants of a violation of Article 34 (right of individual petition).

The applications were lodged with the European Court of Human Rights on 26 April, 1 June and 8 June 2011 respectively.

Judgment was given by a Chamber of seven judges, composed as follows:

Angelika **Nußberger** (Germany), *President*,
Yonko **Grozev** (Bulgaria),
André **Potocki** (France),
Mārtiņš **Mits** (Latvia),
Gabriele **Kucsko-Stadlmayer** (Austria),
Lətif **Hüseynov** (Azerbaijan),
Lado **Chanturia** (Georgia),

and also Milan **Blaško**, *Deputy Section Registrar*.

Decision of the Court

[Article 3 of Protocol No. 1](#)

The Court noted that timely registration of candidates was important so they could convey their message during an electoral campaign, which in turn was linked to voters having all the necessary information when making a free choice on election day.

The first and second applicants had only had respectively one and three full days of campaigning left before the election, while the third had practically had no time left at all after being registered.

The Court had to determine whether their late registration was due to arbitrariness in the procedures or arbitrary delays by the authorities. If so, it also had to examine whether such late registration had curtailed their electoral rights in a way incompatible with Article 3 of Protocol No. 1.

It noted that in the leading case of [Tahirov v. Azerbaijan](#), concerning a refusal to register a candidate owing to an allegedly insufficient number of valid signatures to support a candidacy, it had found, among other things, that there had been various shortcomings in the electoral commissions' procedures on candidate registration, in particular as they pertained to the process of verifying the authenticity of supporting signatures, and that they had failed to abide by a number of statutory safeguards designed to protect nominated candidates from arbitrary decisions. It had come to similar conclusions in subsequent cases.

Although the three applicants in this case were eventually registered, the Court found that the initial refusals and the subsequent proceedings, up to the point of the decisions granting their appeals, disclosed the existence of the same procedural shortcomings as in the earlier cases.

The Court also took note of the various procedural deadlines and steps for appealing against decisions not to register candidates, which in fact made it possible for such appeals to overlap with the period of campaigning, as indeed had happened with the applicants. Given that the campaign period had been shortened in the 2010 election, it had been all the more important for the applicants' proceedings to take place in a timely manner.

However, the proceedings had been subject to delays attributable to the electoral commissions and the courts, which on several occasions had delivered their decisions in a belated manner, sometimes in breach of the legal three-day limit. Overall, the applicants' late registration had thus been due to a lack of safeguards against arbitrariness in the candidate registration procedures and to delays in examining appeals which were attributable to the electoral authorities and courts.

What was at stake in the applicants' case was not a restriction of campaign publicity or media coverage as such, but their individual right to stand freely and effectively for election in fair and democratic conditions. However, they had been registered so late and so close to the election that they had not had a reasonable amount of time to conduct effective campaigns, a situation caused by the shortcomings in the candidate registration procedures and the delays in the proceedings attributable to the authorities and courts.

The applicants' individual electoral rights had thus been curtailed to such an extent as to significantly impair their effectiveness and there had been a violation of Article 3 of Protocol No. 1. Given that finding, the Court did not find it necessary to separately examine the complaint under Article 13.

Article 34

Mr Aliyev had argued that the seizure of the case files relating to the second and third applicants' complaint to the Court, with the other case files, had violated their right of individual petition.

The Court noted that the applicants' submissions and those of the Government and the third party, the International Commission of Jurists, were identical to those made about the same complaint in *Annagi Hajibeyli v. Azerbaijan*. Applying that case's analysis and finding, the Court held that Azerbaijan had failed to comply with its Article 34 obligations to the second and third applicants.

Just satisfaction (Article 41)

The Court held that Azerbaijan was to pay each applicant 7,500 euros (EUR) in respect of non-pecuniary damage. It also awarded EUR 1,400 to the first applicant and EUR 2,200 jointly to the second and third applicants in respect of costs and expenses.

The judgment is available only in English.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court's press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHRpress](https://twitter.com/ECHRpress).

Press contacts

echrpress@echr.coe.int | tel.: +33 3 90 21 42 08

Patrick Lannin (tel: + 33 3 90 21 44 18)

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Denis Lambert (tel: + 33 3 90 21 41 09)

Inci Ertekin (tel: + 33 3 90 21 55 30)

Somi Nikol (tel: + 33 3 90 21 64 25)

The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.