



Decision to terminate citizenship of Azerbaijani journalist breached the Convention

In today's **Chamber judgment**¹ in the case of [Emin Huseynov v. Azerbaijan No. 2](#) (application no. 1/16) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 8 (right to respect for private and family life) of the European Convention on Human Rights.

The case concerned the applicant's complaint about being deprived of his Azerbaijani citizenship in June 2015, making him stateless. At the time he was an independent journalist and the chairman of a non-governmental organisation specialising in the protection of journalists' rights. He had just spent ten months in hiding in the Swiss embassy in Baku as he was on a wanted list in connection with criminal proceedings against his NGO concerning alleged financial irregularities, before leaving on a plane with the Minister of Foreign Affairs for Switzerland where he was granted asylum shortly afterwards.

The Court found in particular that the national authorities had given no heed to the fact that the termination of Mr Huseynov's citizenship, rendering him stateless, would be in breach of Azerbaijan's international law obligations. Also, since Mr Huseynov had not been able to contest the decision to terminate his citizenship before the national courts, he had not benefited from the necessary procedural safeguards. Therefore, the Court concluded that the decision had been arbitrary.

A legal summary of this case will be available in the Court's database HUDOC ([link](#)).

Principal facts

The applicant, Emin Rafik oglu Huseynov, was born in 1979 and lives in Geneva (Switzerland). He is a stateless person of Azerbaijani origin.

At the time of the events the applicant was an independent journalist and the chairman of the Institute for Reporters' Freedom and Safety (IRFS), a non-governmental organisation specialising in the protection of journalists' rights.

On 22 April 2014 a criminal case was opened in Azerbaijan in connection with alleged irregularities in the financial activities of a number of non-governmental organisations. The bank accounts of numerous non-governmental organisations and civil society activists were frozen and various human rights defenders and civil society activists were arrested.²

In July 2014, Mr Huseynov learned that the tax authorities had launched an investigation into the activities of the IRFS. In early August 2014, he was stopped at Baku airport from boarding a flight to Istanbul. Fearing that he would be arrested, he went into hiding two days later, and then took refuge

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.

² See, for example, [Imranova and Others v. Azerbaijan](#); [Rasul Jafarov v. Azerbaijan](#); [Mammadli v. Azerbaijan](#); [Aliyev v. Azerbaijan](#); and [Yunusova and Yunusov v. Azerbaijan \(no. 2\)](#).

in the Swiss embassy in Baku. According to the Azerbaijani Government, he was subsequently charged with illegal entrepreneurship, large-scale tax evasion, and abuse of power. In the first half of 2015, Mr Huseynov applied to the President of Azerbaijan to renounce his Azerbaijani citizenship, indicating, however, that he had no other nationality.

On 9 June 2015, the Swiss authorities paid his tax debt and three days later, Mr Huseynov left Azerbaijan on a plane with the Minister of Foreign Affairs of the Swiss Confederation. Two weeks later, the State Migration Service informed him that his Azerbaijani citizenship had been terminated on 10 June 2015 by presidential order. He was granted asylum in Switzerland in October 2015.

Complaints, procedure and composition of the Court

Relying on Articles 8 (right to respect for private and family life), 10 (freedom of expression), 13 (right to an effective remedy) and 18 (limitation on use of restrictions on rights), the applicant alleged in particular that the domestic authorities' decision to deprive him of his Azerbaijani citizenship had amounted to a breach of his Convention rights.

He also alleged under Article 34 (right of individual petition) that his brother had been repeatedly harassed by the authorities and arrested on account of the present application and, under Article 38 (obligation to furnish necessary facilities for the examination of the case), that the Government had failed to submit copies of all the relevant documents in his case.

The application was lodged with the European Court of Human Rights on 18 December 2015.

Third-party interventions were received from the Council of Europe Commissioner for Human Rights; Institute on Statelessness and Inclusion; Human Rights House Foundation; International Media Support; IFEX; the Committee to Protect Journalists; the International Senior Lawyers Project; the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

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

Marko **Bošnjak** (Slovenia), *President*,
Alena **Poláčková** (Slovakia),
Krzysztof **Wojtyczek** (Poland),
Lətif **Hüseynov** (Azerbaijan),
Péter **Paczolay** (Hungary),
Gilberto **Felici** (San Marino),
Erik **Wennerström** (Sweden),

and also Renata **Degener**, *Section Registrar*.

Decision of the Court

Article 8

The Court noted that the decision terminating the applicant's citizenship had left him without any valid identity document, creating general uncertainty as regards his legal status as an individual and directly affecting his social identity. It therefore amounted to an interference with the applicant's right to respect for private life under Article 8. In keeping with its case-law, the Court's duty was therefore to determine whether that interference had been arbitrary or not – that is to say whether it was legal, whether the applicant had had an opportunity to challenge the decision, and whether the authorities had acted diligently and swiftly.

Contrary to the Government's submissions that Mr Huseynov had not exhausted all the legal avenues in Azerbaijan, the Court observed that the Law on Normative Legal Acts explicitly provided that orders of the President of the Republic of Azerbaijan were not normative legal acts. Therefore, the presidential order terminating Mr Huseynov's Azerbaijani citizenship could not have been challenged before the Constitutional Court. Nor could it have been challenged in administrative court proceedings, since the President of the Republic was not an administrative body. Moreover, the applicant had never even been provided with a copy of the presidential order.

While Mr Huseynov maintained that he had been pressured into renouncing his citizenship – living in fear of unfair imprisonment or even for his life –, the Government submitted that he had voluntarily renounced his citizenship. The Court observed that there were a certain number of elements that cast doubt on the voluntary nature of his renunciation of his citizenship, including the sequence of events which had taken place at the beginning of June 2015 and preceded his departure from Azerbaijan. In particular, the order for his arrest had been revoked and the decision declaring him a wanted person had been quashed within a few days of his submitting his request to renounce his citizenship and the payment of his tax debt by the Swiss authorities, events followed by the applicant's departure from Azerbaijan with the Minister of Foreign Affairs of Switzerland. However, it did not find it necessary to establish whether the applicant's renunciation of his citizenship had been forced or voluntary.

The Court drew attention to Article 17 of the Law on Citizenship of the Republic of Azerbaijan of 30 September 1998, which provided that a person accused in a criminal case was not able to ask to renounce his citizenship. Although Mr Huseynov had apparently been charged with various criminal offences on 19 August 2014, no information was available in the case file as regards the outcome of the criminal proceedings instituted against him or his legal status in those criminal proceedings on 10 June 2015, the date on which his citizenship had been terminated.

In any event, the Court noted that the national authorities had given no heed to the fact that the termination of Mr Huseynov's citizenship would render him a stateless person in breach of Article 7 of the United Nations Convention on the Reduction of Statelessness of 30 August 1961, which was an integral part of the legislative system of the Republic of Azerbaijan, and Article 26 of the Law on Citizenship, which confirmed the applicability of international legal norms related to issues of citizenship. The Court noted that the UN Convention – and other subsequent guidelines issued by the UNHCR and the Council of Europe's Committee of Ministers to member States – expressly provided that if the law of a Contracting State permitted renunciation of nationality, such renunciation should not result in loss of nationality unless the person concerned possessed or acquired another nationality.

In addition, since Mr Huseynov had not been able to contest the decision to terminate his citizenship before the national courts, the Court noted that he had not benefited from the necessary procedural safeguards.

Therefore, the Court concluded that the decision to terminate Mr Huseynov's citizenship had been arbitrary and had violated Article 8 of the Convention.

[Articles 10, 13 and 18](#)

The Court considered that there was no need to examine the admissibility and merits of the complaints under these articles.

[Article 34](#)

Agreeing with the Government that it could not have been aware of the lodging of the present application with the Court at the time when Mr Huseynov's brother had been arrested, the Court found that there was no sufficient factual basis for it to conclude that the national authorities had

interfered in any way with the applicant's exercise of his right of individual application in the proceedings before the Court.

Article 38

The Court observed that it had not made any explicit request for the submission of specific documents when notice of the application had been given to the Government. In any event, the incompleteness of certain documents had not prevented it from examining the application. Therefore, the Court found that Azerbaijan had not failed to comply with its obligations under Article 38 of the Convention.

Just satisfaction (Article 41)

The Court held that Azerbaijan was to pay the applicant 4,500 euros (EUR) in respect of non-pecuniary damage.

The judgment is available only in English.

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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.