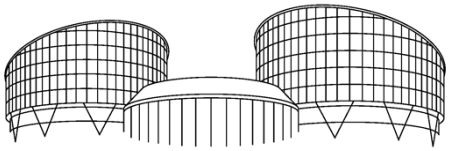

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF AKHVERDIYEV v. AZERBAIJAN

(Application no. 76254/11)

JUDGMENT
(Merits)

STRASBOURG

29 January 2015

FINAL

29/04/2015

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Akhverdiyev v. Azerbaijan,

The European Court of Human Rights (First Section), sitting as a Chamber composed of:

Isabelle Berro, *President,*
Khanlar Hajiyev,
Mirjana Lazarova Trajkovska,
Julia Laffranque,
Paulo Pinto de Albuquerque,
Linos-Alexandre Sicilianos,
Erik Møse, *judges,*

and Søren Nielsen, *Section Registrar,*

Having deliberated in private on 6 January 2015,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 76254/11) 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") by an Azerbaijani national, Mr Adalat Ali oglu Akhverdiyev (*Ədalət Əli oğlu Axverdiyev* – "the applicant"), on 1 December 2011.

2. The applicant was represented by Mr F. Ağayev, a lawyer practising in Azerbaijan. The Azerbaijani Government ("the Government") were represented by their Agent, Mr Ç. Asgarov.

3. The applicant alleged, in particular, that he had been deprived of his house in breach of Article 1 of Protocol No. 1 to the Convention and Article 8 of the Convention and that the domestic civil proceedings had been conducted in breach of the requirements of Articles 6 and 13 of the Convention.

4. On 14 January 2013 the Government were given notice of the application.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1972 and lives in Baku.

6. Since his birth the applicant had lived in a house in the Khutor settlement of Baku which previously belonged to his parents. The total

surface area of the house was 84.6 sq. m, including a habitable area of 58.8 sq. m. According to the "technical passport" for the house issued on 26 May 2004 by the Technical Inventory and Ownership Rights Registration Department of the Baku City Executive Authority ("the BCEA"), it was located on a plot of land measuring 257 sq. m, of which 93.4 sq. m was occupied by the house and 163.6 sq. m by the courtyard. The applicant lived in the house with his wife and two small children and his elderly mother.

7. The original ownership of the house is unclear. On 8 October 2005 the applicant acquired private ownership of the house and was issued with an ownership certificate by the Technical Inventory and Ownership Rights Registration Department of the BCEA confirming that he was the private owner. The plot of land underneath the house was not registered as being in the applicant's formal ownership.

A. Acts issued by the city authorities in respect of the area where the applicant's house was located

8. On 14 May 2004 the Head of the BCEA issued an order assigning various sites in Baku for development by a number of private promoters. The order read, in the relevant part, as follows:

> **"Order on permission for project designs for a sports complex, a cinema, office buildings, residential buildings, a shopping centre, an underground car park, cottage-type houses, a dolphinarium and a planetarium on privatised plots of land**
>
> For the purpose of coordinating with the General Development Plan [of the City] and completing the facilities [*obyektlərin Baş Plana uyğunlaşdırılaraq tamamlanması*] in our capital which are in a state of ruin owing to having remained partially constructed for a long period of time and which undermine the beauty and development of the city, the following plots of land should be assigned [*ayrılsın*] to the following companies and firms:
>
> ...
>
> 6. Taking into account the request made by Kaspi Nur LLC on 13 May 2004, the land comprising neighbourhoods nos. 1070, 1072, 1073 and 1076 on Shushinski Street in the Narimanov District shall be assigned to the aforementioned company on the basis of a lease, for the purpose of designing and constructing cottage-type houses.
>
> ...
>
> 9. The developer is instructed [to do the following:]
>
> 9.1. To receive the plot of land in kind and carry out the necessary health and safety checks.
>
> 9.2. To comply with the instructions of the Chief Department for Architecture and Urban Planning ["the CDAUP"] concerning the timing and procedure of the project design and with the other conditions laid down in the construction certificate [*inşaat pasportu*].

9.3. Prior to completion of the project design, to coordinate with the [CDAUP] the sketches for the architectural planning of the land and buildings. After completing the project design, to submit the full working plan to the [CDAUP].

9.4. To coordinate [the relocation of utility lines] with [the CDAUP] and the relevant authorities.

9.5. This order, together with the construction certificate, form the basis solely for preparing the project design.

10. In accordance with Articles 66, 67 and 68 of the Land Code, the developer shall obtain [from the relevant authorities] the certificate and other documents confirming its rights over the plot of land ...

11. The construction work shall start after the registration of all the project design documentation by the Baku State Architecture and Construction Surveillance Inspectorate.

...

14. Should the developer fail to comply with the requirements of the above provisions, this order may be repealed in accordance with the law."

9. The applicant's house was located in one of the neighbourhoods mentioned in point 6 of the order. According to the applicant, he was never informed of this order by the executive authorities and became aware of its existence for the first time during the court proceedings (see section C below).

10. By a letter of 17 December 2008 the Narimanov District Executive Authority ("the NDEA"), a subordinate body of the BCEA, informed the BCEA that the relocation of the inhabitants of the "old, hostel-type and squatter houses" located in the area specified in the BCEA order of 14 May 2004 "remained a problem". The NDEA further proposed the following:

"For the purpose of relocation of the families residing in the aforementioned area, we consider it appropriate to assign the empty plot of land in neighbourhood no. 1969 on A.M. Cuma Street ... for the construction of two and three-storey residential houses ... and request you to express your opinion on the construction project submitted by Azyevro LAU LLC as a developer."

11. There is no information in the case file as to whether the BCEA formally replied to the NDEA's letter of 17 December 2008.

12. On 24 April 2009 the Head of the NDEA issued an order authorising the construction by Azyevro LAU LLC of new houses for the relocated residents. The order read as follows:

"For the purpose of relocation of the residents of houses located in neighbourhoods nos. 1070, 1072, 1073 and 1076 on Khan Shushinski Street in connection with the construction of an important State facility in the aforementioned area, the project design for the construction of residential houses in neighbourhood no. 1969 on A.M. Cuma Street, submitted by Azyevro LAU LLC, ...was approved by [the CDAUP] in letter no. 18/03-8/2042 dated 23 April 2009.

Taking the above into consideration and for the purpose of completion of the relevant documentation, I hereby decide:

1. To authorise Azyevro LAU LLC to carry out the development project (construction of residential houses) in neighbourhood no. 1969 on A.M. Cuma Street, in accordance with the project design agreed by [the CDAUP] and with the purpose of ensuring the relocation of the residents of neighbourhoods nos. 1070, 1072, 1073 and 1076 on Khan Shushinski Street.

2. To instruct the management of Azyevro LAU LLC to obtain, in accordance with the legislation, documentation relating to the assignment of the plot of land and the construction.

3. To instruct the District Housing Maintenance and Utilities Union to supervise compliance of the construction with the project design and the relocation of the residents in accordance with the requirements of the law.

4. To instruct the District Police Office to ensure the protection of public order during the relocation process.

5. To instruct the Legal Division of [the NDEA] to issue the residents with occupancy vouchers for their new flats.

6. To request the Baku Office of the State Registry Service for Immovable Property reporting to the Cabinet of Ministers to assign specific postal addresses to the residents' new flats and to provide them with technical passports [for the new flats] and with [the relevant] extracts from the State Register. ..."

B. Destruction of the applicant's house

13. According to the applicant, in the second half of 2009 employees of the NDEA approached him with oral demands to give up his house and, in compensation, to accept an occupancy voucher (*yaşayış orderi*) for a new five-room flat measuring 123 sq. m under construction on A.M. Cuma Street, an area previously occupied by a relocated cemetery. When the applicant asked to be shown the lawful basis for the demands, he was told that it was a "Government instruction".

14. The applicant refused, stating that he had no intention of relinquishing his house. He noted that, in any event, for this to be possible he would require prior monetary compensation equal to the market value of the house and the plot of land underneath the house.

15. According to the applicant, his neighbours faced the same situation and many of them gave in to the NDEA's pressure. They moved out and accepted the occupancy vouchers offered to them. Soon the authorities began demolishing their houses. With large-scale demolition works in the neighbourhood (including the destruction of some walls and fences adjacent or immediately next to the applicant's house), accompanied by power cuts and the accumulation of debris around his house, the applicant and his family no longer found it possible to stay in it and had to leave the house in October 2009. However, the applicant's mother remained in the house.

16. According to the applicant, on 8 December 2009 the NDEA evicted his mother and began demolishing his house. The house was demolished

over an unspecified number of days, together with the applicant's belongings that remained inside.

C. The civil proceedings

1. The applicant's civil action

17. On 8 December 2009 the applicant lodged a court action with the Narimanov District Court against the NDEA. The applicant asked the court to stop the defendant from breaching his right to enjoy his private property, to order the restoration of the property to its previous condition or, if that was no longer possible, to order the defendant to pay him 500,000 Azerbaijani manats (AZN) for pecuniary damage, AZN 200,000 for non-pecuniary damage, and AZN 500 daily for damages in respect of lost opportunity from December 2009 until the date of execution of the judgment. Subsequently, the BCEA, the Ministry of Finance and Azyevro LAU LLC were joined to the case as co-defendants together with the NDEA.

18. In its reply to the applicant's lawsuit, the NDEA responded that the relocation of the residents from the applicant's neighbourhood was being conducted in connection with "the important State project" approved by the BCEA order of 14 May 2004. As a legal basis for that order the NDEA indicated the old 1982 Housing Code which had been in effect until 1 October 2009 (on that date it was replaced by the new Housing Code).

19. On 2 March 2010 the NDEA requested the court to order an expert evaluation of the market value of the applicant's house (which had already been demolished) and the five-room flat offered to the applicant in compensation. The applicant opposed this request, noting, *inter alia*, that the determination of the new flat's market value was irrelevant since he had refused to accept it as lawful compensation and since the subject of his claim was the unlawfulness of the interference with his private property.

20. On 2 March 2010 the Narimanov District Court issued an order for an expert evaluation. The applicant challenged this order, relying on various grounds. After a series of appeals, the order was quashed pursuant to a Supreme Court decision of 22 June 2010 and a Baku Court of Appeal decision of 28 July 2010, on the ground that the first-instance court had designated an incorrect category of expert for the evaluation requested. No further expert evaluations were ordered.

2. The first-instance judgment on the merits

21. By a judgment of 4 November 2010 the Narimanov District Court rejected the applicant's claims.

22. In the legal analysis part of the judgment the court first confirmed that the house had been in the applicant's private ownership. It noted,

however, that the applicant had not formalised his ownership rights over the plot of land and therefore could not make any claims in respect of the land.

23. The court also took note of the BCEA order of 14 May 2004. It further noted that between 2007 and 2009 the BCEA and NDEA had corresponded with each other concerning "problems" in relocating the residents of "old, hostel-type houses and squatter houses" in the applicant's neighbourhood and that on 24 April 2009 the NDEA had decided to contract a private company (Azyevro LAU) to construct new residential buildings for those residents in a vacant area previously occupied by a relocated cemetery. The court noted that the applicant had been "given" a five-room flat in one of these new buildings, under an occupancy voucher issued in his name on 29 September 2009 pursuant to the NDEA order of 24 April 2009.

24. The court cited Article 157.9 of the Civil Code concerning the expropriation of private property for State needs, although it attempted neither to establish the applicability of that provision to the applicant's situation nor to determine whether the applicant had been deprived of his house in compliance with its requirements.

25. The court further relied on various provisions of the old 1982 Housing Code, which had been in effect until 1 October 2009. The court noted that the 1982 Housing Code was still in force at the time when the applicant had been issued with an occupancy voucher on 29 September 2009. In particular, the court cited Articles 10 § 4, 40 § 1, 41, 89, 90 § 1, 91, 94 § 1, 96 § 1 and 135 of the 1982 Housing Code, concerning the rules on the provision to citizens of accommodation in residential buildings belonging to "the State housing fund" or "the public housing fund" (see paragraphs 37-48 below).

26. The court found that the BCEA order of 14 May 2004 was "in force" and that the issuance of an occupancy voucher in the applicant's name for a five-room flat in a newly constructed building constituted "compensation in kind" for his house within the meaning of Articles 41 and 135 of the 1982 Housing Code. For these reasons, the court found that the applicant's claim that the defendants' actions had been unlawful was ill-founded.

27. Furthermore, although the order of 2 March 2010 for an expert evaluation had been quashed, the NDEA had nevertheless procured and presented to the court an "expert report" which estimated the market value of the new flat proposed to the applicant as being higher than that of his old house. The court considered that the compensation given to the applicant was fair because the new flat, with a total surface area of 123 sq. m, was larger than the applicant's house and had a higher market value. Therefore, the court considered that the applicant's claim in respect of pecuniary damage, seeking payment of the market value of his house in cash, was also unsubstantiated.

28. The court then proceeded to reject the applicant's claim for non-pecuniary damage, finding that the applicant had failed to demonstrate that he had suffered any moral damage.

3. Appeals

29. The applicant appealed against the judgment of 4 November 2010, raising, *inter alia*, the following arguments:

(a) although the first-instance court had based its decision on the premise that the applicant's house had been expropriated for public needs, it did not address the fact that this "expropriation" had not complied with the applicable requirements of the Constitution and the relevant provisions of the Civil Code (in particular, Articles 157.9 and 207 of the Civil Code);

(b) the *de facto* deprivation of property had been unlawful as there had been no expropriation order issued in accordance with the procedure specified by law; in particular, the reasons for the expropriation given by the defendants in the court proceedings did not fall under any of the lawful grounds for expropriation specified by the law and there had been no expropriation order issued by the Cabinet of Ministers as required by the law; in such circumstances, the applicant had been arbitrarily deprived of his property;

(c) the first-instance court had incorrectly relied on various provisions of the old 1982 Housing Code which had no longer been in force at the time of the interference (which, according to the applicant, had taken place in December 2009, at the time of the demolition of the house); and

(d) the part of the judgment concerning the dismissal of his claim to the plot of land was unlawful, as the right of ownership over the plots of land underneath privately owned houses had been granted to their respective owners by the regulations approved by the Presidential Decree of 10 January 1997 (see paragraph 58 below); therefore, he was the lawful owner of the plot of land by virtue of his ownership of the house, even though he had not formally registered his ownership rights over it.

30. In its submissions to the Baku Court of Appeal, the NDEA noted among other things that, because the applicant had refused to accept the five-room flat offered to him as compensation, the NDEA had issued him with occupancy vouchers for two other flats (a one-room flat and a four-room flat) in the same newly constructed building. However, for unexplained reasons, these two occupancy vouchers were both dated 29 September 2009, the same day as the date of issuance of the voucher for the five-room flat that had originally been proposed (see paragraphs 13 and 23 above).

31. In its judgment of 18 March 2011 the Baku Court of Appeal essentially repeated the Narimanov District Court's reasoning and upheld that court's judgment of 4 November 2010, with the exception of the part of the judgment rejecting the applicant's claim in respect of pecuniary damage.

In that part, the Baku Court of Appeal quashed the judgment and ordered that the applicant be given the two new flats on A.M. Cuma Street (the one-room flat and the four-room flat, instead of the single five-room flat offered earlier) as "compensation for pecuniary damage", and instructed the NDEA to deal with the formalities of transferring the flats to the applicant.

32. The applicant lodged an appeal on points of law, reiterating the points of his previous appeal and further elaborating on them. In particular, he argued as follows:

(a) although his claim specifically sought only to establish the unlawfulness of the destruction of his house within the meaning of the applicable law, as well as to secure payment of monetary compensation for that unlawful action, the courts had ignored his claim and failed to assess the lawfulness of the interference with his property rights; instead, they had forced him to accept as "compensation" the flats given to him by the defendants (first the five-room flat, then the one-room and four-room flats), which he had repeatedly and lawfully refused to accept as lawful compensation;

(b) the interference with his property had taken place in December 2009 and therefore the 1982 Housing Code was not applicable to his situation; in any event, even the provisions of that Code cited by the courts had been misapplied, as those provisions concerned accommodation in "the State and public housing funds" and not privately owned houses and flats;

(c) the courts had also misapplied the Supreme Court Plenum's decision of 14 February 2003, because that decision concerned the local executive authorities' and municipalities' competence in respect of buildings constructed on plots of land occupied without authorisation; however, in the applicant's case, the land comprising the yard attached to the house was lawfully his to use by virtue of his ownership of the house; moreover, he had been entitled to acquire private ownership of the land free of charge in accordance with the applicable legislation;

(d) the courts' reliance on an "expert report" presented by the NDEA was unacceptable, as that document had been written not by a qualified expert but by an unqualified person with no relevant credentials, was not based on relevant property valuation standards, used arbitrary figures and contained numerous mistakes;

(e) under the relevant legislation, privately owned property could be lawfully alienated in favour of the State by way of (i) expropriation for State needs, subject to prior payment of compensation as required by Article 29 § IV of the Constitution (see paragraph 36 below) and in accordance with Article 157.9 of the Civil Code (see paragraph 52 below); or (ii) purchase of the property by the State, with the owner's consent, in accordance with Articles 203.3.3 and 207 of the Civil Code (see paragraphs 54-55 below) and Article 31 of the 2009 Housing Code (see paragraphs 49-50 below); or (iii) other specific situations provided for in Article 203.3 of the Civil Code

(see paragraph 54 below); however, none of the above procedures had been complied with and the courts had failed to provide any legal or factual assessment in that regard;

(f) the interference with his property rights had also been in breach of, *inter alia*, Article 8 of the Convention and Article 1 of Protocol No. 1 to the Convention.

33. The applicant insisted that he had been unlawfully deprived of his house and that, despite his consistent and lawful refusals to accept as compensation any new flats that he did not want, the lower courts had essentially forced him to accept this unlawful compensation.

34. On 8 July 2011 the Supreme Court upheld the Baku Court of Appeal's judgment of 18 March 2011, reiterating that judgment's reasoning. The Supreme Court's decision did not address any of the applicant's arguments in detail.

II. RELEVANT DOMESTIC LAW

A. The 1995 Constitution

35. Article 13 § I of the Constitution provides as follows:

> "Property in the Republic of Azerbaijan is inviolable and is protected by the State".

36. Article 29 § IV of the Constitution provides as follows:

> "No one shall be deprived of his or her property without a court decision. Total confiscation of property is not permitted. Alienation of the property for State needs may be permitted only subject to prior and fair compensation corresponding to its value".

B. The 1982 Housing Code, in force until 1 October 2009

37. Article 4 defined the "housing fund" as all residential premises located in residential and other buildings situated in the Azerbaijan SSR. The "State housing fund" included such residential premises owned by the State. The "public housing fund" included the residential premises owned by collective farms and other cooperative organisations, and those organisations' unions, trade unions and other public associations. Residential premises owned by construction cooperatives formed the "construction cooperative housing fund". The amendment of 1 November 1994 introduced a new definition for the "private housing fund", which included houses and flats in individuals' private ownership.

38. Article 10 § 4 provided that no one could be evicted from his or her dwelling and that the right to use one's dwelling could not be restricted, except on the grounds and under the procedure specified by law.

39. Articles 28 to 50 were part of Chapter 1 of Volume 3 of the Code, entitled "Allocation of living space in houses belonging to the State or public housing fund", which provided the citizens of the Azerbaijan SSR who were in need of better accommodation with a right to be allocated new housing in residential buildings belonging to the State or public housing fund, and set out the relevant rules and procedures.

40. In particular, Article 40 § 1 set the "living space quota" in the Azerbaijan SSR at 12 sq. m per person.

41. Article 41 specified that dwellings allocated to citizens should be well-appointed in accordance with the standards of the settlement where they were located and should meet the relevant sanitation and technical requirements. Dwellings were to be allocated in accordance with the living space quota defined in Article 40 § 1, but with a surface area not less than that determined in accordance with the rules set by the Soviet of Ministers of the Azerbaijan SSR.

42. Articles 51 to 99 were part of Chapter 2 of Volume 3 of the Code, entitled "Utilisation of living space in houses belonging to the State or public housing fund", which regulated, *inter alia*, the rights and obligations of tenants in using the allocated accommodation, as well as the procedures for the eviction of tenants and the provision of new accommodation in the event of eviction.

43. In particular, in accordance with Article 89, eviction from dwellings located in residential buildings belonging to the State or public housing fund was allowed only on the grounds specified by law and on the basis of a court procedure. Eviction under an administrative procedure, that is, by order of a prosecutor, was allowed only in respect of persons who had settled in their dwellings of their own accord in an unauthorised manner or persons living in houses at risk of collapsing. Evicted persons were to be provided with another dwelling.

44. Article 90 § 1 provided that citizens could be evicted from buildings belonging to the State or public housing fund on condition that they were provided with another well-appointed dwelling if, *inter alia*, the house where their dwelling was located was to be destroyed.

45. In accordance with Article 91, where a residential building was to be destroyed in connection with the alienation of the land for State or public needs or where the building (or a dwelling in that building) was to be transformed into non-residential premises, citizens evicted from that residential building (or dwelling) were to be given another well-appointed dwelling by the State-owned or cooperative organisation or other public organisation to which the plot of land was allocated or to which the residential building (or dwelling) was transferred. In cases where a residential building was destroyed for other purposes, a new well-appointed dwelling could be provided by the executive committee of the local Soviet of people's deputies.

46. Article 94 § 1 provided that the new dwelling allocated in connection with the eviction from the previous dwelling should meet the requirements of Articles 41 and 42 of the Housing Code and could not be smaller than the previous dwelling.

47. Article 96 § 1 provided that the new dwelling allocated in connection with the eviction should meet the relevant sanitation and technical requirements and should be located in the same settlement as the previous dwelling.

48. In accordance with Article 135, where a house owned by a citizen was destroyed owing to the alienation of the plot of land for State or public needs, that citizen and his family members, as well as other persons living permanently in the house, were to be provided with a dwelling in a residential building belonging to the State or public housing fund or, if the owner so wished, be paid the value of the destroyed house and any outbuildings.

C. The 2009 Housing Code, in force from 1 October 2009, and the relevant presidential decree on its implementation

49. Article 31 of the 2009 Housing Code provided that, in connection with the expropriation of land for State needs, privately owned accommodation located on that land could be alienated from the owner by way of State purchase. The purchase procedure was conducted by the relevant executive authority (the Cabinet of Ministers) and required, *inter alia*, a Cabinet of Ministers' decision on the purchase (taken concomitantly with the decision on expropriation of the land), registration of that decision in the State property register, notification of the decision to the owner after the registration and at least one year in advance of the planned purchase, and a mutual agreement with the owner concerning the purchase price, the payment of various relocation-related expenses, the payment schedule and other terms. For a period of one year after notification of the decision to the owner, the property could not be purchased without the owner's consent. In the event that the owner withheld his consent beyond that period or disagreed with the price or other terms of the purchase, the Cabinet of Ministers could apply to a court requesting the resolution of the dispute or a compulsory purchase order, but not later than two years from the date of notification of the decision on the purchase to the owner.

50. Presidential Decree No. 153 of 27 August 2009 dealing with various aspects of implementation of the 2009 Housing Code, as in force at the material time, designated the Cabinet of Ministers as "the relevant executive authority" referred to in Article 31 of the 2009 Housing Code.

51. After the events in the present case, in connection with the adoption of the Law on the Expropriation of Land for State Needs of 20 April 2010, the text of Article 31 was amended, with the original text in its entirety

being deleted and a general reference to the Law on the Expropriation of Land for State Needs being inserted. That Law regulates in greater detail the procedure for the purchase by the State of private property.

D. The 2000 Civil Code and the relevant presidential decree on its implementation

52. Article 157.9 of the Civil Code, as applicable before 30 June 2004, provided:

> "Private property may be alienated by the State if required for State needs or public needs only in the cases permitted by law and subject to prior payment of compensation in an amount corresponding to its market value".

The text of Article 157.9 was subsequently amended by Law No. 677-IIQD of 1 June 2004, which entered into force on 30 June 2004, to read as follows:

> "Private property may be alienated by the State if required for State needs or public needs only in the cases permitted by law for the purposes of building roads or other communication lines, delimiting the State border strip or constructing defence facilities, by a decision of the relevant State authority [the Cabinet of Ministers], and subject to prior payment of compensation in an amount corresponding to its market value".

Pursuant to Article VIII of Law No. 315-IIIQD of 17 April 2007, which entered into force on 31 August 2007, the words "or public needs" were deleted from the text of Article 157.9 of the Civil Code.

After the events in the present case, pursuant to Law No. 332-IVQD of 20 April 2012, which entered into force on 6 June 2012, the text was further amended to read as follows:

> "Private property may be alienated by the State if required for State needs only in the cases provided for by the Law of the Republic of Azerbaijan on the Expropriation of Land for State Needs, for the purposes of building and installing roads or other communication lines, ensuring the reliable protection of the State border within the border strip, constructing defence and security facilities, or constructing mining-industry facilities of State importance."

53. Presidential Decree No. 386 of 25 August 2000 dealing with various aspects of implementation of the 2000 Civil Code, as amended by Presidential Decree No. 78 of 17 June 2004 and as in force at the material time, designated the Cabinet of Ministers as "the relevant State authority" referred to in Article 157.9 of the Civil Code.

54. Article 203.3 of the Civil Code provides as follows:

> "203.3. Forcible deprivation of property is not permitted, except for the following measures taken on the grounds provided for by law:
>
> 203.3.1. forfeiture of property for liabilities;
>
> 203.3.2. alienation of property which, by law, cannot belong to a given person;

203.3.3. alienation of immovable property in connection with the purchase of the land;

203.3.4. purchase of badly maintained cultural assets;

203.3.5. requisition [alienation of property in connection with natural disasters, technological accidents, epidemics and other emergencies];

203.3.6. confiscation.

...

203.5. The alienation of property owned by individuals and legal persons for State or public needs shall be carried out in accordance with paragraph IV of Article 29 of the Constitution of the Republic of Azerbaijan."

55. Article 207 of the Civil Code provided as follows:

"Where it is impossible to alienate a plot of land for State needs without terminating the ownership rights over buildings, structures or other immovable property located on the land, the State may purchase the property".

56. Article 243.1 of the Civil Code provides that the owner of immovable property located on a plot of land owned by a third party has a right of use over the part of the plot on which his or her property is located.

E. The relevant domestic land-related legislation

57. In accordance with Article 9 of the 1996 Law on Land Reform, plots of land underneath private residential houses, as well as household plots and various types of gardens, which are being lawfully used by citizens (see also, in this connection, paragraph 56 above), are transferred from State ownership into the occupants' private ownership free of charge under the procedure specified by law.

58. Clause 1 of the Regulations on the acquisition by citizens of land being lawfully used by them (yards attached to private residential houses, household plots, private, collective and cooperative gardens and gardens managed by the State horticultural businesses), approved by Presidential Degree No. 534 of 10 January 1997, provides that plots of land which are lawfully used or rented by citizens, such as plots of land underneath privately owned houses and the yards attached to such houses, are to be transferred into the citizens' ownership free of charge, with the dimensions of the relevant plots corresponding to those being lawfully used or lawfully rented. Clauses 2 to 6 provide for the procedure for privatising such plots of land and registering ownership rights to be initiated by the individuals concerned. Clause 7 provides that ownership rights over the plot of land arise from the date of its registration in the State property registry in accordance with the procedure specified by law.

F. Decision of the Plenum of the Supreme Court of 14 February 2003 on the application by the courts of land-related legislation

59. In paragraph 6 of the decision, the Supreme Court Plenum states that, in accordance with the Land and Civil Codes, State registration of rights over plots of land in the State land cadastre and the State land register is mandatory. Where a plot of land is occupied without the relevant document conferring a property right, such occupation is considered as squatting (unauthorised occupation).

60. In paragraph 15, the Plenum instructs the courts that they have jurisdiction to decide on ownership rights over unauthorised constructions on privately owned plots of land. On the other hand, the "fate" of unauthorised constructions on squatted land is determined by the relevant executive authority or municipality to which the land in question belongs.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 1 TO THE CONVENTION

61. The applicant complained that the interference with his property had been unlawful and unjustified. Article 1 of Protocol No. 1 to the Convention reads as follows:

> "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
>
> The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

A. Admissibility

62. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The Government

63. The Government submitted that the applicant's house had been "expropriated by the State authorities for public needs in accordance with the [BCEA] order of 14 May 2004". This order was based on the General Development Plan of the City of Baku. The applicant's house and other buildings located in the area in question "were like slums" and as such undermined the appearance of the city (the Government submitted some photographs of the applicant's house showing it in a dilapidated condition). The applicant's house was destroyed in September 2009.

64. The Government submitted that the interference had been in accordance with the substantive legal provisions applicable at the time of the interference, which had taken place on 15 May 2004, the date on which the BCEA order had been issued. On that date, the applicant did not have any right to the plot of land underneath the house. The house itself was not in the applicant's private ownership at that time either. Therefore, the provisions of the 1982 Housing Code concerning dwellings belonging to the State and public housing funds, which were in force at the material time, were applicable in the present case. The Government argued that, on the other hand, "all the legal provisions referred to by the applicant [had come] into force after that date [15 May 2004] and therefore [could not] be applied in the present case".

65. The Government maintained that, when "expropriating" the applicant's house, the local authorities had acted in accordance with Articles 40, 41, 90, 91, 94 and 96 of the 1982 Housing Code and that all of the requirements of those provisions had been complied with. The Government further summarised the reasoning contained in the domestic courts' judgments, noting that the applicant had been given fair compensation for his house in accordance with the provisions of the 1982 Housing Code. As for the land, the Government maintained that the applicant had failed to prove, either before the domestic courts or in his submissions before the Court, that he had any right to it.

66. Lastly, the Government argued that the interference had not imposed an excessive individual burden on the applicant and that a reasonable balance had been struck between the means employed and the aim pursued. The destruction of the house had been the result of works related to urban planning and its aim had been to improve the appearance of the city by "destroying the slums" which had once been constructed by residents themselves.

(b) The applicant

67. The applicant maintained that his house had been destroyed in December 2009, which should be considered as the date of the interference with his property rights for the purposes of determining the expropriation law applicable at the material time. The BCEA order of 14 May 2004 did not constitute the actual interference, as claimed by the Government, because the BCEA had no competence to expropriate private property and because he had not even been informed of this order until after he had lodged an action with the domestic courts in December 2009.

68. The applicant noted that the General Development Plan of the City of Baku, adopted by Resolution No. 182 of the Council of Ministers of the Azerbaijan SSR on 18 May 1987, was designed to cover the period up to 2005. However, this plan had not been followed for a number of years prior to that, as the authorities had undertaken a number of urban development projects which had not been envisaged in the plan. In any event, the existence of the General Development Plan could not justify the authorities' acting in contravention of the Constitution and other laws on property.

69. The applicant disagreed with the Government's allegation that his house had looked like a "slum". He noted that the photographs of the house submitted by the Government had been taken after the demolition of the house had begun. Moreover, if the NDEA had believed that the house was in poor condition, it should have lodged an application with a court seeking an order requiring the owner to repair it within a reasonable time.

70. The applicant maintained that, in addition to the house itself, the plot of land belonging to the house also constituted his "possession" within the meaning of Article 1 of Protocol No. 1. In this regard, he referred to Article 243.1 of the Civil Code, Article 9 of the Law on Land Reform and the Regulations on the acquisition by citizens of land being lawfully used by them (see paragraphs 56-58 above), which conferred on him the right to use the land and to acquire ownership of it free of charge.

71. As to the merits of the complaint, the applicant reiterated his arguments made before the domestic authorities (see paragraphs 29 and 32 above). In particular, he noted that the provisions of the old 1982 Housing Code relied on by the domestic courts and the Government were not applicable in his case. He reiterated that, despite his repeated appeals, the domestic courts and the Government remained silent on the subject of the applicable legislation, including the provisions of the Constitution, the Civil Code, the new Housing Code, the relevant presidential decrees and other legal acts.

72. The applicant submitted that, moreover, he had never been offered prior monetary compensation in accordance with the applicable legal rules concerning the expropriation of immovable property and land. Instead, he had been forced to move into a "barrack-like" block of flats built on the site of a relocated cemetery, which was neither lawful nor equivalent

compensation for the private house with a yard where he had lived all his life. In this connection, he also disagreed with the "expert report" on the market value of his house and the new flats presented by the NDEA before the domestic court. According to him, that document had been written by an unqualified person and had not been subjected to any meaningful scrutiny.

2. The Court's assessment

(a) Whether the house and the land in question constituted the applicant's "possessions"

73. The Court reiterates that the concept of "possessions" in the first part of Article 1 of Protocol No. 1 has an autonomous meaning which is not limited to the ownership of material goods and is independent from the formal classification in domestic law. In the same way as material goods, certain other rights and interests constituting assets can also be regarded as "property rights" and thus as "possessions" for the purposes of this provision (see *Iatridis v. Greece* [GC], no. 31107/96, § 54, ECHR 1999-II). The concept of "possessions" is not limited to "existing possessions" but may also cover assets, including claims, in respect of which the applicant can argue that he or she has at least a reasonable and "legitimate expectation" of obtaining effective enjoyment of a property right. An "expectation" is "legitimate" if it is based on either a legislative provision or a legal act bearing on the property interest in question. In each case the issue that needs to be examined is whether the circumstances of the case, considered as a whole, conferred on the applicant title to a substantive interest protected by Article 1 of Protocol No. 1 (see *Saghinadze and Others v. Georgia*, no. 18768/05, § 103, 27 May 2010, with further references).

74. It is undisputed that the applicant's house had been in his private ownership since 8 October 2005 and had been in his unchallenged possession before that date. This fact was confirmed by the domestic courts and has never been contested at the domestic level.

75. As for the plot of land belonging to the house, with a total surface area of 257 sq. m, the Government claimed that the applicant had failed to prove that he had any right to the land, while the applicant claimed that it constituted part of his "possessions" together with the house.

76. The Court notes that under the Azerbaijani legal system title to the plot of land underneath a building is not automatically attached to title to the building itself. In other words, an owner of immovable property may not necessarily own the land on which the property is located. Thus, an individual can have a building in his ownership while the land remains in State or municipal ownership. However, in accordance with Article 243.1 of the Civil Code, domestic law automatically grants a right of use over a plot of land owned by another person to the owner of immovable property located on the land (see paragraph 56 above). Moreover, individuals who

are "lawful users" of State-owned land underneath private residential houses, and of any yards and household plots attached to those houses, have the right to acquire private ownership of the land free of charge. Should they exercise this right, their right of ownership to the land arises from the date of its State registration (see paragraphs 57-58 above for the relevant provisions of the 1996 Law on Land Reform and the 1997 Regulations on the acquisition by citizens of land being lawfully used by them).

77. It is true that the applicant had never applied for registration of his property rights over the plot of land occupied by his house and the courtyard attached to it. Therefore, formally, he did not have ownership title to the land at the time of the demolition of the house. However, in accordance with the applicable legislation, the applicant was a "lawful user" of the land in question by virtue of his ownership of the house. Moreover, he had a legitimate expectation, deriving from the national law, of being able to acquire ownership of the land free of charge. Accordingly, as of 8 October 2005 at the latest, the applicant had a sufficient proprietary interest in the land for it to qualify as a "possession".

78. Having regard to the above, the Court finds that both the house and the plot of land in question constituted the applicant's "possessions" within the meaning of Article 1 of Protocol No. 1 to the Convention.

(b) Compliance with Article 1 of Protocol No. 1

79. Article 1 of Protocol No. 1 contains three distinct rules: the first rule, set out in the first sentence of the first paragraph, is of a general nature and enunciates the principle of the peaceful enjoyment of property; the second rule, contained in the second sentence of the first paragraph, covers deprivation of possessions and subjects it to certain conditions; the third rule, stated in the second paragraph, recognises that the States are entitled, amongst other things, to control the use of property in accordance with the general interest. These rules are not, however, unconnected: the second and third rules are concerned with particular instances of interference with the right to the peaceful enjoyment of possessions and are therefore to be construed in the light of the principle laid down in the first rule (see, for example, *Kozacıoğlu v. Turkey* [GC], no. 2334/03, § 48, 19 February 2009, and *Vistiņš and Perepjolkins v. Latvia* [GC], no. 71243/01, § 93, 25 October 2012).

80. The Court notes that in the present case there was interference with the applicant's possessions, as they were taken by the State and his house was demolished. This interference amounted to a "deprivation of possessions" within the meaning of the second sentence of Article 1 of Protocol No. 1.

81. To be compatible with Article 1 of Protocol No. 1 an expropriation measure must fulfil three conditions: it must be carried out "subject to the conditions provided for by law", which excludes any arbitrary action on the

part of the national authorities, must be "in the public interest", and must strike a fair balance between the owner's rights and the interests of the community.

82. As to the first condition, the Court reiterates that Article 1 of Protocol No. 1 requires that any interference by a public authority with the peaceful enjoyment of possessions should be lawful: the second sentence of the first paragraph of that Article authorises the deprivation of possessions "subject to the conditions provided for by law". Moreover, the rule of law, one of the fundamental principles of a democratic society, is a notion inherent in all the Articles of the Convention (see *Iatridis*, cited above, § 58; *Former King of Greece and Others v. Greece* [GC], no. 25701/94, § 79, ECHR 2000-XII; and *Broniowski v. Poland* [GC], no. 31443/96, § 147, ECHR 2004-V).

83. The parties in the present case disagreed as to the time when the interference had taken place, a factor which, in their view, was important for determining the domestic law as it stood and was applicable at the material time. In particular, the Government claimed that the interference had taken place at the time of the issuance of the BCEA order of 14 May 2004, while the applicant claimed that it had taken place in December 2009, at the time of the destruction of the house. The Court will deal with this matter in due course as part of its analysis below.

84. The Court also notes that the parties disagreed as to the timing of the destruction of the house, with the Government arguing that it had taken place in September 2009. However, as the Government failed to submit any proof in support of this contention, the Court accepts the applicant's repeated submissions, made consistently before the domestic courts and the Court, that the house was fully demolished in December 2009.

85. As to the Government's arguments concerning the lawfulness of the measures taken by the authorities, the Court finds it difficult to accept their contention that the applicant's house was lawfully "expropriated for public needs in accordance with the BCEA order of 14 May 2004", for a number of reasons specified below.

86. At the outset, the Court finds that statement itself to be misleading. It notes that the BCEA order of 14 May 2004 had been issued over a year before the applicant acquired private ownership of the house. On 8 October 2005 the ownership certificate was issued to the applicant by the BCEA itself (more precisely, the Technical Inventory and Ownership Rights Registration Department of the BCEA; see paragraph 7 above). In such circumstances it is hard to see how, at the time of its issuance, the BCEA order of 14 May 2004 could properly be described as an act "expropriating" a property which was not yet in the applicant's ownership.

87. In any event, in so far as this order was subsequently used to justify the destruction of the house, it is necessary to determine whether it could be considered as a lawful basis for interfering with the applicant's private

property after he acquired undisputed ownership rights over it on 8 October 2005.

88. Having regard to the text of the order of 14 May 2004, the Court notes that it was an instrument whose effect was limited to assigning land to a private developer under lease and authorising the developer to prepare a development project design. As noted above, this order was never formally notified to the applicant, as a resident of the area, prior to the actual destruction of the house. The order contained no provisions either relating to the alienation of private property or referring to any decisions taken with regard to the resettlement of residents of the area, whether they lived in privately owned or State-owned houses. In fact, the order explicitly stated that "it [formed] the basis solely for preparing the project design" and for the relevant documentation to be obtained by the project developer. In such circumstances, and in the absence of any subsequent formal decisions by the BCEA or any other State authority in respect of expropriation of the private houses affected, the Court finds that the BCEA order of 14 May 2004, by itself, cannot be equated to a legal instrument expressly authorising the alienation of any privately owned properties located in the area in question.

89. Moreover, the Court does not accept the Government's contention that the "expropriation" procedure had been carried out lawfully in accordance with a number of provisions of the old 1982 Housing Code. In this connection, the Court agrees with the applicant that those provisions were either irrelevant or inapplicable. In particular, Article 10 § 4 of the 1982 Housing Code was a provision of a general character that did not prescribe any specific cases of permissible interference with property or housing rights. Article 40 § 1 of the same Code concerned a "living space quota" in State or publicly owned housing and was irrelevant in the context of privately owned housing. Articles 41, 89, 90 § 1, 91, 94 § 1 and 96 § 1 concerned the eviction and relocation of residents of houses belonging to the "State or public housing fund" and were therefore inapplicable to privately owned houses. Article 135 was the only provision of the old 1982 Housing Code mentioned by the domestic courts which concerned privately owned housing; however, it merely dealt in general terms with the requirement for compensation to be paid to the owners in the event of expropriation (it also appears that this provision was later superseded by other, *lex specialis*, legislation on compensation for expropriation). Neither Article 135 nor any of the other above-mentioned provisions laid down a procedure for the expropriation of private property or designated any State authority as being competent to conduct such a procedure. None of the above provisions vested competence in local executive authorities such as the BCEA or NDEA to expropriate private property or to evict private owners from their homes without a court decision.

90. It follows that, even if it could be argued that the provisions of the 1982 Housing Code which were cited could have provided some basis for

the BCEA's and the NDEA's actions at the time when the applicant was not yet the owner of the property, this was no longer the case after he acquired undisputed ownership rights over the property in question on 8 October 2005.

91. As to paragraphs 6 and 15 of the decision of the Plenum of the Supreme Court of 14 February 2003 (see paragraphs 59-60 above), also cited by the domestic courts, they appear likewise to be inapplicable to the applicant's situation, as they concern unauthorised constructions on privately owned or squatted land and do not concern buildings which are in private ownership as certified by a valid ownership certificate and registered as such in the State register of immovable property.

92. Furthermore, despite the Court's specific request in this regard, both the Government and the domestic courts failed to specify any domestic legal provision expressly designating the BCEA as the authority or one of the authorities having the power to take decisions on the expropriation of privately owned property. The Court has also been unable to identify any such domestic legislation of its own accord. It follows that the BCEA did not have competence to expropriate private property.

93. Accordingly, the BCEA order of 14 May 2004 could not be considered as a lawful basis for expropriating the applicant's property.

94. Having regard to the above, the Court finds that it has not been demonstrated that, prior to the destruction of the applicant's house in December 2009, there existed any lawful expropriation order taken by a State authority competent to do so. In such circumstances, the actual interference with the applicant's possessions took place in December 2009 in the form of *de facto* deprivation of possessions.

95. The Court has had regard to the applicant's submission that, at the time of the interference, the procedure for the expropriation of private property was regulated by the relevant provisions of the Constitution, the Civil Code and the 2009 Housing Code, as well as the relevant presidential decrees on implementation of those provisions (see paragraphs 35-36 and 49-56 above). With the exception of the 2009 Housing Code, which entered into force on 1 October 2009, all those legal acts had been in force for years before the interference took place. The Court agrees with the applicant that those legal acts appeared to constitute the applicable law pursuant to which the expropriation of the applicant's property should have been carried out.

96. The Court notes in particular that those legal acts, *inter alia*, designated the Cabinet of Ministers as the authority competent to decide on the expropriation and State purchase of private property, specified the grounds and conditions on the basis of which expropriation was allowed, specified the procedure for initiating the expropriation and State purchase, required prior payment of monetary compensation for the market value of the expropriated or purchased property and the relocation expenses incurred,

specified the procedure for notification of the owner and the procedure for registration and transfer of the title to the property, and so on.

97. However, in the present case the deprivation of the applicant's property was not carried out in compliance with any of the above conditions specified by law. The Court also notes that the domestic courts refrained from examining the applicability of those legal acts despite the applicant's repeated requests in that regard. While the domestic courts' judgments concentrated almost exclusively on the inapplicable legal provisions of the old 1982 Housing Code concerning the relocation of persons residing in State-owned housing, they contained no actual assessment of the lawfulness of the deprivation of private property carried out by the BCEA and the NDEA in the present case, despite the fact that this matter constituted the crux of the civil action initiated by the applicant.

98. Lastly, the Court notes that, in the absence of a formal expropriation decision taken in compliance with the conditions provided for by the applicable domestic law, the applicant was offered occupancy vouchers for two flats in a recently constructed building as compensation for the destroyed house. This compensation was initially offered informally by the NDEA in the absence of a lawful expropriation decision, and later sanctioned by the domestic courts with reference to the above-mentioned provisions of the 1982 Housing Code. Whereas it may be open to discussion whether an occupancy voucher for a State-owned flat can be considered as adequate or equivalent compensation for the loss of a privately owned house with a plot of land, the Court finds that, since the provisions of the 1982 Housing Code examined above were not applicable in the context of the present case, any compensation offered on the basis of those legal provisions could not be lawful either.

99. For the above reasons, the Court concludes that the interference in the present case was not carried out in compliance with "conditions provided for by law". The applicant was deprived of his possessions arbitrarily and forced to accept unlawful compensation that was determined in an arbitrary manner. This conclusion makes it unnecessary to ascertain whether a fair balance was struck between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights (see, for example, *Iatridis*, cited above, § 62).

100. There has accordingly been a violation of Article 1 of Protocol No. 1 to the Convention.

II. ALLEGED VIOLATIONS OF ARTICLES 6, 8 AND 13 OF THE CONVENTION

101. The applicant complained under Article 6 of the Convention that the domestic courts had delivered unreasoned judgments by failing to verify

the compliance of the interference with the applicable domestic legislation, relying instead on inapplicable and irrelevant legal acts, and essentially attempting to legitimise the executive authorities' unlawful actions. Article 6 § 1 provides as follows:

> "In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by [a] ... tribunal ..."

The applicant further complained that the unlawful demolition of his house amounted to a violation of his right to respect for his home under Article 8 of the Convention, which provides as follows:

> "1. Everyone has the right to respect for his private and family life, his home and his correspondence.
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

Lastly, the applicant complained under Article 13 of the Convention, in conjunction with the above complaints and the complaint under Article 1 of Protocol No. 1, that he had not been afforded a remedy providing effective protection against the violations of his rights. Article 13 provides as follows:

> "Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

102. The Government contested the applicant's arguments, mainly relying on the substance of their observations made in respect of the complaint under Article 1 of Protocol No. 1 to the Convention, and maintained that the interference with the applicant's right to respect for his home had been lawful and necessary in a democratic society and had pursued the aim of "the improvement of the appearance of the city" which, in the Government's view, was in the interests of the economic well-being of the country. They argued that the domestic civil proceedings had been fair and that they had constituted an effective domestic remedy.

103. The applicant reiterated his complaints, also referring mostly to his submissions made in respect of the complaint under Article 1 of Protocol No. 1 to the Convention

104. The Court notes that these complaints are linked to the one examined above and must therefore likewise be declared admissible.

105. However, having regard to the finding relating to Article 1 of Protocol No. 1 to the Convention (see paragraphs 99-100 above), the Court considers that it is not necessary to also examine whether, in this case, there have been violations of Articles 6, 8 and 13 of the Convention (see, *mutatis*

mutandis, *Iatridis*, cited above, § 69, and *Minasyan and Semerjyan v. Armenia*, no. 27651/05, § 82, 23 June 2009).

III. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

106. The applicant complained that the unlawful taking and demolition of his house, accompanied by pressure and threats by government officials, had amounted to ill-treatment under Article 3 of the Convention. He further complained that his eviction from his house and forcible removal to the new flat given to him against his will had been in breach of his right to freedom of movement under Article 2 of Protocol No. 4 and had also amounted to a violation of Article 18 of the Convention.

107. 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 finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

108. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

109. The applicant claimed a total of 550,000 new Azerbaijani manats (AZN) in respect of pecuniary damage, comprising:

(a) AZN 541,500 as compensation for the house and the plot of land, comprising: (i) AZN 170,000 for the house; (ii) a sum in the range between AZN 230,000 and AZN 255,000 for the plot of land, and (iii) an unspecified amount to be added to the above amounts as adjustment for inflation during the years 2010 to 2013; and

(b) AZN 8,500 for the medical expenses he had incurred in connection with treatment for a heart condition which he claimed had been aggravated by the fact that for several years he had had to live in a block of flats, instead of a house with a courtyard.

110. He also claimed AZN 20,000 in respect of non-pecuniary damage and AZN 7,150 in respect of costs and expenses.

111. The Government contested the claims in respect of the value of the house and the plot of land, arguing that they were exaggerated and based on an invalid expert opinion. The Government argued that the value of the house and the plot of land was much lower, specifically AZN 43,146 for the

house and either AZN 55,000 or AZN 41,500 for the plot of land depending on whether it was in private ownership or in lawful possession under the right of use. The Government claimed that, in any event, the applicant could not claim any damages in respect of the plot of land, because it was State-owned and the applicant had no title to it. The Government further argued that the alleged damage incurred in connection with medical treatment had no causal link to the alleged violations. Lastly, the Government also contested the claims in respect of non-pecuniary damage and costs and expenses and argued that they were excessive and unsubstantiated.

112. The Court considers that the question of the application of Article 41 is not ready for decision. It is therefore necessary to reserve the matter, due regard being had to the possibility of an agreement between the respondent State and the applicant (Rule 75 §§ 1 and 4 of the Rules of Court).

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints under Articles 6, 8 and 13 of the Convention and Article 1 of Protocol No. 1 to the Convention admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to the Convention;

3. *Holds* that there is no need to examine the complaints under Articles 6, 8 and 13 of the Convention;

4. *Holds* that the question of the application of Article 41 is not ready for decision, and accordingly,
   (a) *reserves* the said question in whole;
   (b) *invites* the Government and the applicant to submit, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, their written observations on the matter and, in particular, to notify the Court of any agreement that they may reach;
   (c) *reserves* the further procedure and *delegates* to the President of the Chamber the power to fix the same if need be.

Done in English, and notified in writing on 29 January 2015, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen Registrar	Isabelle Berro President