



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

Communicated on 26 January 2017

FIFTH SECTION

Application no 2931/15
Vugar Maharram oglu RZAYEV against Azerbaijan
and 5 other applications
(see list appended)

STATEMENT OF FACTS

The applicants are Azerbaijani nationals. They are represented before the Court by Mr K. Bagirov, a lawyer practising in Azerbaijan (for further particulars see Appendix).

The circumstances of the cases

The facts of the cases, as submitted by the applicants, may be summarised as follows.

Background information

At the material time the applicants in applications nos. 2958/15, 2976/15, 3018/15 and 3025/15 were members of one of the main opposition parties in the country, the Popular Front Party of Azerbaijan, and the applicant in application no. 2931/15 was a member of the opposition movement Nida.

On 17 August 2014 – birthday of Rasul Jafarov, a human rights defender who had been arrested on 2 August 2014 – the applicants gathered together with few other people near old castle walls in Shaki. Holding posters with congratulatory messages the applicants took a group photograph. Immediately after that they dispersed. Then the photograph was disseminated on internet and through the press. According to the applicants, that was a part of a wider action (“flash-mob”) taken on that day by human rights organisations in a number of countries to support Rasul Jafarov (for the details of Rasul Jafarov’s case see *Rasul Jafarov v. Azerbaijan*, no. 69981/14, 17 March 2016).

On the following day, 18 August 2014, the applicants in applications nos. 2958/15, 2976/15, 3018/15 and 3025/15 were arrested and taken to the Shaki District police office (“*Şəki Rayon Polis Şöbəsi*”). The applicants in applications nos. nos. 2931/15, 2941/15 were arrested and taken to the same police office on 17 September 2014.

At the police office the applicants were questioned.

On the day of each applicant's arrest administrative offence reports ("*inzibati xəta haqqında protocol*") were issued, which stated that the applicants had committed an administrative offence under Article 298.2 of the Code of Administrative Offences ("the CAO") (participation in a public assembly that had not been organised in accordance with the law).

The applicants were taken from the police office to the Shaki District Court either on the day of their arrest or the following day.

On the same days the court adopted in each case its decision on merits. It found that since the applicants had gathered in a public place and had been expressing themselves publicly (by displaying posters) they had had to obtain a prior authorisation from a relevant executive authority. Furthermore, the court held that it was immaterial that the applicants' ostensible purpose had been to congratulate someone with his birthday. The court characterised the applicants' action as participation in unauthorised public assembly (picket).

The applicants were convicted under Article 298.2 of the CAO. Some of them were sentenced to five days' administrative detention, while the others to a fine of 400 or 500 Azerbaijani manats (AZN) (see Appendix).

On various dates the applicants lodged appeals with the Shaki Court of Appeal, arguing that their convictions had been in violation of their rights because their very brief gathering in a small group of 7-8 people to take a group photograph while holding posters containing birthday messages had not qualified as a public assembly about which organisers should have submitted a notification to a local executive authority. In addition, the applicants in applications nos. 2931/15 and 2941/15 complained that they had not been given an opportunity to appoint lawyers of their own choosing either at the pre-trial stage or at the trial.

On various dates the Shaki Court of Appeal dismissed the applicants' appeals and upheld the decisions of the first-instance courts (see Appendix).

It appears that the applicant in application no. 2931/15 prepared his written appeal without assistance of a lawyer. A State-funded lawyer was invited to represent him at the appellate court hearing. The applicant in application no. 2941/15 participated in the proceedings before the appellate court without a lawyer.

COMPLAINTS

1. The applicants complain that their arrest and conviction for gathering very briefly in a small group of 7-8 people to take a group photograph while holding posters containing birthday messages were in breach of Article 11 of the Convention. The applicants argue in particular that that gathering did not qualify as a public assembly about which organisers must submit a notification to a local executive authority.

2. The applicants in applications nos. 2931/15 and 2941/15 complain under Article 6 of the Convention that in the administrative proceedings against them they were deprived of access to effective legal assistance.

COMMON QUESTIONS

1. Has there been an interference with the applicants' freedom of peaceful assembly, within the meaning of Article 11 § 1 of the Convention? If so, was that interference prescribed by law and necessary in terms of Article 11 § 2?

2. Has there been an interference with the applicants' freedom of expression, within the meaning of Article 10 § 1 of the Convention? If so, was that interference prescribed by law and necessary in terms of Article 10 § 2?

3. The parties are requested to submit copies of all documents relating to the administrative proceedings, including the administrative offence reports, any statements made by the applicants before being brought to court, the transcripts of the hearings and the applicants' appeals.

CASE SPECIFIC QUESTIONS

Applications nos. 2931/15 and 2941/15:

Did the applicants have a fair hearing in the determination of the charge against them, in accordance with Article 6 §§ 1 and 3 of the Convention? In particular, were they able to defend themselves through legal assistance of their own choosing or were they afforded effective legal assistance, both at the pre-trial stage and during the trial (see *Ibrahim and Others v. the United Kingdom* [GC], nos. 50541/08, 50571/08, 50573/08 and 40351/09, §§ 255-265, ECHR 2016; *Dvorski v. Croatia* [GC], no. 25703/11, §§ 76-82, 20 October 2015; and *Salduz v. Turkey* [GC], no. 36391/02, §§ 50-55, ECHR 2008)?

APPENDIX

No.	Application no.	Lodged on	Applicant's name, date of birth and place of residence	Sanctions	First-instance judgment	Appellate judgment
1.	2931/15	05/01/2015	Vugar RZAYEV 1985 Jabrayil	fine of AZN 400	Decision of the Shaki District Court of 18 September 2014	Decision of the Shaki Court of Appeal of 2 October 2014
2.	2941/15	05/01/2015	Razim RZAYEV 1964 Shaki	fine of AZN 500	Decision of the Shaki District Court of 18 September 2014	Decision of the Shaki Court of Appeal of 8 October 2014
3.	2958/15	05/01/2015	Islam HASANOV 1982 Shaki	fine of AZN 500	Decision of the Shaki District Court of 18 August 2014	Decision of the Shaki Court of Appeal of 5 September 2014
4.	2976/15	05/01/2015	Mubariz ABDULKARIMOV 1971 Shaki	fine of AZN 500	Decision of the Shaki District Court of 18 August 2014	Decision of the Shaki Court of Appeal of 5 September 2014
5.	3018/15	05/01/2015	Rauf ABDURAHMANLI 1977 Shaki	5 days' administrative detention	Decision of the Shaki District Court of 18 August 2014	Decision of the Shaki Court of Appeal of 1 September 2014
6.	3025/15	05/01/2015	Ali ABDULLAYEV 1962 Shaki	5 days' administrative detention	Decision of the Shaki District Court of 18 August 2014	Decision of the Shaki Court of Appeal of 1 September 2014