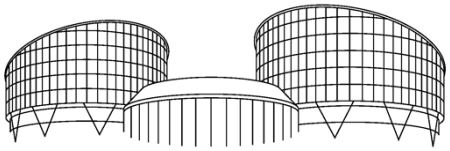

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

CASE OF MURSALIYEV AND OTHERS v. AZERBAIJAN

(Applications nos. 66650/13 and 10 others – see appended list)

JUDGMENT

STRASBOURG

13 December 2018

FINAL

13/03/2019

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

In the case of Mursaliyev and others v. Azerbaijan,

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

Angelika Nußberger, *President,*
Yonko Grozev,
André Potocki,
Síofra O'Leary,
Mārtiņš Mits,
Gabriele Kucsko-Stadlmayer,
Lətif Hüseynov, *judges,*

and Milan Blaško, *Deputy Section Registrar,*

Having deliberated in private on 20 November 2018,

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

PROCEDURE

1. The case originated in eleven applications (nos. 66650/13, 24749/16, 43327/16, 62775/16, 68722/16, 76071/16, 8051/17, 8702/17, 12870/17, 21246/17 and 37696/17) 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 eleven Azerbaijani nationals ("the applicants"), on various dates (see Appendix).

2. The applicants were represented by various lawyers practising in Azerbaijan (see Appendix). The Azerbaijani Government ("the Government") were represented by their Agent, Mr Ç. Asgarov.

3. The applicants alleged, in particular, that their right to leave the country had been violated by travel bans imposed on them by the domestic authorities.

4. On 11 September 2017 the Government were given notice of the complaints concerning Article 2 of Protocol No. 4 to the Convention in respect of all the applications, Article 13 of the Convention in respect of all the applications, except application no. 24749/16, and Article 8 in respect of application no. 76071/16. The remainder of applications nos. 68722/16 and 37696/17 was declared inadmissible pursuant to Rule 54 § 3 of the Rules of Court. Third-party observations were received from the Helsinki Foundation for Human Rights, a non-governmental organisation, following the granting of leave to intervene as a third party in the written procedure (Article 36 § 2 of the Convention and Rule 44 § 3 of the Rules of Court).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicants' dates of birth and places of residence are listed in the Appendix.

A. Imposition of travel bans on the applicants

6. On different dates between 2012 and 2016 (see Appendix) the applicants learned that their right to leave the country had been restricted and that they were no longer allowed to leave Azerbaijan.

7. It appears from the documents in the case files that in all the cases the restriction in question was imposed by the investigating authorities, in the absence of any judicial decision, within the framework of various criminal proceedings in which the applicants were not convicted, accused or suspected persons, but were only questioned as witnesses.

8. The travel bans imposed in respect of the applicants in applications nos. 62775/16 and 43327/16 were lifted by the investigating authorities on 29 January and 21 April 2016 respectively.

B. Remedies used by the applicants

9. On various dates the applicants brought an action claiming that the restriction imposed on them was unlawful, either by lodging a complaint with the administrative courts or applying to the ordinary courts for a review of the lawfulness of procedural actions or decisions by the prosecuting authorities under the Code of Criminal Procedure (hereinafter "judicial review"). Some of the applicants used both of the above-mentioned remedies.

10. The applicants claimed, in particular, that the domestic law did not provide for the imposition of travel bans on witnesses in criminal proceedings and that the restriction on their right to leave the country was not justified.

11. In the domestic proceedings relating to all the applications, except application no. 66650/13, the domestic courts refused to examine the applicants' complaint on the merits. Final decisions were adopted on various dates, by the Supreme Court in the administrative proceedings and the Baku Court of Appeal in the proceedings for judicial review (see Appendix). In their decisions, both the administrative and ordinary courts declared that they did not have competence to examine a complaint relating to the lawfulness of travel bans imposed by the investigating authorities.

12. As regards the applicant in application no. 66650/13, by a decision dated 1 April 2013, a judge at the Sabail District Court dismissed his complaint after examining it on the merits. The relevant part of the decision reads as follows:

> "Having assessed all the examined evidence, I conclude that the actions of the Prosecutor General's Office of the Republic of Azerbaijan restricting the right of Mursaliyev Azad Oktay oglu to leave the country are lawful, that the procedure for judicial review as defined in the Code of Criminal Procedure of the Republic of Azerbaijan does not provide for a [decision] on the payment of pecuniary or non-pecuniary damages, [and] that, for these reasons, the complaint should not be allowed."

13. On 5 April 2013 the applicant in application no. 66650/13 appealed against that decision, reiterating that there was no legal basis for restricting his right to leave the country under domestic law.

14. On 12 April 2013 the Baku Court of Appeal dismissed the appeal, finding the first-instance court's decision justified. The appellate court repeated the reasoning provided by the first-instance court and made no mention of the complaint concerning the legal basis for the imposition of the travel ban.

II. RELEVANT DOMESTIC LAW

A. Constitution of the Republic of Azerbaijan

15. Article 28 § III of the Constitution provides:

> "Everyone lawfully within the territory of the Republic of Azerbaijan shall freely move, choose his residence and leave the territory of the Republic of Azerbaijan."

B. Law on Leaving and Entering the Country and on Passports (as in force until 17 October 2014 – "the Passports Act")

16. In accordance with Article 1 of the Passports Act, as in force until 17 October 2014, the right of a person to leave the country could be temporarily restricted within criminal proceedings only if he was a suspected or accused person, was convicted, or was subject to compulsory medical measures.

C. Migration Code

17. The relevant part of Article 9 of the Migration Code, which entered into force on 1 August 2013, provides as follows:

Article 9 - Right of citizens of the Republic of Azerbaijan to leave and enter the country

"9.1. A citizen of the Republic of Azerbaijan (hereinafter referred to as "the citizen") has the right to leave and enter the country freely, by crossing the border checkpoints of the country.

9.2. The citizen shall not be deprived of his right to leave and enter the country.

9.3. The right of the citizen to leave the country may be temporarily restricted only in the following cases:

9.3.1. If [the citizen is] arrested in accordance with the Code of Criminal Procedure of the Republic of Azerbaijan or if a preventive measure is taken in respect of him ...;

9.3.2. If [the citizen is] convicted ...;

9.3.3. If [the citizen is] subject to compulsory medical measures in accordance with the Code of Criminal Procedure of the Republic of Azerbaijan ...;

9.3.4. If [the citizen is] conditionally sentenced with the imposition of obligations provided for by the Criminal Code of the Republic of Azerbaijan or conditionally released from serving his sentence early ..."

D. Code of Criminal Procedure ("the CCrP")

18. Article 449 of the CCrP provides for the lodging of a judicial complaint against procedural measures or decisions taken by a prosecuting authority. It provides, in the relevant part, as follows:

"449.2. The following persons shall have the right to lodge a complaint against procedural steps or decisions taken by a prosecuting authority:

449.2.1. the accused (suspected) person and his defence counsel;

449.2.2. the victim and his legal representative;

449.2.3. other persons whose rights and freedoms are violated as a result of the procedural decision or measure.

449.3. The persons referred to in Article 449.2 ... shall have the right to lodge a complaint with a court concerning the procedural steps or decisions taken by the prosecuting authority in connection with the following matters:

449.3.1 a refusal to accept an application concerning a criminal offence;

449.3.2. arrest and pre-trial detention;

449.3.3. a violation of the rights of an arrested or detained person, or a person placed under house arrest;

449.3.3-1. the transfer of a detained person from a pre-trial detention facility to a temporary detention facility;

449.3.4. torture or other cruel treatment of a detained person;

449.3.5. a refusal to institute criminal proceedings, or suspension or discontinuation of criminal proceedings;

449.3.6. the compulsory conduct of an investigative step, the application of a coercive procedural measure or the conduct of a search operation measure without a court decision;

449.3.7. the removal of defence counsel of the accused (or suspected) person from the criminal proceedings ..."

E. Code of Administrative Procedure ("the CAP")

19. Article 2 of the CAP sets out the procedural rules relating to administrative law disputes, including those concerning the decisions, actions or inactions of administrative bodies affecting individuals' rights and liberties. Under the CAP, an action may be lodged to dispute the lawfulness of an administrative decision (Article 32), request the court to require an administrative body to adopt an administrative decision (Article 33), or request the court to require an administrative body to take action other than the adoption of an administrative decision or refrain from taking certain action (Article 34).

THE LAW

I. JOINDER OF THE APPLICATIONS

20. The Court considers that, in accordance with Rule 42 § 1 of the Rules of Court, the applications should be joined, given their similar factual and legal background.

II. ALLEGED VIOLATION OF ARTICLE 2 OF PROTOCOL No. 4 TO THE CONVENTION

21. The applicants complained that their right to leave their own country had been breached by the domestic authorities. The relevant part of Article 2 of Protocol No. 4 to the Convention reads as follows:

"2. Everyone shall be free to leave any country, including his own.

3. No restrictions shall be placed on the exercise of [this right] other than such as are in accordance with law and are necessary in a democratic society in the interests of national security or public safety, for the maintenance of *ordre public*, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others ..."

A. Admissibility

22. The Government did not raise any objection as regards the admissibility of this complaint. However, as the travel bans imposed in respect of the applicants in applications nos. 62775/16 and 43327/16 were lifted by the investigating authorities on 29 January and 21 April 2016 respectively, the Court considers it necessary to satisfy itself that the applicants in the above-mentioned applications can be considered as victims within the meaning of the Convention in respect of their complaint under Article 2 of Protocol No. 4 to the Convention.

23. The Court reiterates that a decision or measure favourable to an applicant is not in principle sufficient to deprive him of his status as a "victim" unless the national authorities have acknowledged, either expressly or in substance, and then afforded redress for, the breach of the Convention (see *Amuur v. France*, 25 June 1996, § 36, *Reports of Judgments and Decisions* 1996-III, and *Dalban v. Romania* [GC], no. 28114/95, § 44, ECHR 1999-VI).

24. The Court observes that as a result of the travel bans imposed by the investigating authorities the applicant in application no. 62775/16 was unable to leave Azerbaijan from at least 25 February 2015 to 29 January 2016 and that the applicant in application no. 43327/16 was unable to leave Azerbaijan from at least 12 February to 21 April 2016 (see Appendix). However, no domestic authority has acknowledged the alleged violation of their right to leave their own country during that period, and the applicants in question have not received any compensation or other redress for that restriction. In these circumstances, the Court considers that the mere fact that the investigating authorities subsequently lifted the travel bans that they had imposed on the applicants in applications nos. 62775/16 and 43327/16 cannot deprive them of their victim status under the Convention, and that they are still victims within the meaning of the Convention in respect of their complaint under Article 2 of Protocol No. 4 to the Convention (see *Bartik v. Russia*, no. 55565/00, § 34, ECHR 2006-XV, and *Berkovich and Others v. Russia*, nos. 5871/07 and 9 others, § 75, 27 March 2018).

25. 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 applicants

26. The applicants maintained that the restriction imposed on their right to leave Azerbaijan had been unlawful and had had no basis in Azerbaijani law. In particular, they pointed out that the relevant domestic law did not provide for any restriction on the right of a witness in criminal proceedings to leave the country. They further submitted that the restriction at issue did not pursue any legitimate aim and could not be considered a necessary measure in a democratic society.

(b) The Government

27. The Government confined themselves to relying on the Court's case-law concerning Article 2 of Protocol No. 4 to the Convention, without making any observations on the particular complaint of the applicants.

(c) The third party

28. The Helsinki Foundation for Human Rights submitted a summary of the case-law of the United Nations Human Rights Committee and the Court concerning the right to freedom of movement. The third party also expressed its concern about the widespread practice of travel bans being imposed by the Azerbaijani authorities in respect of witnesses in criminal proceedings, who had not been charged with a criminal offence, like the applicants in the present case.

2. The Court's assessment

29. The Court reiterates that Article 2 of Protocol No. 4 guarantees to any person a right to liberty of movement within a given territory and the right to leave that territory, which implies the right to travel to a country of the person's choice to which he or she may be admitted (see *Baumann v. France*, no. 33592/96, § 61, ECHR 2001-V; *Khlyustov v. Russia*, no. 28975/05, § 64, 11 July 2013; and *Berkovich and Others*, cited above, § 78).

30. In the present case the Court observes, and this is undisputed by the Government, that on various dates the investigating authorities imposed travel bans on the applicants which prevented them from travelling abroad. The Court agrees with the applicants that those measures amounted to an interference with their right to leave their own country within the meaning of Article 2 § 2 of Protocol No. 4. It must therefore be examined whether the interference was "in accordance with law", pursued one or more of the legitimate aims set out in Article 2 § 3 of Protocol No. 4 and whether it was

"necessary in a democratic society" to achieve such an aim (see *Nalbantski v. Bulgaria*, no. 30943/04, § 61, 10 February 2011; *Stamose v. Bulgaria*, no. 29713/05, § 30, ECHR 2012; *Kerimli v. Azerbaijan*, no. 3967/09, § 45, 16 July 2015; and *De Tommaso v. Italy* [GC], no. 43395/09, § 105, 23 February 2017).

31. The Court reiterates its settled case-law to the effect that the expression "in accordance with law" not only requires that the impugned measure should have some basis in domestic law, but also refers to the quality of the law in question, requiring that it should be accessible to the persons concerned and foreseeable as to its effects (see *Dzhaksybergenov v. Ukraine*, no. 12343/10, § 59, 10 February 2011, and *De Tommaso*, cited above, § 106).

32. Turning to the circumstances of the present case, the Court observes that the Government did not refer to any provision of domestic law as a legal basis for the imposition of travel bans on persons who were only witnesses in criminal proceedings.

33. In that connection, the Court observes that the relevant provisions of the Migration Code, which regulates the right of citizens of the Republic of Azerbaijan to leave the country, contains an exhaustive list of the circumstances in which this right may be temporarily restricted (see paragraph 17 above). However, as can be seen from the wording of the above-mentioned provisions of domestic law, none of the circumstances listed in the Migration Code correspond to the case of the applicants, who were only witnesses in criminal proceedings. Moreover, Article 1 of the Passports Act, as in force until 17 October 2014, also provided for a temporary restriction on the right of a person to leave the country within criminal proceedings only if he or she was a suspected or accused person, was convicted, or was subject to compulsory medical measures (see paragraph 16 above).

34. The Court further notes that the investigating authorities imposed the travel bans on the applicants in the absence of any judicial decision and that the domestic courts also failed to specify the legal basis for the imposition of travel bans on the applicants, contenting themselves with refusing to examine their actions on the merits (see paragraph 11 above). In the only case examined on the merits they found the restriction of the applicant's right to leave the country justified, without referring to any provisions of domestic law (see paragraphs 12 and 14 above).

35. In these circumstances, the Court cannot but conclude that the interference with the applicants' right to leave their country was not "in accordance with law". This finding makes it unnecessary to determine whether the interference pursued a legitimate aim and was necessary in a democratic society (see *Sissanis v. Romania*, no. 23468/02, § 78, 25 January 2007; *Tatishvili v. Russia*, no. 1509/02, § 54, ECHR 2007-I; and *Shioshvili and Others v. Russia*, no. 19356/07, § 61, 20 December 2016).

36. There has accordingly been a violation of the applicants' right to leave their country, as guaranteed by Article 2 of Protocol No. 4 to the Convention.

III. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

37. Relying on Articles 6 or 13 of the Convention, all the applicants, except the applicant in application no. 24749/16, complained that they had not had an effective remedy in respect of the travel bans imposed on them as the domestic courts had failed to properly examine their complaints. Having regard to the circumstances of the case, the Court considers that this complaint falls to be examined solely under Article 13 of the Convention, which reads 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."

A. Admissibility

38. 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

39. The applicants, except the applicant in application no. 24749/16, maintained that they had not had an effective domestic remedy in respect of the ban on leaving the country imposed on them by the investigation authorities. In particular, they pointed out that the domestic courts had constantly refused to examine their complaints lodged with the administrative courts or applications to the ordinary courts for a judicial review.

40. The Government did not make any observations on the merits.

2. The Court's assessment

41. The Court observes at the outset that, in view of its above finding of a violation of Article 2 of Protocol No. 4 (see paragraph 36 above), the above-mentioned applicants' complaint is arguable. It therefore remains to be ascertained whether they had an effective remedy under Azerbaijani law by which to complain of a breach of their Convention rights.

42. The Court reiterates that Article 13 guarantees the availability at national level of a remedy by which to complain of a breach of the Convention rights and freedoms. Therefore, although Contracting States are afforded some discretion as to the manner in which they conform to their obligations under this provision, there must be a domestic remedy allowing the competent national authority both to deal with the substance of the relevant Convention complaint and to grant appropriate relief. The scope of the obligation under Article 13 varies depending on the nature of the applicant's complaint under the Convention, but the remedy must in any event be "effective" in practice as well as in law, in particular in the sense that its exercise must not be unjustifiably hindered by the acts or omissions of the authorities of the State (see *Nada v. Switzerland* [GC], no. 10593/08, § 207, ECHR 2012, and *De Tommaso*, cited above, § 179).

43. Where there is an arguable claim that a measure taken by the authorities might infringe an applicant's freedom of movement, Article 13 of the Convention requires the national legal system to afford the individual concerned the opportunity to challenge the measure in adversarial proceedings before the courts. However, a domestic appeal procedure cannot be considered effective within the meaning of Article 13 of the Convention unless it affords the possibility of dealing with the substance of an "arguable complaint" for Convention purposes and granting appropriate relief. In this way, by giving direct expression to the States' obligation to protect human rights first and foremost within their own legal system, Article 13 establishes an additional guarantee for individuals in order to ensure that they effectively enjoy those rights (see *Riener v. Bulgaria*, no. 46343/99, §§ 138 and 142, 23 May 2006; *Stamose*, cited above, § 49; and *De Tommaso*, cited above, §§ 182-83).

44. Turning to the circumstances of the present case, the Court observes that while the above-mentioned applicants argued before the Court that they had not had an effective domestic remedy in respect of the prohibition on leaving the country, the Government failed to make any submissions whether under Azerbaijani law a ban on leaving the country could be challenged before the courts.

45. The Court notes that in the present case the applicants in question, either by lodging a complaint with the administrative courts or applying to the ordinary courts for a judicial review, challenged the travel bans imposed on them by the investigating authorities before the domestic courts. However, the administrative and ordinary courts each time, except in application no. 66650/13, refused to examine their complaints on the merits, declaring that they did not have competence to examine the lawfulness of travel bans imposed by the investigating authorities (see paragraph 11 above).

46. As regards the examination of the complaint by the domestic courts in application no. 66650/13, the Court observes that the courts held that the

restriction of the applicant's right to leave the country had been lawful, without giving any further explanation (see paragraphs 12 and 14 above). In that connection, the Court considers it necessary to reiterate that such a limited scope of review by the domestic courts, failing to establish the legal basis of the restriction in question and to address the proportionality of the measure taking into account its duration and other particular circumstances of each case, cannot satisfy the requirements of Article 13 of the Convention in conjunction with Article 2 of Protocol No. 4 (see *Riener*, §§ 141-143; *Stamose*, § 51 and, *a contrario*, *De Tommaso*, § 184, all cited above).

47. Having regard to the foregoing, the Court considers that the applicants, except the applicant in application no. 24749/16 who did not raise any complaint in this regard, did not therefore have an effective remedy under Azerbaijani law affording them the opportunity to raise their complaints of Convention violations. Accordingly, there has been a violation of Article 13 taken together with Article 2 of Protocol No. 4 to the Convention in respect of the above-mentioned applicants.

IV. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

48. Relying on Article 3 of the Convention, the applicant in application no. 76071/16 complained that the travel ban imposed on him had prevented him from travelling abroad for the purpose of an eye operation which had to be carried out abroad, in the absence of any document indicating the impossibility to have such an operation in Azerbaijan. The Court considers that this complaint falls to be examined under Article 8 of the Convention (see *Nada*, cited above, §§ 149-54), which provides, in so far as relevant:

> "1. Everyone has the right to respect for his private life ...
>
> 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."

49. The Court notes that this complaint is linked to the one under Article 2 of Protocol No. 4 to the Convention and must therefore likewise be declared admissible. However, having regard to its finding in respect of the complaint under Article 2 of Protocol No. 4, the Court does not consider it necessary to examine the same facts again by reference to Article 8 (see *Riener*, cited above, § 134; *A. E. v. Poland*, no. 14480/04, § 54, 31 March 2009; *Prescher v. Bulgaria*, no. 6767/04, § 56, 7 June 2011; and *Battista v. Italy*, no. 43978/09, § 52, ECHR 2014).

V. ALLEGED VIOLATION OF ARTICLE 34 OF THE CONVENTION

50. In their observations lodged in reply to those of the Government, the applicants in applications nos. 43327/16, 62775/16, 8051/17, 8702/17 and 12870/17 lodged a further complaint, arguing that there had been a hindrance to the exercise of their right of individual application under Article 34 of the Convention, the relevant part of which reads as follows:

> "The Court may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the Protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right."

51. The applicants submitted that they had not received the Court's letter dated 21 February 2017 containing the Government's observations in a timely manner. In particular, they pointed out that they had only received it together with the relevant documents after they had sent a letter to the Court enquiring about it. They also argued that the delay in the delivery of the letter had not been a coincidence and had been the result of interference by the Government, which controlled the postal service in the country.

52. The Government did not make any observations in this regard.

53. The Court reiterates that it is of utmost importance for the effective operation of the system of individual application guaranteed by Article 34 of the Convention that applicants or potential applicants should be able to communicate freely with the Court without being subjected to any form of pressure from the authorities to withdraw or modify their complaints (see *Akdivar and Others v. Turkey*, 16 September 1996, § 105, *Reports* 1996-IV, and *Kurt v. Turkey*, 25 May 1998, § 159, *Reports* 1998-III). In this context, "any form of pressure" includes not only direct coercion and flagrant acts of intimidation, but also other improper indirect acts or communication designed to dissuade or discourage applicants from pursuing a Convention complaint or having a "chilling effect" on the exercise of the right of individual application by applicants and their representatives (see *Annagi Hajibeyli v. Azerbaijan*, no. 2204/11, § 66, 22 October 2015, and *Hilal Mammadov v. Azerbaijan*, no. 81553/12, § 116, 4 February 2016).

54. However, having examined the submissions made by the applicants in applications nos. 43327/16, 62775/16, 8051/17, 8702/17 and 12870/17, and the material available to it, the Court finds that there is no sufficient factual basis for it to conclude that the authorities of the respondent State have interfered in any way with the applicants' exercise of their right of individual application in the proceedings before the Court in relation to the above-mentioned applications (compare *Juhas Đurić v. Serbia*, no. 48155/06, § 75, 7 June 2011, and *Vasiliy Ivashchenko v. Ukraine*, no. 760/03, § 115, 26 July 2012).

55. In view of the foregoing, the Court finds that the respondent State has not failed to comply with its obligations under Article 34 of the Convention.

VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

56. 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."

A. Damage

57. The applicants each claimed the following amounts in respect of non-pecuniary damage: 20,000 euros (EUR) in applications nos. 76071/16, 8051/17, 8702/17, 12870/17 and 21246/17; EUR 30,000 in applications nos. 66650/13 and 37696/17; EUR 10,000 in applications nos. 62775/16 and 68722/16; EUR 450,000 in application no. 24749/16. Moreover, the applicant in application no. 43327/16 claimed EUR 10,300 in respect of both pecuniary and non-pecuniary damage. In addition to their above-mentioned claims in respect of non-pecuniary damage, the applicants in applications nos. 66650/13 and 76071/16 claimed EUR 17,527 and EUR 195 respectively in respect of pecuniary damage.

58. The Government asked the Court to reject the applicants' claims, considering them excessive and unsubstantiated.

59. The Court considers that the applicants have suffered non-pecuniary damage which cannot be compensated for solely by the finding of a violation, and that compensation should thus be awarded. Therefore, having examined the applicants' claims as a whole and making its assessment on an equitable basis, as required by Article 41 of the Convention, the Court awards each applicant the sum of EUR 5,000 in respect of non-pecuniary damage, plus any tax that may be chargeable on this amount (see *Kerimli*, § 63, and *Berkovich and Others*, § 106, both cited above) and rejects the remainder of the applicants' claims in respect of damage.

B. Costs and expenses

60. The applicants, except the applicant in application no. 62775/16, each claimed the following amounts for legal services incurred in the proceedings before the domestic courts and the Court: EUR 1,006 in application no. 66650/13; EUR 3,200 in application no. 24749/16; EUR 1,600 in application no. 43327/16; EUR 500 in application no. 68722/16; EUR 3,180 in application no. 76071/16; EUR 2,442 in

application no. 8051/17; EUR 2,038 in application no. 8702/17; EUR 2,023 in application no. 12870/17; EUR 2,980 in application no. 21246/17; and EUR 2,209 in application no. 37696/17. All the above-mentioned applicants, except the applicant in application no. 68722/16, submitted the relevant contracts concluded with their representatives or invoices in support of their claims. The applicants in applications nos. 76071/16 and 21246/17 further claimed EUR 370 and 295 respectively for translation costs.

61. The Government considered that the amounts claimed by the applicants were unsubstantiated and excessive, asking the Court to apply a strict approach in respect of the applicants' claims. They also submitted that the request for translation expenses was not justified because the applicants' representative had a good command of English.

62. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. The Court notes that in the present case some of the applicants were represented by the same lawyers and that substantial parts of their submissions in relation to their applications were similar. Moreover, the amount of work done by the applicants' representatives in the domestic proceedings was limited, as the domestic courts refused to examine their complaints on the merits. Therefore, having regard to these facts, as well as to the documents in its possession and to the amount of work done by the applicants' representatives before it, the Court considers it reasonable to award to each applicant, except the applicants in applications nos. 62775/16 and 68722/16, the sum of EUR 1,000 to cover costs under all heads.

C. Default interest

63. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;

2. *Declares* the applications admissible;

3. *Holds* that there has been a violation of Article 2 of Protocol No. 4 to the Convention in respect of all the applicants;

4. *Holds* that there has been a violation of Article 13 of the Convention in respect of all the applicants, except the applicant in application no. 24749/16;

5. *Holds* that there is no need to examine the complaint under Article 8 of the Convention in respect of the applicant in application no. 76071/16;

6. *Holds* that the respondent State has not failed to comply with its obligations under Article 34 of the Convention in respect of the applicants in applications nos. 43327/16, 62775/16, 8051/17, 8702/17 and 12870/17;

7. *Holds*

(a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into Azerbaijani manats at the rate applicable at the date of settlement:

(i) EUR 5,000 (five thousand euros), plus any tax that may be chargeable, to each applicant, in respect of non-pecuniary damage;

(ii) EUR 1,000 (one thousand euros), to each applicant, except the applicants in applications nos. 62775/16 and 68722/16, plus any tax that may be chargeable to them, in respect of costs and expenses;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

8. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 13 December 2018, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško
Deputy Registrar

Angelika Nußberger
President

APPENDIX

No.	Application no.	Lodged on	Applicant name date of birth place of residence	Represented by	Date on which the applicant learned about the restriction	Relevant final court decisions in the domestic proceedings
1.	66650/13	07/10/2013	**Azad Ogtay oglu MURSALIYEV** 25/10/1970 Baku	Sadig AFANDIYEV	2 November 2012	The Baku Court of Appeal's decision of 12 April 2013
2.	24749/16	22/04/2016	**Aynura Imran gizi IMRANOVA** 11/11/1976 Zardab	Samira AGAYEVA	21 November 2014	The Baku Court of Appeal's decision of 22 January 2015 and the Supreme Court's decision of 23 February 2016
3.	43327/16	04/07/2016	**Gular Shahin gizi MEHDIZADE** 13/04/1988 Absheron	Yalchin IMANOV	12 February 2016	The Baku Court of Appeal's decision of 31 May 2016
4.	62775/16	20/10/2016	**Rovshana Vagif gizi RAHIMOVA** 08/07/1984 Baku	Rovshana RAHIMOVA	25 February 2015	The Supreme Court's decision of 7 April 2016 (the applicant was provided with a copy of the decision on 18 May 2016)
5.	68722/16	19/11/2016	**Amina Fevzi gizi HAJIYEVA** 16/04/1955 Baku	Agil LAYIJOV	On an unspecified date in April 2016	The Baku Court of Appeal's decision of 4 November 2016
6.	76071/16	29/11/2016	**Annagi Bahadur oglu HAJIBEYLI** 03/09/1955 Baku	Khalid BAGIROV	On an unspecified date in Autumn 2014	The Baku Court of Appeal's decision of 11 July 2016

No.	Application no.	Lodged on	Applicant name date of birth place of residence	Represented by	Date on which the applicant learned about the restriction	Relevant final court decisions in the domestic proceedings
7.	8051/17	29/12/2016	**Izolda Heydar gizi AGAYEVA** 04/09/1988 Baku	Yalchin IMANOV	21 March 2016	The Baku Court of Appeal's decisions of 1 July 2016 and 17 November 2017
8.	8702/17	19/01/2017	**Aynura Tavakkul gizi HEYDAROVA** 23/01/1981 Ganja	Fariz NAMAZLI	28 June 2016	The Baku Court of Appeal's decision of 20 July 2016
9.	12870/17	06/02/2017	**Aytan Intigam gizi ALAKBAROVA** 26/04/1980 Sumgayit	Fariz NAMAZLI	20 September 2015	The Baku Court of Appeal's decision of 4 August 2016 and the Supreme Court's decision of 28 December 2016
10.	21246/17	07/03/2017	**Azer Agagasim oglu GASIMLI** 31/03/1975 Baku	Khalid BAGIROV	28 September 2016	The Baku Court of Appeal's decision of 18 January 2017
11.	37696/17	10/05/2017	**Dilara Valeh gizi VALIYEVA** 12/08/1958 Baku	Javad JAVADOV	On an unspecified date in 2013	The Baku Court of Appeal's decision of 15 March 2017 and the Supreme Court's decision of 22 November 2017