

**SECRETARIAT GENERAL**

SECRETARIAT OF THE COMMITTEE OF MINISTERS  
SECRETARIAT DU COMITE DES MINISTRES



Contact: Abel Campos  
Tel: 03 88 41 26 48

Date: 13/09/2013

**DH-DD(2013)959**

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

Meeting: 1179 meeting (24-26 September 2013) (DH)

Item reference: Communication from a NGO (Legal Education Society) (28/08/2013) in the case of Faber Firm and Jafarov against Azerbaijan (Application No. 3365/08)

Information made available under Rule 9.2 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

\*\*\*\*\*

Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

Réunion : 1179 réunion (24-26 septembre 2013) (DH)

Référence du point : Communication d'une ONG (Legal Education Society) (28/08/2013) dans l'affaire Faber Firm et Jafarov contre Azerbaïdjan (Requête n° 3365/08) (**anglais uniquement**)

Informations mises à disposition en vertu de la Règle 9.2 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

---

Hüquq Maarifçiliyi Cəmiyyəti



Legal Education Society



Address: Shamil Azizbeyov str., 199, apt. 7,  
Baku, Azerbaijan, AZ 1010  
Tel.: (+99412) 498-81-75; (+99412) 498-94-80  
Fax: (+99412) 449-81-92  
Email: legal@azeurotel.com, intigamaliyev@yahoo.com  
Web: www.monitoring.az

---

**To the Committee of Ministers  
of the Council of Europe**

**Brief on the state of implementation on the judgment  
of the Faber Firm and Jafarov v. Azerbaijan (application No: 3365/08)**

Legal Education Society was founded in May, 1998. The main mission of the Society is to achieve development of legal consciousness and legal culture in the society by means of enlightenment. It is an entirely independent non-governmental organization.

Legal Education Society is writing with regards to the case of Faber Firm and Jafarov v. Azerbaijan (Application No 3365/08), to give brief information and to note concerns on the mentioned judgment below.

By the order of Baku City Executive Power dated July 24, 2000, 0.4 hectares of land situated in Block 2006, Heydar Aliyev (former Moscow) Avenue, Nizami District, allocated for "Faber" Firm to organize the sale, repair and exhibition of "Audi" machines. With the agreement of Baku City Executive Power dated 13 April 2002, 0.4 hectares of land situated in Block 2006, Heydar Aliyev (former Moscow) Avenue had been given to the Plaintiff for the period of 49 years. The plaintiff had the right for temporary use to the land with the issued a certificate numbered JN-1844, dated 23 May 2002. After receiving the reference from "Expertise center of Baku" under Baku City Executive Power numbered 21-E, dated July 22, 2002, he started relevant construction works in a leased land and spent a large amount for regulating, leveling, fencing of the land, for foundations of the buildings, and so on. "Faber" Firm had got 18% of loan amounting U.S. \$ 51.000 from International Bank of Azerbaijan in 16.07.2002 in order to do relevant works in a leased land.

In August 2002, while controlling the Heydar Aliyev (former Moscow) Avenue, Head of Baku City Executive Power Hajibala Abutalibov ordered immediate suspension and demolition of works carrying out there seeing renovation and construction works in the area of the land. On the same day, the order had been carried out by the relevant executive authorities. This event has caused shock and sickness for the founder of the company Sabir Jafarov. He had to get a long-term treatment.

The order of Head of Baku City Executive, № 655, dated 24.07.2002 was cancelled by the № 05 order, dated 02.01.2003 without any reason. "Faber" Firm filed application to №1 Economic Court of the Republic of Azerbaijan for the cancellation of Baku Executive Power's № 05 order dated 02.01.2003. With the judgment of the court dated 10.08.2005,

Firm's application was provided and the right to use the 0.4 hectares of land situated in Block 2006, Heydar Aliyev Avenue (According to the lease agreement No. 0071 dated 13.04.2002) was restored in favor of the "Faber" Firm. And also, with the court decision, it was determined to capture 104.822.212 manat from the account of Baku City Executive Power for the recovery of damage, however the claim on capturing 50.000.000 manat for non-pecuniary damage was not considered by the court.

Considering the appeal filed (from the above judgment) by Baku Executive Power and "Faber" Firm, Economic Court of the Republic of Azerbaijan partly satisfied with the decision dated October 12 2005 and cancelled the parts of decision- capturing 104. 822. 212 manat for the recovery of damage and not considering the claim on capturing 50.000.000 manat for non-pecuniary damage of the № 1 Local Economic Court. The court also kept unchanged the part of the decision- the right to use the 0.4 hectares of land situated in Block 2006, Heydar Aliyev Avenue (according to the lease agreement No. 0071 dated 13.04.2002) was restored in favor of the "Faber" Firm. This decision came into force from the moment of its adoption.

Considering a cassation appeal filed (from the judgment of Economic Court dated October 12 2005) by Baku Executive Power, Court Collegium of Economic Disputes of Supreme Court did not provide the cassation appeal of Executive Power and kept unchanged the judgment with the decision dated December 23 2005.

According to the writ of execution of Economic Court of the Republic of Azerbaijan dated January 05 2006, the decision of Economic Court dated October 12 2005 had been directed to be implemented.

With the decision of Nizami District Court dated March 01 2006, Sahib Gurbanov, chief of Housing and Communal Economy was subjected to administrative responsibility and fined as deriving obstacles for execution of the judgment.

As the court decision has not been implemented due to inadequate reason, as well as the delay in the process of implementation, and given red-tape, bailiffs and controllers of Ministry of Justice under Nizami District drew up the protocol against deputy head of the department of Baku City Executive Power, R. Panahov and submitted to the court. However, with Nizami Court's decision dated November 07 2006, administrative proceeding against R. Panahov had been terminated.

Bailiffs Department of Nizami District Court re-applied Head of Baku City Executive Power and Head of Nizami District Executive Power with the letter dated 30.03.2007 in order remove obstacles committed against implementation of the requirements set out in the execution document.

Executor of bailiffs and controllers Department of Ministry of Justice under Nizami District appealed Nizami District Court in 27.06.2007 regarding to be started criminal case on officials of the Baku City Executive Power under the Article 306 of the Criminal Code.

As the response of "Faber" Firm's letter, deputy head of General Directorate of Enforcement Department of Ministry of Justice M. Mammadov told that he had already given instruction to court executor related to carrying out necessary measures in order to ensure implementation of court decision in June 06 2007. However, despite all this, the court decision has not been implemented so far.

Appealing to European Court of Human Rights in December 27 2007, “Faber” Firm complained from the violation of Article 6 §1 and Article 1 of Protocol No. 1 of the Convention on Human Rights.

With the judgment dated November 25 2010, “Faber” Firm and Jafarov v. Azerbaijan (no. 3365/08), European Court of Human Rights had recognized the violation of the Article 6 §1 and Article 1 of Protocol No. 1 of the Convention. According to the decision of European Court

1) Respondent state was put obligation to pay 4.800 EUR (four thousand eight hundred) for non-pecuniary damage and 1,500 EUR (one thousand five hundred) for court costs and other expenses within the period of three months from the date of final decision in accordance with paragraph 2 of Article 44 of the Convention.

2) After the expiry of above mentioned period until implementation of obligation the above-mentioned amounts shall be added the amount of simple interest which is equal to higher amounts of lending rate of European Central Bank and shall be added three percentage points additional.

3) Respondent state was obliged to ensure execution of domestic court’s decision dated October 12 2005 with the relevant measures within the period of three months from the date of final decision in accordance with paragraph 2 of Article 44 of the Convention.

European Court's decision became final on February 25, 2011.

Though more than six years have passed after the domestic court’s decision came into force and more than two years of European Court’s decision, implementation of those decisions have not been provided yet.

Appealing to General Directorate of Execution of Court Decisions under Ministry of Justice of the Republic of Azerbaijan in August 24 2011, “Faber” Firm

1) To be implemented of European Court’s decision dated November 25 2010 which puts the provision of judgment of Economic Court of the Republic of Azerbaijan dated October 12 2005 and its implementation as an obligation to the State, and

2) Requested to be taken measures envisaged in the legislation regarding responsible persons for not executing the Economic Court’s judgment dated October 12 2005.

Applying Azerbaijan’s authorized representative at the European Court of Human Rights Chingiz Asgarov in August 24 2011, “Faber” Firm

1) To provide information about measures taken by Azerbaijan’s authorized representative at the European Court of Human Rights Chingiz Asgarov in order to ensure the European Court’s decision dated November 25 2010 which puts the provision of judgment of Economic Court of the Republic of Azerbaijan dated October 12 2005 and its implementation as an obligation to the State, and

2) Requested to inform authorized state bodies about the importance of implementation of European Court’s decision dated November 25 2010 in accordance with Regulation on Azerbaijan’s authorized representative at the European Court of Human Rights.

DH-DD(2013)959 : ONG in Faber Firm & Jafarov v. Azerbaijan.

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers. / Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

However, “Faber” Firm’s request to the above mentioned entities did not cause positive result.

We do not have any information about communication between Azerbaijani Government and the Committee of Ministers of the Council of Europe. No any information has been placed on the website of the Committee of the Ministers regarding this issue.

Thus, whether the Government has action plan in this regard, or any information has been given to the Committee of Ministers on the reasons of Government’s failure to implement the decision is still unknown to us.

Moreover, we ask the Committee of Ministries of the Council of Europe to urge the government of Azerbaijan to implement the judgment of Faber Firm and Jafarov v. Azerbaijan.

Yours sincerely,

Intigam Aliyev,  
President of Legal Education Society