# AZERBAIJAN



## Department for the Execution of Judgments of the European Court of Human Rights

Directorate General
Human Rights and Rule of law

## Country factsheet

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# I. Main achievements

This chapter presents short summaries of a selection of the main reforms and achievements reported in final resolutions since the Convention system was amended in 1998 by Protocol No. 11, with a clear focus on recent reforms, referring however also to important earlier developments.

In view of the wealth of cases closed, the selection concentrates on those which have led to changes of legislation, government regulations, the adoption of new policies or general guidance from superior courts. As a rule, the overview does not cover information on measures providing individual redress to applicants.

The reforms are in principle presented in the order corresponding to the thematic domains used in the specialised database HUDOC-EXEC of the Department for the Execution of Judgments of the European Court of Human Rights.

Many reforms address issues which appear to be on-going challenges in member states. The effects of reforms adopted at one point in time may thus need to be monitored and possibly revisited as conditions change.[1]

Definitions of the terms used in the context of the supervision of the execution of the European Court's judgments are available in the dedicated Glossary.

[1] The presentation is limited to the information provided at the time of the adoption of the final resolution. It is recalled in this context that the Committee of Ministers has issued Recommendation (2004)5 on the verification of the compatibility of draft laws, existing laws and administrative practice with standards laid down in the European Convention on Human Rights.

## Protection against abusive limitation of the right to liberty and security

The applicants, an opposition leader and a human rights defender, were released. Following the Court's judgment under Article 46§4 of the Convention, in April 2020, the Supreme Court quashed the convictions of Ilgar Mammadov and Rasul Jafarov and awarded them compensation for non-pecuniary damage resulting from their unlawful arrest and imprisonment. The Committee launched the first-ever infringement proceedings under Article 46§4 of the Convention given that, although the applicants had been released from detention, their convictions remained standing, entailing serious impediments to their personal and professional activities. By its judgment of 29 May 2019, the European Court confirmed Azerbaijan's failure to fulfil its obligation to execute the Ilgar Mammadov judgment of 2014.

***Ilgar Mammadov*** (15172/13)
***Ilgar Mammadov (No. 2)*** (919/15)
***Rasul Jafarov*** (69981/14)
**Final Resolution CM/ResDH(2020)178**

## Functioning of justice

- Access to court

In 2004, the Court of Appeal's failure - due to the misapplication of domestic legislation - to either deal with the applicant's appeal against his conviction or formally reject the appeal for lack of competence, was redressed by the applicant's release from prison under a presidential pardon and reduction of his sentence by the Plenary Chamber of the Supreme Court. After the European Court's judgment, the applicant's new appeal was rejected due to non-compliance with procedural provisions, given that the applicant had not made use of other remedies available to him. The European Court's judgment was translated and published in the official gazette of the Ministry of Justice, widely disseminated among judges and legal professionals, and included in the training curricula for judges.

***Hajiyev (5548/03)***
**Final Resolution CM/ResDH(2019)170**

- Proper notification of court hearings

"Instructions on the Conduct of Court Operations in the Republic of Azerbaijan" were adopted in order to ensure that the parties to the judicial proceedings are duly notified of court hearings. In accordance with the new procedure, court notifications are registered in the "Electronic Court Information System" and signed before being sent to the parties through the postal service.

***Abbasov* group** (24271/05)
**Final Resolution CM/ResDH(2024)177**

## Protection of family life

The Plenum of the Supreme Court adopted decisions aimed at improving judicial practice with regard to proceedings related to parents' access rights. In its guidelines addressed to lower courts, the Plenum underlined that the best interest of the child was the paramount factor to be considered when deciding on parents' contact rights.

***Abushov*** (76251/11)
***Babayeva*** (57724/11)
**Final Resolution CM/ResDH(2024)177**

## Protection of property rights

An apartment, which had been unlawfully occupied by internally displaced persons, was restored to the applicant following the formal indefinite postponement of his eviction due to the misapplication of the law by domestic courts. Targeted dissemination of the Court's judgment, by the authorities in 2009, appeared to be sufficient to avoid similar violations.

***Akimova*** (19853/03)
**Final Resolution CM/ResDH(2019)70**



# II. Main issues pending before the Committee of Ministers

This chapter presents the main issues pending in cases/groups of cases currently under the Committee of Ministers' supervision. The relevant supervision procedure is indicated for each case/group of cases.

Detailed information on the status of execution of these cases as well as on the Committee of Ministers' supervision process is available on the specialised database HUDOC-EXEC of the website of the Department for the Execution of Judgments of the European Court of Human Rights.

Definitions of the terms used in the context of the supervision of the execution of the European Court's judgments are available in the dedicated Glossary.



# Main issues pending

## Action of security forces and effective investigations

**Ineffective investigations into actions of security forces,** notably to establish the extent of state agents' responsibility for the death of an internally displaced woman during an eviction operation, as well as into the **absence of due action by police and prosecutors to elucidate a killing**.

***Mikayil Mammadov* group** (4762/05)
Judgment final on 17/03/2010
Enhanced supervision
**Status of execution**

**Ill-treatment and/or torture during arrest and police custody** and ineffective investigations into allegations of such ill-treatment.

***Mammadov (Jalaloglu)* group** (34445/05)
Judgment final on 11/04/2007
Enhanced supervision
**Status of execution**

**Disproportionate and unnecessary intervention by the police forces during demonstrations**, excessive use of force and ill-treatment, notably against journalists; ineffective investigations (see also freedom of assembly below).

***Muradova* group** (22684/05)
Judgment final on 02/07/2009
Enhanced supervision
**Status of execution**

## Failure to enforce prison sentence

**Failure to continue to enforce prison sentence for crimes committed abroad** after transfer to home country based on racially motivated reasons.

***Makuchyan and Minasyan*** (17247/13)
Judgment final on 12/10/2020
Enhanced supervision
**Status of Execution**

## Expulsion/extradition

**Unsatisfactory evaluation of risks of torture** and inhuman or degrading treatment in country requesting extradition; custody ordered on the basis of unclear and foreseeable legislation and without any possibility of judicial review of continued detention.

***Garayev* group** (53688/08)
Judgment final on 10/09/2010
Standard supervision
**Status of execution**

## Lawfulness of detention and related issues

**Unlawful and arbitrary arrest and detention on remand.**

***Gafgaz Mammadov*** (60259/11)
Judgment final on 14/03/2016
Enhanced supervision
**Status of execution**

**Pre-trial detention without judicial order** or in the absence of reasonable suspicion of committing an offence, extension of pre-trial detention without relevant and sufficient reasons, failure of domestic courts to carry out a judicial review of the extension. Breach of the right to presumption of innocence. Violation of the right to protection of property due to the attachment of shares in the bank before formal charges with the criminal offenses.

***Fahrad Aliyev*** (37138/06)
Judgment final on 09/02/2011
Standard supervision
**Status of Execution**

## Protection against abuse of power

**Abuse of power through arbitrary engagement of criminal proceedings** implying use of arrest and detention, notably to punish a political opponent for having criticised the government and a human rights defender for his human rights activities.

***Mammadli*** (47145/14)
Judgment final on 19/07/2018
Enhanced supervision
**Status of execution**

## Fairness of judicial proceedings - Criminal proceedings

**Unfair criminal proceedings** notably on account of:
- family ties between judges, prosecution and investigative authorities participating in the trial;
- refusals to hear witnesses in the defendant's favour;
- ineffective legal assistance and absence of sufficient opportunities to prepare the defence;
- insufficient time, facilities and access to file to prepare the defence;
- absence of possibilities to challenge the credibility of important witnesses/experts;
- failure by the courts to address objections raised by the defence as to the authenticity of the evidence produced by the prosecutors and its use during the trial (notably allegations that drugs had been planted by the police).

***Insanov*** (16133/08)
Judgment final on 14/06/2013

Enhanced supervision
**Status of execution**

***Huseyn and Others* group** (35485/05)
Judgment final on 26/10/2011

Standard supervision
**Status of execution**

***See also:***

***Layijov*** (22062/07)
Judgment final on 10/07/2014

***Jannatov*** (32132/07)
Judgment final on 31/10/2014
(both in *Mammadov (Jalologlu)* group under enhanced supervision)

**Double conviction for the same offense,** one administrative and one criminal, both related to the same involvement in a demonstration.

***Huseyn and Others* group** (35485/05)
Judgment final on 26/10/2011

Standard supervision
**Status of execution**

## Fairness of judicial proceedings – Civil proceedings

**Unjustified refusal to hear detained persons in civil cases concerning conditions of detention** and alleged lack of medical care.

***Insanov*** (16133/08)
Judgment final on 14/06/2013

Enhanced supervision
**Status of execution**

## Enforcement of domestic judicial decisions

**Non-enforcement of final judgments** ordering the restoration of the right of use of plots of land.

***Humbatov* group** (13652/06)
Judgment final on 03/03/2010

Enhanced supervision
**Status of execution**

**Failure or delayed enforcement of final judgments** ordering reinstatement and/or payment of certain sums.

***Tarverdiyev* group** (33343/03)
Judgment final on 26/10/2007

Enhanced supervision
**Status of execution**

## Respect for private life - Disbarment of lawyers

**Disbarment of lawyers in breach of their rights to respect for private life** and absence of adequate procedural safeguards in disciplinary proceedings against them.

***Namazov* group** (74354/13)
Judgment final on 30/05/2020

Enhanced supervision
**Status of execution**

## Freedom of expression - Protection of journalists

**Harassment of an investigative journalist** through threats, secret filming and dissemination of intimate videos in breach of her rights to respect for her private life and freedom of expression.

***Khadija Ismayilova* group** (65286/13)
Judgment final on 10/04/2019

Enhanced supervision
**Status of execution**

## Freedom of expression - defamation

**Unjustified convictions and prison sentence as sanction** for defamation, notably against journalists; also, arbitrary application of criminal law to limit freedom of expression.

***Mahmudov and Agazade* group** (35877/04)
Judgment final on 18/03/2009

Enhanced supervision
**Status of execution**

## Freedom of assembly and association

**Unsatisfactory legislation regulating freedom of assembly** not meeting the requirements of foreseeability and precision; **arbitrary interferences with the right to freedom of assembly:**

- abusive dispersal of peaceful demonstrations / public gatherings;
- unjustified arrest and administrative conviction of participants.

***Gafgaz Mammadov*** (60259/11)
Judgment final on 14/03/2016

Enhanced supervision
**Status of execution**

**Violation of the right to freedom of association** on account of the authorities'

- unlawful de facto refusals to register non-governmental organisations ("the NGOs"),
- unlawful or unjustified and disproportionate decisions to dissolve the NGOs.
- Unlawful freezing of the bank accounts, illegitimate imposition of travel ban and pursuing ulterior purpose for these restrictions. Failure to provide remedies to contest the interference with the right to property.

***Ramazanova and Others*** (44363/02)
Judgment final on 01/05/2007

Enhanced supervision
**Status of execution**

## Electoral rights

**Arbitrary application of electoral legislation** and absence of procedures affording adequate safeguards against arbitrariness:

- arbitrary rejection of complaints regarding irregularities or breaches of electoral law;
- arbitrary cancelation of registration of candidates;
- erroneous application of electoral law, etc.

***Namat Aliyev* group** (18705/06)
Judgment final on 08/07/2010

Enhanced supervision
**Status of execution**

## Protection of home and property - displaced persons

**Impossibility for displaced persons to gain access, in the context of the Nagorno-Karabakh conflict, to their homes and properties and relatives' graves** in the disputed area near Nagorno-Karabakh on the territory of Azerbaijan - lack of effective remedies.

***Sargsyan*** (40167/06)
Judgment final on 16/06/2015

Enhanced supervision
**Status of execution**

**Non-enforcement of orders for the eviction of internally displaced persons** unlawfully occupying houses or apartments.

***Mirzayev* group** (50187/06)
Judgment final on 03/03/2010

Enhanced supervision
**Status of execution**



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The Council of Europe is the continent's leading human rights organisation. It comprises 46 member states, including all members of the European Union. The Committee of Ministers is the Council of Europe's decision-making body, composed by the foreign ministers of all 46 member states. It is a forum where national approaches to European problems and challenges are discussed, in order to find collective responses. The Committee of Ministers participates in the implementation of the European Convention on Human Rights through the supervision of the execution of judgments of the European Court of Human Rights.

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