



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

FIRST SECTION

CASE OF ASADOV AND OTHERS v. AZERBAIJAN

(Application no. 138/03)

JUDGMENT
(Striking out)

STRASBOURG

26 October 2006

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Asadov and Others v. Azerbaijan,

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

Mr C.L. ROZAKIS, *President*,

Mr L. LOUCAIDES,

Mrs F. TULKENS,

Mrs E. STEINER,

Mr K. HAJIYEV,

Mr D. SPIELMANN,

Mr S.E. JEBENS, *judges*,

and Mr S. NIELSEN, *Section Registrar*,

Having deliberated in private on 5 October 2006,

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

PROCEDURE

1. The case originated in an application (no. 138/03) 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 five Azerbaijani nationals, Messrs Etimad Asadov, Firudin Mamedov, Asaf Aliyev, Bahruz Jamalov, and Oqtay Mehdiyev (“the applicants”), on 19 November 2002.

2. The applicants were represented by Mr I. Aliyev and Mr A. Guliyev, lawyers practising in Baku. The Azerbaijani Government (“the Government”) were represented by their Agent, Mrs C. Asgarov.

3. The applicants alleged, in particular, that the failure by the Ministry of Justice to register their public association in a timely manner constituted an interference with their freedom of association as guaranteed by Article 11 of the Convention.

4. The application was allocated to the First Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1.

5. By a decision of 12 January 2006 the Court declared the application partly admissible.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

6. The applicants, Messrs Asadov, Mamedov, Aliyev, Jamalov, and Mehdiyev, were born in 1963, 1970, 1965, 1962 and 1968 respectively and live in Baku.

7. On 20 December 2001 the applicants founded a public association named “Karabakh Warriors” (“*Qarabağ Qaziləri*” *İctimai Birliyi*). This was a non-profit organisation aimed at providing aid to the Karabakh war invalids and protection of their interests.

8. After the founders' meeting, the applicants filed an application for the association's state registration with the Ministry of Justice, the government authority responsible for the state registration of legal entities. In accordance with the domestic law, a non-governmental organisation acquired the status of a legal entity only upon its state registration by the Ministry of Justice. While the applicants claimed that they had filed the application in late December 2001, the Government submitted that it had been officially received by the Ministry on 8 February 2002.

9. On 15 February 2002 the Ministry of Justice returned the registration documents to the applicants without taking any action, i.e. without issuing a state registration certificate or an official refusal to register the association. In the cover letter, the Ministry noted in general terms that the association's charter did not comply with Article 13.1 of the *Law On Non-Governmental Organisations*, which set out general requirements for the contents of a charter.

10. The applicants redrafted the charter in line with the Ministry's comments and on 12 April 2002 re-applied for the state registration submitting a new version of the charter. Although the applicants expected to receive a response from the Ministry within the statutorily required five-day period after the re-submission of the registration documents, they did not receive anything from the Ministry for the following three months.

11. In July 2002, the applicants applied to the Yasamal District Court, complaining that the Ministry “evaded” registering their organisation and asking the court to oblige the Ministry to register it. In the meantime, on 19 July 2002 the Ministry sent a letter to the applicants, informing them that the documents were again returned “with no action taken” by the Ministry. This time the reason for declining the registration was the applicants' failure to list in the charter the terms of service of the association's governing bodies, as required by Article 25.1 of the *Law On Non-Governmental Organisations*. More specifically, the Ministry noted that the charter did not specify the term of office of the association's Deputy President. The

applicants alleged that they had never seen this letter before it was presented to them during the court proceedings.

12. On 7 August 2002 the Yasamal District Court dismissed the applicants' claim, finding nothing unlawful in the actions of the Ministry. The court found that the association's charter had not been drafted in accordance with the requirements of the domestic law. The applicants appealed, claiming that the requirement to specify in the charter the term of office of the association's Deputy President was "absurd" and could not be used as justification for evading registering the organisation. On 11 October 2002 the Court of Appeal upheld the district court's judgment. On 12 February 2003 the Supreme Court upheld the Court of Appeal's decision.

13. In the meantime, the applicants again redrafted the association's charter to take account of the Ministry's latest remarks and again re-submitted the registration documents. On 19 April 2006 the Ministry of Justice registered the public association as a legal entity and issued a state registration certificate.

THE LAW

14. On 22 May 2006 one of the applicants, Mr Asadov, sent a letter informing the Court of the applicants' wish to withdraw the application due to the fact that their public association had been registered by the Ministry of Justice. On 18 July 2006 the Court forwarded this letter to the applicants' lawyer, as well as to the Government, for comments. Neither party submitted any comments by the deadline fixed by the Court.

15. In these circumstances, the Court concludes that it is no longer justified to continue the examination of the application within the meaning of Article 37 § 1 (c) of the Convention. Furthermore, the Court finds no reasons of a general character, as defined in Article 37 § 1 *in fine*, which would require the examination of the application by virtue of that Article.

16. Accordingly, the case should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

Decides to strike the case out of the list.

Done in English, and notified in writing on 26 October 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President