

**Il rifiuto di registrare ONG come persone giuridiche viola la libertà di associazione ai sensi dell'art. 11 CEDU
(CEDU, sez. I, sent. 20 maggio 2021, ric. n. 46930/10 e altri)**

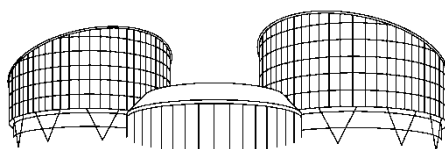
Nella sentenza resa al caso in esame la Corte EDU ha giudicato il ricorso presentato da alcuni fondatori di Organizzazioni non governative (ONG), alle quali - le autorità nazionali - avevano rifiutato la registrazione in qualità di persone giuridiche e ciò in violazione dell'art. 11 della Convenzione. Come si evince dalla ricostruzione dei fatti, in diversi momenti i ricorrenti avevano presentato domanda di registrazione presso il Ministero della Giustizia, debitamente corredata di tutta la documentazione utile e pertinente. La stessa autorità competente aveva però restituito le pratiche per presunte irregolarità documentali, rigettando più volte la pratica.

I ricorrenti si erano attivati per contestare i reiterati rifiuti dell'amministrazione poiché le dedotte irregolarità non trovavano - dal loro punto di vista - un puntuale fondamento legale oltre a lamentare il *modus operandi* del Ministero che non aveva proceduto con un'unica e sola identificazione di tali irregolarità, e, quindi, con un'unica restituzione della pratica. Pertanto, essi chiedevano al giudice competente di ordinare al Ministero la registrazione delle suddette associazioni. Il Tribunale amministrativo rispondeva, ritenendo fondati e legittimi i motivi della mancata registrazione anche in base al diritto positivo vigente secondo il quale il Ministero ha il diritto di rifiutare la registrazione di un'organizzazione come persona giuridica. Tale decisione veniva confermata successivamente dalla Corte d'appello e dalla Corte di Cassazione.

Innanzi ai giudici di Strasburgo, il Governo aveva riproposto e confermato le conclusioni delle autorità nazionali ed aveva aggiunto come, nonostante la mancata registrazione, le ONG avessero comunque continuato a funzionare. La Corte EDU ha proceduto, quindi, a verificare se vi fosse stata interferenza e se quest'ultima fosse giustificata. Rispetto al primo profilo, essa ha ritenuto che vi fosse stata interferenza da parte dell'amministrazione nazionale nella misura in cui il rifiuto di registrazione aveva di fatto impedito ai ricorrenti di godere della libertà di associazione. E respingeva, finanche, l'eccezione sollevata dal Governo per la quale, pur senza registrazione, le associazioni avevano comunque continuato ad operare.

Quanto al secondo profilo, la Corte ha affermato come tale ingerenza non fosse giustificata né legittima, in quanto i tribunali nazionali non avevano svolto opportune valutazioni circa la correttezza procedurale e la coerenza operativa del Ministero, né avevano chiarito - interpretandola - la disciplina statale sulla registrazione delle associazioni. In proposito, avevano fornito una chiave di lettura ambivalente concernente tanto il diritto del Ministero di rifiutare la registrazione di un'associazione come persona giuridica quanto la restituzione dei documenti da intendersi non come rifiuto di registrazione bensì come richiesta di rettifica della domanda medesima. In proposito la Corte ha osservato che se così fosse il Ministero avrebbe dovuto procedere ad un'unica restituzione per consentire la rettifica della pratica e concedere ai ricorrenti un lasso temporale entro

cui revisionare l'intera la documentazione. Invece, la Corte ha constatato l'inosservanza da parte del Ministero della disciplina statale in materia di registrazione con conseguente illegittimo rifiuto della registrazione. Per conseguenza, l'ingerenza dedotta e riscontrata non è stata considerata prescritta dalla legge né, per questo, necessaria a perseguire uno scopo legittimo e, dunque, in contrasto con l'art. 11 della Convenzione.



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

FIRST SECTION

CASE OF XXX v. AZERBAIJAN

(Applications nos. 46930/10 and 11 others)

JUDGMENT
STRASBOURG
20 May 2021

This judgment is final but it may be subject to editorial revision.

In the case of XXX v. Azerbaijan,

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

Mārtiņš Mits, *President,*

Lətif Hüseynov,

Mattias Guyomar, *judges,*

and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the

applications

(nos. 46930/10, 31124/13, 36135/13, 36186/13, 59519/13, 62490/13, 64016/13, 74319/13, 3206/14, 15689/14, 17466/14 and 31592/14) 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 xxx nationals and a stateless person whose names are listed in the appended table ("the applicants"), on the various dates indicated in the appended table;

the decisions to give notice to the Azerbaijani Government ("the Government") of the complaints concerning Articles 6 (raised in applications nos. 46930/10 and 17466/14 only), 11 and 34 of the Convention and to declare inadmissible the remainder of the applications;

the parties' observations;

Having deliberated in private on 15 April 2021,

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

INTRODUCTION

1. The applicants, who were founders of non-governmental organisations, complained *inter alia* that the refusals by the domestic authorities to register those associations violated their right to freedom of association under Article 11 of the Convention and that the seizure of their case files from the office of their lawyer was in breach of their right of individual application without hindrance under Article 34 of the Convention.

THE FACTS

2. The applicants' details are set out in the appended table.

3. The Government were represented by their Agent, Mr Ç. Əsgərov.

4. The facts of the case, as submitted by the parties, may be summarised as follows.

A. Requests to register the associations

5. The applicants established non-governmental organisations ("NGOs") in a form of associations (the dates of establishment and titles of the associations are set out in the appended table). They also adopted the associations' charters.

6. On various dates the applicants requested the Ministry of Justice of the Republic of Azerbaijan ("the Ministry of Justice") to register their associations as legal entities and submitted relevant registration documents.

7. In applications nos. 46930/10 and 74319/13 the Ministry of Justice extended the time-limit for examination of the registration documents.

8. On various dates the Ministry of Justice sent letters to the applicants indicating certain deficiencies allegedly contained in the submitted documents and returned those documents to the applicants (see the appended table for detailed information on each deficiency indicated by the Ministry in each case).

9. After making changes in the registration documents in compliance with the indications made in the letters of the Ministry of Justice, the applicants resubmitted their requests for registration.

10. In application no. 74319/13 the Ministry of Justice extended the time-limit for examination of the registration documents.

11. On various dates the Ministry of Justice again replied with letters indicating certain deficiencies allegedly contained in the resubmitted documents and returned those documents. In most of the cases, this process, whereby the applicants rectified the documents and resubmitted them for registration and the Ministry subsequently returned the registration documents to the applicants with indication of deficiencies, was repeated several times in the same manner (dates of the Ministry's letters and the alleged deficiencies indicated in them are set out in the appended table).

12. All the letters of the Ministry of Justice (except for the last letter in application no. 62490/13) concluded that based on Article 11.3.1 of the Law on state registration and the state register of legal entities ("the Law on State Registration"), the documents were "being returned" (*sənədlər geri qaytarılır*) or "being returned unexecuted" (*sənədlər icra olunmadan geri qaytarılır*).

B. Domestic court proceedings

1. *Facts relevant to application no. 46930/10 only*

13. Having received the first refusal letter the applicants in application no. 46930/10 lodged a complaint against the Ministry of Justice before the Yasamal district court, claiming that their right to freedom of association had been violated and asking the court to order the Ministry to carry out a registration of their association. The court returned the complaint and the documents attached to it, without examination on the merits, finding that it was not compliant with procedural requirements concerning the form and content of a complaint. This decision was later upheld by the higher courts (dates of the domestic courts' decisions are set out in the appended table).

14. Subsequently, after having received the subsequent refusal letters of the Ministry of Justice in their case, the applicants instituted a new set of proceedings, in which their complaints were examined on the merits (see paragraphs 15 *et seq.* below and the appended table for details).

2. Facts relevant to all applications

15. Having received two or more refusal letters the applicants lodged complaints against the Ministry of Justice before the Baku Administrative Economic Court no. 1, claiming that their right to freedom of association had been violated and asking the courts to order the Ministry to register the associations in question.

16. In each case, the applicants challenged the Ministry of Justice's findings that there had been deficiencies in the already-rectified and resubmitted registration documents and argued that the specific reasons given by the Ministry of Justice in its refusal letters were unlawful.

17. The applicants further argued that the Ministry of Justice should have identified all the alleged deficiencies at the same time and given the applicants the opportunity to rectify them all at once, in accordance with Article 8 of the Law on State Registration.

18. The Baku Administrative Economic Court no. 1 dismissed the applicants' complaints, finding nothing unlawful in the actions of the Ministry of Justice. The court held that the reasons indicated by the Ministry in its refusal letters were lawful and that the Ministry had correctly exercised its powers. The court mentioned that Article 11.3.1 of the Law on State Registration gave to the Ministry the right to refuse to register an organisation as a legal entity. The appellate and cassation-instance courts upheld the judgments of the Baku Administrative Economic Court no. 1, largely reiterating the first-instance court's findings. In addition, in application no. 36135/13 the Supreme Court declared that the actions of the Ministry were to be interpreted as "returning the registration documents for rectification" and not as "refusing to register" the association in question (dates of the domestic courts' decisions are set out in the appended table).

19. The applicants in application no. 17466/14 did not participate at the hearing of the Supreme Court concerning their cassation appeal.

C. Search and seizure in the office of the applicants' representative

20. On 8 August 2014 criminal proceedings were instituted against Mr Aliyev, who represented the applicants before the Court, which were the subject of a separate application brought by him before the Court (see *Aliyev v. Azerbaijan*, nos. 68762/14 and 71200/14, 20 September 2018). On 8 and 9 August 2014 the investigating authorities seized a large number of documents from Mr Aliyev's office, including all the case files relating to the applications pending before the Court which were in Mr Aliyev's possession as a representative. The files relating to the present cases were also seized in their entirety. The facts relating to the seizure and the relevant proceedings are described in more detail in *Annagi Hajibeyli v. Azerbaijan* (no. 2204/11, §§ 21-28, 22 October 2015).

21. On 25 October 2014 some of the seized documents were returned to Mr Aliyev's lawyer.

RELEVANT LEGAL FRAMEWORK AND RELEVANT INTERNATIONAL DOCUMENTS

22. A detailed description of the relevant provisions of the 1995 Constitution, the Law on non-governmental organisations (public associations and funds) of 13 June 2000 ("the Law on NGOs"), the Law on state registration and the state register of legal entities of 12 December 2003 ("the Law on State Registration"), as well as of the relevant international documents, may be found in *Jafarov and Others v. Azerbaijan* (no. 27309/14, §§ 31, 36-37, 41 and 43-44, 25 July 2019).

THE LAW

I. JOINDER OF THE APPLICATIONS

23. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. WITHDRAWAL OF COMPLAINTS BY SOME APPLICANTS IN APPLICATIONS NOS. 46930/10, 59519/13 AND 74319/13

24. In a letter dated 5 April 2017 two of the applicants in application no. 46930/10, Mr Xxx and Mr Xxx, in a letter dated 10 April 2017 one of the applicants in application no. 59519/13, Ms Xxx, and in a letter dated 10 April 2017 one of the applicants in application no. 74319/13, Ms Xxx, informed the Court that they wanted to withdraw their complaints.

25. In these circumstances, noting that Mr Xxx, Mr Xxx, Ms Xxx and Ms Xxx no longer intend to pursue their applications, the Court considers, in accordance with Article 37 § 1 (a) of the Convention, that it is no longer justified to continue the examination of the relevant applications in so far as the mentioned applicants are concerned. Furthermore, in accordance with Article 37 § 1 *in fine*, the Court finds no special circumstances regarding respect for human rights as defined in the Convention and its Protocols which require the continued examination of the case in their respect. Accordingly, those parts of applications nos. 46930/10, 59519/13 and 74319/13 are to be struck out of the list.

26. Accordingly, when it indicates hereinafter "the applicants", the Court will be referring to the remaining applicants in the above-mentioned and in the other joined applications.

III. ALLEGED VIOLATION OF ARTICLE 11 OF THE CONVENTION

27. The applicants complained under Article 11 of the Convention that the repeated failures by the Ministry of Justice to register their associations and grant those associations legal-entity status had amounted to a violation of their right to freedom of association. Article 11 reads as follows:

"1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, 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. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State."

A. Admissibility

28. The Court notes that these complaints are neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. They must therefore be declared admissible.

B. Merits

1. Submissions by the parties

(a) The applicants

29. The applicants submitted that the reasons given by the Ministry of Justice in its refusal letters were unlawful because the specific alleged deficiencies indicated in those letters were either groundless or did not have a legal basis, or because the laws that served as a basis for finding those deficiencies did not comply with the “quality of law” requirement of the Convention.

30. The applicants further argued that the Ministry of Justice should have identified all the alleged deficiencies at the same time and given the applicants the opportunity to rectify them all at once, in accordance with Article 8 of the Law on State Registration, instead of repeatedly refusing to register the associations owing to finding a new deficiency in the already-rectified and resubmitted documents. Some of the applicants particularly emphasised the minor and technical nature of the alleged deficiencies.

31. The applicants also argued that, without being registered and hence having acquired a status of a legal entity, the associations had been unable to function properly and to engage in their primary activities. An unregistered non-governmental organisation could not keep a bank account, obtain funding, benefit from tax reductions, and carry out financial operations, and so on. In particular, under domestic law, only duly registered legal entities could be recipients of a grant.

32. Lastly, the applicants in applications nos. 46930/10 and 74319/13 complained that there had been no valid “exceptional” reason, required by Article 8.2 of the Law on State Registration, to extend the time-limit for examination of the registration documents, and that the Ministry of Justice had failed to reply to some of their requests for registration within the ten-day time-limit provided for by Article 8.4 of the Law on State Registration.

(b) The Government

33. The Government argued that the actions of the Ministry of Justice had been in line with domestic law and that the reasons given by the Ministry for its decisions had been well-founded. The applicants had been seeking to obtain registration of their associations on the basis of the documents contradicting provisions of the relevant domestic laws. Consequently, the Ministry of Justice had returned the registration documents so that the applicants rectified the deficiencies contained in them.

34. The Government also argued that domestic law had not prevented non-governmental organisations from functioning without registration. Therefore, the associations could engage in their activities and even enter into various contracts, such as rent premises, open a bank account, and so on, in the absence of registration and without obtaining legal-entity status. Furthermore, the associations in fact had continued their activities after they received replies by the Ministry of Justice.

2. The Court's assessment

(a) Applicable principles

35. The Court notes that the principles relevant to the present complaints are set out, among others, in *Gorzelik and Others v. Poland* [GC] (no. 44158/98, §§ 52-53 and 64-65, ECHR 2004-I); *Koretskiyy and Others v. Ukraine* (no. 40269/02, §§ 38-39, 43 and 46-47, 3 April 2008); *The United Macedonian*

Organisation Ilinden and Others v. Bulgaria (no. 2) (no. 34960/04, §§ 30-31 and 33, 18 October 2011); and *Jafarov and Others* (no. 27309/14, §§ 54-55, 62-63, 69-70 and 80-81, 25 July 2019).

(b) Whether there was interference

36. The Court considers that the refusals (failures) by the Ministry of Justice to register the associations in question amounted to an interference with the applicants' right to freedom of association.

37. As to the Government's argument that domestic law had not prevented non-governmental organisations from functioning without registration and that the associations had continued their activities in the absence of registration, the Court rejects these arguments for the same reasons it rejected a similar argument in *Jafarov and Others* (cited above, §§ 59-60).

(c) Whether the interference was justified

38. At the outset, the Court considers that, in the circumstances of the present cases, it is not necessary to examine the applicants' grievances concerning the alleged unlawfulness of the specific reasons (alleged specific deficiencies found in the registration documents), indicated by the Ministry of Justice in its letters (contrast *Jafarov and Others*, cited above, §§ 68-85). Even assuming that all the findings by the Ministry as to the deficiencies in the registration documents were well-founded and lawful, the Ministry's refusals (failures) to register the associations were not "lawful" for the other reasons specified below.

39. The Court notes that the Law on State Registration contained several provisions applicable to the procedure of registration of NGOs as legal entities, in particular, Articles 8.3 and 11.3.1 of the Law. Article 8.3 of the Law on State Registration was applicable to situations where there were "deficiencies" in registration documents not warranting a "definitive" formal refusal to register an association, that is "rectifiable deficiencies". According to that Article, if the submitted documents were found to contain "deficiencies" that could not serve as a basis for refusal of registration, the Ministry of Justice had to return the documents and give the founders a twenty-day period for rectification of those deficiencies. Furthermore, all such deficiencies had to be identified by the Ministry of Justice in one review (Article 8.3 of the Law on State Registration). Once documents were resubmitted following the rectification of any deficiencies, the Ministry of Justice had to either register the association or issue a formal notice of definitive refusal to register (Articles 8.4 and 11.3.4 of the Law on State Registration). Article 11.3.1 of the Law on State Registration was applicable to situations that warranted a "definitive" formal refusal to register an association. According to that Article, registration could be refused if the submitted documents were in contradiction to the Constitution of the Republic of Azerbaijan, the Law on State Registration or any other legislation (for more detailed analysis of these and other relevant provisions of the Law on State Registration by the Court see *Jafarov and Others*, cited above, §§ 87-90).

40. In the present cases, similarly to *Jafarov and Others*, the wording of all of the Ministry of Justice's letters was ambiguous as to which of the above-mentioned provisions of the Law on State Registration had been applied. Thus, on the one hand, in all its letters, except for the last letter in application no. 62490/13, the Ministry of Justice mentioned that the documents of the associations in question contained deficiencies and therefore were being "returned" (or "returned unexecuted"). That wording suggested that the Ministry intended to return the documents for rectification of the alleged deficiencies, in accordance with Article 8.3 of the Law on State Registration, without

adopting a definitive decision with regard to the requests for registration. However, the letters did not expressly provide for a twenty-day rectification period. On the other hand, the Ministry of Justice cited Article 11.3.1 of the same Law as a basis for returning the registration documents. Reference to Article 11.3.1 of the Law on State Registration suggested that the Ministry's each reply constituted a "definitive" decision refusing to register the respective association. However, the letters of the Ministry of Justice did not state that registration had been formally "refused", but merely that the documents were being "returned", the term used in Article 8.3 of the Law (compare with *Jafarov and Others*, cited above, § 91). In the last letter in application no. 62490/13, the Ministry of Justice did not mention either Article 8.3 or Article 11.3.1 of the Law on State Registration.

41. Moreover, the alleged deficiencies identified by the Ministry of Justice after the applicants' subsequent requests would already have been present in the registration documents submitted with their first requests. Nevertheless, the Ministry did not notify the applicants of all those alleged deficiencies after the respective initial reviews, instead sequentially addressing a new alleged deficiency in the same registration documents after each successive registration request by the applicants was made (compare with *Jafarov and Others*, cited above, § 92). The applicants challenged before the domestic courts the actions of the Ministry of Justice and argued that provisions of Article 8.3 of the Law on State Registration were the correct provisions applicable in their cases.

42. The domestic courts, however, failed to assess the procedural correctness and consistency of the Ministry of Justice's responses, and to clarify the interplay between the rules provided under Articles 8.3 and 11.3.1 of the Law on State Registration. The courts reiterated the submissions made by the Ministry of Justice that the documents had been "returned" due to deficiencies contained in them and held that the reasons indicated by the Ministry in its letters were lawful. None of the domestic courts examined and explained the lawfulness of the references by the Ministry of Justice to Article 11.3.1 of the Law on State Registration. They either simply mentioned that that provision gave to the Ministry the right to refuse to register an organisation as a legal entity or, as the Supreme Court in application no. 36135/13, declared that the actions of the Ministry were to be interpreted as "returning the registration documents for rectification" and not as "refusing to register" the association (compare with *Jafarov and Others*, cited above, § 93).

43. Furthermore, if the Ministry of Justice indeed intended to return the registration documents for rectification – as it had been declared by the Supreme Court in application no. 36135/13 and argued by the Government in its observations before the Court (see paragraph 33 above) – provisions of Article 8.3 of the Law on State Registration should have been applied correctly. In particular, the Ministry should have identified all the alleged deficiencies in one review and explicitly provided the applicants with a twenty-day rectification period.

44. Having regard to the above, the Court finds that the Ministry of Justice did not comply with the requirements of domestic law concerning the registration procedure, which resulted in an unlawful refusal by the national authorities to register the associations in question. Accordingly, the interference in the present cases cannot be considered to have been "prescribed by law" within the meaning of Article 11 § 2 of the Convention.

45. Having reached that conclusion, the Court does not need to satisfy itself that the other requirements of Article 11 § 2 (legitimate aim and necessity of the interference) have been complied with.

46. There has accordingly been a violation of Article 11 of the Convention.

47. Furthermore, having regard to the finding of a violation of Article 11 of the Convention on the above-mentioned grounds, the Court considers that there is no need to examine the other arguments raised by the applicants in applications nos. 46930/10 and 74319/13 in connection with this complaint (see paragraph 32 above).

IV. ALLEGED VIOLATION OF ARTICLE 34 OF THE CONVENTION

48. On 9 September 2014 the applicants' representative Mr I. Aliyev introduced a new complaint on their behalf, arguing that the seizure from his office of the entire case files relating to the applicants' pending applications before the Court, together with all the other case files, had amounted to a hindrance to the exercise of the applicants' right of individual petition under Article 34 of the Convention, the relevant parts of which read 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."

A. Submissions by the parties

49. The submissions made by the applicants and the Government were similar to those made by the parties in respect of the same complaint raised in the case of *Annagi Hajibeyli v. Azerbaijan* (no. 2204/11, §§ 57-60, 22 October 2015).

B. The Court's assessment

50. In *Annagi Hajibeyli*, having examined an identical complaint based on the similar facts, the Court found that the respondent State had failed to comply with its obligations under Article 34 of the Convention (see *Annagi Hajibeyli*, cited above, §§ 64-79). The Court considers that the analysis and finding it made in the *Annagi Hajibeyli* judgment also apply to the present applications and sees no reason to deviate from that finding.

51. The Court therefore finds that the respondent State has failed to comply with its obligations under Article 34 of the Convention.

V. OTHER ALLEGED VIOLATIONS OF THE CONVENTION IN APPLICATIONS NOS. 46930/10 AND 17466/14

52. With respect to the first set of domestic court proceedings instituted by the association founders in application no. 46930/10 (see paragraph 13 above), the applicant complained under Article 6 of the Convention that the domestic courts had violated his right to access to a court. The applicants in application no. 17466/14 complained, also relying on Article 6 of the Convention, that the Supreme Court hearing in their cases had taken place in their absence because they had not been duly notified about the date and time of the hearing. The relevant part of Article 6 § 1 of the Convention reads as follows:

"1. In the determination of his civil rights and obligations ..., everyone is entitled to a fair and public hearing ..."

53. The Government contested the applicants' submissions. The applicants maintained their complaints.

54. Having regard to its findings in respect of Article 11 of the Convention above, the parties' submissions, and the particular circumstances of the cases, the Court considers that there is no need to give a separate ruling on the admissibility and merits of these complaints in the present cases (compare Centre for Legal Resources on behalf of *Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

55. 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

56. In each application the applicants claimed 10,000 euros (EUR) in respect of non-pecuniary damage.

57. The Government submitted that the amount claimed by the applicants was unsubstantiated and asked the Court to adopt a strict approach in respect of the applicants' claims and reject them.

58. The Court notes from the outset that from the applicants' submissions it was not clear whether they claimed the mentioned amount jointly with other applicants in the same application or separately for each applicant.

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. Making its assessment on an equitable basis, as required by Article 41 of the Convention, the Court awards under this head the sum of EUR 4,500 in each application (where there are more than one applicant in the application, to all the applicants in that application jointly), plus any tax that may be chargeable on this amount.

B. Costs and expenses

60. In each application the applicants claimed EUR 1,100 for the costs and expenses incurred before the Court. In support of their claims they submitted formal notes (*akt*), signed by them and their representative, reiterating conditions of earlier original contracts for legal services. According to the applicants, they were no longer in possession of those contracts because in 2014 they had been seized by the domestic authorities from their representative, Mr I. Aliyev, together with other documents in their case files, and had never been returned. The applicants also requested that any compensation awarded under this head be paid directly into their representative's bank account.

61. The Government submitted that contrary to the applicants' allegations all the case materials seized from their representative, Mr I. Aliyev, had been returned to him.

62. The Government also submitted that the contracts between the applicants and their representative lacked legality and credibility. They argued in particular that, since the applicants and their representative agreed that the former would proceed with payment of legal fees only in case the Court awards compensation, the representative could easily indicate in a contract any amount he wished and the applicants would not object. With respect to applications nos. 36186/13, 62490/13 and 74319/13 the Government also argued that the formal notes submitted

to the Court were of questionable nature because (a) in applications nos. 36186/13 and 74319/13 the applicants' signatures contained in those formal notes seemed to be different from those contained in the applicants' original applications, and (b) the first name of one of the applicants in application no. 62490/13 was written incorrectly.

63. Lastly, the Government submitted that the amount claimed by the applicants was excessive. They noted that all the applicants were represented by the same lawyer, Mr I. Aliyev, and argued that the lawyer's submissions in all the applications were very similar.

64. The Court considers unsubstantiated the Government's objections as to the legality and credibility of the terms on which the applicants and their representative agreed to pay the legal services. 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 were actually and necessarily incurred and are reasonable as to quantum. That is, the applicant must have paid them, or be bound to pay them, pursuant to a legal or contractual obligation, and they must have been unavoidable in order to prevent the violation found or to obtain redress (see *Maktouf and Damjanović v. Bosnia and Herzegovina* [GC], nos. 2312/08 and 34179/08, § 94, ECHR 2013 (extracts)).

65. As to the Government's specific objections concerning the formal notes in applications nos. 36186/13, 62490/13 and 74319/13, the Court, having had regard to the documents in question, observes that there indeed seems to be a minor technical mistake in one of those documents; however, on the basis of the material in its possession it cannot conclude that the applicant's signatures are not genuine.

66. The Court accepts the Government's argument that Mr I. Aliyev's submissions in all the applications were very similar and repetitive.

67. Taking into account the above considerations, the Court awards the total amount of EUR 6,000 to all the applicants jointly in respect of the legal services rendered by Mr I. Aliyev, plus any tax that may be chargeable on the applicants, to be paid directly into the bank account of the applicants' representative.

C. Default interest

68. 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. *Decides* to strike parts of applications nos. 46930/10, 59519/13 and 74319/13 out of its list of cases in accordance with Article 37 § 1 (a) of the Convention in so far as they concern the complaints raised by Mr Xxx, Mr Xxx, Ms Xxx and Ms Xxx;
3. *Declares* the complaint of the remaining applicants under Article 11 of the Convention admissible;
4. *Holds* that there has been a violation of Article 11 of the Convention;
5. *Holds* that the respondent State has failed to comply with its obligations under Article 34 of the Convention;
6. *Holds* that there is no need to examine the admissibility and merits of the complaints under Article 6 of the Convention raised in applications nos. 46930/10 and 17466/14;

7. Holds

(a) that the respondent State is to pay, within three months, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:

(i) EUR 4,500 (four thousand five hundred euros) in each application, to all the applicants in each application jointly, plus any tax that may be chargeable, in respect of non-pecuniary damage;

(ii) EUR 6,000 (six thousand euros), plus any tax that may be chargeable to all the applicants in all applications jointly, in respect of costs and expenses, to be paid directly into the bank account of the applicants' representative;

(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 20 May 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller Deputy Registrar

Mārtiņš Mits President

Appendix

ITList of cases (applicants marked with "*" have withdrawn their complaints; parts of applications which concern those applicants struck out of the list of cases):

No.	Applicat ion no.	Cas e na me	Lodged on	Applica nt Year of Birth Place of Residen ce Nationa lity	Represente d by	Notes
1.	46930/10	xxx	10/08/2 010	xxx	Intigam ALI YEV	Media Monitoring Institute ("Media Monitoring Institutu") was established by the applicants in 2009. The Ministry of Justice returned the registration documents of the association at least three times (on 16 July 2009, and 17 May and 23 August 2010) indicating the following alleged deficiencies.

No.	Applicat ion no.	Cas e na me	Lodged on	Applica nt Year of Birth Place of Residen ce Nationa lity	Represente d by	Notes
						<p><i>First letter:</i> in contravention of Article 5 of the Law on NGOs, it was not clear from the submitted documents whether the association had been established on a permanent basis or for achieving concrete objectives.</p> <p><i>Second letter:</i> In the request to register the association the number and the date of issuance of an ID card of the first applicant was indicated incorrectly.</p> <p><i>Third letter:</i> In the request for registration, the number of an ID card of the second applicant was indicated incorrectly.</p> <p><i>First set of domestic court proceedings:</i> Decision of the Yasamal District Court of 16 September 2009. Decision of the Baku Court of Appeal of 2 November 2009. Decision of the Supreme Court of 4 March 2010.</p> <p><i>Second set of domestic court proceedings:</i> Judgment of Baku Administrative Economic Court no. 1 of 9 June 2011. Judgment of the Baku Court of Appeal of 22 September 2011. Decision of the Supreme Court of 29 February 2012.</p>
2.	31124/13	xxx	09/03/2013	xxx	Intigam ALI YEV	Media and Democracy Institute (“Media və Demokratiya İnstitutu”) was established by the applicants in 2010.

No.	Applicat ion no.	Cas e na me	Lodged on	Applica nt Year of Birth Place of Residen ce Nationa lity	Represente d by	Notes
						<p>The Ministry of Justice returned the registration documents of the association two times (on 5 July 2010 and 22 June 2011) indicating the following alleged deficiencies.</p> <p><i>First letter:</i> ID card of one of the founders of the organisation, Mehriban Ali gizi Vezir, expired.</p> <p><i>Second letter:</i> in contravention of Article 3.1 of the Law on NGOs, the title of the association did not reflect the character of its activity.</p> <p><i>Domestic court proceedings:</i> Judgment of the Baku Administrative Economic Court no. 1 of 17 January 2012. Judgment of the Baku Court of Appeal of 8 May 2012. Decision of the Supreme Court of 25 July 2012.</p>
3.	36135/13	xxx	10/05/2013	xxx	Intigam ALI YEV	<p>Health and Human Rights (“İnsan Hüquqları və Sağlamlıq”) was established by the applicants in 2011.</p> <p>The Ministry of Justice returned the registration documents of the association at least two times (on 6 April 2011 and 12 July 2011) indicating the following alleged deficiencies.</p> <p><i>First letter:</i> in contravention of Article 5.4.1 of the Law on State Registration, the decision establishing the association and approving its charter did not set out</p>

No.	Applicat ion no.	Cas e na me	Lodged on	Applica nt Year of Birth Place of Residen ce Nationa lity	Represente d by	Notes
						<p>the terms of reorganisation when a new legal entity was to be established as a result of merger, separation and division.</p> <p><i>Second letter:</i> (a) according to paragraph 1.1 of the charter, the activities of the organisation would cover the territory of Azerbaijan and also other countries. It was necessary to clarify that provision; (b) in contravention of Article 5 of the Law on NGOs, the charter of the association did not clearly indicate whether the latter was established on a permanent basis or for the purpose of achieving concrete goals.</p> <p><i>Domestic court proceedings:</i> Judgment of the Baku Administrative Economic Court no. 1 of 24 January 2012. Judgment of the Baku Court of Appeal of 1 May 2012. Decision of the Supreme Court of 24 October 2012.</p>
4.	36186/13	xxx	08/05/2013	xxx	Intigam ALI YEV	<p>Human Rights and Awareness-raising about the Laws (“İnsan Hüquqları və Qanunların Təbliği”) was established by the applicants in 2010.</p> <p>The Ministry of Justice returned the registration documents of the association three times (on 11 March, 21 June and 6 October 2010) indicating the following alleged deficiencies.</p>

No.	Applicat ion no.	Cas e na me	Lodged on	Applica nt Year of Birth Place of Residen ce Nationa lity	Represente d by	Notes
						<p><i>First letter:</i> in the first sentence of paragraph 7.2 of the charter the words “cancellation of activity” must be substituted by the word “termination”.</p> <p><i>Second letter:</i> in contravention of Article 5.3.1 of the Law on State Registration, the number and the date of issuance of ID cards belonging to the applicants were not indicated in the request.</p> <p><i>Third letter:</i> in contravention of Article 5.2 of the Law on State Registration, the request for state registration was not certified by a notary.</p> <p><i>Domestic court proceedings:</i> Judgment of the Baku Administrative Economic Court no. 1 of 14 March 2012. Judgment of the Baku Court of Appeal of 12 June 2012. Decision of the Supreme Court of 17 October 2012.</p>
5.	59519/13	xxx	26/08/2013	xxx	Intigam ALI YEV	<p>Centre for Fight against Gender Discrimination (“Cinsi Ayrıseçkiliyə Qarşı Mübarizə Mərkəzi”) was established by the applicants in 2012.</p> <p>The Ministry of Justice returned the registration documents of the association two times (on 21 May and 26 July 2012) indicating the following alleged deficiencies.</p> <p><i>First letter:</i> in contravention of Article 5.4.1 of the Law on State</p>

No.	Applicat ion no.	Cas e na me	Lodged on	Applica nt Year of Birth Place of Residen ce Nationa lity	Represente d by	Notes
						<p>Registration, the decision establishing the association, approving its charter and establishing its management bodies did not define the powers of the association's management bodies.</p> <p><i>Second letter:</i> Article 12.1 of the Law on State Register of Immovable Property, requires property rights to be confirmed by a certificate whereas the "technical passport" of a house submitted by the founders as proof of the legal address of the association was not a document proving property rights.</p> <p><i>Domestic court proceedings:</i> Judgment of the Baku Administrative Economic Court no. 1 of 29 November 2012. Judgment of the Baku Court of Appeal of 7 February 2013. Decision of the Supreme Court of 16 May 2013.</p>
6.	62490/13	xxx	16/09/2013	xxx	Intigam ALI YEV	<p>Development of Public Healthcare ("İctimai Səhiyyənin İnkişafı") was established by the applicants in 2011.</p> <p>The Ministry of Justice returned the registration documents of the association four times (on 31 May and 12 October 2011, and 8 February and 24 May 2012) indicating the following alleged deficiencies.</p> <p><i>First letter:</i> in contravention of Article 3.1 of the Law on NGOs, the</p>

No.	Applicat ion no.	Cas e na me	Lodged on	Applica nt Year of Birth Place of Residen ce Nationa lity	Represente d by	Notes
						<p>title of the association did not reflect the character of its activity.</p> <p><i>Second letter:</i> in accordance with Article 5 of the Law on NGOs, a non-governmental organisation may be established on a permanent basis or for achieving particular objectives. Article 1.3 of the charter stipulated that the association was established on a permanent basis or for the purpose of achieving concrete goals. It was necessary to clarify that provision of the charter.</p> <p><i>Third letter:</i> according to Article 5.1 of the Law on State Registration, a written request to register an association as a legal entity must be submitted, however, that written request was not among the submitted documents.</p> <p><i>Fourth letter:</i> paragraph 1.1 of the charter mentioned that the activity of the association would extend to Azerbaijan and other countries, but it did not specify the names of those foreign countries.</p> <p><i>Domestic court proceedings:</i> Judgment of the Baku Administrative Economic Court no. 1 of 27 November 2012. Judgment of the Baku Court of Appeal of 30 January 2013. Decision of the Supreme Court of 13 June 2013.</p>
7.	64016/13	xxx	12/09/2013	xxx	Intigam ALI YEV	Democratic Initiatives and Social Development ("Demokratik Təşəbbüslər və Socia

No.	Applicat ion no.	Cas e na me	Lodged on	Applica nt Year of Birth Place of Residen ce Nationa lity	Represente d by	Notes
						<p>1 İnkişaf”) was established by the applicants in 2010.</p> <p>The Ministry of Justice returned the registration documents of the association six times (on 7 July, 4 October and 19 December 2011, and 21 February, 8 June and 6 September 2012) indicating the following alleged deficiencies.</p> <p><i>First letter:</i> in contravention of Article 5.4.1 of the Law on State Registration, the decision establishing the association and approving its charter did not indicate an intent of the founders to establish the organisation and did not set out the terms of reorganisation when a new legal entity was to be established as a result of merger, separation and division.</p> <p><i>Second letter:</i> in contravention of Article 13.1 of the Law on NGOs, the charter did not indicate the location of the association.</p> <p><i>Third letter:</i> in contravention of Article 25.1 of the Law on NGOs, the charter did not set out powers of a chairman and vice-chairmen.</p> <p><i>Fourth letter:</i> Article 12.1 of the Law on State Register of Immovable Property, requires property rights to be confirmed by a certificate whereas the “technical passport” of an immovable property submitted by the founders as proof of the legal address of the association was not a document proving property rights.</p>

No.	Applicat ion no.	Cas e na me	Lodged on	Applica nt Year of Birth Place of Residen ce Nationa lity	Represente d by	Notes
						<p><i>Fifth letter:</i> in contravention of Article 9.2 of the Law on NGOs, the charter did not indicate the scope of mutual rights and responsibilities of the founders.</p> <p><i>Sixth letter:</i> (a) the cover page of the charter was not in accordance with a form shown in Annex no. 1 to the Rules on Registration of Non-Commercial organisations and Educational Institutions; (b) it was necessary to indicate on the cover page of the charter a new title of the department dealing with registration – the Head department on registration and notary.</p> <p><i>Domestic court proceedings:</i> Judgment of the Baku Administrative Economic Court no. 1 of 28 November 2012. Judgment of the Baku Court of Appeal of 6 March 2013. Decision of the Supreme Court of 28 June 2013.</p>
8.	74319/13	xxx	13/11/2013	xxx	Intigam ALI YEV	<p>Regional Centre for Women’s Rights (“Regional Qadın Hüquqları Mərkəzi”) was established by the applicants in 2009.</p> <p>The Ministry of Justice returned the registration documents of the association five times (on 10 February, 17 June and 28 December 2009, 26 October 2011 and 8 February 2012) indicating the following alleged deficiencies.</p>

No.	Applicat ion no.	Cas e na me	Lodged on	Applica nt Year of Birth Place of Residen ce Nationa lity	Represente d by	Notes
						<p><i>First letter:</i> in the first sentence of paragraph 7.2 of the charter the words “cancellation of activity” must be substituted by the word “termination”.</p> <p><i>Second letter:</i> in contravention of Article 5 of the Law on NGOs, the charter of the association did not indicate whether the latter was established on a permanent basis or for the purpose of achieving concrete goals.</p> <p><i>Third letter:</i> ID card of one of the founders of the organisation, Tahira Nurbala gizi B ashirli, expired.</p> <p><i>Fourth letter:</i> in contravention of Article 9.2 of the Law on NGOs, the charter did not indicate the scope of mutual rights and responsibilities of the founders.</p> <p><i>Fifth letter:</i> in contravention of Article 10.3 of the Law on NGOs, the charter did not set up a procedure to guarantee the right to complain before a court about cancellation of membership of the association.</p> <p><i>Domestic court proceedings:</i> Judgment of the Baku Administrative Economic Court no. 1 of 3 October 2012. Judgment of the Baku Court of Appeal of 14 February 2013. Decision of the Supreme Court of 13 June 2013.</p>
9.	3206/14	xxx	24/12/2013	xxx	Intigam ALI YEV	Palliative Care and Healthcare Initiatives (“Palliativ Qulluq və Sağlamlıq Təş

No.	Applicat ion no.	Cas e na me	Lodged on	Applica nt Year of Birth Place of Residen ce Nationa lity	Represente d by	Notes
						<p>əbbüsləri”) was established by the applicants in 2012.</p> <p>The Ministry of Justice returned the registration documents of the association two times (on 18 May and 26 July 2012) indicating the following alleged deficiencies.</p> <p><i>First letter:</i> in contravention of Article 5.4.1 of the Law on State Registration, the decision establishing the association, approving its charter and establishing its management bodies did not define the powers of the association’s management bodies.</p> <p><i>Second letter:</i> in contravention of Article 13.1 of the Law on NGOs, the charter did not describe the procedure for cancellation of a membership of the association.</p> <p><i>Domestic court proceedings:</i> Judgment of the Baku Administrative Economic Court no. 1 of 5 November 2012. Judgment of the Baku Court of Appeal of 22 January 2013. Decision of the Supreme Court of 27 June 2013.</p>
10.	15689/14	xxx	10/02/2014	xxx	Intigam ALI YEV	<p>Centre for Public Interests Advocacy (“İctimai Maraqların müdafiəsi Mərkəzi”) was established by the applicants in 2012.</p> <p>The Ministry of Justice returned the registration documents of the</p>

No.	Applicat ion no.	Cas e na me	Lodged on	Applica nt Year of Birth Place of Residen ce Nationa lity	Represente d by	Notes
						<p>association three times (on 6 February, 20 April and 5 July 2012) indicating the following alleged deficiencies.</p> <p><i>First letter:</i> in contravention of Article 9.2 of the Law on NGOs, the charter did not indicate the scope of mutual rights and responsibilities of the founders.</p> <p><i>Second letter:</i> Article 8.3 of the association's charter must be amended to comply with Article 11 of the Law on Accountancy. According to that Article, for an organisation, which was newly established before 1 October, the first reporting period shall be the period from the date of that organisation's state registration to 31 December of the same year inclusive; for an organisation, which was newly established after 1 October, the first reporting period shall be the period from the date of that organisation's state registration to 31 December of the next year inclusive.</p> <p><i>Third letter:</i> in contravention of Article 10.3 of the Law on NGOs, the charter did not set up guarantees for complaining internally about cancellation of membership of the association (including the procedure and the time limit for examination of a complaint).</p> <p><i>Domestic court proceedings:</i></p>

No.	Applicat ion no.	Cas e na me	Lodged on	Applica nt Year of Birth Place of Residen ce Nationa lity	Represente d by	Notes
						<p>Judgment of the Baku Administrative Economic Court no. 1 of 24 October 2012.</p> <p>Judgment of the Baku Court of Appeal of 29 January 2013.</p> <p>Decision of the Supreme Court of 1 August 2013.</p>
11.	17466/14	xxx	18/02/2014	xxx	Intigam ALI YEV	<p>Women's Crisis Centre ("Qadın Krizis Mərkəzi") was established by the applicants in 2011.</p> <p>The Ministry of Justice returned the registration documents of the association four times (on 28 November 2011, and 7 February, 6 June and 30 August 2012) indicating the following alleged deficiencies.</p> <p><i>First letter:</i> (a) in accordance with Article 3.1 of the Law on NGOs, the title of an association must reflect the character of its activity; (b) in accordance with Article 5.4.1 of the Law on State Registration, the decision establishing an association and approving its charter must set out powers of that association's legal representative, in case such legal representative is appointed. However, the decision establishing the association and approving its charter did not reflect the requirements of that provision.</p> <p><i>Second letter:</i> In accordance with Article 3.1 of the Law on NGOs, an association must have a title reflecting the character of its</p>

No.	Applicat ion no.	Cas e na me	Lodged on	Applica nt Year of Birth Place of Residen ce Nationa lity	Represente d by	Notes
						<p>activity. However, despite the fact that in the letter of 28 November 2011 the Ministry of Justice had pointed out that the association's title did not reflect the character of its activity, that deficiency was not rectified.</p> <p><i>Third letter:</i> in contravention of Article 9.2 of the Law on NGOs, while the rights of the founders were reflected in the charter of the organisation, their responsibilities were not indicated.</p> <p><i>Fourth letter:</i> In contravention of paragraph 2.11 of the Rules on registration of non-commercial organisations and educational institutions, the cover page of the charter did not contain a special blank field for inserting the registration number and registration date of the association, and the name of the registering authority (Annex no. 1).</p> <p><i>Domestic court proceedings:</i> Judgment of the Baku Administrative Economic Court no. 1 of 12 March 2013. Judgment of the Baku Court of Appeal of 30 May 2013. Decision of the Supreme Court of 30 October 2013.</p>
12.	31592/14	xxx	14/04/2014	xxx	Intigam ALI YEV	Religion and Women's Rights ("Din və Qadın Hüquqları") was established by the applicants in 2011.

No.	Applicat ion no.	Cas e na me	Lodged on	Applica nt Year of Birth Place of Residen ce Nationa lity	Represente d by	Notes
						<p>The Ministry of Justice returned the registration documents of the association four times (on 2 August and 2 November 2011, and 7 March and 19 November 2012) indicating the following alleged deficiencies.</p> <p><i>First letter:</i> in contravention of Article 5.4.1 of the Law on State Registration, the decision establishing the association and approving its charter did not indicate an intent of the founders to establish the organisation and did not set out the terms of reorganisation when a new legal entity was to be established as a result of merger, separation and division.</p> <p><i>Second letter:</i> in accordance with Article 5 of the Law on NGOs, a non-governmental organisation may be established on a permanent basis or for achieving particular objectives. Article 1.2 of the charter stipulated that the association was established on a permanent basis or for the purpose of achieving concrete goals. It was necessary to clarify that provision of the charter.</p> <p><i>Third letter:</i> in contravention of Article 9.2 of the Law on NGOs, the charter did not indicate the scope of mutual rights and responsibilities of the founders.</p> <p><i>Fourth letter:</i> in contravention of Article 5.4.1 of the Law on State Registration, the decision establishing the association,</p>

No.	Applicat ion no.	Cas e na me	Lodged on	Applica nt Year of Birth Place of Residen ce Nationa lity	Represente d by	Notes
						<p>approving its charter and establishing its management bodies did not define the powers of the association's management bodies.</p> <p><i>Domestic court proceedings:</i> Judgment of the Baku Administrative Economic Court no. 1 of 27 March 2013. Judgment of the Baku Court of Appeal of 1 August 2013. Decision of the Supreme Court of 6 November 2013.</p>

