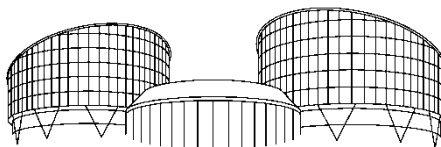


La CEDU sulla violazione dell'art. 8 della Convenzione (CEDU, sez. III, sent. 18 marzo 2025, ric. n. 36057/18)

Nel caso di specie, la Corte EDU è chiamata a pronunciarsi sulla revoca del diritto del ricorrente ad esercitare la professione forense, disposta pochi giorni dopo la sua riammissione all'Ordine degli Avvocati dell'Azerbaijan (ABA), a causa del mancato pagamento di quote associative relative a un periodo precedente. Il ricorrente, dal canto suo, ha contestato la decisione, sostenendo che la radiazione sarebbe potuta avvenire, ai sensi dell'art. 23 della legge sugli avvocati, solo per mezzo di un processo dinanzi a un tribunale e che, pertanto, la mera iniziativa del Presidium era inadeguata. Il ricorrente ha invocato la lesione dell'art. 8 CEDU, sostenendo che la decisione impugnata aveva avuto gravi conseguenze sulla sua vita professionale, privandolo dell'opportunità di esercitare la professione forense. La Corte ha ribadito che la nozione di "vita privata" è talmente ampia da comprendere anche le relazioni di natura professionale, ammettendo dunque che l'esclusione dall'ABA costituisce un'ingerenza nel diritto al rispetto della vita privata del ricorrente, giustificabile solo se conforme ai requisiti dell'art. 8 § 2 della Convenzione. A tal riguardo, la Corte ha rilevato che il mancato rispetto della seconda parte dell'art. 23 della legge sugli avvocati ha determinato la non conformità dell'ingerenza al diritto interno, sottolineando un particolare potere discrezionale del Presidium. La considerazione per cui l'ingerenza in questione non era prevista dalla legge rende superfluo l'esame della finalità perseguita e della sua necessità in una società democratica ed è sufficiente per dichiarare la violazione dell'articolo.



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

THIRD SECTION

CASE OF XXX v. AZERBAIJAN

(Application no. 36057/18)

JUDGMENT
STRASBOURG

18 March 2025

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 XXX v. Azerbaijan,

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

Ioannis Ktistakis, *President*,
Peeter Roosma,
Lətif Hüseynov,
Darian Pavli,
Oddný Mjöll Arnardóttir,
Úna Ní Raifeartaigh,
Mateja Đurović, *judges*,
and Milan Blaško, *Section Registrar*,

Having regard to:

the application (no. 36057/18) 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 an Azerbaijani national, Mr “Omissis” (“the applicant”), on 21 July 2018;

the decision to give notice to the Azerbaijani Government (“the Government”) of the complaints concerning Articles 6 and 8 of the Convention;

the parties’ observations;

Having deliberated in private on 21 January 2025,

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

INTRODUCTION

1. The case concerns the termination of the applicant’s right to practise as a lawyer, only a few days after his readmission to the Azerbaijani Bar Association (*Azərbaycan Respublikası Vəkillər Kollegiyası* – hereinafter “the ABA”), for failure to pay his membership fees for a previous period when he had been a member of the ABA.

THE FACTS

2. The applicant was born in “Omissis” and lives in “Omissis”. He was represented by “Omissis”, lawyers based in “Omissis”.

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.

5. On 5 August 2009 the applicant was admitted to the ABA and became a lawyer (*vəkil*). He was affiliated to the Absheron District Law Office.

6. On 23 February 2012 the applicant, who was also a professor of law, asked the ABA to terminate his lawyer activity because he was exclusively engaged in scientific and pedagogical activities.

7. On 27 February 2012 the ABA granted the applicant's request and his right to practise as a lawyer was terminated.

8. On an unspecified date in August 2016 the applicant asked the ABA to readmit him as a member.

9. On 7 September 2016 the ABA granted the applicant's request. The relevant extract from the minutes of meeting no. 6 of the Presidium of the ABA (*Azərbaycan Respublikası Vəkillər Kollegiyası Rəyasət Heyəti* – hereinafter “the Presidium”) held on 7 September 2016 reads as follows:

“Omissis is admitted to the ABA as from 7 September 2016 and assigned to practise at Baku Law Office no. 11.”

10. On the same day, immediately after his admission to the ABA, the applicant took the lawyer's oath at the meeting of the Presidium.

11. It appears from the documents in the case file that on 9 September 2016 the head of the Absheron District Law Office sent a letter to the ABA informing it that the applicant had had only one contract between 2009 and 2012 and that he had not appeared in any case as a State-appointed lawyer during that period. The letter also noted that the applicant had a debt of 1,800 Azerbaijani manats (AZN) (approximately 1,000 euros (EUR) at the relevant time) owed to the Absheron District Law Office for non-payment of membership fees.

12. On 15 September 2016 the Presidium held a meeting at which it again discussed the applicant's admission to the ABA. It appears from the minutes of the meeting that three members of the Presidium, relying on the letter dated 9 September 2016, argued that the applicant had not actually practised as a lawyer between 2009 and 2012 and that he had a debt to the Absheron District Law Office. The applicant, who was present at the meeting, contested the contents of the letter and stated that he had in fact practised as a lawyer during the period in question.

13. On 15 September 2016 the Presidium revoked its previous decision concerning the applicant's admission to the ABA. The relevant extract from the minutes of meeting no. 7 of the Presidium held on 15 September 2016 reads as follows:

“1. The decision of the Presidium concerning the admission of Omissis to the ABA, dated 7 September 2016, is revoked (*ləğv edilsin*).

2. The request of Omissis to be admitted to the ABA is not granted.”

14. On 8 November 2016 the applicant challenged the Presidium's decision of 15 September 2016. He alleged, in particular, that the decision in question had been unlawful as he had been practising as a lawyer since his readmission to the ABA on 7 September 2016, and he could only be disbarred following disciplinary proceedings for an alleged breach of the rules. Moreover, even assuming that there had been a breach, he could not be subjected to disciplinary

proceedings since in accordance with Article 22 of the Law on Advocates and Advocacy Activity ("the Law"), a disciplinary sanction against a lawyer could only be applied within a period of six months from the day of the disclosure of the disciplinary breach or within a period of one year from the day of its commission. He also argued that the impugned decision of the Presidium had restricted his professional activity.

15. On 10 May 2017 Baku Administrative-Economic Court no. 1 dismissed the applicant's claim, finding that the Presidium's decision of 15 September 2016 had been lawful and justified. The relevant part of that decision reads as follows:

"The court considers that the claim must be dismissed on the following legal grounds.

Matters relating to lawyers and the organisation of the activity of lawyers in general are regulated by the Law on Advocates and Advocacy Activity of the Republic of Azerbaijan.

In accordance with part I of Article 23 of this Law, a lawyer's activity may be terminated: following his or her written request for termination; where there is a court decision finding him or her guilty [of a criminal offence] or a court decision ordering compulsory medical treatment which has entered into force; where a court has established that he or she lacks capacity or has limited capacity; in the event of death; where a court has declared him or her dead or missing; where he or she has been excluded from membership of the Bar Association; where it has been disclosed that he or she does not comply with the requirements provided for by the Law for being candidate to the lawyer activity; and in the event of failure to pay his or her membership fees for a period of more than six months without good reason.

As can be seen, the termination of a lawyer's activity as a result of a failure to pay his or her membership fees for a period of more than six months without good reason is provided for by the legislation. As noted, the claimant has a debt to the law office of AZN 1,800.

The Presidium based its decision about the claimant on that fact."

16. On 9 June 2017 the applicant appealed against that decision, reiterating his previous complaints. In particular, he maintained that he could only be disbarred following disciplinary proceedings for an alleged breach of the rules in accordance with the relevant provisions of the Law because he had been practising as a lawyer since 7 September 2016, the date on which he had been readmitted to the ABA, and had taken the lawyer's oath. He also disputed the first-instance court's reasoning that the Presidium's decision of 15 September 2016 had been lawful and based on part I of Article 23 of the Law. In that connection, the applicant pointed out that part II of Article 23 itself clearly provided that, in the event of failure to pay membership fees for a period of more than six months without good reason, a lawyer's activity could only be terminated following a court decision. However, in the present case the Presidium had terminated his lawyer activity without applying to a court.

17. On 24 August 2017 the Baku Court of Appeal dismissed the appeal, finding no grounds for quashing the lower court's decision. The appellate court's reasoning reiterated that provided by the first-instance court.

18. On 24 November 2017 the applicant lodged a cassation appeal, reiterating his previous arguments and relying on Articles 6, 8, 14 and 18 of the Convention.

19. On 27 December 2017 the Supreme Court upheld the appellate court's judgment.

20. The Supreme Court's decision was served on the applicant on 23 January 2018.

RELEVANT LEGAL FRAMEWORK

21. The relevant part of the Law on Advocates and Advocacy Activity of 28 December 1999 ("the Law"), as in force at the material time, provided as follows:

Article 11 The Presidium of the Bar Association

"...

III. The Presidium of the Bar Association shall:

...

- settle matters of admission to membership of the Bar Association, exercise its powers concerning the termination of lawyer activity in accordance with Article 23 of this Law, and maintain the register of lawyers;

...

- institute disciplinary proceedings against lawyers;

..."

Article 14 Lawyer's oath

"I. A person admitted as a member of the Bar Association takes the following oath at a meeting of the Presidium of the Bar Association before the State flag of the Republic of Azerbaijan:

'I solemnly swear that, by complying with the Constitution and laws of the Republic of Azerbaijan, being independent, I will honestly and conscientiously perform the duties of a lawyer, be fair and principled, courageously and firmly defend human rights and freedoms, and preserve professional confidentiality.'

II. Terms of office of lawyers shall commence from the moment of taking the oath and lawyers shall be deemed to be included in the register of lawyers.

..."

Article 21 Disciplinary commission of lawyers

"I. The disciplinary commission of lawyers is created within the Presidium of the Bar Association for the purposes of the examination of complaints and applications relating to disciplinary violations committed by lawyers while exercising their professional duties and for the resolution of matters relating to their disciplinary responsibility.

..."

Article 22 Disciplinary responsibility of lawyers

"I. A lawyer is subjected to disciplinary responsibility in the event of disclosure of a breach of the provisions of this Law and other legislative acts, the Statute on the rules of conduct for lawyers, and the norms of lawyer ethics in the exercise of his or her professional duty.

II. A lawyer is subjected to disciplinary responsibility by the Presidium of the Bar Association on the basis of an opinion of the disciplinary commission of lawyers.

III. A disciplinary sanction against a lawyer may be applied within a period of six months from the day of disclosure of the disciplinary breach, within a period of one year from the day of its commission.

...

VI. The Presidium of the Bar Association may apply in respect of a lawyer the following disciplinary sanctions on the basis of an opinion of the disciplinary commission:

- admonition;

- reprimand;

- suspension from practising for a period from three months to one year;

...

VIII. If there are grounds serving as a basis for exclusion of a lawyer from the Bar Association, on the basis of an opinion of the disciplinary commission, the Presidium of the Bar Association can apply to a court for resolution of the matter and suspend the lawyer's activity until the entry into force of the court decision on the issue."

Article 23 Termination of a lawyer's activity (*vəkilin fəaliyyətinə xitam verilməsi*)

"I. A lawyer's activity is terminated in the following cases:

- following his or her written request asking for termination of his or her activity;

- where there is a court decision finding him or her guilty [of a criminal offence] or a court decision ordering compulsory medical treatment which has entered into force;

- where a court has established that he or she lacks capacity or has limited capacity;

- in the event of death;

- where a court has declared him or her dead or missing;

- where he or she has been excluded from membership of the Bar Association;

- where it has been disclosed that he or she does not comply with the requirements provided for by this Law for being candidate to the lawyer activity;

- in the event of failure to pay his or her membership fees for a period of more than six months without good reason.

II. The lawyers' activity are terminated by a decision of the Presidium of the Bar Association. In the cases provided for by lines (*abzas*) 7 and 9 of part I of this Article, the termination of lawyers'

activity may only be carried out on the basis of a court decision which has entered into force excluding that lawyer from the Bar Association.”

THE LAW

I. THE GOVERNMENT’S REQUEST FOR THE APPLICATION TO BE STRUCK OUT UNDER ARTICLE 37 § 1 OF THE CONVENTION

22. Article 37 § 1 of the Convention provides as follows:

“1. The Court may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that

(a) the applicant does not intend to pursue his application; or

(b) the matter has been resolved; or

(c) for any other reason established by the Court, it is no longer justified to continue the examination of the application.

However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the Protocols thereto so requires.”

23. On 31 March 2021 the Government submitted a unilateral declaration with a view to resolving the issues raised by the present application. They requested that the Court strike the application out of its list of cases in accordance with Article 37 of the Convention.

24. The applicant disagreed with the terms of the unilateral declaration, mainly arguing that the application raised serious issues under the Convention and that mere compensation as offered by the Government could not be considered adequate redress in the circumstances of his case.

25. The Court reiterates that it may be appropriate in certain circumstances to strike out an application, or part thereof, under Article 37 § 1 on the basis of a unilateral declaration by the respondent Government even where the applicant wishes the examination of the case to be continued. Whether this is appropriate in a particular case depends on whether the unilateral declaration offers a sufficient basis for finding that respect for human rights as defined in the Convention does not require the Court to continue its examination of the case (see *Tahsin Acar v. Turkey* (preliminary objections) [GC], no. 26307/95, § 75, ECHR 2003-VI, and *Jeronovičs v. Latvia* [GC], no. 44898/10, § 64, 5 July 2016).

26. The Court notes that in the instant case, although the Government acknowledged in their unilateral declaration that there had been a violation of the applicant’s rights protected under the Convention and expressed their readiness to pay compensation on that account, the unilateral declaration did not provide an undertaking concerning the adoption of any measure aimed at restoring the applicant’s professional activities as a lawyer or reopening the domestic proceedings concerning the termination of his right to practise as a lawyer (compare *Igranov and Others v. Russia*, nos. 42399/13 and 8 others, §§ 22-24, 20 March 2018, and *Bocu v. Romania*, no. 58240/14, §§ 24-26, 30 June 2020). That being so, the Court finds that the nature of the alleged violation in the present case is such that it would not be possible to eliminate the effects of the

infringement of the applicant's rights protected under the Convention solely by an acknowledgment of the violation and the payment of compensation.

27. The Court therefore refuses the Government's request for it to strike the application out of its list of cases under Article 37 § 1 of the Convention and will accordingly pursue its examination of the admissibility and merits of the case.

II. THE GOVERNMENT'S PRELIMINARY OBJECTION AS TO COMPLIANCE WITH THE SIX-MONTH RULE

28. The Government submitted that the applicant had failed to comply with the six-month rule (as applicable at the relevant time) when lodging his application with the Court on 21 July 2018. They argued that as the applicant and his two representatives had been present during the delivery of the Supreme Court's decision on 27 December 2017, the six-month period should have begun to run from that date and not from 23 January 2018, the date on which the Supreme Court's decision had been served on the applicant. The Government submitted in that connection that Article 75.1 of the Code of Administrative Procedure ("the CAP") provided that the operative part of a decision was announced, as a rule, on the day of the final court hearing and that the CAP did not provide for service of the decision, in contrast to the relevant provisions of the Code of Civil Procedure ("the CCP").

29. The applicant disagreed with the Government's submissions, arguing that the parties were entitled, under the relevant domestic law, to be served with a copy of the final domestic decision in administrative proceedings. In that connection, he relied on Article 1.2 of the CAP, under which the provisions of the CCP could be applied in administrative proceedings where there was no applicable rule under the CAP and where there was no contradiction with the procedural principles provided for under the CAP.

30. The Court reiterates that where an applicant is entitled to be served automatically with a copy of the final domestic decision, the object and purpose of Article 35 § 1 of the Convention are best served by counting the six-month period as running from the date of service of the copy of the written decision, irrespective of whether that decision was previously delivered orally (see *Akif Hasanov v. Azerbaijan*, no. 7268/10, § 27, 19 September 2019). However, where the domestic law does not provide for service of the decision, the Court considers it appropriate to take the date on which the decision was finalised as the starting-point, that being when the parties were definitely able to find out its content (see *Papachelas v. Greece* [GC], no. 31423/96, § 30, ECHR 1999-II, and *Jakelaitis v. Lithuania* (dec.), no. 17414/05, 16 December 2008).

31. The Court observes that in the instant case, although the parties are in dispute as to whether the applicant was entitled, under domestic law, to be served with a copy of the final domestic decision in administrative proceedings, it is undisputed that at the hearing of 27 December 2017 the Supreme Court read out only the operative part of the decision in accordance with Article 75.1 of the CAP, without explaining the legal reasoning or the grounds for its adoption. It is also undisputed by the parties that the applicant was not served with that decision until 23 January 2018. Furthermore, the Government did not argue that the decision had been available before that date, but rather that the applicant had failed to display special diligence in order to obtain a copy of it.

32. In those circumstances, having regard to the fact that only the written version of the decision contained a detailed summary of the facts of the case as established by the Supreme Court and the Supreme Court's reasoning as to the law, the Court is of the view that it was only on 23 January 2018 that the applicant was able to find out the content of the decision given in his case (compare *Piętka v. Poland*, no. 34216/07, § 45, 16 October 2012). Accordingly, the six-month period started to run from 23 January 2018, the date when the applicant was served with a copy of the Supreme Court's decision of 27 December 2017. As the applicant lodged his application with the Court on 21 July 2018, the Government's objection concerning the applicant's alleged failure to comply with the six-month rule must be dismissed.

III. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

33. The applicant complained under Article 8 of the Convention that his disbarment had amounted to a breach of his right to respect for private life. Article 8 of the Convention reads as follows:

"1. Everyone has the right to respect for his private and family life, his home and his correspondence.

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."

A. Admissibility

1. Applicability of Article 8

(a) The parties' submissions

34. The Government contested the applicability of Article 8 to the present case, submitting that the measure in question had not had any negative effect on the applicant's private life or, in the alternative, assuming that it had had a negative effect, that effect had not attained the relevant threshold of seriousness. The Government also submitted that the circumstances of the present case were substantially different from those in *Namazov v. Azerbaijan* (no. 74354/13, 30 January 2020), and *Bagirov v. Azerbaijan* (nos. 81024/12 and 28198/15, 25 June 2020). In those cases the applicants had already been members of the ABA when they had been disbarred, whereas in the instant case the applicant had not been a member of the ABA and had not been disbarred, but rather, he had not been readmitted to the ABA as requested.

35. The applicant contested the Government's submissions, arguing that he had been subjected to a *de facto* disbarment because he had in fact been readmitted to the ABA but that decision had then been unlawfully revoked. According to the applicant, the decision in question had had harsh negative consequences for him, depriving him of the opportunity to practise as a lawyer. In particular, he had lost the right to represent clients in criminal cases, as well as before the Supreme Court. As such, the circumstances of his case met the relevant threshold of seriousness for the applicability of Article 8 of the Convention.

(b) The Court's assessment

36. The Court reiterates that the notion of “private life” within the meaning of Article 8 of the Convention is a broad term not susceptible to exhaustive definition. It can embrace multiple aspects of the person’s physical and social identity. Article 8 protects in addition a right to personal development and the right to form and develop relationships with other human beings and the outside world, including relationships of a professional or business nature. It is, after all, in the course of their working lives that the majority of people have a significant opportunity to develop relationships with the outside world (see *Denisov v. Ukraine* [GC], no. 76639/11, §§ 95-96, 100-09 and 115-17, 25 September 2018).

37. As regards the applicability of Article 8 in the context of the exercise of the profession of lawyer, the Court notes that it has already held that disbarment or suspension from the practice of law for a period of one year had prevented an applicant from exercising his profession, and therefore had affected a wide range of his professional and other relationships and encroached upon his professional and social reputation. Such measures had had very serious consequences for that applicant and had affected his private life to a very significant degree (see *Namazov*, cited above, § 34, and see also *Bagirov*, cited above, § 87). The Court has also held that a refusal to allow an applicant to sit for a bar examination after having completed a bar traineeship, or a decision to remove an applicant from a list of trainee lawyers or a refusal to readmit an applicant to a Bar Association affected those applicants’ ability to pursue their professional activity and that there were consequential effects on the enjoyment of their right to respect for their private life within the meaning of Article 8 of the Convention (see *Bigaeva v. Greece*, no. 26713/05, § 35, 28 May 2009; *Jankauskas v. Lithuania* (no. 2), no. 50446/09, § 58, 27 June 2017; and *Lekavičienė v. Lithuania*, no. 48427/09, § 38, 27 June 2017).

38. Turning to the circumstances of the present case, the Court cannot accept the Government’s assertion that unlike in *Namazov* (cited above) and *Bagirov* (cited above), the applicant in the instant case had not been a lawyer or member of the ABA at the time when, on 15 September 2016, the Presidium of the ABA revoked its previous decision concerning his readmission to the ABA. The Court notes that it is clear from the documents in the case file and it is undisputed by the Government that the applicant was admitted to the ABA on 7 September 2016 and, having taken the lawyer’s oath that same day (see paragraphs 9-10 above), became a lawyer and a member of the ABA within the meaning of Article 14 of the Law (see paragraph 21 above). Furthermore, the Court cannot overlook the fact that the domestic courts referred, as a legal basis, to Article 23 of the Law, which regulates the termination of the activity of a lawyer, when dismissing the applicant’s complaint (see paragraphs 15, 17 and 19 above). In those circumstances, the Court cannot but conclude that the termination of the applicant’s activity as a result of the Presidium’s decision dated 15 September 2016 should be considered a disbarment measure preventing him from practising, since he had in fact been a member of the ABA and a lawyer with the right to practise since 7 September 2016.

39. In that connection, the Court notes that the impugned measure prevented the applicant from practising a specific profession (compare and contrast *Ballıktaş Bingöllü v. Turkey*, no. 76730/12, § 60, 22 June 2021, and *Angerjäv and Greinoman v. Estonia*, nos. 16358/18 and 34964/18, § 125, 4 October 2022), namely the profession of lawyer which occupies a central position in the administration of justice and plays a fundamental role in the protection of fundamental rights (see *Bagirov*, cited above, §§ 78 and 99). As submitted by the

applicant, only lawyers who were members of the ABA were entitled to practise in criminal cases, as well as to represent clients before the Supreme Court and the Constitutional Court. In these circumstances, relying on its previous findings (see the case-law cited in paragraph 37 above), the Court cannot but find that the impugned measure had very serious consequences for the applicant preventing him from practising law since September 2016 and affected his private life to a very significant degree. Accordingly, the Government's objection that the complaint is incompatible *ratione materiae* with the provisions of the Convention must be dismissed.

2. *Non-exhaustion of domestic remedies*

(a) The parties' submissions

40. The Government submitted that the applicant had failed to exhaust domestic remedies, in that he had not complained in the domestic courts of a violation of his rights under Article 8 of the Convention.

41. The applicant contested the Government's submissions and referred to the text of his cassation appeal lodged with the Supreme Court, in which he had expressly relied on Article 8 of the Convention.

(b) The Court's assessment

42. The Court observes that although the Government submitted that the applicant had not complained in the domestic courts of a violation of his rights under Article 8, it is clear from the documents in the case file that the applicant had complained about the restriction of his professional activity in his initial complaint and in his appeal (see paragraphs 14 and 16 above) and expressly raised that complaint, referring to Article 8 of the Convention, in his cassation appeal before the Supreme Court (see paragraph 18 above). The Court therefore considers that the Government's objection should be dismissed.

3. *Conclusion on admissibility*

43. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. *The parties' submissions*

44. The applicant maintained that the revocation of the decision concerning his readmission to the ABA had amounted to an infringement of his right to respect for private life. In particular, he submitted that the interference with that right had not been in accordance with the law since the relevant domestic law did not provide for the possibility of revoking a readmission decision. Moreover, Article 23 of the Law, which listed failure to pay membership fees without good reason as one of the grounds for the disbarment of a lawyer, clearly provided that in such a situation the ABA should apply to the relevant court for the disbarment of the lawyer in question and could not disbar the lawyer itself as it had purported to do in the present case. The

applicant further submitted that his disbarment could not in any event be considered proportionate or necessary in a democratic society.

45. The Government submitted that the ABA was an independent body and its decision could not be considered as an interference by the State with the applicant's rights under Article 8 of the Convention. The Government also submitted that, assuming that there had been an interference with the applicant's rights under Article 8 of the Convention, that interference had been in accordance with the law. In that connection, they referred to Article 11 of the Law, which entitled the Presidium to decide on matters of admission to the ABA. The interference had pursued the legitimate aim of the prevention of disorder and had been necessary in a democratic society. The domestic courts had thoroughly assessed both the domestic law and the parties' arguments, thus affording the relevant procedural guarantees.

2. *The Court's assessment*

(a) Whether there was interference

46. The Court reiterates at the outset that it has already found that a decision by a bar association imposing a disciplinary sanction which was upheld by the domestic courts constituted an interference by a public authority within the meaning of the Convention (see *Casado Coca v. Spain*, 24 February 1994, § 39, Series A no. 285-A). In the present case, in view of its findings above regarding the applicability of Article 8 of the Convention (see paragraphs 36-39 above), the Court considers that the impugned measure preventing the applicant from practising as a lawyer amounted to an interference with the exercise of his right to respect for his private life, as guaranteed by Article 8 of the Convention (see, among many other authorities, *Namazov*, cited above, § 40; *Bagirov*, cited above, § 94; *Mateescu v. Romania*, no. 1944/10, § 27, 14 January 2014; and *Lekavičienė*, cited above, § 47).

(b) Whether the interference was justified

47. Such an interference will be in breach of Article 8 of the Convention unless it can be justified under paragraph 2 of Article 8 as being "in accordance with the law", pursuing one or more of the legitimate aims listed therein, and being "necessary in a democratic society" in order to achieve the aim or aims concerned.

48. The Court reiterates that, according to its well-established case-law, the wording "in accordance with the law" requires the impugned measure to have some basis in domestic law and to be compatible with the rule of law, which is expressly mentioned in the Preamble to the Convention and inherent in the object and purpose of Article 8 (see *Selahattin Demirtaş v. Turkey (no. 2)* [GC], no. 14305/17, § 249, 22 December 2020, with further references, and *Azer Ahmadov v. Azerbaijan*, no. 3409/10, § 63, 22 July 2021). The expression "in accordance with the law" 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 *Guliyev v. Azerbaijan*, no. 54588/13, § 50, 6 July 2023). In order for the law to meet the criterion of foreseeability, it must set forth with sufficient precision the conditions in which a measure may be applied, to enable the persons concerned – if need be, with appropriate advice – to regulate their conduct (see *Mateescu*, cited above, § 29, and *Altay v. Turkey (no. 2)*, no. 11236/09, § 54, 9 April 2019).

49. Moreover, for domestic law to meet the qualitative requirements, it must afford a measure of legal protection against arbitrary interferences by public authorities with the rights guaranteed by the Convention. In matters affecting fundamental rights it would be contrary to the rule of law, one of the basic principles of a democratic society enshrined in the Convention, for a legal discretion granted to the executive to be expressed in terms of an unfettered power. Consequently, the law must indicate with sufficient clarity the scope of any such discretion and the manner of its exercise (see *Selahattin Demirtaş*, cited above, §§ 249-50, and *Zayidov v. Azerbaijan* (no. 2), no. 5386/10, § 68, 24 March 2022).

50. In assessing the lawfulness of an interference, and in particular the foreseeability of the domestic law in question, the Court has regard both to the text of the law and to the manner in which it was applied and interpreted by the domestic authorities. The practical interpretation and application of the law by the domestic courts must give individuals protection against arbitrary interference (see *Guliyev*, cited above, § 51, and *Namazli v. Azerbaijan*, no. 8826/20, § 45, 20 June 2024).

51. Turning to the circumstances of the present case, the Court observes that whereas the Government submitted that the interference had been in accordance with the law since the Presidium was entitled to decide on matters of admission to the ABA pursuant to Article 11 of the Law, the applicant argued that the interference had been unlawful because the relevant domestic law did not provide for the possibility of revoking an admission decision and the termination of his lawyer activity had been carried out in breach of Article 23 of the Law (see paragraphs 44 and 45 above).

52. The Court notes that, although the Presidium failed to provide any reasoning for its decision dated 15 September 2016 (see paragraph 13 above), in the domestic proceedings the courts relied on part I of Article 23 of the Law as the legal basis for that decision, finding that the applicant had failed to pay membership fees for a period of more than six months without good reason when he had been a member of the ABA between 2009 and 2012 and that that failure constituted the legal ground for the termination of his lawyer activity (see paragraphs 15, 17 and 19 above). However, the domestic courts gave no heed to the fact that part II of Article 23 of the Law expressly provides that in cases such as that of failure to pay membership fees for a period of more than six months without good reason, the lawyer activity may be terminated solely on the basis of a court decision which has entered into force excluding that lawyer from the Bar Association (see paragraph 21 above). The Government likewise failed to make any submission in that regard. In those circumstances, the Court cannot but conclude that, in the absence of a court decision, the termination of the applicant's lawyer activity by the Presidium's decision of 15 September 2016 was not carried out in accordance with the relevant provisions of the domestic law to which the domestic courts referred in their decisions.

53. As to the Government's reliance on Article 11 of the Law as the legal basis for the interference, the Court notes at the outset that although Article 11 of the Law entitles the Presidium to decide on matters of admission to the membership of the ABA as submitted by the Government, it does not provide for the possibility of revoking a decision to admit a lawyer as a member of the ABA (see paragraph 21 above). On the contrary, Article 11 of the Law provides that the Presidium exercises its powers concerning the termination of lawyer activity in accordance with Article 23 of the Law, which, as noted above, expressly provides in part II that

in cases such as that of failure to pay membership fees for a period of more than six months without good reason, the lawyer activity may be terminated solely on the basis of a court decision which has entered into force excluding the lawyer in question from the Bar Association.

54. Moreover, even assuming that the provisions of Article 11 of the Law entitling the Presidium to decide on matters of admission may also provide, as seems to have been asserted by the Government, a legal basis for the revocation of its previous decision concerning the admission of a lawyer to the ABA, the Court does not consider that such a general provision meets the “quality of the law” requirement for the purposes of Article 8 of the Convention.

55. The Court considers that such an interpretation and application of the relevant domestic law would allow the Presidium to exercise an unfettered discretion to revoke at any time a previous admission decision in the absence of a clear and detailed legal framework or safeguards against possible abuse or arbitrariness by bypassing the legal framework concerning disciplinary proceedings against the lawyers and the termination of lawyer activity. In particular, such an interpretation and application of the relevant domestic law would deprive part II of Article 23 of the Law, concerning the termination of lawyer activity, of any substance.

56. The foregoing considerations are sufficient to enable the Court to conclude that the interference in question was not “in accordance with the law” within the meaning of Article 8 § 2 of the Convention. In view of that conclusion, the Court is not required to examine whether the interference pursued any of the legitimate aims referred to in Article 8 § 2 and was necessary in a democratic society.

57. There has accordingly been a violation of Article 8 of the Convention.

IV. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

58. Relying on Articles 6 and 10 of the Convention and Article 18 in conjunction with Articles 8 and 10 of the Convention, the applicant complained that the domestic proceedings had been unfair, that he had been deprived of his professional activity because of his critical opinions and that his Convention rights had been restricted for purposes other than those prescribed in the Convention.

59. Having regard to the facts of the case, the submissions of the parties, and its findings above, the Court considers that it has dealt with the main legal question raised by the case, and that there is no need to examine the admissibility and merits of the remaining complaints (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. [47848/08](#), § 156, ECHR 2014).

V. APPLICATION OF ARTICLE 46 OF THE CONVENTION

60. Article 46 of the Convention, in so far as relevant, reads as follows:

“1. The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties.

2. The final judgment of the Court shall be transmitted to the Committee of Ministers, which shall supervise its execution. ...”

61. The applicant argued that the most appropriate form of individual redress would be the restoration of his membership of the ABA.

62. The Government did not make any submissions in that respect.

63. The Court reiterates that a judgment in which it finds a violation of the Convention or the Protocols thereto imposes on the respondent State a legal obligation to choose, subject to supervision by the Committee of Ministers, the general and/or, if appropriate, individual measures to be adopted in its domestic legal order to put an end to the violation found by the Court and to redress as far as possible the effects. The respondent State remains free to choose the means by which it will discharge its legal obligation under Article 46 of the Convention provided that such means are compatible with the “conclusions and spirit” set out in the Court’s judgment (see *Ilgar Mammadov v. Azerbaijan* (infringement proceedings) [GC], no. 15172/13, § 195, 29 May 2019).

VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

64. 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

1. Pecuniary damage

65. The applicant claimed 40,000 euros (EUR) in respect of pecuniary damage, arguing that he had lost earnings as a result of his disbarment. He submitted that his claim was based on the monthly salary he received from a university, namely 1,450 Azerbaijani manats.

66. The Government asked the Court to reject the claim, submitting that it was unsubstantiated. The Government also submitted that there was no causal link between the alleged violation and the pecuniary damage claimed since the present application did not concern the applicant’s dismissal from his work at the university.

67. The Court reiterates that, under Rule 60 of the Rules of Court, any claim for just satisfaction must be itemised and submitted in writing, together with the relevant supporting documents or vouchers, failing which the Court may reject the claim in whole or in part. In the present case, even assuming that there is a causal link between the damage claimed and the violation found, the Court observes that the applicant has not submitted any documentary evidence supporting this claim (compare *Hajibeyli and Aliyev v. Azerbaijan*, nos. 6477/08 and 10414/08, § 73, 19 April 2018, and *Namazov*, cited above, § 56).

68. For the above reasons, the Court rejects the applicant’s claim in respect of pecuniary damage.

2. Non-pecuniary damage

69. The applicant claimed EUR 30,000 in respect of non-pecuniary damage.

70. The Government submitted that the amount claimed by the applicant was unsubstantiated. They contended that, in any event, a finding of a violation would constitute sufficient just satisfaction.

71. The Court considers that the applicant has suffered non-pecuniary damage which cannot be compensated for solely by the finding of a violation. Making its assessment on an equitable basis, as required by Article 41 of the Convention, the Court awards the applicant the sum of EUR 4,500 under this head, plus any tax that may be chargeable on that amount.

B. Costs and expenses

72. The applicant claimed EUR 5,000 for legal services incurred before the domestic courts and the Court. In support of his claim, he submitted two contracts with his representatives.

73. The Government submitted that the amount claimed by the applicant was unsubstantiated and excessive.

74. 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. In the present case, regard being had to the documents in its possession, the amount of work carried out by the applicant's representatives and the above criteria, the Court considers it reasonable to award the sum of EUR 1,500 to the applicant, plus any tax that may be chargeable to him.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Rejects* the Government's request to strike the application out of the Court's list of cases;
2. *Declares* the complaint concerning Article 8 of the Convention admissible;
3. *Holds* that there has been a violation of Article 8 of the Convention;
4. *Holds* that there is no need to examine the admissibility and merits of the remaining complaints;
5. *Holds*
 - (a) that the respondent State is to pay the applicant, 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 the currency of the respondent State at the rate applicable at the date of settlement:
 - (i) EUR 4,500 (four thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 1,500 (one thousand five hundred euros), plus any tax that may be chargeable to the applicant, 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;
6. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 18 March 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško Registrar

Ioannis Ktistakis President