



## [ECtHR - Ahmadov v. Azerbaijan](#)

This case concerns the refusal of the Azerbaijani authorities to issue the applicant, who is of Azerbaijani ethnicity, lives in Azerbaijan and was born in Georgia, with an identity card, thereby denying him Azerbaijani citizenship. The applicant complained that this decision by the authorities was in breach of Article 8 of the ECHR. The Court found that the denial of Azerbaijani citizenship to the applicant had considerable adverse consequences for his enjoyment of various rights. It was not accompanied by the necessary procedural safeguards and must be considered arbitrary.

**Case name (in original language) :** Ahmadov v. Azerbaijan (32538/10)

**Case status:** Decided

**Case number:** Application no. 32538/10

**Citation:** European Court of Human Rights, Ahmadov v. Azerbaijan (application no. 32538/10), 30 January 2020

**Date of decision:** 30/01/2020

**State:** Azerbaijan

**Court / UN Treaty Body:** European Court of Human Rights

**Language(s) the decision is available in:** English

**Applicant's country of birth:** Georgia

**Applicant's country of residence:** Azerbaijan

**Legal instruments:** European Convention on Human Rights (ECHR)

**Key aspects:** Deprivation of nationality, Respect for private and family life

**Relevant Legislative Provisions:**

- Article 8 of the European Convention on Human Rights (ECHR)
- Article 52 and Article 53 of the Constitution of the Republic of Azerbaijan
- Article 5 of the Law on Citizenship of 30 September 1998
- Article 2 of the Law on Registration at Place of Residence and Stay of 4 April 1996

**Facts**

The applicant is of Azerbaijani ethnicity, was born in Georgia and lives in Azerbaijan. He possesses a Soviet Union passport issued by the authorities of the Soviet Socialist Republic of Georgia. He moved to Azerbaijan in 1991 and was registered as resident in Azerbaijan. In 1998, his Soviet Union passport was stamped, indicating he was a citizen of Azerbaijan. The applicant was also indicated as a citizen of Azerbaijan on his son's birth certificate issued by Georgian authorities in 2002. The applicant had been on the electoral roll in Azerbaijan since 1991 and had voted in multiple elections since. He was registered as a reserve military officer in Azerbaijan and was made a lieutenant in 1996.

In 2008, the applicant applied to the Police Office for an identity card but was refused on the basis of Article 5 of the Law on Citizenship. The authorities said that people who were resident in the country before this law came into force were classed as citizens, but as his residence before the law came into force was only temporary (as it was in a dormitory) it did not apply to him. He received a letter in December 2008 from the State Migration Service (SMS) informing him he was not considered a citizen of Azerbaijan in accordance with the Law on Citizenship.

The applicant lodged a complaint in 2009 with the District Court, claiming he had continuously been considered a citizen by the State and argued that the law did not draw a distinction between temporary and permanent residence. The SMS argued that the law should be interpreted as only recognising those who had permanent residence and also that the initial wording of Article 5 had been amended on 24 June 2008. In 2009, the applicant's claim was allowed and the Police Office were ordered to issue him with an identity card. The District Court found that he had been resident since 1991 and this had not been contested by the domestic authorities.

Furthermore, they stated the wording of Article 5 of the Law on Citizenship did not make a distinction between temporary and permanent residence and that the law should be accessible and foreseeable as to its effects. The Court also pointed to the applicant's relationship with the State, relying on factors like his passport stamp, his participation in elections and his role as a military officer.

The SMS appealed this decision, and the Baku Court of Appeal upheld the appeal, dismissing the first judgment. They said the applicant did not have permanent residence when the law came into force and that the other grounds relied upon, such as his passport, did not constitute grounds to be considered a citizen. The Supreme Court upheld the Court of Appeal's judgment citing the same reasons. In 2013, the applicant lodged a new complaint, and in 2014 an identity card was issued

to him. However, the SMS appealed this, and the appeal was upheld by the Baku Court of Appeal and the Supreme Court.

### **Legal arguments by the applicant**

The applicant argued that the refusal to issue the identity card amounted to a de facto deprivation of nationality and interfered with his right to respect for private and family life under Article 8 ECHR. He argued that prior to the refusal to recognise his citizenship, he had enjoyed a wide range of social, economic and political rights but this denial of his citizenship had a highly detrimental effect on him, resulting in him losing entitlements and benefits enjoyed by citizens. Firstly, the applicant argued that the alleged interference was not in accordance with the law. Article 5 of the Law on Citizenship had not made a distinction between temporary and permanent residence, yet the authorities denied him citizenship on this basis. This interpretation of the law, according to the applicant, also contradicted the provisions of the Law on Registration at Place of Residence and Stay. Secondly, the applicant argued that the domestic authorities had confirmed his Azerbaijani citizenship by stamping his Soviet Union passport and had consistently treated him as a citizen by way of his participation in elections and the position as a military officer. He claimed that the domestic authorities had breached the principle of foreseeability of the law and created a situation of legal uncertainty by ignoring his citizenship. Finally, he argued that this interference was not necessary in a democratic society and the authorities had failed to strike a fair balance between his Article 8 rights and the general public interest.

### **Legal arguments by the opposing party**

The government argued that the right to citizenship is not contained in Article 8 ECHR and that only an arbitrary denial of citizenship in certain situations can constitute an interference with the right to respect for private and family life. The government therefore only considered it necessary to examine whether the domestic decisions were arbitrary or had such consequences that might raise issues under Article 8. They argued the right to citizenship was established only in accordance with the rules set out in Article 5 of the Law on Citizenship. The domestic courts had held that this law was applicable to those who had been citizens and had been registered residents before the law came into force. They submitted that as the applicant had not been either, this could not be the basis on which to establish his right to Azerbaijani citizenship. The applicant's participation in elections, possession of immovable property, and the recognition of his citizenship on his son's

birth certificate cannot be considered grounds to establish citizenship. The Government concluded that the decision not to recognise the applicant as a citizen was not arbitrary in a way to raise issues under Article 8.

## **Decision & Reasoning**

Firstly, the Court reiterated that private life is a broad concept, and though it does not guarantee an explicit right to citizenship, it might raise issues under Article 8 in certain circumstances due to the impact on the denial of private life. The Court added that this also includes the revocation of citizenship already obtained. Even though in this case the domestic procedure applied to the applicant was not strictly about the revocation of citizenship, the principles of revocation still applied here.

The Court observed that in order for a revocation of citizenship to constitute a breach of Article 8, it must be arbitrary, and the Court should consider the consequences for the applicant.

The Court observed that the domestic procedure was not a revocation of citizenship, but the refusal to issue the applicant with an identity card. However, given the circumstances, the Court does not find that the qualification of the procedure under domestic law is of significant importance in this case and that the principles applicable to the revocation of citizenship are also applicable here. 'The Court further notes that, although the applicant did not state that the above-mentioned decision of the domestic authorities rendered him a stateless person, it is clear that the decision to that effect entailed considerable adverse consequences for the enjoyment of various rights by the applicant in his everyday life. That decision also created an uncertainty as regards the legal status of the applicant's stay in Azerbaijan, directly affecting his social identity. The Court therefore finds that the impugned decision amounted to an interference with the applicant's right to respect for private life under Article 8' (referring to [Alpeyeva and Dzhahalagoniya v. Russia](#)) (paragraph 46)

Turning to arbitrariness, the Court recalled that for a revocation of citizenship to be arbitrary, the Court must decide if it was made in accordance with the law and if it was accompanied by the necessary procedural safeguards. To be in accordance with the law means that the decision should have some basis in domestic law. It also refers to the quality of the law in question, which should be accessible to the person concerned and be foreseeable as to its effects. The Court stated that domestic law

must indicate with reasonable clarity the scope and the manner of the exercise of the relevant discretion conferred on the public authorities, in order to ensure a degree of protection required by the rule of law in a democratic society. In this case, the domestic authorities all referred to Article 5 of the Law on Citizenship as the legal basis for the revocation. However, the Court observed that there was a significant divergence in how this law was interpreted and applied by the domestic authorities. It reiterates that it is not its role to substitute its own interpretation for that of the domestic authorities, rather its task here is to determine if the domestic authorities' interpretation in this case was compatible with the Convention.

Applying these rules to the facts of this case, the Court observed that the domestic authorities had refused to issue the applicant with an identity card on the basis that before the entry into force of the Law on Citizenship the applicant's registration at a place of residence had only been temporary. The Court recognised that at first instance, the District court found that domestic law did not draw a distinction between temporary and permanent residence, but that on appeal this was the basis for the decision being quashed. The Baku Court of Appeal did not give reasons for this and did not take into account the stamp on his passport confirming his Azerbaijani citizenship. Nor did the Supreme Court rule on the interpretation of domestic law concerning the relevance of the permanence of residence or take into account the passport stamp, refraining from explaining why.

The Court considered that the domestic courts' failure to substantiate their decisions and their failure to take into account the passport stamp confirming the applicant's citizenship, prevented the applicant from being recognised as a citizen of Azerbaijan. Therefore, in these circumstances, the Court found that the denial of citizenship was not accompanied by the necessary procedural safeguards and must be considered as arbitrary.

### **Decision documents**

[Ahmadov v. Azerbaijan, no. 32538/10](#)

### **Outcome**

The Court found a violation of Article 8 of the ECHR.

### **Caselaw cited**

- [Genovese v. Malta, no. 53124/09, 11 October 2011](#)
- [Ramadan v. Malta, no. 76136/12, 21 June 2016](#)

- *Karassev v. Finland* (dec.), no. [31414/96](#), ECHR 1999-II
- *K2 v. the United Kingdom* (dec.), no. [42387/13](#), 7 February 2017
- *Alpeyeva and Dzhalagiya v. Russia*, nos. [7549/09](#) and [33330/11](#), 12 June 2018
- *Slivenko v. Latvia* [GC], no. [48321/99](#), ECHR 2003-X
- *Kurić and Others v. Slovenia* [GC], no. [26828/06](#), ECHR 2012 (extracts))
- *Piechowicz v. Poland*, no. [20071/07](#), 17 April 2012
- *Tasev v. North Macedonia*, no. [9825/13](#), 16 May 2019
- *Seyidzade v. Azerbaijan*, no. [37700/05](#) 3 December 2009
- *Islam-Ittihad Association and Others v. Azerbaijan*, no. [5548/05](#), 13 November 2014
- *Paradiso and Campanelli v. Italy* [GC], no. [25358/12](#), 24 January 2017
- *Nejdet Şahin and Perihan Şahin v. Turkey* [GC], no. [13279/05](#), 20 October 2011