



[ECtHR - Emin Huseynov v. Azerbaijan](#)

The authorities in Azerbaijan terminated the nationality of an independent journalist and chairman of an NGO for the protection of journalists, rendering him stateless. The Court found that such measure had been arbitrary and in violation of Article 8 ECHR, given that it rendered the applicant stateless, in disregard for the 1961 Convention, and was not accompanied by due procedural safeguards. In the particular circumstances of the case, for the purposes of examining the arbitrariness of the decision terminating the applicant's nationality, the Court did not consider it necessary to establish whether the applicant's renunciation of his nationality was forced or voluntary, which was a matter in dispute between the parties.

Case name (in original language) : Emin Huseynov v. Azerbaijan

Case status: Decided

Case number: 1/16

Citation: European Court of Human Rights, Emin Huseynov v. Azerbaijan (application no. 1/16), 13 July 2023),

Date of decision: 13/07/2023

State: Azerbaijan

Court / UN Treaty Body: European Court of Human Rights

Applicant's country of birth: Azerbaijan

Applicant's country of residence: Switzerland

Legal instruments: European Convention on Human Rights (ECHR)

Key aspects: Deprivation of nationality, Respect for private and family life, Stateless status and documentation, Voluntary renunciation of nationality

Relevant Legislative Provisions:

European Convention on Human Rights: Articles 8, 10, 18, 34, 38, 46.

Facts

The applicant was an independent journalist and the chairman of the Institute for Reporters' Freedom and Safety (IRFS). In April 2014 the Azerbaijani Prosecutor General's Office opened a criminal case under Articles 308.1 (abuse of power) and 313 (forgery by an official) of the Azerbaijani Criminal Code, in connection with alleged irregularities in the financial activities of several NGOs. Soon thereafter the bank accounts of numerous NGOs and civil society activists were frozen and various human rights defenders and civil society activists were arrested.

In July 2014 the applicant learned that the tax authorities had launched an investigation into the activities of the IRFS and he attempted to take a flight from Baku to Istanbul, but at Baku Airport he was not allowed to leave Azerbaijan. The applicant's mother informed him that she had received a telephone call from an employee of the prosecuting authorities inviting the applicant to present himself to the prosecuting authorities for questioning. However, fearing his imminent arrest, the applicant went into hiding. On 18 August 2014 he went to the embassy of the Swiss Confederation in Baku, where he found refuge.

According to the Azerbaijani Government, on 19 August 2014 the applicant was criminally charged and the Nasimi District Court ordered his arrest. In February and June 2015, while at the embassy of the Swiss Confederation, the applicant submitted a request and application form to the President of the Republic of Azerbaijan, stating that he wished to renounce his Azerbaijani citizenship. The applicant confirmed that he did not have any citizenship other than Azerbaijani citizenship.

On 9 June 2015 the Ministry of Finance of the Republic of Azerbaijan received 236,281 United States dollars (USD) from the Swiss authorities by bank transfer, for payment of the applicant's tax debt in Azerbaijan. The Nasimi District Court revoked the order for the applicant's arrest, having regard to the fact that the tax debt had been paid and, according to the Government, the Nasimi District Court subsequently quashed a decision declaring the applicant a wanted person. On 12 June 2015 the applicant left Azerbaijan on a plane with the Minister of Foreign Affairs of the Swiss Confederation. On 27 June 2015 the State Migration Service sent the applicant a letter confirming the termination of his Azerbaijani citizenship. On 19 October 2015 the applicant was granted asylum in Switzerland.

Legal arguments by the applicant

The applicant argued that there had been no effective domestic remedies for the complaints he had raised before the Court. He submitted that within the meaning of the domestic law, a presidential order did not constitute a normative legal act to be challenged before the Constitutional Court. He also pointed out that the President of the Republic of Azerbaijan was not considered to be an administrative body whose acts could be challenged in administrative court proceedings. Lastly, he noted that he had never been provided with a copy of the presidential order in question in order to be able to challenge it effectively.

The applicant submitted that he had been forced to renounce his Azerbaijani citizenship, which had amounted to an arbitrary deprivation of citizenship. He had been asked to renounce his Azerbaijani citizenship when he had been subject to life-threatening pressures and the risk of unfair imprisonment in Azerbaijan. He drew attention to the payment of his alleged tax debt by a third party and his departure from Azerbaijan on a plane with the Swiss Minister of Foreign Affairs. The applicant argued that the deprivation of citizenship which had rendered him a stateless person had been in breach of the domestic law and the international obligations of the Republic of Azerbaijan.

The applicant complained that the deprivation of citizenship had constituted an unjustified interference with his right to freedom of expression, that he had not had effective domestic remedies at his disposal, and that his Convention rights had been restricted for purposes other than those prescribed in the Convention.

In his observations lodged in reply to those of the Azerbaijani Government, the applicant argued that there had been a hindrance to the exercise of his right of individual application under Article 34 of the Convention, and that the Government's failure to submit copies of all the relevant documents which had been in their exclusive possession had amounted to a violation of Article 38 of the Convention.

Legal arguments by the opposing party

Azerbaijan claimed that the applicant had failed to exhaust domestic remedies because he had failed to raise the complaints made to the Court before the domestic authorities, pointing in particular to his failure to lodge a complaint with the Constitutional Court to challenge order no. 1269 of 10 June 2015.

Azerbaijan contested the applicant's submissions, pointing out that he had asked to renounce his Azerbaijani citizenship. As regards the applicant's argument that he had been forced to renounce his citizenship, they submitted that it implied that State authorities had forced him to renounce his citizenship while he had been hiding in the embassy, where he had been for almost ten months. During this period there had been no opportunity for the Azerbaijani authorities to interview the applicant or have any reasonable suspicion as to his actual intentions in connection with the renunciation of his citizenship. The decision to grant the applicant's request to renounce his citizenship had been in accordance with the domestic law. The Government noted that the applicant's citizenship could be restored in accordance with the Law on Citizenship.

The Government contested the applicant's submissions as unsubstantiated, submitting that the present application had been lodged with the Court on 18 December 2015, and the Court had given the Government notice of the application on 24 April 2018. The Government could not therefore have been aware of the application before that date. The Government did not make any observations in connection with Article 38 of the Convention.

Decision & Reasoning

The court found the complaint admissible, stating that presidential order no. 126 of 10 June 2015 is not a challengeable normative legal act according to the Law on Normative Legal Acts. The applicant couldn't challenge it in administrative court proceedings as the President isn't considered an administrative body in domestic law. The Government did not provide examples of successful challenges in general jurisdiction courts, and the applicant never received a copy of the order, making domestic challenges impossible.

The court rules a violation of Article 8. The applicant became a stateless person after his citizenship was terminated, resulting in legal uncertainty, and affecting his social identity. The impugned measure had a significant impact on the applicant's enjoyment of his right to respect for private life.

The impugned decision was considered arbitrary. In determining this, the Court considered the tests under Article 8 § 2. It examined whether the measure was in accordance with law, accompanied by procedural safeguards and whether the authorities acted diligently and swiftly. The court didn't investigate whether the renunciation was voluntary or forced, focusing on procedural fairness. It noted that

the termination ignored international norms preventing statelessness. Regarding other complaints, the Court didn't find evidence of interference with the applicant's right to apply individually.

Decision documents

[Judgment Emin Huseynov v. Azerbaijan, application no. 1/16](#)

Outcome

The Court found the applicant's Article 8 rights had been violated as he became a stateless person after his citizenship was terminated.

Caselaw cited

- Ahmadov v. Azerbaijan, no. [32538/10](#), §§ 42-45, 30 January 2020
- Alpeyeva and Dzhalagoniya v. Russia, nos. [7549/09](#) and [33330/11](#), §§ 108-109, 12 June 2018
- Assanidze v. Georgia [GC], no. [71503/01](#), § 202, ECHR 2004-II
- Ayyubzade v. Azerbaijan, no. [6180/15](#), § 60, 2 March 2023
- Bagirov v. Azerbaijan, nos. [81024/12](#) and [28198/15](#), § 106, 25 June 2020
- Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania [GC], no. [47848/08](#), § 156, ECHR 2014
- Democracy and Human Rights Resource Centre and Mustafayev v. Azerbaijan, nos. [74288/14](#) and [64568/16](#), § 120, 14 October 2021
- G.K. v. Belgium, no. [58302/10](#), § 54, 21 May 2019
- Genovese v. Malta, no. [53124/09](#), § 30, 11 October 2011
- Hashemi and Others v. Azerbaijan, nos. [1480/16](#) and 6 others, §§ 45-47 and 51, 13 January 2022
- Ilgar Mammadov v. Azerbaijan (infringement proceedings) [GC], no. [15172/13](#), § 195, 29 May 2019
- K2 v. the United Kingdom (dec.), no. [42387/13](#), §§ 49-50, 7 February 2017
- Karassev v. Finland (dec.), no. [31414/96](#), ECHR 1999-II
- Makuchyan and Minasyan v. Azerbaijan and Hungary, no. [17247/13](#), §§ 61-232, 26 May 2020
- Par and Hyodo v. Azerbaijan, nos. [54563/11](#) and [22428/15](#), § 47, 18 November 2021
- Ramadan v. Malta, no. [76136/12](#), §§ 62 and 85 89, 21 June 2016
- Riener v. Bulgaria, no. [46343/99](#), § 154, 23 May 2006
- Shenturk and Others v. Azerbaijan, nos. [41326/17](#) and 3 others, § 101, 10 April 2022

- Shorazova v. Malta, no. [51853/19](#), § 112, 3 March 2022
- Shuriyya Zeynalov v. Azerbaijan, no. [69460/12](#), § 42, 10 September 2020
- Usmanov v. Russia, no. [43936/18](#), §§ 58 and 64, 22 December 2020