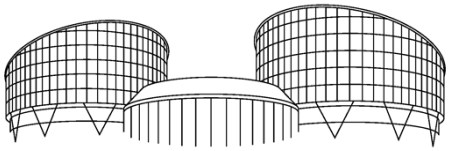

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF MAMMADOVA AND MAMMADOV v. AZERBAIJAN

(Application no. 31618/18)

JUDGMENT

Art 1 P1 • Peaceful enjoyment of possessions • Unlawful demolition of the applicants' apartment for allegedly being in a state of urgent disrepair • Impugned measure lacking a legal basis

Prepared by the Registry. Does not bind the Court.

STRASBOURG

24 March 2026

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Mammadova and Mammadov 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,
Diana Kovatcheva,
Úna Ní Raifeartaigh,
Canòlic Mingorance Cairat*, judges*,
and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 31618/18) 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 two Azerbaijani nationals, Ms Yelena Gennadyevna Mammadova (*Yelena Gennadyevna Məmmədova*) and Mr Zaur Elchin oglu Mammadov (*Zaur Elçin oğlu Məmmədov*) ("the applicants"), on 29 June 2018;

the decision to give notice to the Azerbaijani Government ("the Government") of the complaints under Article 6 § 1, Article 8 and Article 13 of the Convention and Article 1 of Protocol No. 1 to the Convention, and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated in private on 3 March 2026,

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

INTRODUCTION

1. The application concerns the unlawful demolition of the applicants' apartment, which was allegedly in a state of urgent disrepair.

THE FACTS

2. The applicants' details are set out in the appended table. They were represented by Mr F. Agayev, a lawyer based in Azerbaijan.

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

4. The facts of the case may be summarised as follows.

I. BACKGROUND DEVELOPMENTS

5. According to an ownership certificate issued in 2016, the applicants (who are mother and son) were the co-owners of an apartment measuring 47.1 sq. m situated in the Sabail district of Baku.

6. On 25 February 2016 the Cabinet of Ministers of the Republic of Azerbaijan adopted a decision on additional measures for accelerating the socio-economic development of several districts of Baku, including the Sabail district. The relevant parts of the decision read as follows:

> "Guided by paragraph VIII of Article 119 of the Constitution of the Republic of Azerbaijan, and on the basis of point 1.8 of Presidential Decree no. 695 of 4 September 2012 on the implementation of Law no. 392-IVQ of 29 June 2012 of the Republic of Azerbaijan on the approval, enactment and legal regulation of the Urban Planning and Construction Code of the Republic of Azerbaijan, and in order to continue beautification and construction works in the districts of Surakhani, Nasimi, Khatai, Narimanov, Nizami, Yasamal, Sabail, Pirallahi and Khazar [in the] city of Baku, [and in order] to demolish buildings in a state of urgent disrepair and construct new ones in their place in accordance with modern standards, and [in order] to improve the housing and living conditions of residents living in such ... buildings, the Cabinet of Ministers of the Republic of Azerbaijan decides [as follows].
>
> 1. The executive authorities of the Surakhani, Nasimi, Khatai, Narimanov, Nizami, Yasamal, Sabail and Pirallahi districts of the city of Baku shall, within their respective jurisdictions, implement the following over a period of five years:
>
> 1.1. in compliance with the requirements of property, housing, urban planning, and construction legislation, the demolition and reconstruction of ... 41 residential buildings in the Sabail district, consisting of 535 apartments and inhabited by 1,819 people; ... the preparation of territorial planning documents required for the reconstruction of areas and parts of areas (prior to the development of construction projects) and the approval [of those documents] in coordination with the State Committee for Urban Planning and Architecture of the Republic of Azerbaijan; the approval of projects for newly constructed residential buildings and non-residential facilities; the issuance of permits for construction and the operation of construction facilities; and the allocation of State-owned land for permanent use and lease for this purpose;
>
> 1.2. facilitating the renewal of the housing stock and the improvement of residents' housing and living conditions, [and] the use of plots of land occupied by dilapidated buildings (to be demolished) for the construction of apartment buildings by construction companies using their own funds or externally sourced credit; and the acquisition ... of plots of land owned or used by legal and physical persons, in accordance with civil legislation and with [those persons'] consent, by compensating for their value;
>
> 1.3. in accordance with the legislative requirements, ensuring that construction companies that undertake to demolish buildings in a state of urgent disrepair and construct new residential buildings in their place are provided with the necessary financial resources, for the temporary accommodation of relocated residents in rented apartments until the new residential buildings are completed; and the allocation of appropriate apartments in the newly constructed residential buildings – built on the site of the demolished ones – to those residents;
>
> ..."

7. On 7 March 2016 the Azerdovletlayihe State Main Design Institute ("the Azerdovletlayihe SMDI") of the State Agency for Control over Safety in Construction, which was part of the Ministry of Emergency Situations, issued an opinion concerning its conclusions about a visual technical

inspection of the building in which the applicants' apartment was situated. The relevant parts of the opinion stated as follows:

> " ... the building was constructed in 1899 ...
>
> During the visual technical inspection, it was established that the building had had no repairs for a long time, had deteriorated and had undergone ... physical ... wear and tear.
>
> ...
>
> The areas of the building most affected by physical deterioration include the roof structure, open balconies, [and] severely corroded metal staircases and supports. Wooden structures are in a deplorable condition and pose an imminent risk of collapse (photographs are attached). For this reason, residents have installed makeshift supports using various materials. As noted earlier, some apartments have undergone repair work. According to the owners of these apartments, decayed wooden beams were observed during the renovation process.
>
> The basement is filled with household waste, as well as sewage flowing from the apartments, creating a foul odour and an unsanitary environment.
>
> The building is not in conformity with the existing construction and urban-planning norms and regulations, [or] the overall appearance of the city.
>
> The current condition of the residential building is technically hazardous and unsafe for use. Carrying out repair, restoration and reinforcement work on the building is not considered technically or economically feasible.
>
> Taking the above into account, the following measures must be implemented:
>
> 1. the immediate suspension of the building's use and notification of the relevant authorities;
>
> 2. the urgent evacuation of residents from the building;
>
> 3. the disconnection of all utility lines within the building;
>
> 4. the prohibition of entry into the building;
>
> 5. the urgent fencing off of the building perimeter and the erection of warning signs.
>
> The situation in the building is not related to any natural disasters or incidents."

8. On 28 March 2016 the head of the Sabail District Executive Authority ("the SDEA") issued order no. 42 on permission for the demolition of a building in a state of urgent disrepair and the design and construction of a multi-storey residential building in its place (*Qəzalı vəziyyətdə olan binanın sökülməsinə və yerində çoxmərtəbəli yaşayış evinin layihələndirilməsinə və tikintisinə icazə verilməsi barədə*). The relevant parts of the order read as follows:

> "Guided by decision no. 86 of 25 February 2016 of the Cabinet of Ministers on additional measures for accelerating the socio-economic development of districts of Baku, including the Sabail district, and taking into consideration the opinion [produced] by specialists from the Azerdovletlayihe State Main Design Institute ... concluding that the two-storey building situated ... in the Sabail district has become unusable as a result of long-term use and is in a state of urgent disrepair, and the request made by F.B. HCC [Housing Construction Cooperative] on 21 March 2016, I hereby decide:

1. the demolition of the two-storey building situated ... in the Sabail district ... shall be carried out by F.B. HCC, and [that cooperative] shall be authorised to design and construct a multi-storey building on a plot of land measuring 0.25 ha;

2. the demolition of residential and non-residential buildings, the provision of necessary financial resources for the temporary relocation of residents to rental accommodation, and the allocation of apartments to those residents in the [newly] constructed building shall be funded by F.B. HCC;

..."

9. It appears from the case file that on the same date the SDEA and F.B. Housing Construction Cooperative ("F.B.") entered into a contract. Under that contract, F.B. undertook to (i) reach agreements with the owners of the apartments and enter into contracts with them; (ii) cover the owners' relocation expenses; (iii) cover the owners' expenses for renting a similar residence in an area close to their current property; and (iv) allocate a renovated apartment in the newly constructed building, with a surface area no smaller than that of the owners' original apartment.

10. It appears that on 6 May 2016 F.B. notified the residents of the building about the planned demolition and the construction of a new residential complex in its place.

II. FIRST SET OF PROCEEDINGS

11. On 2 August 2016 the first applicant, together with two other residents of the same building, brought proceedings against the SDEA, asking the domestic courts to declare its actions and the order of 28 March 2016 invalid and to award them 3,000 Azerbaijani manats (AZN) for each square metre of their apartments in respect of pecuniary damage, on the basis of a valuation report produced by a private company. The claimants later amended their claim and asked that F.B. be joined to the proceedings as a third party. They complained that they were being forced to vacate their apartments and to accept F.B.'s offer without being provided with a copy of the SDEA's order and official assurances about the new building which was to be constructed.

12. On 13 August 2016 F.B. demolished the applicants' apartment and the other apartments in the same building. The applicants were abroad at the time of the demolition.

13. On 30 November 2016 Baku Administrative-Economic Court no. 1 declared the part of the claim concerning the award of compensation inadmissible, holding that the claimants had failed to submit that claim to the SDEA prior to initiating court proceedings, as required under domestic law. That decision was subsequently upheld by the Baku Court of Appeal and the Supreme Court on 23 February and 7 June 2017 respectively.

14. On 30 November 2016 Baku Administrative-Economic Court no. 1 also delivered a judgment dismissing the part of the claim concerning the invalidation of the SDEA's order. Relying on Articles 8, 17.2, 17.3, 17.5, 24.1

and 24.2 of the Urban Planning and Construction Code (see paragraphs 45-47 below), the court held that the SDEA's order of 28 March 2016 (see paragraph 8 above) had complied with the requirements of the Code. It found that the claimants' property rights had not been violated; on the contrary, in accordance with the order in question, they would be allocated renovated apartments with a surface area more than 10% larger than their original apartments, and would have their rental expenses covered while the new building was being constructed.

15. The first applicant and the other two claimants lodged an appeal, arguing that F.B. had unlawfully demolished their apartments in the absence of any court decision, in breach of the provisions of domestic law and point 1.2 of the Cabinet of Ministers' decision 25 February 2016, which required the owners' prior consent (see paragraph 6 above). They also submitted that F.B. was operating without a licence and there was no guarantee that it would actually complete the construction of the new building.

16. On 28 September 2017 the Baku Court of Appeal dismissed the appeal. The court, referring to the opinion of the Azerdovletlayihe SMDI (see paragraph 7 above) and the photographs of the building, held that the adoption of the SDEA's order of 28 March 2016 had been necessary, and that entrusting F.B. with demolishing the building and constructing a new one in its place had not been in breach of domestic law. It concluded that there were no grounds for declaring the order in question invalid.

17. The first applicant and the other claimants lodged a cassation appeal, reiterating their previous arguments (see paragraphs 11 and 15 above). One of the claimants also relied on Article 28 of the Housing Code (see paragraph 42 below) and submitted that no proceedings had been initiated before the courts to determine that the building in question had indeed been in a state of urgent disrepair.

18. On 30 January 2018 the Supreme Court dismissed the cassation appeal, reiterating the Baku Court of Appeal's reasoning. The court added that Article 28 of the Housing Code concerned the reconstruction and redesign of apartments (or residential buildings) in a state of urgent disrepair, but since the relevant State authority had issued an opinion stating that renovation works in the building in question were not feasible (see paragraph 7 above), that provision was not applicable to the present case. It held that the State had taken special measures to ensure the individuals' right of property and the Cabinet of Ministers had issued the decision in question. In order to ensure the implementation of that decision, the SDEA had issued the relevant order. The court concluded that the claimants had failed to prove that the order in question was unlawful and that their property rights had been violated.

III. SECOND SET OF PROCEEDINGS

19. On 12 August 2017 the applicants brought proceedings against the SDEA, asking for an award in respect of pecuniary damage (AZN 3,000 per square metre of their apartment, plus compensation of 20% of the market value of their property, to be paid in addition to the purchase price) ("the additional 20% compensation"), in accordance with Article 2.3 of Presidential Decree no. 689 of 26 December 2007. They also asked for further additional compensation "for hardship" amounting to 10% of the total amount of compensation ("compensation for hardship"), in accordance with Article 66 of the Law on the Expropriation of Land for State Needs. They complained that their apartment had been unlawfully demolished while they had been abroad, and alleged that their belongings had been taken from their apartment and most of them had been lost or damaged.

20. On 2 November 2017 Baku Administrative-Economic Court no. 1 dismissed the applicants' claim. It held that the applicants' compensation claim against the SDEA was unsubstantiated because their apartment had been subject to the Cabinet of Ministers' decision of 25 February 2016, the SDEA's order of 28 March 2016 was in force, and F.B. had been entrusted with allocating them an apartment in the newly constructed building.

21. The applicants appealed, arguing that the building in question had not been in a state of urgent disrepair. Relying on Article 28 of the Housing Code, they argued that if that had been the case, the State authorities would have had to apply to a court for a decision confirming that the building was in such a condition. They further argued that the opinion of the Azerdovletlayihe SMDI could not have replaced a court decision, and that the SDEA's order of 28 March 2016 did not take precedence over Article 28 of the Housing Code.

22. On 19 March 2018 the Baku Court of Appeal declared the applicants' claim inadmissible. It firstly found that the SDEA had issued an order in accordance with the Cabinet of Ministers' decision of 25 February 2016, and that pursuant to that order, the residents of the building in question were to be allocated new apartments and not monetary compensation, and that those matters had been entrusted to F.B. The court made reference to the judgments delivered in the first set of proceedings (see paragraphs 14, 16 and 18 above) and noted that the applicants' action contesting the SDEA's order of 28 March 2016 had been dismissed by the courts. It further held that the SDEA had not rejected the applicants' request for compensation, but had informed them that they could reach such an agreement with F.B. The court also added that the applicants "had not addressed any request (*müraciət*) to F.B".

23. On 30 April 2018 the applicants lodged a cassation appeal, reiterating their previous arguments (see paragraphs 19 and 21 above).

24. The case file indicates that on 22 May 2018 F.B. sent a letter to the applicants. The letter stated that the demolition of the building in which their apartment had been situated had been carried out in accordance with the Cabinet of Ministers' decision of 25 February 2016 and the SDEA's order of 28 March 2016. It again invited the applicants to enter into a contract under which they would be allocated a new apartment equivalent in size to their demolished apartment and receive a monthly rental payment of AZN 300 starting from the date of the building's demolition.

25. On 30 May 2018 the Supreme Court dismissed the applicants' cassation appeal (a copy of the judgment was not submitted to the Court).

IV. THIRD SET OF PROCEEDINGS

26. On an unspecified date in 2017 the applicants lodged a civil claim against F.B., complaining that it had failed to comply with the Cabinet of Ministers' decision of 25 February 2016, which required it to acquire properties owned by physical persons with their consent and by paying the market value of the properties. They also reiterated that F.B. had unlawfully demolished their apartment in the absence of any court order. They asked the courts to award them compensation in respect of pecuniary damage (for the market value of the apartment and the value of their possessions which had been destroyed and lost) and non-pecuniary damage. On 16 January 2018 the applicants amended their claim, asking the courts to award them an additional 20% compensation and compensation for hardship (see paragraph 19 above), and complained that F.B.'s offer of a new apartment measuring 25.55 sq. m in exchange for their demolished two-room apartment (see paragraph 5 above) had breached their rights.

27. On 22 January 2018 the Nasimi District Court dismissed the applicants' claim. In doing so, it referred, among other provisions, to Article 15 of the Housing Code and Articles 6.3, 560.1, 560.2 and 560.3.5.1 of the Civil Code (see paragraphs 37-39 below). It held that the Cabinet of Ministers' decision of 25 February 2016 and the SDEA's order of 28 March 2016 did not provide for the payment of any compensation for a demolished apartment, but rather for F.B.'s allocation of a new apartment in the newly constructed building and the covering of rental expenses during a temporary relocation. The court noted that although F.B. had offered to enter into a contract with the applicants, they had refused to do so, and therefore covering their rental expenses in the absence of such a contract would be in breach of F.B.'s rights. It further held that the applicants had failed to substantiate the part of their claim concerning their possessions which had allegedly been destroyed or lost. As to their claims for additional statutory compensation, the court dismissed them as unsubstantiated. The court also held that the dismissal of the applicants' claim did not absolve F.B. of its obligation to

cover the rental expenses relating to their temporary relocation and to allocate them a new apartment in the newly constructed building.

28. The applicants appealed, reiterating their previous arguments. In particular, they noted that despite undertaking to reach agreements with owners under the terms of the contract which it had signed with the SDEA (see paragraph 9 above), F.B. had demolished their apartment without securing any agreement with them. They also reiterated that F.B. had offered them a smaller apartment than the one which had been demolished.

29. On 15 May 2018 the Baku Court of Appeal dismissed the applicants' appeal. It held in particular that F.B. had not acted unlawfully. It also found that the demolition had not been carried for State needs, but in order to implement the Cabinet of Ministers' decision of 25 February 2016 and the SDEA's order of 28 March 2016.

30. On 17 July 2018 the applicants lodged a cassation appeal. They complained that the interference with their right of property had been in breach of domestic law and the Convention. They reiterated, in particular, that their apartment had been demolished in the absence of a court decision, in violation of the requirements of Article 28 of the Housing Code, and that the opinion of the Azerdovletlayihe SMDI alone could not have served as a basis for demolishing the building in question.

31. On 24 October 2018 the Supreme Court upheld the Baku Court of Appeal's judgment, reiterating its reasoning.

V. FURTHER DEVELOPMENTS

32. The decision of 25 February 2016 was subsequently quashed by the Cabinet of Ministers on 17 December 2019.

33. On 25 February, 26 October and 7 December 2020 F.B. sent letters to the first applicant, inviting her to come to its office to deal with the formalities relating to taking possession of the apartment which had been allocated to her in the newly constructed building. The size of the new apartment was not indicated in the letters. The first applicant ignored those invitations and did not accept the new apartment. The case file also indicates that since the applicants refused to enter into a contract with F.B., they were not paid any sums for the rental expenses which they incurred while the new building was being constructed.

RELEVANT LEGAL FRAMEWORK

I. CONSTITUTION

34. The relevant provisions of the Constitution were cited in *Akhverdiyev v. Azerbaijan* (no. 76254/11, §§ 35-36, 29 January 2015).

II. PROVISIONS ON EXPROPRIATION AND COMPENSATION

35. The relevant provisions concerning the additional 20% compensation in accordance with Article 2.3 of Presidential Decree no. 689 of 26 December 2007, and compensation for hardship in accordance with Article 66 of the Law on the Expropriation of Land for State Needs, were cited in *Aliyeva and Others v. Azerbaijan* (nos. 66249/16 and 6 others, §§ 69-70, 21 September 2021).

36. Article 3 of the Law on the Expropriation of Land for State Needs of 20 April 2010 provides as follows:

State needs justifying the expropriation of land

"3.1. In accordance with this Law, the State needs the for which land may be expropriated are as follows:

3.1.1. the construction and installation of roads and other communication lines of State importance (main oil and gas pipelines, sewage systems, high-voltage power lines, hydraulic structures);

3.1.2. ensuring the reliable protection of the State border in the border zone;

3.1.3. the construction of facilities of significance to defence and security;

3.1.4. the construction of mining industry facilities of State importance;

3.1.5. the expansion of the territory of the seaport.

3.2. Land may be expropriated for State needs only in the circumstances provided for in this Law."

III. THE 2000 CIVIL CODE

37. Article 6 of the Civil Code provides as follows:

Principles of civil legislation

"...

6.3. Civil rights may only be restricted by law when necessary to protect State and public security, public order, the health and moral integrity of society, and the rights, freedoms, honour and reputation of others.

..."

38. Article 560 of the Code provides as follows:

Prohibition of abuse of rights

"560.1. Civil rights must be exercised in accordance with the law. The use of rights solely for the purpose of causing harm to others is impermissible.

560.2. The abuse of rights is not allowed, and any agreements or actions based on such abuse shall be deemed invalid.

560.3. The abuse of rights includes, in particular, the following:

...

560.3.5.1. directly or indirectly coercing [somebody] into [accepting] disproportionate prices or other terms of a transaction.

...”

IV. THE 2009 HOUSING CODE

39. Article 15 of the Housing Code provides as follows:

Use of residential premises

“The use of residential premises must be in compliance with the rights and lawful interests of residents and their neighbours, as well as with fire safety requirements, standards relating to health, hygiene and the environment, and other provisions established by law.”

40. Article 23 of the Code provides as follows:

Types of reconstruction and redesign of residential premises

“23.1. The reconstruction of residential premises shall consist of modifications that require changes to the technical passport of the residential premises, including alterations to structural elements (such as load-bearing walls and columns, partitions between floors, stair landings and staircases), as well as the installation, replacement or relocation of communication systems serving more than one residential or non-residential unit in an apartment building (including lift shafts or other shafts, flues, sanitary [installations] and other equipment).

23.2. The redesign of residential premises, excluding the situations specified in Article 23.1 of this Code, shall consist of changes to the configuration of the residential premises that require amendments to the technical passport [of those premises] including the demolition (removal), relocation or installation of partitions; the relocation or creation of door openings; the expansion of rooms by incorporating auxiliary spaces within an apartment; the installation or relocation of an additional kitchen or sanitary facilities; and the installation or reinstallation of a heating system.”

41. Article 24 of the Code provides as follows:

Reconstruction and (or) redesign of residential premises

“24.1. The reconstruction and (or) redesign of residential premises shall be carried out in compliance with construction norms and regulations, on the basis of a decision of the relevant executive authority or a body designated by that authority (hereinafter referred to as ‘the approving authority’).

24.2. To obtain approval for a reconstruction and (or) redesign, the owner of the residential premises or [his or her] authorised representative ... shall submit the following documents to the approving authority in the area where the property is located:

24.2.1. an application for a reconstruction and (or) redesign;

...”

42. Article 28 of the Code, as in force at the material time, provided as follows:

Reconstruction and (or) redesign of apartments (or residential buildings) in a state of urgent disrepair

"28.1. An owner is obliged to carry out timely and major repairs to his or her apartment (or residential building) to prevent it from falling into a state of urgent disrepair or repair and restore the apartment (or residential building) as soon as possible if it becomes unsafe owing to a natural disaster or other [circumstances] beyond the owner's control.

28.2. To obtain consent for the reconstruction and (or) redesign of an apartment (or residential building) in a state of urgent disrepair, an application submitted under Article 24.2.1 of this Code must indicate the hazardous condition the apartment (or residential building) is in, and the competent authority must review the application promptly, and no later than ten days [after receiving it].

28.3. If an owner fails to fulfil the obligations under Article 28.1, a court may issue a decision recognising that the apartment (or residential building) is in a state of urgent disrepair, following a claim by tenants, neighbours, other interested persons or the authority designated by the relevant executive body. The court must set a reasonable time frame for repairs. The repairs must be carried out by the owner, at [his or her] expense.

28.4. If the owner does not comply with the court decision within the specified time, or refuses outright to carry out the required repairs, the apartment (or residential building) in a state of urgent disrepair may, by court order, be sold at public auction to a buyer willing to undertake the necessary repairs. The court will also set the auction starting price on the basis of recommendations by an independent appraiser.

28.4-1. An independent appraiser shall be engaged to value apartments (or residential buildings) in a state of urgent disrepair [which are due to be sold at] public auction, in accordance with Article 28.4 of this Code. The price of an apartment (or residential building) shall be ... the average of the three highest prices stated in notarised sale contracts for comparable apartments (or residential buildings) sold in the previous three months ...

28.4-2. If any of the following situations occurs in relation to the sale under Article 28.4 of this Code of an apartment (or residential building) in a state of urgent disrepair, the auction organiser must publish an announcement in the mass media ...[indicating] that the auction has not taken place:

28.4-2-1. fewer than two buyers attend;

28.4-2-2. no participants appear;

28.4-2-3. the winning bidder refuses to sign the record [confirming] the result of the auction;

28.4-2-4. the winning participant in the auction fails to pay the full purchase price within the period specified for payment ..., provided that this period is not extended with the consent of the owner of the apartment (or residential building).

28.4-3. Another auction must be held within 45 calendar days from the original auction date.

...

28.5. If the apartment (or residential building) is damaged by a natural disaster, repairs may be funded by compensation calculated and allocated in accordance with a decision of the relevant executive authority.

28.6. If a court confirms that the property cannot be repaired and the owner either refuses to demolish or rebuild it, or fails to demolish it within the court's time frame, and if the apartment (or residential building) is not sold at auction within three months, under Article 28.4 of this Code, it must be purchased by the State.

28.7. Persons relocated from housing in a state of urgent disrepair are subject to the provisions of Article 85 of this Code, as appropriate."

43. Article 35 of the Code provides that a plot of land underlying an apartment building is in the common shared ownership of the owners of the apartments.

44. Article 85 of the Code provides as follows:

Procedure for providing residential premises under social housing rental agreements, in connection with the demolition of a building

"When the house (or building) in which a living space provided under a social housing rental agreement is located must be demolished, the landlord who has made the decision to demolish the house (or building) shall, in advance, provide the [individuals] evicted from [that space] with another well-maintained living space."

V. THE 2012 URBAN PLANNING AND CONSTRUCTION CODE

45. Article 8 of the Code provides as follows:

Provision of minimum social [standards]

"In urban planning and construction activities, especially in buildings intended for human habitation or use, minimum social standards relating to safe and healthy conditions for living, working and recreation must be ensured, in accordance with this Code and other legal instruments."

46. Article 17 of the Code of provides as follows:

Purpose of territorial planning

"17.1. The provisions of this Code concerning territorial planning regulate the planning of the entire territory of the Republic of Azerbaijan, including its territorial units (regions, administrative units), cities and other settlements, as well as the use of land within these areas for construction or other purposes.

17.2. Territorial planning is carried out in accordance with State needs or urban development objectives.

17.3. Territorial planning must ensure the orderly development of urban areas and the socially equitable use of land, should align with public welfare, contribute to the formation of a favourable and healthy environment for humans, and support the protection and development of natural foundations essential for life.

...

17.5. When preparing territorial planning documents, public and private interests must be fairly balanced."

47. Article 24 of the Code provides as follows:

Commissioners and financing of territorial planning

"24.1. The commissioner for territorial planning shall be the relevant executive authority, a body established by that authority, or a municipality.

24.2. Territorial planning documents are prepared on the basis of a decision adopted by the relevant executive authority, its designated body or a municipality. The preparation of these documents is financed from State or municipal funds, as appropriate."

VI. PRESIDENTIAL DECREE No. 695 OF 4 SEPTEMBER 2012

48. The relevant part of Presidential Decree no. 695 of 4 September 2012 on the implementation of Law no. 392-IVQ of 29 June 2012 of the Republic of Azerbaijan on the approval, enactment and legal regulation of the Urban Planning and Construction Code reads as follows:

"On the basis of point 19 of Article 109 of the Constitution of the Republic of Azerbaijan, and in connection with the entry into force of Law no. 392-IVQ of 29 June 2012 on the approval, enactment and legal regulation of the Urban Planning and Construction Code of the Republic of Azerbaijan, I hereby decide to ensure the implementation of this Law.

1. The Cabinet of Ministers of the Republic of Azerbaijan shall

...

1.8. resolve other issues arising from the Law of the Republic of Azerbaijan on the approval, enactment and legal regulation of the Urban Planning and Construction Code of the Republic of Azerbaijan."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 1 TO THE CONVENTION

49. The applicants complained that they had been unlawfully deprived of their apartment without receiving any compensation. They relied on Article 1 of Protocol No. 1 to the Convention, which reads as follows:

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

A. Admissibility

50. It has not been disputed by the parties that the apartment in question was in the applicants' private ownership and thus constituted their "possession".

51. 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

(a) The applicants

52. The applicants argued that the technical inspection of the building in which their apartment had been situated had lasted only a few hours and had been conducted by two employees of the Azerdovletlayihe SMDI. They further argued that that institute had not had any authority under domestic law to declare that the building in question was in a state of urgent disrepair. They reiterated that under domestic law only a court decision could determine that a building or an apartment was in a state of urgent disrepair, and no such decision had been issued in the present case.

53. The applicants submitted that the provisions of the Civil Code and the Urban Planning and Construction Code which had been referred to by the courts in the domestic proceedings were "completely irrelevant". They further argued that the Cabinet of Ministers had failed to cite any legal provision in its decision of 25 February 2016 and had made general reference to the Law on the approval, entry into force and legal regulation of the Urban Planning and Construction Code. They added that neither that Law nor the Urban Planning and Construction Code itself had authorised the Cabinet of Ministers to issue the decision in question. The applicants also submitted that they had received no compensation for their property but had merely been offered to enter into a contract with a private party containing "extremely unfavourable conditions", which they refused. They therefore argued that they had been unlawfully deprived of their apartment in breach of the provisions of domestic law and the Convention.

(b) The Government

54. Referring to the conclusions in the opinion of the Azerdovletlayihe SMDI (see paragraph 7 above), the Government submitted that the apartment in question had been in a state of urgent disrepair and its immediate demolition had been necessary. The Government argued that the demolition had been carried out "in accordance with the relevant Articles of the Civil

Code and the relevant decision of the Cabinet of Ministers", which had provided a clear legislative basis for that action.

55. The Government accepted that there had been an interference with the applicants' right to the peaceful enjoyment of their possessions, but argued that the interference had been in the public interest.

56. The Government submitted, without providing any documents, that the applicants had been offered an apartment measuring 60 sq. m in a newly constructed multi-storey building in exchange for their previous apartment, which had been in a dilapidated state. They also noted that during the construction of that new building, residents had been paid a reasonable amount of monthly compensation for temporary accommodation, which had allowed them to find a similar apartment in the neighbourhood.

2. The Court's assessment

57. The relevant case-law principles are summarised, in particular, in *Akhverdiyev* (cited above, §§ 79-82); *Gogitidze and Others v. Georgia* (no. 36862/05, §§ 96-97, 12 May 2015); and *Khalikova v. Azerbaijan* (no. 42883/11, §§ 134-36, 22 October 2015).

58. It was not disputed by the parties that there had been an interference by the State with the applicants' right to the peaceful enjoyment of their possessions. The Court does not find any ground to hold otherwise and notes that the demolition of the applicants' apartment amounted to a "depriv[ation] of ... possessions" within the meaning of the second sentence of Article 1 of Protocol No. 1 to the Convention.

59. The parties, however, disputed the lawfulness of the interference (see paragraphs 53-55 above).

60. The Court reiterates that the first and most important requirement of Article 1 of Protocol No. 1 is that any interference by a public authority with the peaceful enjoyment of possessions should be lawful. This concept requires, firstly, that the impugned measures should have a basis in domestic law. It also refers to the quality of the law in question, requiring that it be accessible to the persons concerned, precise and foreseeable. Although it is primarily for the national authorities to interpret and apply domestic law, the Court is required to verify whether the way in which the domestic law is interpreted and applied produces consequences consistent with the principles of the Convention, as interpreted in the light of the Court's case-law (see *Democracy and Human Rights Resource Centre and Mustafayev v. Azerbaijan*, nos. 74288/14 and 64568/16, § 67, 14 October 2021, with further references).

61. The Court notes that the applicants' apartment was demolished by F.B. while the first set of domestic proceedings was still pending and while the applicants were abroad (see paragraph 12 above). The SDEA had authorised F.B. to demolish the property in question, and its order of 28 March 2016 had been issued following the Cabinet of Ministers' decision

of 25 February 2016 and the opinion of the Azerdovletlayihe SMDI concluding that the building in which the applicants' apartment was situated was in a state of urgent disrepair (see paragraphs 6-8 above).

62. Before the domestic courts and the Court, the applicants, relying on Article 28 of the Housing Code, argued that the question of whether a building was in a state of urgent disrepair had to be determined on the basis of a court decision, and that the above-mentioned opinion in itself had not been sufficient for that purpose. They also argued that the Cabinet of Ministers had not had any authority under domestic law to issue the decision in question (see paragraphs 21, 30 and 52 above).

63. The Court observes that under Articles 28.3 and 28.4 of the Housing Code, the fact that a building or apartment was in a state of urgent disrepair had to be confirmed by a court decision on the basis of a claim by interested individuals or the relevant State authority. The court would then set a reasonable time frame for repairs, which had to be carried out by the owner at his or her expense. If the owner did not comply with the court decision within the specified time or refused to carry out the required repairs, the property in a state of urgent disrepair could, by court order, be sold at public auction to a buyer willing to undertake the necessary repairs (see paragraph 42 above).

64. The Court notes that the domestic courts in the second and third sets of proceedings did not specifically address the applicants' arguments concerning Article 28 of the Housing Code. However, in the first set of proceedings the Supreme Court held that that provision was not applicable to the applicants' case because it concerned the reconstruction and redesign of buildings in a state of urgent disrepair, whereas the relevant State authority had issued an opinion indicating that repair works were not suitable for the building in which the applicants' apartment was situated (see paragraph 18 above).

65. In this connection, the Court observes that Article 28.6 of the Housing Code provides that if a court confirms that a property cannot be repaired and the owner either refuses to demolish and rebuild the property or fails to demolish it within the time frame set by the court, and if the property is not sold at auction within three months, it must be purchased by the State (see paragraph 42 above). While finding that Article 28 of the Housing Code was not applicable to the applicants' case, the Supreme Court made no reference to the part of the provision which appears to provide that a private property in a state of urgent disrepair may be demolished and rebuilt, but also requires that a court decision must confirm that a property in such a condition cannot be repaired.

66. Be that as it may, and bearing in mind that it is primarily for the national authorities to interpret and apply domestic law, the Court notes, however, that despite the applicants' consistent complaints that their apartment had been unlawfully demolished, none of the domestic courts in

any of the sets of proceedings referred to any relevant legal provision which could serve as a legal basis for the interference in question (compare *Par and Hyodo v. Azerbaijan*, nos. 54563/11 and 22428/15, § 55, 18 November 2021, and *Godlevskaya v. Russia*, no. 58176/18, §§ 52-61, 7 December 2021).

67. In particular, although the domestic courts relied on the provisions of the Civil Code and the Urban Planning and Construction Code when dismissing the applicants' complaints, those provisions concerned general matters relating to housing and urban planning, such as, for example, the use of residential premises, the provision of minimum social standards and territorial planning (see paragraphs 14, 27, 37-39 and 45-47 above). None of those provisions laid down a concrete procedure governing the compulsory alienation or demolition of privately owned property in a state of urgent disrepair. Nor did they designate the Cabinet of Ministers or any other State authority as being competent to conduct such a procedure (compare *Akhverdiyev*, cited above, § 89).

68. In the light of the foregoing, the Court cannot accept the Government's submission that the relevant provisions of the Civil Code and the Cabinet of Ministers' decision of 25 February 2016 provided a clear basis for demolishing the applicants' apartment (see paragraph 54 above).

69. Furthermore, the Court observes that F.B. offered the applicants an apartment in the newly constructed building, but they refused to accept it. When dismissing the applicants' compensation claim in respect of the market value of their apartment, the domestic courts referred to the Cabinet of Ministers' decision of 25 February 2016 and the SDEA's order of 28 March 2016, which had been adopted on the basis of that decision. The courts held that those legal acts did not provide for monetary compensation, but rather for the allocation of a new apartment to replace the demolished one (see paragraphs 22 and 27 above). However, since neither the domestic courts nor the Government referred to any specific legal provision applicable in the present context which designated the Cabinet of Ministers as the competent authority to decide on the demolition of privately owned property in a state of urgent disrepair, the impugned measure lacked a proper legal foundation. In such circumstances, any compensation offered solely on the basis of a decision by that authority, or of an order issued pursuant to it, cannot be regarded as lawful (compare *Akhverdiyev*, cited above, § 98).

70. In the light of the foregoing, the Court concludes that the interference with the applicants' right to the peaceful enjoyment of their possessions was not in compliance with the "conditions provided for by law". In view of that finding, the Court considers that it is not necessary to examine whether the interference pursued a legitimate aim in the public interest or whether a fair balance was struck between the demands of the general interest and the requirements of the protection of the applicants' fundamental rights (see, for example, *Maharramov v. Azerbaijan*, no. 5046/07, § 65, 30 March 2017).

71. There has accordingly been a violation of Article 1 of Protocol No. 1 to the Convention.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

72. Relying on Article 6 of the Convention, the applicants complained that the domestic courts' judgments in their case had not been duly reasoned. They also complained under Article 8 of the Convention of a violation of their right to respect for their home. Relying on Article 13 of the Convention, taken in conjunction with Articles 6 and 8 of the Convention and Article 1 of Protocol No. 1 to the Convention, they further complained that they had not been afforded a remedy providing effective protection against the violation of their rights.

73. Having regard to the facts of the case, the submissions of the parties and its findings above (see paragraphs 49-71 above), the Court considers that it has examined the main legal question raised in the present application and that there is no need to examine the admissibility and merits of the above-mentioned complaints (compare *Akhverdiyev*, cited above, § 101-05, and *Bagirova and Others v. Azerbaijan*, nos. 37706/17 and 5 others, §§ 55-56, 31 August 2023).

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

74. 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

75. Each applicant claimed 180,000 euros (EUR) in respect of pecuniary damage. They submitted that the market value of their apartment had been EUR 300,000. They relied on the expert report provided during the domestic proceedings (see paragraph 11 above), according to which the market value of their apartment had been 141,300 Azerbaijani manats (AZN) on 28 July 2016 (approximately EUR 81,400 at the relevant time). They further claimed, without quantifying the relevant amounts, (i) an award in respect of their belongings that had allegedly been damaged or had disappeared during the demolition of the apartment; (ii) an additional 20% compensation; (iii) compensation for hardship; and (iv) interest on the basis of Article 72.1 of the Law on Expropriation for State Needs. They also asked for the effects of inflation to be taken into account.

76. The Government did not submit any comments.

77. The Court reiterates that a judgment in which it finds a breach of the Convention or its Protocols imposes on the respondent State a legal obligation to put an end to the breach and make reparation for its consequences in such a way as to restore as far as possible the situation existing before the breach. If national law does not allow reparation or allows only partial reparation, Article 41 of the Convention empowers the Court to afford the injured party such satisfaction as appears to it to be appropriate (see *Akhverdiyev v. Azerbaijan* (just satisfaction), no. 76254/11, § 25, 21 March 2019, with further references).

78. In the present case, the applicants' apartment was demolished and it is not possible to proceed on the basis of the principle of *restitutio in integrum*. The Court should therefore determine the amount of compensation due.

79. The Government did not submit any expert report in respect of the market value of the applicants' apartment, or comments on the applicants' just satisfaction claims. In such circumstances, the Court will base its findings on the conclusions of the expert report submitted by the applicants (see paragraph 75 above).

80. As regards the part of the applicants' claim concerning the damage to and the disappearance of their belongings at the time the apartment was demolished, even assuming that there is a causal link between the damage claimed and the violation found, the Court observes that the applicants did not submit any evidence in that regard. The Court therefore rejects this part of the claim (compare *Khalikova*, cited above, § 156).

81. As to the parts of the claim concerning the additional compensation and interest, the Court notes that the provisions relied on by the applicants concern the expropriation of property for State needs, which is defined by an exhaustive list of circumstances (see paragraph 36 above). The applicants did not raise the issue of the applicability of the above-mentioned provisions in their application submitted to the Court. Moreover, they failed to substantiate the relevance of those provisions to the circumstances of the present case in their observations on the merits of the complaint under Article 1 of Protocol No. 1 to the Convention and their claims for just satisfaction (compare *Akhverdiyev* (just satisfaction), cited above, § 31). The Court therefore rejects those parts of the claim.

82. In view of the above findings, and taking into account the interest rates of the Central Bank of Azerbaijan during the period when the applicants had been deprived of their property, the Court awards them EUR 126,000 jointly under this head, plus any tax that may be chargeable on this amount.

2. Non-pecuniary damage

83. Each applicant claimed EUR 50,000 in respect of non-pecuniary damage.

84. The Government did not submit any comments.

85. 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 therefore be awarded. Making its assessment on an equitable basis, as required by Article 41 of the Convention, the Court awards the applicants the sum of EUR 3,000 jointly under this head, plus any tax that may be chargeable on this amount.

B. Costs and expenses

86. The applicants submitted that they had already paid AZN 5,250 and were bound to pay AZN 3,000 for the legal expenses incurred before the domestic courts and the Court. The first applicant further claimed AZN 226 for postal expenses. They submitted a number of receipts and vouchers in support of part of their claims.

87. The Government did not submit any comments.

88. 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 (see, for example, *Vegotex International S.A. v. Belgium* [GC], no. 49812/09, § 167, 3 November 2022, and *Malik Babayev v. Azerbaijan*, no. 30500/11, § 97, 1 June 2017, with further references). In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the applicants the sum of EUR 2,800 jointly for legal expenses, and the first applicant EUR 119 for postal expenses, plus any tax that may be chargeable to them.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Article 1 of Protocol No. 1 to the Convention admissible;

2. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to the Convention;

3. *Holds* that there is no need to examine the admissibility and merits of the remaining complaints;

4. *Holds*
   (a) that the respondent State is to pay, 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 126,000 (one hundred and twenty-six thousand euros) to the applicants jointly, plus any tax that may be chargeable, in respect of pecuniary damage;
(ii) EUR 3,000 (three thousand euros) to the applicants jointly, plus any tax that may be chargeable, in respect of non-pecuniary damage;
(iii) EUR 2,800 (two thousand eight hundred euros) to the applicants jointly, and EUR 119 (one hundred and nineteen euros) to the first applicant, plus any tax that may be chargeable to the applicants, 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;

5. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 24 March 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova Deputy Registrar	Ioannis Ktistakis President