FIFTH SECTION

CASE OF DEMOCRACY AND HUMAN RIGHTS RESOURCE CENTRE AND MUSTAFAYEV v. AZERBAIJAN

(Applications nos. 74288/14 and 64568/16)

JUDGMENT

Art 18 (+ Art 1 P1 and Art 2 P4) • Restriction for unauthorised purposes • Freezing of bank accounts of a human rights defender and his NGO and imposition of travel bans for the purpose of punishing them for, and impeding, their work
Art 1 P 1 • Control of the use of property • Unlawful freezing of the applicants' bank accounts • Applicants not charged with any criminal offence and not materially liable for the actions of another accused person
Art 13 (+ Art 1 P1) • Effective remedy • Domestic authorities' failure to provide applicants with any remedies to contest the interference with their property rights
Art 2 P4 • Freedom to leave a country • Imposition of a travel ban in connection with an alleged tax debt, without any measures taken to collect it • Unlawful imposition of a travel ban in connection with criminal proceedings against third parties

STRASBOURG

14 October 2021

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 Democracy and Human Rights Resource Centre and Mustafayev v. Azerbaijan,

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

Síofra O'Leary, *President,*
Ganna Yudkivska,
Stéphanie Mourou-Vikström,
Lətif Hüseynov,
Jovan Ilievski,
Arnfinn Bårdsen,
Mattias Guyomar, *judges,*
and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the applications (nos. 74288/14 and 64568/16) 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 Democracy and Human Rights Resource Centre ("the applicant association") (applications nos. 74288/14 and 64568/16), and Mr Asabali Gurban oglu Mustafayev (*Əsabəli Qurban oğlu Mustafayev* – "the applicant"), an Azerbaijani national, (application no. 64568/16), on 26 November 2014 and 31 October 2016, respectively;

the decision to give notice to the Azerbaijani Government ("the Government") of the applications;

the observations submitted by the respondent Government and the observations in reply submitted by the applicants;

the comments submitted by the Open Society Justice Initiative and the International Commission of Jurists, which were granted leave to intervene by the President of the Section;

Having deliberated in private on 21 September 2021,

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

INTRODUCTION

1. The present two applications concern the restrictions imposed on the bank accounts of the applicants and on the freedom of movement of the applicant by the domestic authorities. The applicants raise various complaints under Articles 6, 11, 13, 18 and 34 of the Convention, Article 1 of Protocol No. 1 to the Convention and Article 2 of Protocol No. 4 to the Convention.

THE FACTS

2. The applicants' details and the names of their representatives are listed in the Appendix.

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

I. BACKGROUND INFORMATION

4. The applicant is a lawyer and a member of the Azerbaijani Bar Association. He specialised in protection of human rights and has represented applicants in a large number of cases before the Court.

5. He is also the founder and chairman of the applicant association, a non-governmental organisation specialising in legal education and protection of human rights. The applicant association was registered by the Ministry of Justice on 30 June 2006 and acquired the status of a legal entity.

6. On 22 April 2014 the Prosecutor General's Office opened criminal case no. 142006023 under Articles 308.1 (abuse of power) and 313 (forgery by an official) of the Criminal Code in connection with alleged irregularities in the financial activities of a number of non-governmental organisations. The decision did not provide an exhaustive list of the non-governmental organisations against which criminal proceedings were instituted but referred to the activities of some non-governmental organisations, without citing the name of the applicants.

7. Soon thereafter the bank accounts of numerous non-governmental organisations and civil society activists were frozen by the domestic authorities within the framework of criminal case no. 142006023. The domestic proceedings concerning the freezing of those bank accounts are the subject of the present two and other applications pending before the Court (see, for example the communicated cases, *Imranova and Others v. Azerbaijan*, nos. 59462/14 and 4 others; *Economic Research Centre and Others v. Azerbaijan*, nos. 74254/14 and 5 others; and *Abdullayev and Others v. Azerbaijan*, nos. 74363/14 and 7 others).

8. Various human rights defenders and civil society activists were also arrested within the framework of the same criminal proceedings in connection with their activities within or with various non-governmental organisations. The domestic proceedings concerning the arrest and pre-trial detention of some of those human rights defenders and civil society activists have already been examined by the Court (see, for example, *Rasul Jafarov v. Azerbaijan*, no. 69981/14, 17 March 2016; *Mammadli v. Azerbaijan*, no. 47145/14, 19 April 2018; *Aliyev v. Azerbaijan*, nos. 68762/14 and 71200/14, 20 September 2018; and *Yunusova and Yunusov v. Azerbaijan (no. 2)*, no. 68817/14, 16 July 2020).

9. In July 2014 the applicant was invited to the Prosecutor General's Office where he was questioned about the applicant association's activities. Between July 2014 and 2016 he was again questioned, on several occasions, by the prosecuting authorities about the same activities.

II. IMPOSITION OF THE RESTRICTIONS ON THE APPLICANTS' BANK ACCOUNTS

A. In respect of the applicant association's bank accounts

10. Following a request submitted by the Prosecutor General's Office, on 19 May 2014 the Nasimi District Court, relying on Article 248 of the Code of Criminal Procedure ("the CCrP"), issued an attachment order in respect of all bank accounts of the applicant association hosted in the International Bank of Azerbaijan, pending the investigation (*cinayət təqibinin davam etdiyi müddət ərzində*), in criminal case no. 142006023. The order referred to the prosecuting authorities' request according to which there was evidence that the amount of 11,993 US dollars, received on 14 May 2014 by the applicant association from the United States of America's National Endowment for Democracy, constituted the object of a criminal offence and was used "as its instrument". According to the order, it was amenable to appeal within three days after its announcement. It appears from the transcripts of the Nasimi District Court's hearing of 19 May 2014 that it was not public and was held in the absence of the applicant association's representative. The case file does not contain any document indicating that the applicant association was provided with a copy of the order.

11. According to the applicant association, on an unspecified date in July 2014 its chairman, the applicant, went to the local branch of the International Bank of Azerbaijan where he was informed by a bank official of the attachment order.

12. On 14 July 2014 the applicant association asked the Nasimi District Court for a copy of the attachment order and received it on the same day.

13. On 16 July 2014 the applicant association appealed against the Nasimi District Court's order of 19 May 2014, claiming a breach of Article 1 of Protocol No. 1 to the Convention. It submitted that an attachment order could not be taken in respect of its bank accounts within the meaning of Article 248 of the CCrP since neither the applicant association nor its members were accused in any criminal proceedings. It also noted that an attachment order could be taken within the meaning of Article 248.1 of the CCrP only for the purposes of ensuring the payment of a civil claim or the confiscation of property when provided for by criminal law. However, criminal case no. 142006023 was instituted under Articles 308.1 and 313 of the Criminal Code which did not provide for confiscation of property as a sanction. Lastly, it pointed out that the attachment order was disproportionate since, even assuming that there were doubts about the origin of the money received from the United States of America's National Endowment for Democracy, the attachment order should have concerned only the impugned amount, and not all the bank

accounts of the applicant association. Together with its appeal, the applicant association also lodged a request for restoration of the time-limit for lodging an appeal. In support of its restoration request, it submitted that it had never been informed of the Nasimi District Court's hearing of 19 May 2014 and had obtained a copy of the impugned order only on 14 July 2014.

14. On 18 July 2014 the Nasimi District Court dismissed the applicant association's request for restoration of the time-limit for lodging an appeal. The court found that the applicant association had failed to submit any evidence showing that there was a valid reason for missing the three-day time-limit for lodging an appeal. The decision did not address the applicant association's arguments concerning the court's failure to inform it of its hearing of 19 May 2014 or to provide it with a copy of the impugned order of its own initiative.

15. On 21 July 2014 the applicant association appealed against that decision, reiterating its previous arguments.

16. On 24 July 2014 the Baku Court of Appeal dismissed the appeal, without examining the applicant association's arguments in respect of the restoration of the time-limit for lodging an appeal.

B. In respect of the applicant's bank accounts

17. It appears from the documents in the case file that on an unspecified date in 2014 the prosecuting authorities lodged a request with the Nasimi District Court for an attachment order in respect of the applicant's bank accounts within the framework of criminal case no. 142006023. Despite the Court's explicit request to the Government to submit copies of all the documents relating to the domestic proceedings, the Government failed to provide the Court with a copy of the above-mentioned request.

18. On 30 October 2014 the Nasimi District Court granted the request and issued an attachment order in respect of the applicant's bank accounts hosted in the International Bank of Azerbaijan, except for incoming operations, pending the investigation in criminal case no. 142006023. The order did not refer to any legal provision as a legal basis. As regards the justification of the attachment order, the court referred to the prosecuting authorities' request in the following terms:

> "[According to] the competent authority in respect of the criminal case, in connection with the suspension of operations relating to 850 euros transferred from the international organisation "Conseil de l'Europe" [in French in the original text], situated in the French Republic, to bank account no. ... of Mustafayev Asabali Gurban oglu [the applicant], an Azerbaijani national born on ..., the client of the International Bank of Azerbaijan, as there is evidence that this amount of money, constituting the object of a criminal offence, was used as its instrument, it is necessary to attach the bank accounts of Mustafayev Asabali Gurban oglu, hosted in the International Bank of Azerbaijan, during the period of the continuation of criminal proceedings, except for incoming operations, for the purposes of ensuring the conduct of a complete,

> thorough and objective preliminary investigation, the confiscation in the future of the amounts of money obtained by criminal way and preventing their disposal of."

It appears from the transcripts of the Nasimi District Court's hearing of 30 October 2014 that it was not public and was held in the absence of the applicant and his representative. The case file does not contain any document indicating that the applicant was provided with a copy of that order.

19. According to the applicant, on an unspecified date in December 2014 he went to the local branch of the International Bank of Azerbaijan to check whether 850 euros (EUR) had been transferred to his account by the Council of Europe as a payment of legal aid by the Court. However, he was informed by a bank official that there was an attachment order in respect of his bank accounts.

20. Following a request submitted by the prosecuting authorities, on 28 August 2015 the Nasimi District Court decided to remove the attachment in respect of the amount of EUR 850 transferred to the applicant's account by the Council of Europe.

III. IMPOSITION OF TRAVEL BANS

A. The travel ban imposed by the prosecuting authorities

21. On an unspecified date in Autumn 2014 the applicant learned that his right to leave the country had been restricted and that he was no longer allowed to leave Azerbaijan.

22. According to the applicant, on 13 September 2015 he attempted to take a flight from Baku to Tbilisi in order to attend an event. However, he was orally informed at the Baku airport that there was a travel ban imposed on him by the prosecuting authorities. He was not provided with any written document.

23. Following the applicant's numerous applications to various domestic authorities, by letters dated 28 December 2016, 8 August 2018 and 7 June 2019 the Prosecutor General's Office informed him that his application concerning the imposition of a travel ban on him was added to the case file of criminal case no. 142006023 and he would be informed of its result.

24. By a letter dated 23 July 2019 the Prosecutor General's Office informed the applicant that the travel ban imposed on him had been lifted on 23 July 2019 as that restriction was no longer necessary within the framework of criminal case no. 142006023.

B. The travel ban imposed by a court for tax debt of the applicant association

25. Following an inspection carried out by the tax authorities in respect of the applicant association's financial activities, on 12 and 13 March 2015 the tax authorities drew up a report and decided that the applicant association should pay to the State budged 4,897 Azerbaijani manats (AZN) (approximately EUR 2,450 at the material time).

26. On 14 April 2015 the applicant association lodged a claim, asking the court to declare invalid the tax authorities' report of 12 March 2015 and decision of 13 March 2015.

27. On 29 October 2015 the Sumgait Administrative-Economic Court granted the tax authorities' request, to suspend the examination of the applicant association's claim pending the criminal case in connection with its activities.

28. Following a request submitted by the tax authorities, on 8 July 2016 the Sumgait City Court decided to restrict the applicant's right to leave the country. The court relied on Articles 355-5 and 355-7 of the Code of Civil Procedure ("the CCP") and found that the applicant was the head of the executive body of the applicant association which had a tax debt in the amount of AZN 7,385 (approximatively EUR 3,700 at the material time). Although the court decision indicated that the applicant's right to leave the country was temporarily (*müvəqqəti olaraq*) restricted, it did not provide any time-limit for the imposed restriction.

29. On 28 July 2016 the applicant appealed against that decision, noting that there was no court decision finding that the applicant association had a tax debt since the relevant domestic proceedings had been suspended. In any event, even assuming that there was a tax debt, it could be paid from the sums on the applicant association's bank account and there was no reason for restricting his right to leave the country. In that connection, he also pointed out that a travel ban had already been imposed on him by the prosecuting authorities.

30. On 22 September 2016 the Sumgait Court of Appeal upheld the first-instance court's decision of 28 July 2016, holding that the existence of a previous travel ban did not prevent the imposition of a travel ban by different State authority in separate proceedings. The appellate court did not address the applicant's other arguments.

31. On 5 December 2016 the applicant lodged a cassation appeal, reiterating his previous complaints.

32. On 9 February 2017 the Supreme Court dismissed the applicant's cassation appeal.

IV. OTHER REMEDIES USED BY THE APPLICANTS

33. On 31 May 2016 the applicant lodged a complaint with the Nasimi District Court complaining of the unlawfulness of the prosecuting authorities' actions under Article 449 of the CCrP (the procedure of review of the lawfulness of procedural actions or decisions by the prosecuting authorities). In particular, he asked the court to declare unlawful the imposition of a travel ban on him by the prosecuting authorities and the imposition of restrictions on the bank accounts of the applicants.

34. On 5 July 2016 the Nasimi District Court refused to admit the claim, holding that the prosecuting authorities' actions complained of could not be challenged before the domestic courts pursuant to Article 449 of the CCrP. The applicant was provided with a copy of that decision on 14 July 2016.

35. By a letter dated 15 July 2016, a judge of the Nasimi District Court returned the applicant's ensuing appeal of the same date, informing him that he had missed the time-limit for lodging an appeal.

36. On 26 July 2016 the applicant appealed against the judge's letter, submitting that he had not missed the time-limit in question.

37. On 4 August 2014 the Baku Court of Appeal decided to return the case to the first-instance court, holding that the question of the restoration of time-limits for lodging an appeal should be examined by the lower court.

38. There is no information in the case file about further developments concerning those proceedings.

V. FURTHER DEVELOPMENTS

39. On 19 December 2018 the applicant association paid the tax debt imposed by the tax authorities.

40. There is no information in the case file about further developments concerning the freezing of the applicants' bank accounts.

41. No information is available in the case file as regards the outcome of criminal case no. 142006023.

RELEVANT LEGAL FRAMEWORK

I. RELEVANT DOMESTIC LAW

42. Articles 308 and 313 of the Criminal Code are described in detail in the Court's judgment *Rasul Jafarov v. Azerbaijan* (no. 69981/14, §§ 53-54, 17 March 2016).

43. The institution of criminal responsibility of legal persons was introduced into the Criminal Code for the first time by a law of 7 March 2012 in the form of a new chapter (15-2) which listed the measures applicable in respect of legal persons. However, the procedural provisions

relating to those measures were adopted in the form of a new chapter (LVI-I) of the Code of Criminal Procedure ("the CCrP") only by a law dated 29 November 2016.

44. Article 121 of the CCrP deals with the obligation of the investigating authorities to examine applications and requests submitted to them. In accordance with Article 121.3, the rejection of an application or request does not prevent its renewed presentation at later stages of the criminal proceedings or to another investigating authority. The application or request may be renewed if new evidence is adduced or if it is established during the criminal proceedings that it must be granted.

45. According to Articles 248 and 249 of the CCrP, in order to ensure the execution of a judgment in its part pertaining to a civil claim or confiscation of property in circumstances provided for under criminal law, an investigator or prosecutor can apply to a court for attachment of property of the alleged perpetrator of a criminal offence. Attachment of property prevents the proprietor or owner from disposing of and, if necessary, using the property. In particular, the relevant part of Article 248 provides as follows:

Article 248. Nature of attachment of property

"248.1. Attachment of property:

248.1.1. shall be carried out with the aim of securing a civil claim or the confiscation of property in circumstances provided for under criminal law;

...

248.2. Property of the accused person or property of persons who may be held materially liable, irrespective of what comprises this property or in whose possession it is, may be subject to attachment.

248.3. Attachment shall apply to the accused person's share in the joint property of the accused and his or her spouse or in the property owned by the accused persons jointly with other persons. If there is sufficient evidence that the property [was an instrument of a criminal offence, was an object of a criminal offence or constitutes proceeds of crime], the whole property or the greater part thereof shall be attached.

[If the object or proceeds of crime has been used, disposed of or is unavailable for confiscation for other reasons], money or other property belonging to the accused person, which is equivalent in value [to the instrument or proceeds of crime], shall be subject to attachment. ..."

46. The relevant provisions of the domestic law relating to the right of a person to leave the country and Article 449 of the CCrP are described in detail in the Court's judgment *Mursaliyev and Others v. Azerbaijan* (nos. 66650/13 and 10 others, §§ 15-18, 13 December 2018). In addition, on 20 October 2015 the failure to pay taxes was added to Article 9.3.6-1 of the Migration Code as one of the cases in which a citizen's right to leave the country may be restricted on the basis of a court decision.

47. On 20 October 2015 a new chapter (Chapter 40-2) relating to the proceedings on temporary restriction of the right to leave the country of taxpayer physical persons or heads of executive bodies of legal persons was added to the Code of Civil Procedure ("the CCP"). In particular, in accordance with Article 355-5.1 of the CCP, the relevant domestic authority is entitled to apply to the relevant court for temporarily restricting the above-mentioned persons' right to leave the country in view of ensuring the payment of tax debt.

II. RELEVANT INTERNATIONAL MATERIAL

48. A number of relevant international documents concerning the protection of human rights defenders are described in detail in the Court's judgment in *Aliyev v. Azerbaijan* (nos. 68762/14 and 71200/14, §§ 88-92, 20 September 2018).

49. On 19 August 2014 the Office of the UN High Commissioner for Human Rights published the following press release:

> **"Persecution of rights activists must stop – UN experts call on the Government of Azerbaijan**
>
> GENEVA (19 August 2014) – United Nations human rights experts [Michel Forst, the Special Rapporteur on the situation of human rights defenders; Maina Kai, the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and David Kaye, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression] today condemned the growing tendency to prosecute prominent human rights defenders in Azerbaijan, and urged the Government 'to show leadership and reverse the trend of repression, criminalization and prosecution of human rights work in the country.'
>
> "We are appalled by the increasing incidents of surveillance, interrogation, arrest, sentencing on the basis of trumped-up charges, assets-freezing and ban on travel of the activists in Azerbaijan," they said. "The criminalization of rights activists must stop. Those who were unjustifiably detained for defending rights should be immediately freed." ..."

50. The United Nations Special Rapporteur on the situation of human rights defenders visited Azerbaijan from 14 to 22 September 2016. On 22 September 2016 he "called on Azerbaijan to rethink [its] punitive approach to civil society" and published the following end of mission statement:

> "I have shared with the Government my preliminary conclusion that, over the last two-three years, the civil society in Azerbaijan has faced the worst situation since the independence of the country. Dozens of NGOs, their leaders, employees and their families have been subject to administrative and legal persecution, including the seizure of their assets and bank accounts, travel bans, enormous tax penalties and even imprisonment.
>
> Civil society has been paralysed as a result of such intense pressure. Human rights defenders have been accused by public officials to be a fifth column of the Western

> governments, or foreign agents, which has led to misperception in the population of the truly valuable role played by civil society. Activists promoting fundamental freedoms and criticising violations have been accused of being political opponents, touting values that run counter to those of their society or culture. They were denounced as politically or financially motivated actors. They were attacked, threatened or brought to court and sentenced under such charges as "hooliganism", "money-laundering", "provocation", "drug-trafficking" or incitement to overthrow the State ..."

51. The relevant extracts of Report (CommDH(2019)27) of 11 December 2019 by the Commissioner for Human Rights of the Council of Europe, following her visit to Azerbaijan from 8 to 12 July 2019, read as follows:

> "1.1.2. Restrictions on the right to leave the country
>
> 20. The Commissioner observes that dozens of journalists, lawyers, political activists and human rights defenders are banned from leaving the country, in circumstances which give rise to justifiable doubts about the lawfulness of such travel bans."

THE LAW

I. JOINDER OF THE APPLICATIONS

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

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

53. Relying on Articles 6 and 11 of the Convention and Article 1 of Protocol No. 1 to the Convention, the applicants complained that the freezing of their bank accounts had amounted to a violation of their rights protected under the Convention. Having regard to the circumstances of the case, the Court considers that the present complaint falls to be examined solely under 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

1. *The parties' submissions*

54. The Government submitted that the applicants had failed to exhaust domestic remedies. In particular, they noted that the applicant had failed to raise his complaint before the domestic authorities and that the applicant association had failed to lodge a new request with the domestic courts in accordance with Article 121.3 of the CCrP.

55. The applicants disagreed with the Government's submissions, pointing to all the attempts they had made to have the issues examined.

2. *The Court's assessment*

56. The relevant general principles on exhaustion of domestic remedies have been summarised in *Vučković and Others v. Serbia* ((preliminary objection) [GC], nos. 17153/11 and 29 others, §§ 69-77, 25 March 2014).

57. The Court notes that in the cases in which the applicants complained of both the initial freezing of their assets and of the continuation of the measure for a number of years, it is appropriate to consider the exhaustion issue separately for the two matters (see *BENet Praha, spol. s r.o. v. the Czech Republic*, no. 33908/04, § 81, 24 February 2011, and *Apostolovi v. Bulgaria*, no. 32644/09, § 81, 7 November 2019).

58. In the present case, as regards the freezing of the applicant association's bank accounts, the Government's objection seems to be limited to the continuation of the restrictions (see paragraph 54 above). However, the Government failed to explain how a request lodged in accordance with Article 121.3 of the CCrP dealing with examination of the applications and requests submitted to the investigating authorities (see paragraph 44 above) could constitute an effective remedy in respect of the continued freezing of the applicant association's bank accounts ordered on the basis of a court decision.

59. As to the Government's objection concerning the freezing of the applicant's bank accounts, it appears from the documents in the case file that the applicant was not provided with a copy of the attachment order of 30 October 2014 following its delivery by the relevant court and learned about its existence only in December 2014 (see paragraphs 18 and 19 above). This failure of the domestic authorities deprived him of the possibility to challenge effectively the impugned attachment order before the relevant appellate court, within three days after its announcement. Moreover, the applicant could not be blamed for not trying to appeal against the attachment order of 30 October 2014 asking for restoration of the time-limit for lodging an appeal once he learned about its existence in December 2014 in view of the domestic courts' refusal to examine, without giving any reasoning, the applicant association's similar appeal against the

Nasimi District Court's order of 19 May 2014 (see paragraphs 14 and 16 above).

60. As regards the continuation of the restrictions on the applicant's bank accounts, the Court has already found that a request submitted in accordance with Article 121.3 of the CCrP could not constitute an effective remedy in that connection (see paragraph 58 above) and the Government failed to specify any other remedy for that purpose. The Court also cannot overlook the fact that the applicants tried to make use of the judicial review procedure under Article 449 of the CCrP, but the domestic courts had refused to examine their complaint (see paragraphs 33-38 above).

61. For the above reasons, the Court finds that the applicants' complaint cannot be rejected for non-exhaustion of domestic remedies, and that the Government's objection in this regard must be dismissed.

62. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicants

63. The applicants maintained their complaint, submitting that the freezing of their bank accounts had constituted an unlawful and unjustified interference with their property rights.

(b) The Government

64. The Government submitted that the interference with the applicants' rights had been lawful and justified. The interference was based on Article 248 of the CCrP and those provisions of the domestic law were sufficiently accessible, precise and foreseeable in their application. They further maintained that the freezing of the applicants' bank accounts constituted a restriction made in the public interest, with a view to ensuring the proper administration of justice.

(c) The third party

65. The Open Society Justice Initiative emphasized the importance of access to banking facilities for the functioning of non-governmental organisations and human rights lawyers and submitted that the restriction in that regard is a matter of significant concern. It noted that where similar restrictions are imposed on non-governmental organisations and lawyers, those restrictions should be carefully scrutinised, bearing in mind the crucial role played by human rights defenders acting in the public interest.

2. The Court's assessment

66. The Court notes that it was not disputed by the Government that there had been an interference with the applicants' property rights. In that connection, the Court reiterates that the freezing of bank accounts has to be regarded as a measure of control of the use of property (see *Uzan and Others v. Turkey*, nos. 19620/05 and 3 others, § 194, 5 March 2019, and *Yunusova and Yunusov v. Azerbaijan (no. 2)*, no. 68817/14, § 167, 16 July 2020).

67. The Court reiterates that the first and most important requirement of Article 1 of Protocol No. 1 to the Convention is that any interference by a public authority with the peaceful enjoyment of possessions should be lawful (see, among other authorities, *Iatridis v. Greece* [GC], no. 31107/96, § 58, ECHR 1999-II, and *Béláné Nagy v. Hungary* [GC], no. 53080/13, § 112, 13 December 2016). 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 *Beyeler v. Italy* [GC], no. 33202/96, §§ 109 and 110, ECHR 2000-I, and *Batkivska Turbota Foundation v. Ukraine*, no. 5876/15, § 56, 9 October 2018).

68. In that connection, the Court observes that it has already found in a previous case against Azerbaijan concerning attachment of property that the interference did not comply with the lawfulness requirement enshrined in Article 1 of Protocol No. 1, since the applicant in that case did not belong to the categories of persons to whom an attachment measure could be applied. In particular, the Court held that in accordance with Article 248 *et seq.* of the CCrP, dealing with the attachment of property, the attachment could be ordered only in respect of property of the "accused person" or "other persons who could be held materially liable" for the criminal actions of the accused (see *Rafig Aliyev v. Azerbaijan*, no. 45875/06, §§ 122-26, 6 December 2011).

69. Turning to the circumstances of the present case, the Court observes that the Government, while arguing that the interference was lawful under Article 248 of the CCrP, did not explain how that provision could be applied in respect of the applicants who had not been charged with any criminal offence within the framework of criminal case no. 142006023 or in other proceedings. In particular, it is undisputed by the parties that the applicant was not an accused person within the framework criminal case no. 142006023, but was only questioned on several occasions between 2014 and 2016. In that connection, the Court does not lose sight of the fact that the Nasimi District Court did not even refer to any legal provision as a legal

basis for its order of 30 October 2014 in relation to the applicant's account (see paragraph 18 above) (compare *Frizen v. Russia*, no. 58254/00, § 34, 24 March 2005).

70. Moreover, the Court cannot overlook the fact that although the institution of criminal responsibility of legal persons was introduced into the Azerbaijani Criminal Code on 7 March 2012, there were no procedural provisions in the CCrP relating to the measures applicable in respect of legal persons for their criminal responsibility until 29 November 2016 (see paragraph 43 above).

71. Lastly, the Court notes that it was not argued by the Government and it does not appear from the documents in the case file that any of the applicants could be a "person who could be held materially liable" for the criminal actions of another accused person.

72. In these circumstances, the Court concludes that the applicants did not belong to the categories of persons to whom an attachment measure could be applied under the domestic law and the interference could thus not be considered lawful within the meaning of Article 1 of Protocol No. 1 to the Convention. The above conclusion makes it unnecessary to ascertain whether a fair balance has been struck between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights (see *Yunusova and Yunusov (no. 2)*, cited above, § 169).

73. There has accordingly been a violation of Article 1 of Protocol No. 1 to the Convention in respect of both applicants.

III. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION IN CONJUNCTION WITH ARTICLE 1 OF PROTOCOL No. 1 TO THE CONVENTION

74. The applicants complained that they had not had effective domestic remedies at their disposal in respect of their complaint under Article 1 of Protocol No. 1 to the Convention as provided in Article 13 of the Convention, which reads as follows:

> "Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

A. Admissibility

75. 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

76. The applicants maintained their complaint.

77. The Government contested their submissions.

78. The Court reiterates that Article 13 of the Convention guarantees the availability at national level of a remedy to enforce the substance of the Convention rights and freedoms in whatever form they may happen to be secured. The effect of that provision is thus to require the provision of a domestic remedy to deal with the substance of an "arguable complaint" under the Convention and to grant appropriate relief. The scope of the Contracting States' obligations under Article 13 varies depending on the nature of the applicant's complaint. However, the remedy required by Article 13 must be "effective" in practice as well as in law. The "effectiveness" of a "remedy" within the meaning of Article 13 does not depend on the certainty of a favourable outcome for the applicant (see *Hirsi Jamaa and Others v. Italy* [GC], no. 27765/09, § 197, ECHR 2012, and *Edward and Cynthia Zammit Maempel v. Malta*, no. 3356/15, § 66, 15 January 2019).

79. Having declared the applicants' complaint under Article 1 of Protocol No. 1 admissible, the Court finds that it was arguable. The applicants were therefore entitled to an "effective" domestic remedy within the meaning of Article 13.

80. The Court has already found that the domestic authorities' failure to provide the applicants with a copy of the relevant attachment orders deprived them of their right to challenge those orders before the appellate courts (see paragraph 61 above). The Government also failed to submit that there was any other remedy by which the applicants could have challenged those attachment orders in these particular circumstances and the continuation of the restrictions imposed by those orders.

81. In view of the fact that the respondent State failed to provide to the applicants any remedies to contest the interference with their rights under Article 1 of Protocol No. 1., the Court concludes that the applicants did not have in practice an effective remedy in relation to their complaint under Article 1 of Protocol No. 1 (see *Yunusova and Yunusov (no. 2)*, cited above, § 178).

82. There has, accordingly, been a violation of Article 13 of the Convention in conjunction with Article 1 of Protocol No. 1 in respect of both applicants.

IV. ALLEGED VIOLATION OF ARTICLE 2 OF PROTOCOL No. 4 TO THE CONVENTION

83. The applicant complained that his right to leave his own country had been breached by the domestic authorities. The relevant part of Article 2 of Protocol No. 4 to the Convention reads as follows:

> “2. Everyone shall be free to leave any country, including his own.
>
> 3. No restrictions shall be placed on the exercise of [this right] other than such as are in accordance with law and are necessary in a democratic society in the interests of national security or public safety, for the maintenance of *ordre public*, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others ...”

A. Admissibility

84. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties’ submissions

85. The applicant maintained that both travel bans imposed on him had been unlawful, had not pursued any legitimate aim and had not been a necessary measure in a democratic society.

86. The Government contested that there was a travel ban imposed on the applicant by the prosecuting authorities. As regards the travel ban imposed by the court, they submitted that it was in accordance with Article 355-5.1 of the CCP, pursued the legitimate aims of maintenance of public order and prevention of crime and was necessary in a democratic society.

2. The Court’s assessment

(a) As regards the travel ban imposed by the prosecuting authorities

87. The Court refers to the general principles established in its case-law and set out in the judgment *Mursaliyev and Others v. Azerbaijan* (nos. 66650/13 and 10 others, §§ 29-31, 13 December 2018), which are equally pertinent to the present case.

88. In the present case, although the Government disputed the applicant’s assertion that there was a travel ban imposed on him by the prosecuting authorities, the Court notes that, in letters dated 28 December 2016, 8 August 2018, 7 June and 23 July 2019, the Prosecutor General’s

Office clearly acknowledged the imposition of a travel ban on the applicant (see paragraphs 23-24 above). Furthermore, the fact that on 13 September 2015, prior to the imposition of the judicial travel ban, the applicant was prevented from travelling abroad (see paragraph 22 above) also confirms the applicant's assertion. Accordingly, the Court accepts that the prosecuting authorities imposed a travel ban on the applicant which prevented him from travelling abroad. The Court agrees with the applicant that this measure amounted to an interference with his right to leave his own country within the meaning of Article 2 § 2 of Protocol No. 4.

89. As to the question whether the interference was in accordance with law, the Court notes that in *Mursaliyev and Others* (cited above, §§ 29-36) having examined an identical complaint based on the same facts, the Court found that the imposition of a travel ban on the applicants, who were only witnesses in criminal proceedings, by the investigating authorities in the absence of any judicial decision was not "in accordance with law". The Court considers that the analysis and finding it made in the *Mursaliyev and Others* judgment also apply to the present case and sees no reason to deviate from that finding.

90. There has accordingly been a violation of the applicant's right to leave his country, as guaranteed by Article 2 of Protocol No. 4 to the Convention, on account of the travel ban imposed on him by the prosecuting authorities.

(b) As regards the travel ban imposed by the court

91. The Court notes that it is not in dispute between the parties that the domestic courts' decision to restrict the applicant's right to leave the country amounted to an interference with his right to leave his own country within the meaning of Article 2 § 2 of Protocol No. 4. That is also the Court's opinion. It must therefore be examined whether it was "in accordance with law", pursued one or more of the legitimate aims set out in Article 2 § 3 of Protocol No. 4 and whether it was "necessary in a democratic society" to achieve such an aim.

92. Without ruling on the question whether the imposition of a travel ban on the applicant could be considered justified in the light of the suspension of the court proceedings relating to the tax dispute between the applicant association and the tax authorities, the Court observes that such a measure could be imposed in accordance with Article 9.3.6-1 of the Migration Code and Article 355-5.1 of the CCP (see paragraphs 46-47 above). The Court also notes that a measure which seeks to restrict an individual's right to leave the country for the purpose of securing the payment of taxes may pursue the legitimate aims of maintenance of *ordre public* and protection of the rights of others (see *Riener v. Bulgaria*, no. 46343/99, §§ 114-17, 23 May 2006). However, having regard to the particular circumstances of the present case, the respondent Government has

not demonstrated that the impugned measure pursued any of the legitimate aims set out in Article 2 § 3 of Protocol No. 4.

93. In particular, the Court notes that neither the tax authorities nor the domestic courts sought to collect the tax debt in question without imposing a travel ban on the applicant. In particular, they did not consider deducting the alleged tax debt from the money available on the applicants' bank accounts or seizing any other assets owned by them despite the applicant's explicit request in that regard in the court proceedings (see paragraphs 29 and 31 above). The Government have not contested the applicant's submission that the sum allegedly due, AZN 7,385, was available on the bank accounts.

94. The tax authorities and the domestic courts also failed to put forward any argument how the imposition of the travel ban in question was necessary for the collection of the tax debt. In that connection, the Court reiterates that restriction on the right to leave one's country on grounds of unpaid debt can only be justified as long as it serves its aim – recovering the debt (see *Napijalo v. Croatia*, no. 66485/01, 13 November 2003, §§ 78-82, and *Stetsov v. Ukraine*, no. 5170/15, § 29, 11 May 2021).

95. The foregoing considerations are sufficient to enable the Court to conclude that the interference in question with the applicant's right to leave his country did not pursue a legitimate aim. This finding makes it unnecessary to determine whether the interference was necessary in a democratic society.

96. There has accordingly been a violation of the applicant's right to leave his country, as guaranteed by Article 2 § 2 of Protocol No. 4, on account of the travel ban imposed on him by the domestic courts.

V. ALLEGED VIOLATION OF ARTICLE 18 OF THE CONVENTION TAKEN IN CONJUNCTION WITH ARTICLE 1 OF PROTOCOL No. 1 TO THE CONVENTION AND ARTICLE 2 OF PROTOCOL No. 4 TO THE CONVENTION

97. Relying on Article 34 and 18 of the Convention in conjunction with Article 11 of the Convention, Article 1 of Protocol No. 1 to the Convention and Article 2 of Protocol No. 4 to the Convention, the applicants argued that their Convention rights had been restricted for purposes other than those prescribed in the Convention. Having regard to the circumstances of the case, the Court considers that the present complaint falls to be examined solely under Article 18 of the Convention in conjunction with Article 1 of Protocol No. 1 to the Convention in respect of both applicants and, also in conjunction with Article 2 of Protocol No. 4 to the Convention in respect of the applicant. Article 18 provides:

> "The restrictions permitted under [the] Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed."

A. Admissibility

98. At the outset, the Court considers that both the right to protection of property and the right to freedom of movement are qualified rights subject to restrictions permitted under the Convention (see *OAO Neftyanaya Kompaniya Yukos v. Russia*, no. 14902/04, §§ 663-66, 20 September 2011; *Merabishvili v. Georgia* ([GC], no. 72508/13, §§ 265, 271, 287 and 290, 28 November 2017; and *Navalnyy v. Russia* ([GC], nos. 29580/12 and 4 others, §§ 164-165, 15 November 2018) and finds that the complaint under Article 18 is applicable in the present case. The Court also notes that the complaint under that provision is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. *The parties' submissions*

(a) The applicants

99. The applicants submitted that the restrictions complained of had been politically motivated and had been applied with the intention of punishing them for their engagement in human rights defence work. In that connection, they noted that they had actively participated in the protection of human rights in the country and the measures taken against them intended to paralyse their work. They also noted that the adoption of those measures could not be viewed in isolation and was part of a targeted repressive campaign against human rights defenders and NGO activists, who were either subjected to similar restrictions or were arrested and detained on the basis of various fabricated accusations.

(b) The Government

100. The Government's submissions were exactly the same as those that they had made in *Rashad Hasanov and Others v. Azerbaijan* (nos. 48653/13 and 3 others, §§ 114-15, 7 June 2018).

(c) The third party

101. The International Commission of Jurists submitted a summary of international standards on non-interference with the work of lawyers and underlined the special role of the lawyers in the administration of justice. The third party expressed its concern about the situation of human rights

defenders in Azerbaijan and the practice of harassment of the lawyers, drawing attention to the importance of the national context.

2. *The Court's assessment*

102. The Court will examine the applicants' complaint in the light of the relevant general principles set out by the Grand Chamber in its judgments in *Merabishvili* (cited above, §§ 287-317) and *Navalnyy* (cited above, §§ 164-65).

103. The Court considers at the outset that in the present application the complaint under Article 18 constitutes a fundamental aspect of the case that has not been addressed above in relation to Article 1 of Protocol No. 1 to the Convention and Article 2 of Protocol No. 4 to the Convention and merits a separate examination.

104. The Court notes that it has already found that the freezing of the applicants' bank accounts and the imposition of the travel ban on the applicant by the prosecuting authorities were unlawful and the imposition of the travel ban on the applicant by the domestic courts did not pursue any legitimate aim. Therefore, no issue arises in the present case with respect to the plurality of purposes where a restriction is applied both for an ulterior purpose and a purpose prescribed by the Convention (compare *Merabishvili*, cited above, §§ 318-54).

105. However, the mere fact that the restriction of the applicants' rights did not pursue a purpose prescribed by the Convention is not in itself a sufficient basis to conclude that Article 18 has also been violated. Therefore, it remains to be seen whether there is proof that the authorities' actions were actually driven by an ulterior purpose.

106. The Court considers that, in the present case, it can be established beyond a reasonable doubt that such proof follows from a juxtaposition of the relevant case-specific facts with contextual factors.

107. Firstly, as regards the applicants' status, the Court notes that the applicant association is specialised in protection of human rights and the applicant is a lawyer and the legal representative before the Court in a large number of cases. The Court reiterates that it attaches particular importance to the special role of human rights defenders in promoting and defending human rights, including in close cooperation with the Council of Europe, and their contribution to the protection of human rights in the member States (see *Aliyev v. Azerbaijan*, nos. 68762/14 and 71200/14, § 208, 20 September 2018). In that connection, the Court is struck by the fact that, at the request of the prosecuting authorities, on 30 October 2014 the Nasimi District Court adopted, without relying on any legal basis, an attachment order in respect of an amount of money transferred from the Council of Europe to the applicant as legal aid on the grounds that the amount in question constituted the object of a criminal offence and was used "as its

instrument" (see paragraph 18 above). The Court deems that this fact points to the possibility that the attachment of the applicant's bank accounts was used as a measure preventing him from exercising his professional legal activity.

108. Secondly, the Court takes note of the fact that the restriction of the applicants' rights within the framework of a criminal case in which they were not charged with any criminal offence was not only devoid of any legal basis, but was also applied in a manner capable of paralyzing their work. In particular, the domestic courts and the Government did not give any explanation why the attachment orders were not limited to specific amounts, but were applied in respect of all bank accounts of the applicants, preventing them practically from conducting their professional activities. They also failed to put forward legitimate reasons for the imposition of the travel bans on the applicant.

109. Thirdly, the Court considers that the applicants' situation cannot be viewed in isolation and should be viewed against the backdrop of the arbitrary arrest and detention of government critics, civil society activists and human rights defenders in the respondent State. The Court points out that in the case of *Aliyev* (cited above, § 223) it found that its judgments in a series of similar cases reflected a pattern of arbitrary arrest and detention of government critics, civil society activists and human rights defenders through retaliatory prosecutions and misuse of the criminal law in breach of Article 18. The Court also cannot overlook the reports and opinions made by various international human rights instances about the use of freezing of bank accounts and imposition of travel bans on the civil society activists in this context (see paragraphs 49-51 above).

110. The Court considers that the above-mentioned elements are sufficient to enable it to conclude that there was an ulterior purpose in the restriction of the applicants' rights ; namely, it was to punish the applicants for their activities in the area of human rights and to prevent them from continuing those activities.

111. There has accordingly been a violation of Article 18 of the Convention taken in conjunction with Article 1 of Protocol No. 1 to the Convention in respect of both applicants and in conjunction with Article 2 of Protocol No. 4 to the Convention in respect of the applicant.

VI. APPLICATION OF ARTICLE 46 OF THE CONVENTION

112. 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. ..."

113. The applicants argued that the most appropriate form of individual redress would be the immediate cessation of the freezing of their bank accounts and the lifting of one of the two travel bans which continued to be imposed on the applicant. The applicants also asked the Court to indicate to the Government to implement general measures addressing the protection of civil society activists and human rights defenders.

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

115. The Court reiterates that, by virtue of Article 46 of the Convention, the Contracting Parties have undertaken to abide by the final judgments of the Court in any case to which they are parties, with execution being supervised by the Committee of Ministers of the Council of Europe. In the present case, given the variety of means available to achieve *restitutio in integrum* and the nature of the issues involved, the Committee of Ministers is better placed than the Court to assess the specific measures to be taken. It should thus be left to the Committee of Ministers to supervise, on the basis of the information provided by the respondent State and with due regard to the applicants' evolving situation, the adoption of measures aimed, among others, at eliminating any impediment to the exercise of their activities. Those measures should be feasible, timely, adequate and sufficient to ensure the maximum possible reparation for the violations found by the Court, and they should put the applicants, as far as possible, in the position in which they had been before the freezing of their bank accounts and the imposition of the travel bans on the applicant (see *Aliyev*, cited above, § 228, and *Bagirov v. Azerbaijan*, nos. 81024/12 and 28198/15, § 110, 25 June 2020).

VII. APPLICATION OF ARTICLE 41 OF THE CONVENTION

116. 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

117. The applicant association claimed 42,416.15 euros (EUR) and the applicant EUR 11,337.60 in respect of pecuniary damage. In that connection, they referred to the disruption of their activities, the inability to access various funds, the payment of the taxes and the unpaid salary to the applicant from grants.

118. The applicants each claimed EUR 30,000 in respect of non-pecuniary damage.

119. The Government submitted that the amounts claimed by the applicants were unsubstantiated and excessive and that a finding of a

violation would constitute sufficient just satisfaction. They noted that the applicants had not been deprived of their property and that their inability to receive grants could not be considered as a ground for claiming pecuniary damage since the grants were not made for their personal enrichment.

120. The Court observes at the outset that the applicants were not deprived of the amounts of money available on their bank accounts on account of the freezing of their bank accounts. The Court also notes that the present application does not concern the tax inspection carried out by the domestic authorities and the question of lawfulness of the imposition of a tax debt on the applicant association as a result of that inspection. Accordingly, the Court does not discern any causal link between the violations found and the pecuniary damage alleged in respect of the tax debt paid by the applicant association.

121. However, the Court has no doubt that the freezing of the applicants' bank accounts disturbed the applicants' activities and entailed pecuniary losses for them. At the same time, it would be speculative to calculate the exact amount of those losses. The Court also considers that the applicants have suffered non-pecuniary damage which cannot be compensated for solely by the finding of a violation, and that compensation should thus be awarded (see *Lupeni Greek Catholic Parish and Others v. Romania* [GC], no. 76943/11, § 182, 29 November 2016, and *Religious Community of Jehovah's Witnesses v. Azerbaijan*, no. 52884/09, § 50, 20 February 2020). Making an assessment on an equitable basis and in the light of all the information in its possession, the Court considers it reasonable to award the applicant association an aggregate sum of EUR 8,000 and the applicant an aggregate sum of EUR 15,000, all heads of damage combined, plus any tax that may be chargeable on those amounts (compare *Bagirov*, cited above, § 116, and *Yunusova and Yunusov (no. 2)*, cited above, § 206).

B. Costs and expenses

122. The applicants claimed EUR 1,900 for legal services incurred before the domestic courts and the Court for their representation by Mr R. Mustafazade. They submitted the relevant contracts concluded with Mr R. Mustafazade and asked that the compensation in that connection be paid directly into Mr R. Mustafazade's bank account.

123. The applicants also claimed 13,346.56 pounds sterling (GBP) for legal services incurred in the proceedings before the Court for their representation by Ms R. Remezaite and Mr P. Leach, as well as EUR 905.55 for translation. In support of that claim, they submitted time sheets from their representatives and invoices for translation expenses.

124. The Government considered that the amounts claimed by the applicants were unsubstantiated and excessive. They asked the Court to apply a strict approach in respect of the applicants' claims and pointed out

that the applicants had failed to submit any contract concerning their representation by Ms R. Remezaite and Mr P. Leach and to justify the claimed costs and expenses.

125. 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 have been actually and necessarily incurred and are reasonable as to quantum. The Court also points out 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 Chamber may reject the claim in whole or in part (see *Malik Babayev v. Azerbaijan*, no. 30500/11, § 97, 1 June 2017). In the present case the applicant failed to produce any contract concerning their representation by Ms R. Remezaite and Mr P. Leach or any other relevant documents showing that they had paid or were under a legal obligation to pay the fees charged by their representatives (see *Merabishvili*, cited above, § 372; *Bagirov*, cited above, § 120; and *Nasirov and Others v. Azerbaijan*, no. 58717/10, § 89, 20 February 2020). As regards the part of the claim for translation of various documents, the Court does not consider that the translation of those documents was necessary for its proceedings (see *Allahverdiyev v. Azerbaijan*, no. 49192/08, § 71, 6 March 2014, and *Sakit Zahidov v. Azerbaijan*, no. 51164/07, § 70, 12 November 2015). Therefore, the Court dismisses that part of the claim for costs and expenses.

126. As regards the applicants' representation by Mr R. Mustafazade, regard being had to the documents in its possession and the amount of work carried out by the applicants' representative, the Court considers it reasonable to award the sum of EUR 1,900 to the applicants, plus any tax that may be chargeable to the applicants. The Court also specifies that the amount awarded in that respect is to be paid directly into the bank account of Mr R. Mustafazade.

C. Default interest

127. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;

2. *Declares* the applications admissible;

3. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to the Convention in respect of both applicants;

4. *Holds* that there has been a violation of Article 13 of the Convention in conjunction with Article 1 of Protocol No. 1 to the Convention in respect of both applicants;

5. *Holds* that there has been a violation of Article 2 of Protocol No. 4 to the Convention on account of the travel ban imposed on the applicant by the prosecuting authorities;

6. *Holds* that there has been a violation of Article 2 of Protocol No. 4 to the Convention on account of the travel ban imposed on the applicant by the domestic courts;

7. *Holds* that there has been a violation of Article 18 of the Convention taken in conjunction with Article 1 of Protocol No. 1 to the Convention in respect of both applicants and in conjunction with Article 2 of Protocol No. 4 to the Convention in respect of the applicant;

8. *Holds*
   (a) that the respondent State is to pay the applicants, 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 8,000 (eight thousand euros), plus any tax that may be chargeable, to the applicant association in respect of pecuniary and non-pecuniary damage;
      (ii) EUR 15,000 (fifteen thousand euros), plus any tax that may be chargeable, to the applicant in respect of pecuniary and non-pecuniary damage;
      (iii) EUR 1,900 (one thousand and nine hundred euros), plus any tax that may be chargeable to the applicants, in respect of costs and expenses, to be paid directly into the bank account of their representative, Mr R. Mustafazade;
   (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;

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

Done in English, and notified in writing on 14 October 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller	Síofra O'Leary
Deputy Registrar	President

APPENDIX

No.	Application no.	Case name	Lodged on	Applicant name, year of birth, place of residence	Represented by
1.	74288/14	Democracy and Human Rights Resource Centre v. Azerbaijan	26/11/2014	Democracy and Human Rights Resource Centre, 2006, Sumgait	Ruslan Mustafazade Khalid Bagirov Ramute Remezaite Philip Leach Kate Levine Joanne Sawyer Joanna Evans Jessica Gavron
2.	64568/16	Mustafayev and Democracy and Human Rights Resource Centre v. Azerbaijan	31/10/2016	Asabali Mustafayev, 1951, Sumgayit Democracy and Human Rights Resource Centre, 2006, Sumagit	Ruslan Mustafazade Asabali Mustafayev Ramute Remezaite Philip Leach Kate Levine Joanne Sawyer Joanna Evans Jessica Gavron