FIFTH SECTION

CASE OF BAYRAMOV v. AZERBAIJAN

(Applications nos. 19150/13 and 52022/13)

JUDGMENT

STRASBOURG

6 April 2017

This judgment is final but it may be subject to editorial revision.

In the case of Bayramov v. Azerbaijan,

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

Faris Vehabović, *President,*
Carlo Ranzoni,
Lətif Hüseynov, *judges,*
and Anne-Marie Dougin, *Deputy Section Registrar,*

Having deliberated in private on 14 March 2017,

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

PROCEDURE

1. The case originated in two applications (nos. 19150/13 and 52022/13) against the Republic of Azerbaijan lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by an Azerbaijani national, Mr Vusal Abit oglu Bayramov ("the applicant"), on 27 February and 13 March 2013 respectively.

2. The applicant was represented by Mr R. Mustafazade, a lawyer practising in Azerbaijan. The Azerbaijani Government ("the Government") were represented by their Agent, Mr Ç. Asgarov.

3. On 2 October 2014 the complaints concerning Articles 5, 6, 10 and 11 of the Convention, raised in both applications, were communicated to the Government and the remainder of both applications was declared inadmissible.

4. The Government objected to the examination of the applications by a Committee. After having considered the Government's objection, the Court rejected it.

THE FACTS

Article I. I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1988 and lives in Baku.

Section 1.01 A. Administrative arrests

6. The opposition planned to hold demonstrations on 12 and 26 January 2013 in Baku.

7. No prior notice was given to the relevant authority, the Baku City Executive Authority ("the BCEA"), by the organisers of the demonstrations. Information about the demonstrations was disseminated through Facebook or the press.

8. According to the applicant, the demonstrations were intended to be peaceful and were conducted in a peaceful manner. The participants in the demonstration of 12 January 2013 were drawing the public's attention to the deaths of soldiers in the army. The participants in the demonstration of 26 January 2013 were condemning the use of force by the police against those who had participated in previous demonstrations.

9. The applicant attended both demonstrations, but shortly after they had begun the police started to disperse the assemblies. In both cases the applicant was arrested during the dispersal operation and was taken to a police station, where he was questioned.

10. In both cases, on the day of applicant's arrest an "administrative-offence report" (*inzibati xəta haqqında protokol*) was issued in respect of him. The reports stated that the applicant had committed an administrative offence under Article 298.2 (participation in a public assembly that had not been organised in accordance with the law) of the Code of Administrative Offences ("the CAO").

11. According to the applicant, he was never served with copies of the administrative-offence reports or with other documents in his case files. In neither case was he given access to a lawyer after his arrest or while in police custody.

12. A statement (*ərizə*) written by the applicant on 12 January 2013 at the police station and submitted to the Court by the Government showed that in the first case, the applicant had declared that he would defend himself in person.

13. A statement written by the applicant on 26 January 2013 at the police station and submitted to the Court by the Government showed that in the second case the applicant had declared that he did "not need a lawyer because of his financial [situation]".

14. In the first case, after having been held for a few hours in police custody, the applicant was released, subject to an undertaking to reappear at the police station on 14 January 2013.

Section 1.02 B. Court proceedings against the applicant

15. In the first case, the applicant was brought before the Nasimi District Court on 14 January 2013, the day he reappeared at the police station. In the second case he was brought before the Nasimi District Court on 26 January 2013, the day of his arrest.

16. According to the applicant, the hearing before the court in both cases was very brief. Members of the public were not allowed to attend, even

though the court had not taken a formal decision to close the hearing to the public.

17. According to the applicant, in both cases he was not given an opportunity to hire a lawyer of his own choice.

18. A statement signed by the applicant on 14 January 2013 and submitted to the Court by the Government showed that in the first case, the applicant had declared that he did not need legal assistance and would defend himself in person.

19. At the court hearing in the second case, a State-funded lawyer was appointed to assist the applicant.

20. The record of the court hearing in the second case shows that in his oral submissions, the State-funded lawyer briefly stated that there had been elements of the administrative offence in the applicant's actions, and asked the court to adopt a fair decision.

21. In both cases, the court questioned police officers who had participated in the dispersal operations and police officers who had prepared the administrative-offence reports against the applicant. The police officers testified that the applicant had staged an unauthorised demonstration.

22. In both cases the first-instance court found that the applicant had participated in an unauthorised demonstration.

23. In both cases, by decisions of 14 and 26 January 2013 respectively, the first-instance court convicted the applicant under Article 298.2 of the CAO. The court sentenced him to fines of 500 manats (AZN) and AZN 400 respectively.

24. On unspecified dates the applicant lodged appeals before the Baku Court of Appeal, arguing that his convictions were in violation of his rights because the demonstrations in which he had participated had been peaceful. He also complained that his arrests had been unlawful and that the hearings before the respective first-instance courts had not been fair.

25. In the first case, the applicant was not represented before the Baku Court of Appeal by a lawyer. At the appellate court hearing in the second case the applicant was represented by the same lawyer who had represented him before the first-instance court.

26. In both cases, on 25 January and 6 February 2013 respectively, the Baku Court of Appeal dismissed the applicant's appeal and upheld the decision of the first-instance court.

Article II. II. RELEVANT DOMESTIC LAW AND INTERNATIONAL DOCUMENTS

27. At the time of both of the applicant's arrests, under Article 5 § IV of the Law on Freedom of Assembly of 13 November 1998 no prior written notification was required for spontaneous assemblies.

28. Before the amendments introduced by Law no. 462-IVQD of 2 November 2012, which entered into force on 1 January 2013, any breach of the rules on the organisation and holding of assemblies was punishable under Article 298 of the Code of Administrative Offences of 2000 ("the CAO") by a reprimand or a fine of AZN 7 to 13. At the time of the applicant's arrests, both of which occurred after the amendments were enacted, Article 298 of the CAO provided as follows:

Article 298
Breach of the rules on the organisation and holding of assemblies

"298.1. For any breach of the rules, set forth under the legislation, on the organisation and holding of assemblies, demonstrations, protests, marches and pickets by an organiser of an assembly – an individual shall be punished by a fine of 1,500 to 3,000 manats [AZN]; or, depending on the circumstances of the case and the personality of the perpetrator of the offence, by community service for 200 to 240 hours or administrative detention for up to 15 days; a person in charge [shall be punished] by a fine of 3,000 to 6,000 manats [AZN]; a legal entity [shall be punished] by a fine of 15,000 to 30,000 manats [AZN].

298.2 Participation in an assembly, a demonstration, a protest, a march or a picket which was not organised in accordance with the rules, set forth under the legislation, shall be punishable by a fine of 300 to 600 manats [AZN]; or, depending on the circumstances of the case and the personality of the perpetrator of the offence, by community service for 160 to 200 hours or administrative detention for up to 15 days.

Note: If there are elements of a crime in actions proscribed under Articles 298.1 and 298.2 of the present Code, the perpetrator of those actions bears criminal responsibility under the relevant Articles of the Criminal Code of the Republic of Azerbaijan."

29. According to presidential Order (*sərəncam*) no. 1866 of 1 December 2011, which was in force until 1 September 2013, the minimum wage in Azerbaijan was AZN 93.5.

30. The relevant extracts of Resolution 1917 (2013) of the Parliamentary Assembly of the Council of Europe: "The honouring of obligations and commitments by Azerbaijan" read as follows:

"... 10. Regrettably, there is no political dialogue with the opposition parties outside parliament. The Assembly is concerned by the restrictive climate for the activities of the extra-parliamentary opposition, which complains about limitations imposed on freedom of expression and freedom of assembly and the lack of access to the public media.

11. The establishment of an inclusive political system and a truly competitive and unrestrictive political environment requires full implementation of basic freedoms, including freedom of expression, freedom of assembly and freedom of association. The situation in Azerbaijan is preoccupying and the Assembly expresses its deep concern in this regard.

12. Recently adopted amendments to the Criminal Code and the Administrative Code, which have increased penalties for the organisers of, and participants in, "unauthorised" gatherings, raise concern. Considering the authorities' ongoing blanket ban on protests in the Baku city centre, these amendments are likely to have a further

negative impact on freedom of assembly and freedom of expression. The restrictive use of certain articles of the Criminal Code, in particular Articles 221 and 233, against participants in peaceful, albeit unauthorised, demonstrations, is another matter of concern. ..."

31. The relevant extracts of Report (CommDH(2013)14) of 6 August 2013 by Nils Muižnieks, the Commissioner for Human Rights of the Council of Europe, following his visit to Azerbaijan from 22 to 24 May 2013, read as follows:

"... 76. The Commissioner is deeply concerned by the recent amendments to the Law on Freedom of Assembly, the Criminal Code and the Code of Administrative Offences, which further erode the right to freedom of assembly. The sanctions which can now be imposed, coupled with the fact that local authorities have not authorised a single rally in Baku city centre in recent years, clearly have a chilling effect on the organisation of or participation in demonstrations.

77. The Commissioner is of the view that participants in peaceful assemblies should not be sanctioned for the mere fact of being present at and actively participating in the demonstration in question, provided they do not do anything illegal, violent or obscene in the course of it. The Commissioner therefore urges the authorities to ensure that no disproportionate sanction, which would undermine the fundamental right to peaceful assembly, is imposed. ..."

32. For a summary of other relevant provisions concerning administrative proceedings, the relevant provisions concerning the organisation and holding of public assemblies, and the relevant extracts of international documents, see the judgment in the case of *Gafgaz Mammadov v. Azerbaijan* (no. 60259/11, §§ 27-42, 15 October 2015).

THE LAW

Article III. I. JOINDER OF THE APPLICATIONS

33. Given the similarity of the facts and complaints raised by the applicant in the two applications, the Court has decided to join the applications in accordance with Rule 42 § 1 of the Rules of Court.

Article IV. II. ALLEGED VIOLATION OF ARTICLES 10 AND 11 OF THE CONVENTION

34. The applicant complained that the dispersal of the demonstrations by the police and his arrest and conviction for an administrative offence had been in breach of his freedom of assembly and freedom of expression, as provided for in Articles 10 and 11 of the Convention, which read as follows:

Article 10 (freedom of expression)

"1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent states from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

Article 11 (freedom of assembly and association)

"1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State."

Section 4.01 A. Admissibility

35. The Court notes that these complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that they are not inadmissible on any other grounds. They must therefore be declared admissible.

Section 4.02 B. Merits

(a) 1. The scope of the applicant's complaints

36. In the circumstances of the present cases, Article 10 is to be regarded as a *lex generalis* in relation to Article 11, a *lex specialis*. It is therefore unnecessary to take the complaint under Article 10 into consideration separately (see *Ezelin v. France*, 26 April 1991, § 35, Series A no. 202; *Kasparov and Others v. Russia*, no. 21613/07, §§ 82-83, 3 October 2013; and *Kudrevičius and Others v. Lithuania* [GC], no. 37553/05, § 85, 15 October 2015).

37. On the other hand, notwithstanding its autonomous role and particular sphere of application, Article 11 must, in the present cases, also be considered in the light of Article 10. The protection of personal opinions,

secured by Article 10, is one of the objectives of freedom of peaceful assembly as enshrined in Article 11 (see *Ezelin*, cited above, § 37, and *Kudrevičius and Others*, cited above, § 86).

(b) 2. The parties' submissions

38. The applicant argued that the authorities had not taken into consideration the fact that the demonstrations of 12 and 26 January 2013 had been spontaneous assemblies and therefore no prior notification had been required by law. In particular, the demonstration of 12 January 2013 had been held spontaneously in response to information in the press two or three days earlier about the suspicious death of a soldier (soldier J.G.) on 7 January 2013. Such deaths in the army had already been a widespread problem in the country.

39. The applicant submitted lastly that the authorities had also not taken into consideration the fact that both demonstrations had been intended to be peaceful and had been held in a peaceful manner.

40. The Government pointed out that the domestic legislation regulating freedom of assembly was precise and foreseeable.

41. The Government also submitted that both demonstrations had been organised in breach of national legislation. They argued in particular that an assembly which was organised even one or two days prior to its intended date could not be regarded as spontaneous.

42. The Government further argued in general terms that the dispersal of both demonstrations had been necessary in the interests of national security, for the prevention of disorder or crime, and had been proportionate to the aims pursued.

43. The Government submitted lastly that the police authorities had given the demonstration organisers and participants prior warning that those unauthorised assemblies would be dispersed. The demonstrations had been dispersed in a fairly peaceful manner. The applicant had also been aware of the authorities' position on unauthorised assemblies and the administrative sanctions that would be imposed on participants in such assemblies.

(c) 3. The Court's assessment

44. The Court notes from the outset that the organisers did not give the BCEA prior notice about the demonstrations of 12 and 26 January 2013. Examining the applicant's argument that no such notice was required by law, the Court notes that, indeed, under Article 5 § IV of the Law on Freedom of Assembly, no prior written notification was required for "spontaneous assemblies". Nevertheless, the applicant has failed to sufficiently substantiate his allegation that the demonstrations in which he participated were spontaneous ones. In particular, given that, as submitted by the applicant, the death of soldiers in the army had already been a

widespread problem in the country, it is not clear why it was urgent to hold a demonstration on a specific date, 12 January 2013, without giving five days' written notice. In such circumstances the Court is ready to accept that the dispersal of the demonstrations of 12 and 26 January 2013 was lawful (compare *Ibrahimov and Others v. Azerbaijan*, nos. 69234/11, 69252/11 and 69335/11, §§ 74-75, 11 February 2016).

45. Turning to the question whether it was necessary in a democratic society to disperse the demonstrations of 12 and 26 January 2013 and to convict the applicant, the Court notes that the issues raised by the applicant and the facts of the present cases closely resemble those of the *Gafgaz Mammadov* case. Therefore, for the same reasons as those outlined in the *Gafgaz Mammadov* judgment, the Court concludes that the authorities in the present cases have not adduced relevant and sufficient reasons justifying the dispersal of the demonstrations (see *Gafgaz Mammadov*, cited above, § 61). The authorities also failed to acknowledge that the act of participating in an unauthorised peaceful demonstration was by itself protected by Article 11 of the Convention (ibid., §§ 63-64).

46. The dispersal of the demonstrations and the applicant's arrests and convictions could not but have the effect of discouraging him from participating in political rallies. The measures applied in the present cases and the fear of sanctions that could potentially be applied against participants and organisers of unauthorised peaceful assemblies undoubtedly have a chilling effect on the exercise of freedom of assembly. This deters other opposition supporters and the public at large from attending demonstrations, and, more generally, from participating in open political debate (see *Gafgaz Mammadov*, cited above, § 67).

47. In these circumstances, the Court finds a violation of Article 11 of the Convention.

Article V. III. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

48. The applicant complained under Article 6 of the Convention that in both cases, he had not had a fair and public hearing in the proceedings concerning the alleged administrative offence. The relevant parts of Article 6 of the Convention read as follows:

> "1. In the determination of ... any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. ...
>
> 3. Everyone charged with a criminal offence has the following minimum rights:
>
> (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
>
> (b) to have adequate time and facilities for the preparation of his defence;

(c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require; ...”

Section 5.01 A. Admissibility

49. The Government submitted that in both cases the applicant had failed to complain before the domestic courts of lack of adequate time and facilities to prepare his defence. In the second case, he had also failed to complain before the domestic courts of lack of legal assistance.

50. The Court notes that the material before it does not support the Government’s objections as to exhaustion of domestic remedies. The documents included in the case files indicate that in both cases the applicant complained in his written appeals of the inadequacy of time and facilities to prepare his defence. He also complained of a lack of effective legal assistance in the second case.

51. 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 and must therefore be declared admissible.

Section 5.02 B. Merits

(a)1. The parties’ submissions

52. The applicant submitted, in particular, that in both cases he had not been served, either prior to the hearing before the first-instance court or subsequently, with a copy of the administrative-offence reports issued in respect of him or with other material in his case files. He also argued that the courts had based their findings merely on the administrative-offence reports and on the statements of the police officers who had been the sole witnesses questioned at the respective first-instance hearings. The applicant further submitted that at the pre-trial stage in both cases he had not been given an opportunity to hire a lawyer of his own choice, nor had a State-funded lawyer been suggested to him. In neither case had he been given an opportunity to hire a lawyer of his own choice to assist him before the first-instance court. In the second case he had been only formalistically represented by a State-funded lawyer. Lastly, in neither case had the public been allowed to attend the hearing before the first-instance court, even though the court had not issued an official decision to examine his case in a closed hearing.

53. The Government submitted that the administrative proceedings in both cases had been in line with national legislation. They argued in particular that neither case had been complex and that the applicant had therefore been able to prepare his defence. The Government also

emphasised that in the first-instance court proceedings in the first case, the applicant had refused the assistance of a State-funded lawyer. In the second case the first-instance court had provided him with a State-funded lawyer, despite the fact that in his written statement of 26 January 2013 taken at the police station, he had refused legal assistance.

(b)2. The Court's assessment

54. The Court will examine, firstly, the material and the parties' submissions in the applicant's second case, namely, the case concerning his arrest and conviction following his participation in the demonstration of 26 January 2013. The Court notes that the issues raised by the applicant are essentially the same as those examined in the *Gafgaz Mammadov* judgment (cited above). The facts of the present case closely resemble those of the *Gafgaz Mammadov* case. The Court considers that the analysis and conclusions made in the *Gafgaz Mammadov* judgment also apply to the applicant's second case. In particular, the Court noted a lack of necessary safeguards and guarantees in the administrative-offence proceedings, namely, a lack of adequate time and facilities to prepare the defence (ibid., §§ 78-81); the strong reliance by the domestic courts on the administrative-offence report prepared by the police and the statement given by a police officer (ibid., § 85); the utter disregard by the domestic courts of important factual circumstances and legal issues of the case, *inter alia*, the peaceful nature of the unauthorised demonstration (ibid., § 86); the failure to provide an opportunity to appoint a lawyer of the applicant's own choice (ibid., § 92); and the formalistic nature of the representation by a State-funded lawyer (ibid., § 93). Having regard to the above, the Court found that the administrative-offence proceedings against the applicant in the *Gafgaz Mammadov* judgment, considered as a whole, were not in conformity with the guarantees of a fair hearing.

55. Having regard to the facts of the applicant's second case and their clear similarity to those of the *Gafgaz Mammadov* case on all relevant and crucial points, the Court sees no particular circumstances that could compel it to deviate from its findings in that judgment. It finds that in the present case the applicant's right to fair trial was breached for the same reasons as those outlined above.

56. The Court will examine, secondly, the material and the parties' submissions in the applicant's first case, namely, his arrest and conviction following his participation in the demonstration of 12 January 2013. It observes that, after being held in police custody for a few hours and being questioned at the police station without the participation of a lawyer, the applicant was released on 12 January 2013 pending trial. The trial took place on 14 January 2013. However, the applicant has failed to explain before the Court whether, during the days preceding the trial, there were any circumstances rendering the time or facilities available to him inadequate; or

any factors, such as shortage of time or of financial means, precluding him from contacting and hiring a lawyer of his own choosing to assist him at the trial. The Court therefore considers that the applicant's complaints of inadequacy of time and facilities and lack of effective legal assistance at the trial are unsubstantiated.

57. However, turning to the question whether, in the first case, the applicant's right to a reasoned decision was respected, the Court notes that the issues raised by the applicant and the facts of the present case closely resemble those of the *Gafgaz Mammadov* case. The Court therefore concludes that, as in the *Gafgaz Mammadov* case, in the applicant's first case the domestic courts relied strongly on the administrative-offence report prepared by the police and the statements given by the police (see *Gafgaz Mammadov*, cited above, § 85). The domestic courts also completely disregarded important factual circumstances and legal issues of the case, *inter alia*, the peaceful nature of the unauthorised demonstration (ibid., § 86).

58. In these circumstances the Court finds a violation of Article 6 §§ 1 and 3 of the Convention with respect to both cases.

59. Furthermore, having regard to the above finding of a violation of Article 6 §§ 1 and 3 of the Convention (that the administrative-offence proceedings against the applicant, considered as a whole, were not in conformity with the guarantees of a fair hearing), the Court finds it unnecessary to rule on the issue whether refusal by the applicant of legal assistance at the pre-trial stage of the proceedings in both cases constituted an unequivocal waiver of the right to a lawyer. There is also no need to examine the applicant's arguments concerning the alleged lack of a public hearing.

Article VI. IV. ALLEGED VIOLATION OF ARTICLE 5 OF THE CONVENTION

60. Lastly, the applicant complained that his arrest and custody in both cases had been in breach of Article 5 of the Convention. He had not been promptly informed about the reasons for his arrest, and his arrest and custody had not conformed to domestic procedural rules. Article 5 of the Convention, in so far as relevant, reads as follows:

> "1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: ...
>
> (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so; ...

> 2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.
>
> 3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial."

61. The Government argued that in both cases the applicant's arrest had been in conformity with the CAO. In both cases the applicant had been escorted to a police station for the preparation of an administrative-offence report on him and had been kept in custody for less than three hours. They also submitted that in both cases the applicant had been duly informed about the reasons for his arrest as well as his rights under the relevant provisions of the CAO, and the relevant notes had been made in the administrative-offence reports.

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

63. However, having regard to its above findings in relation to Articles 6 and 11 of the Convention, the Court considers that it is not necessary to examine whether there has been a violation of Article 5.

Article VII. V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

64. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

Section 7.01 A. Damage

65. The applicant claimed a total of 26,000 euros (EUR) in respect of non-pecuniary damage for both cases.

66. The applicant also claimed a total of EUR 900 in respect of pecuniary damage for both cases. In support of his claim he submitted that he had paid fines of 500 manats (AZN) and AZN 400, as ordered by the respective first-instance courts.

67. The Government submitted that the applicant's claim in respect of non-pecuniary damage was unsubstantiated and unreasonable. They did not submit any observations regarding his claim in respect of pecuniary damage.

68. The Court considers that the applicant has suffered non-pecuniary damage which cannot be compensated for solely by the finding of a violation, and that compensation should thus be awarded. Making its assessment on an equitable basis, as required by Article 41 of the Convention, the Court awards the applicant the sum of EUR 8,000 (as the total amount for both cases) in respect of non-pecuniary damage, plus any tax that may be chargeable on this amount.

69. In addition, the Court accepts that in both cases the applicant suffered pecuniary damage as a result of the breach of Article 11 found above. The Court considers that the applicant is entitled to recover the amount paid as a fine and therefore awards him EUR 850, plus any tax that may be chargeable on this amount.

Section 7.02 B. Costs and expenses

70. The applicant claimed a total amount of EUR 5,000 for the legal fees incurred before the domestic courts and before the Court in both cases. In support of his claim, he submitted contracts for legal and translation services.

71. The Government considered that the claim was excessive and could not be regarded as reasonable as to quantum. In particular, the contracts for legal and translation services mentioned above contained a provision about payment to Mr R. Mustafazade of the legal fees incurred before the domestic courts. However, in fact the applicant had not been represented before the domestic courts by Mr R. Mustafazade. The Government also argued that the applicant had failed to produce any evidence concerning translation services.

72. The Government lastly submitted that, taking into account the above considerations, a total amount of EUR 500 for both cases should be deemed as sufficient reimbursement of costs and expenses.

73. 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 notes that in the proceedings before it the applicant was represented by the same lawyer, Mr R. Mustafazade, in both cases and that that lawyer's submissions in both cases were very similar. In addition, Mr R. Mustafazade did not represent the applicant before the domestic courts.

74. In view of the above considerations, the Court awards a total amount of EUR 2,000 in respect of the services rendered by Mr R. Mustafazade.

Section 7.03 C. Default interest

75. 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 11 of the Convention on account of the dispersal of the demonstrations and the applicant's arrests and convictions;

4. *Holds* that there has been a violation of Article 6 §§ 1 and 3 of the Convention;

5. *Holds* that there is no need to examine the complaint under Article 5 of the Convention;

6. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, 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, in respect of non-pecuniary damage;
      (ii) EUR 850 (eight hundred and fifty euros), plus any tax that may be chargeable, in respect of pecuniary damage;
      (iii) EUR 2,000 (two thousand euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses, to be paid directly into the applicant's representative's bank account;
   (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;

7. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 6 April 2017, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Anne-Marie Dougin	Faris Vehabović
Acting Deputy Registrar	President