



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

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THIRD SECTION

Application no. 31568/22
Gulnara HABIBOVA
against Azerbaijan
lodged on 13 June 2022
communicated on 13 July 2026

SUBJECT MATTER OF THE CASE

The applicant's mother was murdered in September 2010, and on an unspecified date in 2010 the criminal investigation commenced. The present application concerns the alleged ineffectiveness of the investigation into her death, as well as the alleged unlawful interference with the applicant's private life by the prosecuting authorities.

In August 2021, the applicant lodged a complaint with the Prosecutor General's Office ("PGO") and the head of the State Security Service ("SSS"), complaining about an ineffective investigation into her mother's death and requesting that the case be transferred to the SSS. She further claimed that in March 2021 a prosecutor had instructed a security service officer, to whom the applicant had handed over her telephone before a meeting with that prosecutor, to install a tracking application on the telephone, which she later discovered. Her subsequent request to the PGO to initiate criminal proceedings against the investigator went unanswered.

The applicant lodged a complaint with the Sabail District Court under Article 449 of the Code of Criminal Procedure (CCrP), asking the court to find the prosecuting authorities' failure to examine her complaints about ineffective investigation into her mother's death and interference with her privacy unlawful. On 17 November 2021 the court dismissed the claim, finding no proof that she had applied to the PGO or that it had refused to act,

and holding that her claims fell outside the scope of judicial supervision. The appellate court upheld this decision on 13 December 2021.

On 11 December 2022 the applicant's representative emailed the PGO requesting access to the case file on her mother's death and copies of procedural decisions. After receiving no reply, in January 2023 the applicant lodged a complaint under Article 449 of the CCrP, asking the court to declare the authorities' failure to respond to her request unlawful and to order them to grant her access to the case file and provide the requested decisions. On 13 February 2023, the Binagadi District Court partially granted the claim, finding the authorities' failure to respond unlawful and ordering them to examine the request and provide copies of the decisions. It held, however, that ongoing investigations did not entitle participants to consult the case file. The Baku Court of Appeal upheld this decision on 17 April 2023.

Relying on Article 2 of the Convention, the applicant complains about the alleged ineffective investigation, arguing in particular that she was not allowed to consult the case file or obtain copies of the procedural decisions. She further submits under Article 8 that the authorities failed to initiate criminal proceedings against the investigator who allegedly interfered with her private life by installing a video-tracking application on her mobile phone.

QUESTIONS TO THE PARTIES

1. In respect of the complaint about lack of effective investigation under Article 2, did the applicant comply with the “six-month” rule (see, for example, *Mocanu and Others v. Romania* [GC], nos. 10865/09 and 2 others, §§ 258-69, ECHR 2014 (extracts); *Melnichuk and Others v. Romania*, nos. 35279/10 and 34782/10, § 79, 5 May 2015; and *Gusar v. The Republic of Moldova and Romania*, (dec.), no. 37204/02, §§ 14-15, 30 April 2013)?

Having regard to the procedural protection of the right to life (see, among many others, *Mustafa Tunç and Fecire Tunç v. Turkey* [GC], no. 24014/05, § 171, 14 April 2015), has there been an effective investigation by the domestic authorities into the death of the applicant's mother? In particular, has the investigation been accessible to the applicant as a next-of-kin of the victim (see, for example, *Huseynova v. Azerbaijan*, no. 10653/10, §§ 105-07 and § 113, 13 April 2017; *Shuriyya Zeynalov v. Azerbaijan*, no. 69460/12, §§ 80-82, 10 September 2020; and *Tagiyeva v. Azerbaijan*, no. 72611/14, §§ 72-73, 7 July 2022)?

2. Has there been an interference with the applicant's right to respect for her private life, within the meaning of Article 8 § 1 of the Convention? If so, was that interference in accordance with the law and necessary in terms of Article 8 § 2 (see *Berlizev v. Ukraine*, no. 43571/12, §§ 39-40, 8 July 2021)?

The parties are requested to provide copies of the relevant domestic documents and other evidence in support of their submissions.