



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

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THIRD SECTION

Application no. 8174/23
Khayala ORUJOVA
against Azerbaijan
lodged on 3 February 2023
communicated on 13 July 2026

SUBJECT MATTER OF THE CASE

The application concerns the applicant's arrest and unrecorded detention in connection with her comment on Facebook.

According to the applicant, on 11 October 2021 she was arrested by several police officers while walking with her neighbour and was taken to the Organised Crime Unit of the Ministry of Internal Affairs. She submits that she was detained there for approximately three hours and questioned about a Facebook comment in which she had written: "According to M.A., most police officers belong to a sexual minority, including the Minister himself". Following the questioning, she was allowed to go home and requested to delete the comment, which she subsequently did.

On 4 November 2021 the applicant lodged a criminal complaint with the prosecuting authority, requesting an investigation into the alleged illegal actions of the police and her purported unlawful detention. On 28 December 2021, the prosecuting authority refused to institute criminal proceedings on the basis of her complaints. The applicant challenged that decision before the domestic courts. By a decision of 9 September 2022, the Narimanov District Court quashed the prosecuting authority's decision and remitted the case for further investigation, citing several procedural shortcomings. On 20 April 2022 the prosecuting authority again refused to institute the criminal proceedings after questioning some witnesses; this decision was likewise quashed by the domestic courts on similar grounds. The prosecuting

authority's subsequent decision of 10 August 2022 refusing to institute the criminal proceedings was ultimately upheld by the domestic courts.

Relying on Articles 5 § 1 and 10 and Article 13 in conjunction with Articles 5 and 10 of the Convention, the applicant complains that she was unlawfully and arbitrarily deprived of her liberty without any formal record, that her right to freedom of expression was violated on account of her unlawful arrest and detention and that there was no effective domestic remedy in respect of her complaints under Articles 5 and 10 of the Convention.

QUESTIONS TO THE PARTIES

1. Was the applicant arrested and deprived of her liberty in breach of Article 5 § 1 of the Convention? In particular, did her deprivation of liberty fall within one of the sub-paragraphs of this provision? Was the applicant's arrest and detention in accordance with a procedure "prescribed by law" (see *Mammadov and Abbasov v. Azerbaijan*, no. 1172/12, §§ 42-54, 8 July 2021)?

2. Has there been an interference with the applicant's freedom of expression, within the meaning of Article 10 § 1 of the Convention? If so, was the interference prescribed by law and necessary in terms of Article 10 § 2 in pursuit of a legitimate aim (see *Ibrahimov and Mammadov v. Azerbaijan*, nos. 63571/16 and 5 others, §§ 170-74, 13 February 2020, and *Karuyev v. Russia*, no. 4161/13, §§ 15-26, 18 January 2022)?

3. Did the applicant have at her disposal an effective domestic remedy for her complaints under Articles 5 and 10, as required by Article 13 of the Convention?