



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

THIRD SECTION

CASE OF ANAR MAMMADOV v. AZERBAIJAN

(Applications nos. 12043/19 and 50484/20)

JUDGMENT

Art 10 • Freedom of expression • Journalist's criminal conviction for articles published on his website discussing, *inter alia*, possible reasons for the assassination attempt on the head of the Ganja City Executive Authority • Domestic courts failed to take account of all the facts and relevant issues and to carry out an appropriate analysis in the light of the Court's criteria • Reasoning not "relevant and sufficient" so as to justify the applicant's conviction and imposing a lengthy suspended prison sentence • Interference not "necessary in a democratic society"

Art 18 (+ Art 10) • Restriction for unauthorised purposes • Existence of an ulterior purpose not established

Art 8 • Private life • Home • Correspondence • Seizures of applicant's mobile telephones, laptop and documents and the inspection of the seized mobile telephones not "in accordance with the law"

Art 1 P1 • Peaceful enjoyment of possessions • Control of the use of property • Unlawful seizure of the applicant's possessions and their unlawful and arbitrary retention • Continued retention of mobile telephones, not recognised as material evidence, constituting a disproportionate interference

Prepared by the Registry. Does not bind the Court.

STRASBOURG

6 October 2026

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

In the case of Anar Mammadov v. Azerbaijan,

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

Ioannis Ktistakis, *President*,

Lətif Hüseynov,

Darian Pavli,

Úna Ní Raifeartaigh,

Mateja Đurović,

Canòlic Mingorance Cairat,

Vasilka Sancin, *judges*,

and Milan Blaško, *Section Registrar*,

Having regard to:

the applications nos. 12043/19 and 50484/20 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 Anar Shahin oglu Mammadov (*Anar Şahin oğlu Məmmədov* - the applicant), on 19 February 2019 and 23 October 2020 respectively;

the decision to give notice to the Azerbaijani Government (“the Government”) of the complaints under Articles 8, 10, 13 and 18 of the Convention and Article 1 of Protocol No. 1 to the Convention and to declare the remainder of the applications inadmissible;

the parties’ observations;

Having deliberated in private on 8 September 2026,

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

INTRODUCTION

1. The present case concerns criminal proceedings brought against the applicant, a journalist, and a seizure operation carried out in his flat within the framework of those criminal proceedings. The applicant raised various complaints under Articles 8, 10, 13 and 18 of the Convention and Article 1 of Protocol No. 1 to the Convention.

THE FACTS

2. The applicant was born in 1979 and lives in Baku. He was represented by Mr E. Sadigov, a lawyer based in Baku.

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

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

I. BACKGROUND INFORMATION

5. The applicant is a journalist and the chief editor of the news website criminal.az.

6. He had previously been formally warned by the prosecuting authorities in 2015 and 2017 for various articles he had published on the website, which were alleged to contain false and biased information. There is no information in the case file to suggest that the applicant challenged those warnings in the domestic courts at that time.

7. On 3 July 2018 an assassination attempt was made on the head of the Ganja City Executive Authority (“GCEA”), E.V., leaving him and his bodyguard seriously injured. The incident was followed by riots in Ganja during which two police officers were killed.

8. Between 3 and 5 July 2018, the applicant published several articles discussing the possible causes of the assassination attempt. Two of these articles, which later formed the basis of the charges against him, were entitled “Scandalous and troublesome journey of shot head of Ganja – behind the scenes with the headbutting General [R.M.]” (*Gəncənin güllənənən başçısının qalmaqallı və bəlalı yolu – General [R.M.] ilə kəllələşmənin pərdəarxası*), and ““The Ganja events follow [E.V.]’s rudeness”” (*Gəncədə baş verən hadisə [E.V.]-in kobudluğunun nəticəsidir*’).

9. The first article started with the information that criminal.az had obtained a passport photograph of Y.S., the person who had made the assassination attempt. The article continued:

“Why E.V. was shot remains unclear. One possibility is that a conflict had arisen between Y.S. and the head of the GCEA. According to some accounts, Y.S. had even warned the head [of the GCEA] that he would kill him.

Those who have known [E.V.] since his appointment in 2011 as the head of Ganja will know that E.V. sought to bring all state institutions in the city under his control. Although the police answered to the Minister of Internal Affairs and the prosecutor to the Prosecutor General, E.V. allegedly compelled them to obey him. This led to a serious conflict between the late Ganja police chief, Major General R.M., and the head [of the GCEA]. While R.M. was the police chief in Ganja, a dispute arose between him and E.V. concerning the mother of a martyr [a soldier who had fallen during the war in Karabakh].

There were rumours that, during an official event, the mother of a martyr had approached E.V. and reproached him for the demolition of her house. E.V. had allegedly ordered the police to arrest her. Later in a meeting, he reportedly used rude language towards R.M., who had shown sympathy toward the mother. At one point, E.V. and R.M. even came to blows. Afterwards, R.M. left Ganja. ... Two years later, he died in Baku. ...

There were even rumours circulating that R.M. had been shot in his official car by individuals allegedly close to E.V.”

10. The article further referred to a blog by a political analyst and alleged that E.V. was being considered for the position of head of Baku [City

Executive Authority]. The quoted blog stated that E.V. had “done his best to destroy everything from the architecture of Ganja to its very soul”.

11. The article further recounted that E.V. was not the first head of the GCEA who had been shot, noting that in 1993 the then-head of Ganja, H.V., had been killed after a violent confrontation with a criminal figure. The article concluded by noting that E.V. was the brother of K.V., the military prosecutor of the Republic of Azerbaijan.

12. In the second article, the applicant quoted another media outlet extensively, starting with a quotation that said: “‘The authorities do not want to see that the population of the country’s second-largest city is dissatisfied with the arbitrariness’ (*“Hakimiyyət ikinci böyük şəhərin əhalisinin özbaşnalıqdan narazı olduğunu görmək istəmir”*).

13. The article further continued:

“‘The country’s leadership is attempting to downplay yesterday’s assassination attempt on the head of the Ganja City Executive Authority, E.V., as a mere criminal incident’. This is stated in the material of the Turan news agency.

... According to the author of the article, the authorities either do not want to see, or are deliberately ignoring, the fact that the population of Ganja ... is dissatisfied with the rudeness and arbitrariness of the city’s leadership. ‘The proud and courageous people of Ganja have long been unhappy with E.V. He openly insults people, violates their property rights, and humiliates their honour and dignity. Such behaviour is in sharp contradiction to the rules set by the head of state. The President has repeatedly called on state officials to treat citizens’ rights with respect and has said that those who behave rudely and irresponsibly would be punished.

Why does [I.A.] [the president] not see E.V.’s arbitrariness and rudeness, why does he not punish him? Or does I.A. say these things only for form’s sake?’ residents of Ganja complain, so the article states. One resident, who wished to remain anonymous, said that the reason for the assassination attempt on E.V. was his rude treatment of citizens. ‘Some time ago, one of the local residents approached him regarding her problem. E.V. shouted, cursed, and expelled the woman, who was pregnant, from the office. The person who opened fire at E.V. ... is that woman’s brother. The people of Ganja have always been proud and fearless. Therefore, what happened to E.V. was bound to occur sooner or later. If the authorities do not draw conclusions from this, the events of Ismayilli and Quba [riots by locals who were dissatisfied with the rude behaviour of the officials] may be repeated in Ganja’; the article says.”

14. The article continued quoting a former official of the Ministry of National Security, who stated that E.V. had been shot because of his inappropriate behaviour towards the population. It concluded with a brief description of the assassination attempt.

II. SEIZURE OF THE APPLICANT’S BELONGINGS, AND THE RELATED COURT PROCEEDINGS

15. On 9 July 2018 the Prosecutor General’s Office published a press statement about the above-mentioned assassination attempt. It stated, *inter alia*, that certain officials from various media sources and other individuals

had spread false and provocative information online in connection with a “premeditated act of terror” on 3 July 2018. The online publications in question had included false information and information the dissemination of which was prohibited by law and which incited terrorism, the forcible seizure of power and the forcible change of the constitutional order, with the aim of confusing public opinion, breaching public and political order and casting a bad light over the measures taken by law-enforcement authorities in the fight against crime. The prosecuting authorities had instituted criminal proceedings under Articles 214-2 (public incitement to terrorism) and 281.1 (public call against the State) of the Criminal Code and were taking steps to identify the perpetrators. In addition, despite officials from the internet information resources criminal.az and bastainfo.com having recently being given two warnings by the Prosecutor General’s Office for breaching the requirements of the mass media legislation, the two websites had again breached those legal requirements by publishing, between 3 and 6 July 2018, various articles containing false and prohibited information aimed at confusing the public, breaching public order and causing citizens to distrust measures taken by the State. Criminal proceedings had been instituted under Article 313 (forgery by an official) of the Criminal Code. In addition, officials from the above-mentioned two websites, as well as from topxeber.az and fia.az, had been called to the Prosecutor General’s Office and again given formal warnings. The Prosecutor General’s Office had also asked the Ministry of Transport, Communication and High Technologies (“the MTCHT”) to block access to the four websites.

16. On 9 July 2018 the applicant was called in for questioning by the Baku City Prosecutor’s Office, where he was questioned for several hours about the above-mentioned articles without a lawyer being present.

17. The applicant claimed that as soon as the questioning started the investigators seized his two mobile telephones and examined them although they did not have a court order authorising them to do so. After the questioning, the applicant was required to write out and sign a statement (*ərizə*) which was dictated to him and which read as follows:

“I do not object to voluntarily handing over the two mobile telephones that I use (*istifadəmdə olan iki ədəd mobil telefon cihazını*), two laptops that [we] use at home (*evimdə istifadə etdiyimiz 2 ədəd kompyuteri*), and documents related to the criminal.az website to the investigation in order to clarify the truth in the criminal proceedings instituted under Article 313 of the Criminal Code by the Investigation Unit of the Baku City Prosecutor’s Office.

It has been explained to me that the seized items will be returned to me after matters are resolved.”

18. On the same day the investigator issued a decision on seizure (*götürmə haqqında qərar*). In it he relied on Article 243.3 of the Code of Criminal Procedure (the CCrP) and stated that on the ground of the concealment, in a residence, of items or documents indicating the commission of a crime

against a person or the State authority, the two mobile telephones, two laptops and certain documents were to be seized from the applicant.

19. After the questioning on 9 July 2018, the applicant was accompanied to his flat by the investigator, where the seizure operation was carried out in the presence of the applicant and two attesting witnesses. A laptop and documents belonging to Criminal.az LLC (a bank statement, the company's certificate of state registration, and its charter) were seized. The investigators also inspected a laptop which belonged to the applicant's wife. No court order authorising the seizure operation was provided by the investigators.

20. After the seizure had been carried out, a seizure record (*götürülmə aparılması haqqında protokol*) was issued by the investigator on the same date. It stated in pre-printed text, *inter alia*, that a seizure operation had been carried out in the applicant's flat in accordance with the requirements of Articles 85, 242-245 and 247 of the CCrP. The record also contained pre-printed text saying that the applicant (his name had been added in handwriting) had been invited to hand the items over voluntarily and that he had agreed to do so. The record was signed by the attesting witnesses and the investigator and by the applicant, who acknowledged in it that he had received a copy of the record. However, he later stated that he had in fact not been provided with a copy of the record.

21. Assuming that there had been a court decision permitting the seizure operation that had been carried out, on 11 July 2018 the applicant lodged two separate appeals with the Baku Court of Appeal, both of which had the same wording. In those appeals, the applicant changed only the name of the first-instance court because he did not know exactly which first-instance court, the Sabail District Court or the Sabunchu District Court, had authorised the seizure operation. He claimed that the prosecuting authorities had conducted a seizure operation at his flat and seized various items and inspected their contents without any legal basis and without having charged him with any offence, in violation of his right to respect for his home and private life. The applicant claimed that those actions had been aimed at collecting evidence to bring additional charges against him in the future, as there was no connection between the criminal proceedings initiated under Article 313 of the Criminal Code and the seizure operation carried out at his flat. He asked the appellate court, *inter alia*, to quash the Sabail District Court's and Sabunchu District Court's decisions authorising the seizure, to declare them unlawful, and to order the return of the seized items.

22. Following an inquiry by the appellate court, it became clear that the Sabunchu District Court had not issued any decision authorising the seizure. The appellate court returned the applicant's appeal without considering it, stating that to be the case.

23. On 18 July 2018 the applicant applied to the Prosecutor General's Office asking for the return of the seized items. He also requested information

about his procedural status – whether he had been considered a witness or a suspect – during the questioning conducted on 9 July 2018.

24. By a letter of 24 August 2018, the Prosecutor General’s Office responded to the applicant that he “had been questioned, initially without representation, later with the participation of his representative because of the needs of the investigation”, and that “it will be ensured that a lawful decision is issued in respect of the seized items”.

25. On 23 July 2018 the applicant lodged a complaint against the investigator of the Baku City Prosecutor’s Office with the Sabail District Court under the judicial supervision procedure under Article 449 (procedure for the review of the lawfulness of procedural actions or decisions by the prosecuting authorities) of the CCrP. He asked the court to declare the seizure operation conducted in his flat unlawful, to order the return of the seized items and to find that certain of his rights under the Convention had been violated.

26. By a decision of 26 July 2018, the Sabail District Court refused to hear the applicant’s complaint. It quoted the text of Article 449 of the CCrP without specifying how it was relevant to the case, saying that the measure complained of did not fall under the judicial supervision procedure according to Articles 442 and 449-451 of the CCrP.

27. The applicant appealed against the decision, reiterating his previous arguments. On 27 August 2018 the Baku Court of Appeal gave a final decision in which it upheld the decision of the lower court, stating briefly that the complaints did not fall under the judicial supervision procedure.

28. The seized laptop was recognised as physical evidence in the criminal proceedings by a decision of 6 December 2018 of the prosecuting authorities. In the same decision they also stated that the applicant’s two mobile telephones would be returned to him as there was no longer any need to retain them, but that pursuant to a certificate (*arayış*) annexed to a bill of indictment dated 15 December 2018 the laptop was being retained by the Baku City Prosecutor’s Office.

29. The applicant claimed that the items were only returned to him five years later and in an unusable condition. The applicant claimed that the unusable condition of the items had been also noted in the record of the return of seized items (*götürülmüş əşyaların qaytarılması haqqında protokol*). The applicant also submitted that the record was held by the prosecuting authorities and that he had not been given a copy of it.

III. CRIMINAL PROCEEDINGS AGAINST THE APPLICANT AND THE TRIAL

30. On 10 July 2018 an expert forensic linguistic examination was ordered, presumably by the prosecuting authorities. Certain articles written by the applicant, including those mentioned above (see paragraphs 9, 12 and 13 above), were presented for examination and the expert was asked to

determine whether those articles contained, *inter alia*, public calls against the State and its constitutional order and whether they cast a bad light over the government's policies.

31. On 31 October 2018 the appointed expert reported that the articles included public calls against the State which "openly incited the public to hatred towards the present government and the constitutional order, called on them to rise up against the authorities and engage in mass unrest, and encouraged them to disobey the lawful demands of government officials and commit other illegal actions". In particular, the following statements – "Why does [I.A.] not see E.V.'s arbitrariness and rudeness, why does he not punish him? Or does [I.A.] say these things only for form's sake?", "... what happened to E.V. was bound to occur sooner or later. If the authorities do not draw conclusions from this, the events of Ismayilli and Quba may be repeated in Ganja" – were assessed as open calls against the State. According to the expert, those statements were calls to disrupt the country's political stability and engage in mass unrest. The expert noted that the above statements could be used against the State in an "information war" given the geopolitical situation in the region. The report also stated that bias and provocation were obvious in the titles of the articles which were intended to defame the state authorities.

32. On 12 December 2018 the applicant was formally charged with criminal offences under Articles 281.2 (open calls against the State, committed repeatedly or by a group of persons), 309.2 (exceeding the limits of authority, with the use of weapons or other devices, or when they result in serious consequences) and 313 (forgery by an official) of the Criminal Code. A bill of indictment was filed with the Baku Court of Serious Crimes.

33. During the hearings in the Baku Court of Serious Crimes, the applicant requested an additional expert examination of the published articles, arguing that they contained no calls directed against the State. The court rejected the request. He further submitted that the information contained in the articles had previously been published by other media outlets and had not been retracted to date.

34. On 18 March 2019 the Baku Court of Serious Crimes found the applicant guilty as charged on all counts and sentenced him to five years and six months' imprisonment suspended on probation for two years and a two-year ban on holding public office. The court relied to a significant extent on the above-mentioned forensic linguistic expert report, in which the expert had identified certain passages (see paragraph 9, 12 and 13 above) as containing elements of public calls against the State, and held that the articles contained such calls, which "openly incited the public to hatred towards the present government and the constitutional order, called on them to rise up against the authorities and engage in mass unrest, and encouraged them to disobey the lawful demands of government representatives and commit other illegal actions". The court further held that by publishing the articles with the

aim of creating negative public opinion among citizens about the Ganja events, disrupting the stability of the country's social and political life, undermining trust in state-organised mass events, and casting doubt on what the law-enforcement agencies were doing in the fight against crime, the applicant had exceeded his official powers and committed forgery in his official role for personal purposes, causing significant harm and serious consequences to the legally protected interests of society and the State.

35. The trial court also referred to the statements of two individuals from Baku, an old woman and her adult daughter, who complained to the prosecuting authorities that after reading those allegedly provocative articles published by the applicant, they had felt anxious, frightened, or distressed, and that they wanted the author to be punished. Those witnesses, who used similar wording to each other, had stated, *inter alia*, that, after reading those articles they were "afraid that unrest would break out in society" and that the author had blamed the government for the events occurred in Ganja and "attributed the incident [the assassination attempt in Ganja] to the people's discontent", which they considered to be agitation against the State. However, they did not specify which statements or remarks in the articles they considered to be provocative.

36. The court also briefly referred to the unrest in Ganja on 10 July 2018, during which two police officers were killed (see paragraph 7 above) and dozens of individuals were arrested. The court, however, did not clarify why it referred to that incident in the present case, and what its relevance was to the subject matter of the case.

37. The court further noted that the allegations in the article that there was a hostile relationship between E.V. and R.M. had been publicly refuted by R.M. himself as mere rumours in various media outlets as early as 2013, including the outlet cited by the applicant in his article, and there had been an official statement explaining the reasons for R.M.'s resignation. However, despite the previous warnings from the prosecuting authorities, the applicant had again disseminated unverified news in the mass media, which was prohibited by Article 10 of the Law on the Mass Media.

38. The court also noted that even though the applicant claimed that he had been quoting other media outlets in the articles, he had changed the original title of the second article from "The authorities are trying to downplay the assassination attempt on the head of Ganja as an ordinary criminal incident" to "The Ganja events follow E.V.'s rudeness", and had misrepresented the situation from personal motives.

39. As regards the seized laptop, the court decided it should be returned after the judgment became final.

40. The applicant appealed against the judgment, claiming that the criminal proceedings against him had been fabricated, and that they constituted an interference with his private life and with his professional life as a journalist. In particular, he argued that both articles contained, *inter alia*,

information which had been published earlier by other media outlets which concerned matters of public interest and, in certain parts, his value judgments. He maintained that the trial court had misapplied the provisions of the Criminal Code to the facts of his case, because neither of his articles contained any calls against the State, nor had he “exceeded his official authority” as a journalist or committed forgery as an official. He further argued that the information in the articles he had quoted from had not been refuted, which meant that he could not be held liable. He further claimed that he had been convicted because of his activities as a journalist, with the aim of compelling him to self-censor and so as to hinder his activities. He also argued that the previous warnings of the prosecuting authorities (see paragraphs 6 and 15 above) had been wrongfully used as aggravating elements in the current proceedings.

41. On 4 June 2019 the Baku Court of Appeal upheld the judgment of the lower court and endorsed its reasoning, without expressly addressing the applicant’s arguments.

42. The applicant lodged a cassation appeal against the decision of the appellate court, reiterating his previous arguments.

43. By a final judgment of 25 February 2020 the Supreme Court partially upheld the lower courts’ judgments convicting the applicant. It upheld the convictions on the charges under Articles 281.2 and 313 of the Criminal Code, but reclassified the offence from Article 309.2 to Article 309.1 of the Criminal Code (exceeding the limits of authority causing significant harm to the rights and lawful interests of natural or legal persons, or to the legally protected interests of society or the State) and reduced the sentence to five years and three months’ imprisonment suspended on probation for two years, together with the same additional sanction of two years’ ban on holding public office.

RELEVANT LEGAL FRAMEWORK

I. THE 2000 CRIMINAL CODE

44. At the material time, Article 281 of the Criminal Code provided as follows:

Article 281. Open calls against the State

“281.1. Making open calls for the violent seizure or violent retention of power, or for the violent alteration of the constitutional order of the Republic of Azerbaijan, or for the violation of its territorial integrity, or distributing materials with similar content – is punishable by imprisonment for up to five years.

281.2. The same actions, when committed repeatedly or by a group of persons acting together – are punishable by imprisonment for a term of five to eight years.”

45. At the material time, Article 309 of the Code provided:

Article 309. Exceeding the limits of authority

“309.1. When an official clearly exceeds the limits of their official authority and performs actions which cause significant harm to the rights and lawful interests of natural or legal persons, or to the legally protected interests of society or the state –

they will be punished with a fine from two thousand to four thousand manats, or with correctional labour for up to two years, or with deprivation of the right to hold certain positions or engage in certain activities for up to three years, or with imprisonment for up to three years.

309.2. The actions specified in Article 309.1, when committed with the use of force or threat of force, or with the use of weapons or other devices, or when they result in serious consequences –

will be punished with deprivation of the right to hold certain positions or engage in certain activities for up to three years, and with imprisonment for a term of three to eight years.”

46. At the material time, Article 313 of the Code provided:

Article 313. Forgery by an official

“Forgery by an official, meaning the deliberate inclusion of false information by an official in official documents or information resources, or making alterations in documents or information resources so as to distort their original content, when such actions are committed for personal gain or from other personal motives –

is punishable by a fine from one thousand five hundred to three thousand manats, or by correctional labour for a term of one to two years, or by deprivation of the right to hold certain positions or engage in certain activities for up to two years, or by imprisonment for up to two years.”

II. THE 2000 CODE OF CRIMINAL PROCEDURE

47. The relevant provision of the CCrP concerning the powers of the investigator reads:

Article 85. Investigator

“85.4. In the cases and manner provided for in this Code, the investigator shall exercise the following powers:

...

85.4.2. to detain the suspect; to interrogate him or her, ... to order an expert examination; ... to carry out inspections, searches, seizures, examinations (including personal examination), and other investigative actions;

...”

48. The relevant provisions of the CCrP concerning the material evidence and their retention read:

Article 128. Material Evidence

“128.1. Any item that, by its nature and characteristics, origin, place and time of discovery, or by bearing traces of the event, helps to determine circumstances significant for criminal prosecution may be considered physical evidence.

128.2. An item will be recognised as physical evidence by a decision of the body conducting the criminal proceedings.

...”

Article 129. Retention of material evidence and other items

“129.1. Material evidence shall be packaged as far as possible, sealed, and kept in the criminal case file. ...

...

129.4. Material evidence and other items seized in the case shall be kept by the authority conducting the criminal process until the lawful judgment of the court enters into force or until a decision is made to terminate the criminal prosecution. In cases provided for by this Code, a decision regarding material evidence may be made before the completion of the criminal prosecution.

...”

49. The relevant provisions of the CCrP concerning the right to carry out investigative measures without consent provided as follows at the time of the events:

Article 177. Right to carry out investigative measures without consent

“177.1. The authority conducting criminal proceedings may carry out investigative measures without the consent of the party being investigated in order to ensure the normal course of the investigation ...

177.2. If the conduct of an investigative measure is not authorised by the person concerned and authorisation by a court is required to carry it out, the prosecutor supervising the preliminary investigation, after a request with reasons from the investigator, must make an application to the court.

177.3. The conduct of the investigative measures set out below without consent requires, as a general rule, authorisation by a court:

177.3.1. conduct of inspection, search, seizure and other investigative measures in a residential place, office or industrial buildings;

...

177.3.5. interception of conversations held by telephone and other means and of information sent via telecommunications and other technical means;

...

177.4. inspection and other investigative measures in a residential place, service or industrial buildings and the investigative measures provided for by Articles 177.3.6 and 177.3.7 of this Code may be conducted only after authorisation by a court. The investigator may take his own decision and without obtaining a corresponding court order may carry out the following investigative actions without consent:

177.4.1. inspection, search and seizure in a residential place, office or industrial buildings – when the grounds and circumstances provided for in Article 243.3 of this Code are present;

...

177.5. ... The decision of the investigator shall give reasons why it is necessary and urgent to conduct an investigative measure without a court decision ...

177.6. When the investigative actions specified in Article 177.3.1 of this Code are carried out by the investigator at the invitation or with the permission of the person who resides at, works in, or owns the residential place, office, or industrial buildings in question, court authorisation is not required.”

50. The relevant provisions of the CCrP concerning search and seizure provided as follows:

Article 243. Grounds for conducting a search or seizure

“243.1. As a rule, the search or seizure shall be carried out after authorisation by a court. The court shall deliver a decision on conducting a search or seizure following a request from the investigator giving reasons and the submissions of the prosecutor in charge of the investigation. The search or seizure must be carried out in compliance with the requirements in Articles 177.2.-177.6. of this Code.

243.2. The decision on the search or seizure should specify the following:

243.2.1. The date, time and place of the delivery of the decision;

243.2.2. The name, surname, patronymic and position of the person delivering the decision;

243.2.3. The justification of the objective facts and motives constituting grounds for the conduct of a search or seizure;

243.2.4. The name, surname and patronymic of the person in respect of whom the search or seizure is to be conducted;

243.2.5. The exact place (residential, service or industrial buildings, address or location) where the search or seizure will be conducted;

243.2.6. If a decision authorises seizure, it shall also specify the items and documents to be seized.

243.3. The investigator may in urgent circumstances conduct a search or seizure without a court decision only if there is precise information giving rise to a likelihood of the following:

243.3.1. The concealment in a residential place of an item or document indicative of the commission of a criminal offence against a person or State authority or of preparation to commit such an offence;

...

243.4. In the circumstances provided for by Article 243.3 the investigator must deliver a decision on the search or seizure and must give reasons. The investigator’s decision should be in compliance with the requirement of Article 243.2 of this Code taking into account the grounds for finding the search or seizure is sufficiently necessary and urgent for it to be conducted without authorisation by a court.”

51. The relevant provisions of the CCrP concerning the investigative actions and operational measures carried out without consent authorised by a court decision, and the judicial supervision procedure, as in force at the relevant time, provided as follows:

Article 443. Investigative actions carried out without consent authorised by a court decision

“443.1. As a general rule, the investigative actions specified in Article 177.3 of this Code are carried out without consent on the basis of an authorisation by means of a court decision.

443.2. When the investigative actions specified in Articles 177.3.1–177.3.5 and 177.3.8 of this Code are carried out without consent on the basis of a reasoned decision of the investigator without a court decision, the investigator must, after completing the respective investigative action, fulfil the following requirements:

443.2.1. within 24 hours, inform the court exercising judicial supervision and the prosecutor exercising procedural supervision over the preliminary investigation about the investigative action that was carried out;

443.2.2. within 48 hours, submit to the court exercising judicial supervision and to the prosecutor exercising procedural supervision over the preliminary investigation the materials of the investigative action for the purpose of their confirming the legality of the action carried out.

...”

Article 445. Operational-search measures carried out on the basis of a court decision

445.1. The following operational-search measures shall be carried out on the basis of a court decision:

...

445.1.2. inspection of postal, telegraph, and other communications;

445.1.3. extraction of information from technical communication channels and other technical devices;

...

445.2. In the cases provided for in paragraph 4 of Article 10 of the Law of the Republic of Azerbaijan “On Operational-Search Activity”, the operational-search measures listed in Article 445.1 of this Code may be carried out without a court authorisation, on the basis of a decision giving reasons of an authorised official of the body conducting operational-search activity. In such cases, after the relevant measure has been carried out, the authorised official of the body conducting operational-search activity must submit the decision to conduct the operational-search measure with the reasons for it to the court exercising judicial supervision and to the prosecutor supervising the preliminary investigation within 48 hours.”

Article 449. Filing a complaint with the court against procedural actions or decisions of the body conducting the criminal process

“...

449.2. The following persons have the right to file a complaint against the procedural actions or decisions of the body conducting the criminal process:

449.2.1. the accused person or suspect and his or her defence counsel;

449.2.2. the victim and his or her legal representative;

449.2.3. other persons whose rights and freedoms have been violated as a result of the procedural decision or act.

449.3. The persons referred to in Article 449.2 of this Code shall have the right to complain to a court against procedural acts or decisions of an authority conducting criminal proceedings in connection with the following matters:

...

449.3.5. a refusal to commence criminal proceedings or the suspension or termination of criminal proceedings;

449.3.6. the conduct of an investigative action without consent, the application of a procedural coercive measure, or the carrying out of an operational-search measure without a court decision;

...”

52. In 2024, the following paragraphs were inserted in the text of Article 443 of the CCrP:

“...

443.3. After receiving the material specified in Article 443.2.2 of this Code, the court exercising judicial supervision shall, within 48 hours, check the lawfulness of the investigative action carried out without the authorisation of a court, in accordance with the procedure set out in Article 447 of this Code.

443.4. On the basis of that check, the judge must issue a decision giving reasons either recognising the investigative action as lawful or, if it has been found to have been unlawful, cancelling the decision to carry out the investigative action without the authorisation of a court.

443.5. A copy of the judge’s decision as regards the lawfulness of the investigative action shall be sent immediately after it is given to the investigator who took the decision to conduct the investigative action, to the prosecutor exercising procedural supervision over the preliminary investigation, and to the person whose rights were affected by that decision, as well as to that person’s defence counsel or legal representative.

443.6. If the decision to conduct the investigative action is found to have been unlawful, the prosecutor exercising procedural supervision over the preliminary investigation, or a higher-ranking prosecutor, shall take immediate measures pursuant to the judge’s decision to end the violations of the person’s rights and freedoms and to restore the rights and freedoms which were breached.”

III. THE 1999 LAW ON OPERATIONAL-SEARCH ACTIVITIES

53. The relevant provision on the operational-search measures which can be carried out without a court order reads as follow:

Article 10. Operational-search measures

“IV. Where there are grounds in the legislation of the Republic of Azerbaijan, those carrying out operational-search activity may, without authorisation by a judge:

1) ... inspect postal, telegraph, and other communications, extract information from technical communication channels and other technical devices, ... for the purpose of preventing serious crimes against person or particularly serious crimes against the State;

...”

IV. THE 1999 LAW ON THE MASS MEDIA

54. The relevant provision in force at the material time provided as follows (this Law was repealed in 2021):

Article 10. Prohibition of abusing the freedom of the mass media

“It is not permitted to use the mass media for the purpose of disseminating secrets protected by legislation of the Republic of Azerbaijan, or other information whose distribution is prohibited; to call for the violent overthrow of the present constitutional order, to undermine the territorial integrity of the state, to promote war, violence, or cruelty, or to incite national, racial, or social hatred or intolerance; to publish rumours, false or biased writing that insults the honour and dignity of citizens under the guise of a credible source; to publish pornographic material; to commit slander; or to engage in any other unlawful acts.”

V. THE 1999 DECISION OF PARLIAMENT ON THE PROCEDURE FOR APPLYING CERTAIN PROVISIONS OF THE CRIMINAL CODE OF THE REPUBLIC OF AZERBAIJAN

“...

2. In Article 63 (currently Article 281 of the Criminal Code) of the Criminal Code of the Republic of Azerbaijan, the term “calls” refers to active actions aimed at influencing people’s will and encouraging them to commit the acts specified in this article. Mass character is a mandatory element of a call. When assessing whether a call is of a mass character, factors such as the place, method, specific circumstances, and other conditions of the call must be taken into account. In any case, for a call to be made to a mass audience, it must be received by two or more persons. Communication through television, radio, loudspeakers, distributing leaflets, or holding rallies are examples of mass calls.

...”

THE LAW

I. JOINDER OF THE APPLICATIONS

55. 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 8 OF THE CONVENTION

56. The applicant complained that the seizure operation carried out in his flat and the inspection of data stored on seized electronic devices, including telephones, by prosecuting authorities had amounted to a violation of his rights as protected under Article 8 of the Convention and that no effective judicial review of those measures had been available, in breach of Article 13.

57. By virtue of the *jura novit curia* principle, the Court remains the master of the characterisation to be given to the facts of a case (see, among

many others, *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 126, 20 March 2018). The Court considers it appropriate in this case to examine the applicant's above complaints solely under Article 8 of the Convention (compare *Italgomme Pneumatici S.r.l. v. Italy*, nos. 36617/18 and 12 others, § 70, 6 February 2025, and the cases cited therein), which provides:

“1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, 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.”

A. Admissibility

58. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The applicant's submissions

59. The applicant maintained that during his questioning on 9 July 2018 the prosecuting authorities forced him to write and sign a statement (see paragraph 17 above) and to hand over two mobile telephones, a laptop and various documents. He argued that these items had been seized in his flat and that the authorities had taken the passwords to his devices; he denied having surrendered the items voluntarily. The applicant further claimed that he had been forced to write and sign the statement, and that the seizure was unlawful because it had been carried out without a court order or a decision of the investigator authorising the seizure operation in the applicant's flat, in breach of Article 177 of the CCrP. He added that the measure had not been necessary in a democratic society and that there was no link between the criminal proceedings under Article 313 and the seizure carried out in his flat or the examination of the data on his devices, through which the authorities had gained access to his journalistic sources.

2. The Government's submissions

60. The Government referred to various Articles of the CCrP and submitted that the seizure had been lawful. They referred to Article 243 of the CCrP, which outlined the grounds for conducting a search and seizure operation and stated that such actions had to be carried out in accordance with the requirements of Articles 177.2–177.6 of the CCrP. In particular, the

Government acknowledged that Article 177.3 of the CCrP required inspection, search and seizure in residential buildings to be authorised by a court. However, referring to Article 177.6 of the CCrP, they submitted that seizures could be carried out without a court order if the invitation or permission of the person who lived or owned the residence was obtained. Given that the applicant had made no objection and had given his permission for the seizure of his mobile telephones, laptops and documents, the seizure operation had been lawful. They further argued that the applicant had not produced any evidence or argument that the seizure had been conducted under duress.

3. The Court's assessment

(a) Whether there was interference

61. The Court finds that the seizures of mobile telephones from the applicant's person in the police station (see paragraph 17 above) and laptop and documents from the applicant's flat (see paragraph 19 above) and the inspection of the seized mobile telephones constituted an interference with the exercise of the applicant's right to respect for his private life, home and correspondence within the meaning of Article 8 § 1 of the Convention.

(b) Whether the interference was justified

62. The Court must next examine whether the interference satisfied the conditions of Article 8 § 2. The expression "in accordance with the law" requires, firstly, that the disputed measure should have some basis in domestic law; second, it refers to the quality of the law in question, requiring that it should be accessible to the person concerned, who must moreover be able to foresee its consequences for him or her; and the disputed measure must be compatible with the rule of law (see *Kavečanský v. Slovakia*, no. 49617/22, § 59, 29 April 2025, and *Rustamkhanli v. Azerbaijan*, no. 24460/16, § 40, 4 July 2024, with further references).

63. In the context of searches and seizures, domestic law must provide the individual with some protection against arbitrary interference with Article 8 rights. It must therefore be sufficiently clear in its terms to give individuals an adequate indication as to the circumstances and conditions under which public authorities are empowered to resort to any such measures (see *Särgava v. Estonia*, no. 698/19, § 87, 16 November 2021, and *Černý and Others v. the Czech Republic*, nos. 37514/20 and 4 others, § 67, 18 December 2025). Moreover, the measure of search and seizure constitutes a serious interference with private life, home and correspondence and must accordingly be based on a "law" that is particularly precise. It is essential to have clear, detailed rules on the subject (see *Kavečanský*, cited above, § 60, and *Saber v. Norway*, no. 459/18, § 50, 17 December 2020).

64. As regards the last qualitative condition which the national legislation must satisfy, namely compatibility with the rule of law, the Court reiterates that, in the context of searches and seizures, it requires national law to provide appropriate and sufficient safeguards against arbitrariness. Notwithstanding the margin of appreciation which the Court recognises the Contracting States have in this sphere, it must be particularly vigilant where, as in the present case, the authorities are empowered under national law to order and effect searches without a judicial warrant (see *Korniyets and Others v. Ukraine*, nos. 2599/16 and 2 others, § 59, 10 July 2025, and *Gutsanovi v. Bulgaria*, no. 34529/10, § 220, ECHR 2013 (extracts)). If individuals are to be protected from arbitrary interference by the authorities with the rights guaranteed under Article 8, a legal framework and very strict limits on such powers are called for (see *Mukhtarli v. Azerbaijan and Georgia*, no. 39503/17, § 217, 5 September 2024).

65. The Court reiterates that the absence of a judicial warrant may be counterbalanced by the availability of an effective and diligently conducted *ex post facto* judicial review (see *Tortladze v. Georgia*, no. 42371/08, § 66, 18 March 2021; *Heino v. Finland*, no. 56720/09, § 45, 15 February 2011; and *Brazzi v. Italy*, no. 57278/11, §§ 44-45, 27 September 2018).

(i) *The lawfulness of the seizure of the items*

66. In the present case the seizure of the applicant's items was carried out without a court order. The Court notes that a seizure may be carried out without a court order under Article 177.6 of the CCrP or, in exceptional circumstances set out in Article 243.3 of the CCrP. The Government claimed that the seizure of the items had been carried out in accordance with the law, as Articles 85 and 177.6 of the CCrP allowed an investigator to conduct certain investigative actions, including seizure, without a court order at the invitation or with the permission of a person who resides in the place of the seizure where that was a residential place, and the Government claimed that the applicant had given consent in the written statement he had made (see paragraph 60 above).

67. The Court accepts that, *prima facie*, the provisions referred to create a formal basis for the carrying out of a seizure operation without a court order. It also accepts that the applicant did not complain that those provisions were not accessible or foreseeable. As to the applicant's argument that he had not voluntarily surrendered the mobile telephones because he had been compelled to do it, the Court reminds that a waiver of a right guaranteed by the Convention is not valid unless it has been given in full knowledge of the facts, that is to say on the basis of informed consent and without constraint (see *Sabani v. Belgium*, no. 53069/15, § 46, 8 March 2022). In addition, a waiver must be attended by minimum safeguards commensurate with its importance (see *Dvorski v. Croatia* [GC], no. 25703/11, § 100, ECHR 2015). Although the applicant did not elaborate on this argument (see paragraph 17

above), the Court notes that neither the Government did provide evidence that the applicant was informed of his right to refuse the police officers access to his mobile telephones without a court order and of the consequences of consent to the inspection (see *Bože v. Latvia*, no. 40927/05, § 70, 18 May 2017).

68. In any event, having had regard to the facts of the case, the material available in the case file, and the parties' submissions, the Court notes that there was an inconsistency between the grounds relied on and the procedure followed by the investigating authorities for the seizure operation, and that the applicant had not been able to have those measures judicially reviewed.

69. In respect of the legal grounds, the Court notes that the investigator, in his decision on the seizure (see paragraph 18 above), relied on Article 243.3 of the CCrP, which gives an exhaustive list of situations in which an investigator may carry out a seizure operation without a court order. The situation referred to was, the concealment, in a residence, of items or documents indicating the commission of a crime against a person or State authority, or the preparation for such a crime. The investigator must have been using the procedure which applied to seizure operations conducted without a court order in situations where delay was impossible – namely, as an “urgent measure”. Such situation required neither the invitation nor consent of the individual concerned.

70. The Government, on the other hand, argued that the applicant's mobile telephones and laptop had been seized on the basis of his permission as given in his written statement, which brings Article 177.6 of the CCrP into play. Even if the Court found that the wording of the applicant's statement (see paragraph 17 above) showed that the applicant had indeed agreed to hand over the mobile telephones to the investigation voluntarily, it notes that there was nothing in the statement expressing consent to the investigator visiting his home (compare *Bože*, cited above, § 70) and carrying out seizure of laptop there.

71. It appears that the authorities formally referred in their decision to the grounds for the seizure without court authorisation being that the situation was “urgent” but that they acted on the basis of the applicant's alleged consent. The Court, however, notes that the authorities' reliance upon these two different grounds in Articles 243.3 and 177.6 of the CCrP was, in practice, mutually contradictory, as the fulfilment of the first ground would have rendered any permission by the applicant unnecessary under the second ground. Neither the Government nor the domestic authorities provided any explanation for this inconsistency, and it remains unclear to the Court why the investigator nevertheless relied on the ground of an “urgent” situation if the attendance at the applicant's home and the seizure of laptop there or of mobile telephones in the police station were indeed to be carried out on the basis of the applicant's consent – thus dispensing with the need for a court order under Article 177.6 of the CCrP, as the Government argued.

72. Furthermore, although the investigator formally referred to Article 243.3 of the CCrP, he failed to justify his decision by explaining the urgent circumstances making it necessary to seize the items without a prior judicial warrant, as required by Article 243.4 of the CCrP. He limited himself to referring to the relevant provisions of the domestic law (compare *Kobiashvili v. Georgia*, no. 36416/06, § 61, 14 March 2019). The Court notes that, while accepting that some circumstances may justify the taking of urgent action by investigating authorities in the absence of a court decision, in the present case the Government have not put forward any argument to prove the existence of such circumstances (see *Mukhtarli*, cited above, § 220).

73. Accordingly, the Court observes that the authorities relied on two different legal grounds for carrying out the seizure operation, and that the decision ordering the seizure did not comply with the requirements of the domestic law.

(ii) *The lawfulness of the inspection of the content of the seized mobile telephones*

74. The Government did not provide any argument or expressly state what the legal basis for inspecting the content of the seized mobile telephones was. They reproduced the text of Article 445 of the CCrP, which contains provisions about the inspection of communications and extraction of information from electronic communication devices.

75. The Court observes that although domestic law had no express provisions concerning a search of the digital contents of a mobile telephone, the general provisions of the domestic law concerning search and seizure provided that any search or seizure must, as a rule, have first been authorised by a court decision (Article 445) (see *Mukhtarli*, cited above, § 218). However, Article 445.2 of the CCrP envisaged the possibility of the inspection of postal and other communications and the extraction of information from technical communication channels and other technical devices, where the investigating authorities had taken a decision to do so and given reasons for it, in order to prevent serious crimes against a person or particularly serious crimes against the State. Nevertheless, unlike in the cited case, in the present case there was no decision of either the investigator or a court authorising the inspection of the contents of the applicant's mobile telephones. The Court reiterates that a search of the contents of a mobile telephone – which constitutes a measure that seriously interferes with a person's private life and correspondence – cannot be in compliance with Article 8 of the Convention if it is left to an investigator's unfettered discretion; Article 8 requires the issuance of a warrant by an independent body when interference with the privacy of a person is at stake (*ibid.*, § 219; and *Trabajo Rueda v. Spain*, no. 32600/12, § 35, 30 May 2017).

76. On the basis of the material available in the case file and the Government's submissions, the Court finds that the authorities did not follow

the appropriate legal procedure when they inspected the content of the mobile telephones seized from the applicant.

(iii) *Ex-post factum* judicial review

77. In addition to the above considerations, the Court observes that the Government said nothing in their submissions about *ex-post factum* judicial review of the measures in the applicant's case. Nor does it appear from the case file that any such review was carried out after the seizure and inspection of the items, despite the requirement in Articles 443.2 and 445.2 of the CCrP for the investigator to send the material to the supervising court and prosecutor within forty-eight hours for a retrospective review. Furthermore, the Court also notes that, at the material time, the relevant domestic law lacked specific provisions regulating the procedure of retrospective judicial review by the courts in cases where compulsory investigative measures were carried out without a judicial warrant, as the mechanism for that was only added to the CCrP in 2024 (see paragraph 52 above).

78. Moreover, the Court notes that the applicant complained to the domestic courts within the judicial supervision procedure under Article 449 of the CCrP seeking an examination of the lawfulness and necessity of the seizure of the items and of the inspection of the contents of his mobile telephones, but that his complaints were declared inadmissible (see paragraphs 25-27 above). The domestic courts and the Government failed to provide any explanation as to why the courts had refused to examine the applicant's complaints.

(iv) *Conclusion*

79. In the light of the preceding considerations, the Court concludes that, at the relevant time, even if it could be said that there was a general legal basis in the domestic law for the disputed measures, the authorities failed to properly follow the appropriate procedures. Moreover, there was no possibility of obtaining an effective judicial review *a posteriori* of the manner in which the seizure and inspection of items were conducted (compare *Kavečanský*, cited above, § 68), and insufficient judicial safeguards were available to the applicant. He was therefore deprived of the minimum protection to which he was entitled under the rule of law in a democratic society.

80. The Court therefore finds that, in these circumstances, the interference in question was not in accordance with the law, as required by Article 8 § 2 of the Convention. Having reached this conclusion, the Court does not consider it necessary to determine whether the interference was "necessary in a democratic society" for one of the aims set out in paragraph 2 of Article 8 (see *Korniyets and Others*, cited above, § 73).

81. There has accordingly been a violation of Article 8 of the Convention.

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

82. The applicant complained under Article 1 of Protocol No. 1 about a violation of his property rights resulting from the seizure and lengthy retention of the seized items by the authorities. He also complained that no effective remedy had been available to him, in breach of Article 13 of the Convention taken together with Article 1 of Protocol No. 1. Article 1 of Protocol No. 1 provides 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.”

83. Article 13 of the Convention provides as follows:

“Everyone whose rights and freedoms as set forth in this 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

84. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

85. The applicant submitted that the seized items had been retained by the prosecuting authorities for five years, and without giving the exact date, noted that the devices had been returned to him in an unusable condition after he had served his sentence. He further claimed that the operating systems of the computer and mobile telephones, including the computer's hard drive and telephones' memory cards, had been completely destroyed by the use of a specific programme. He also alleged that it had also been stated in a record issued by the prosecuting authorities when they gave the items back to him that the devices were in an unusable condition and that no copy of this record had been given to him (see paragraph 29 above). He added that the continued retention of the devices had undermined his ability to carry out his professional activities as a journalist.

86. The Government cited Articles 128-133 of the CCrP and argued that the retention of the items, especially the laptop, had been lawful, because they had been recognised as material evidence in the criminal proceedings. They further maintained that the devices had been voluntarily handed over to the investigation by the applicant. The Government further submitted a copy of a certificate (*arayış*) annexed to the bill of indictment of 15 December 2018, which stated that the laptop was being retained by the Baku City Prosecutor's Office. Relying on this certificate, the Government also argued that the mobile telephones and the seized documents appeared to have been returned to the applicant. They further added that the disputed measures had been lawful and necessary to control the use of property in accordance with the general interest.

2. *The Court's assessment*

(a) **The seizure of the items**

87. It is not disputed that the seized items constituted the applicant's "possessions" for the purposes of Article 1 of Protocol No. 1 to the Convention.

88. The Court's finding above that the seizure had been unlawful within the meaning of Article 8 (see paragraphs 80-81 above) is equally pertinent to the present complaint. The Court therefore finds that the seizure of the applicant's belongings was unlawful for the purposes of Article 1 of Protocol No. 1 (see, *mutatis mutandis*, *Zosymov v. Ukraine*, no. 4322/06, § 74, 7 July 2016).

(b) **The subsequent retention of the seized items**

89. The Court reiterates that various forms of seizure of property for legal proceedings normally relate to control of the use of property, which falls within the ambit of the second paragraph of Article 1 of Protocol No. 1 to the Convention. Since the retention of the applicant's property as evidence constitutes a measure which temporarily restricts the use of the property, the measure must be provided for by domestic law, pursue a legitimate aim and be proportionate to the aim pursued (see *Akshin Garayev v. Azerbaijan*, no. 30352/11, §§ 53-54, 2 February 2023, and the cases cited therein).

90. In the present case, on 6 December 2018 the investigating authorities formally recognised the laptop as material evidence (see paragraph 28 above). The Court observes that Article 129.4 of the CCrP (see paragraph 48 above) provides for the retention of material evidence, *inter alia*, until the judgment of the court enters into force.

91. In this connection, the Court notes that, pursuant to the judgment of the Baku Court of Serious Crimes dated 18 March 2019, the laptop was to be returned to the applicant once the judgment became final (see paragraph 39 above). The judgment became final on 4 June 2019, when it was upheld by

the appellate court. However, neither the case file nor the Government's submissions contain any indication that the laptop was returned to the applicant after the judgment became final, or at any point earlier than the applicant claimed. The Government did not show any legal grounds for the prolonged retention of that item.

92. The Court therefore concludes that, although it could be said that the retention of the laptop until the trial court's judgment became final had a legal basis in domestic law, that cannot be affirmed in respect of its continued retention after 4 June 2019.

93. As regards the retention of the applicant's mobile telephones, the Court notes that they were not recognised as material evidence in the criminal proceedings. On 6 December 2018 the investigating authorities decided that they were to be returned to the applicant, as there was no further need to retain them (see paragraph 28 above). The applicant submitted that, like his laptop, his mobile telephones were also returned to him only five years later, and in an unusable condition. He maintained that this was recorded in the relevant handover documentation of the prosecuting authorities, a copy of which had not been provided to him (see paragraphs 29 and 85 above). Even though the Government asserted that the mobile telephones and the seized documents appeared to have been returned to the applicant before 15 December 2018 (see paragraph 28 and 86 above), they did not provide any evidence of that.

94. The Court therefore considers that, even if there was a general legal basis in the domestic law (Article 129.4 of the CCRP, see paragraph 48 above) for keeping the applicant's mobile telephones until the investigating authorities decided whether they could be retained as material evidence or not, the Government has provided no evidence capable of demonstrating that the mobile telephones were returned to the applicant following the decision of 6 December 2018, or at any point earlier than that claimed by the applicant.

95. Consequently, the Court concludes that the continued retention of the applicant's seized items after the relevant decisions had been taken about them was unlawful and arbitrary.

96. In any event, given that the seized mobile telephones themselves were not an object, instrument or product of any criminal offence in the present case, their continued retention had no apparent justification, and therefore constituted a disproportionate interference with the applicant's right to peaceful enjoyment of his possessions, as protected by Article 1 of Protocol No. 1 (compare *Smirnov v. Russia*, no. 71362/01, §§ 58-59, 7 June 2007).

(c) Conclusion

97. The Court therefore finds that the seizure and retention of the applicant's items has been in breach of Article 1 of Protocol No. 1 to the Convention.

98. Having reached this conclusion, the Court considers that it is not necessary to examine whether, in the present case, there has also been a

violation of Article 13 (see *Kruglov and Others v. Russia*, nos. 11264/04 and 15 others, § 146, 4 February 2020).

IV. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

99. The applicant complained that his criminal conviction for the articles which he had published on the website had amounted to a violation of his right under Article 10 of the Convention, which reads as follows:

“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.”

A. Admissibility

100. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

101. The applicant submitted that his criminal conviction for publishing the impugned articles had gone beyond what could reasonably have been foreseen, because the articles concerned an issue of public interest and he was republishing information previously disseminated by other media outlets and which had not been refuted. The interference was therefore not prescribed by law, and the Government had abused the claimed legitimate aim of national security. He also complained about the severity of the sanction imposed and argued that the interference had been intended to suppress independent journalism.

102. The Government submitted that the applicant had been duly criminally convicted under Articles 281, 309 and 313 of the Criminal Code, and that the interference was therefore prescribed by law and pursued legitimate aims of protecting national security and public safety and preventing disorder or crime. They further argued that the interference was necessary in a democratic society and proportionate to the aims pursued, and that the domestic courts had provided relevant and sufficient reasons for their

decisions. As regards the severity of the sanctions, the Government submitted that the domestic courts had imposed a light sentence (suspended imprisonment with two years' probation) on the applicant because he was a journalist.

2. *The Court's assessment*

103. It is not in dispute between the parties that the applicant's criminal conviction for publishing the articles amounted to an interference with his right to freedom of expression. The Court has no reason to find otherwise.

104. It follows that the Court needs to examine whether the interference was justified in accordance with Article 10 § 2 of the Convention, that is, whether it was prescribed by law, whether it pursued one or more of the legitimate aims set out in that paragraph and whether it was necessary in a democratic society in order to achieve those aims.

(a) **Whether the interference was prescribed by law and pursued a legitimate aim**

105. In the light of the parties' submissions (see paragraphs 101-102 above), the Court notes that the salient issue in the present case is whether, when publishing the impugned articles on the website, of which he was the chief editor, the applicant knew or ought to have known – if need be, with appropriate legal advice – that that course of action could render him liable for the criminal offences he was charged with, in particular the offence of public calls against the State under Article 281 of the Criminal Code (compare *Mukhin v. Russia*, no. 3642/10, § 108, 14 December 2021).

106. In the area under consideration it may be difficult to frame laws with absolute precision, and a certain degree of flexibility may be called for to enable domestic courts to assess whether a particular action can amount to a public call for action, in particular, for, *inter alia*, the “forcible seizure of power” referred to in Article 281 of the Criminal Code (see, *mutatis mutandis*, *Mukhin*, cited above, § 109, and *Savva Terentyev v. Russia*, no. 10692/09, § 56, 28 August 2018). The Court has consistently held that in any system of law, including criminal law, however clearly drafted a legal provision may be, there will inevitably be a need for interpretation by the courts, whose judicial function is precisely to elucidate obscure points and dispel any doubts which may remain regarding the interpretation of legislation (see, for instance, *Öztürk v. Turkey* [GC], no. 22479/93, § 55, ECHR 1999-VI).

107. In so far as the applicant complained that the domestic courts had incorrectly applied Article 281 of the Criminal Code to the facts of his case, the Court reiterates that it is primarily for the domestic authorities, notably the courts, to interpret and apply domestic law (see, for example, *Danileț v. Romania* [GC], no. 16915/21, § 123, 15 December 2025, and the cases cited therein). This question relates rather to the relevance and sufficiency of the reasons given by them to justify the conviction of the applicant and will

be addressed in the course of the assessment of whether the interference with the applicant's right to freedom of expression was "necessary in a democratic society" (see *Dmitriyevskiy v. Russia*, no. 42168/06, § 82, 3 October 2017, and *Mukhin*, cited above, § 111).

108. In view of the Court's findings below as to whether the criminal conviction was necessary in a democratic society (see paragraphs 123-131 below), the Court does not need to determine whether the interference was prescribed by law within the meaning of Article 10 § 2 of the Convention (see *Mukhin*, cited above, § 112).

109. As regards whether legitimate aims were being pursued, the Court considers that whether the applicant's articles were a real risk to national security or public safety, or whether the interference was aimed at the prevention of disorder are also related to the issue of the relevance and sufficiency of the reasoning of the domestic courts, and therefore will be assessed with the question of the necessity of the interference (see, *mutatis mutandis*, *RID Novaya Gazeta and ZAO Novaya Gazeta v. Russia*, no. 44561/11, § 80, 11 May 2021).

(b) Whether the interference was necessary in a democratic society

(i) General principles

110. The general principles for assessing the necessity of an interference with the exercise of freedom of expression have been summarised in, *inter alia*, *Bédat v. Switzerland* ([GC], no. 56925/08, § 48, 29 March 2016), and *Perinçek v. Switzerland* ([GC], no. 27510/08, §§ 204-08, ECHR 2015 (extracts)).

111. The Court reiterates that there is little scope under Article 10 § 2 of the Convention for restrictions on freedom of expression in two fields, namely political speech and matters of public interest. A degree of hostility and the potential seriousness of certain remarks do not obviate the right to a high level of protection, given the existence of a matter of public interest (see *Morice v. France* [GC], no. 29369/10, § 125, ECHR 2015, and the cases cited therein).

112. The Court also reiterates that the limits of permissible criticism are wider with regard to the government than in relation to a private citizen or even a politician. In a democratic system the actions or omissions of the government must be subject to the close scrutiny not only of the legislative and judicial authorities but also of public opinion (see *Fatullayev v. Azerbaijan*, no. 40984/07, § 116, 22 April 2010).

113. As a matter of principle, it may be considered necessary in democratic societies to sanction or even prevent all forms of expression which spread, incite, promote or justify violence, hatred or intolerance provided that any "formalities", "conditions", "restrictions" or "penalties" imposed are proportionate to the legitimate aim pursued (see *Gündüz*

v. Turkey, no. 35071/97, § 40, ECHR 2003-XI, and *Stomakhin v. Russia*, no. 52273/07, § 92, 9 May 2018).

114. The Court further reiterates that, where views on matters of public interest do not incite violence – that is, do not advocate the use of violent methods or bloody revenge, do not justify the commission of terrorist acts in order to achieve the objectives of their proponents, and cannot be interpreted as likely to incite violence through the deep and irrational hatred they would manifest towards identified persons – Contracting States may not restrict the public’s right to be informed of them, even if they rely on the purposes set out in Article 10, paragraph 2, of the Convention, namely the protection of territorial integrity, national security, the prevention of disorder or the prevention of crime (see *Mehdi Tanrikulu v. Turkey*, no. 9735/12, § 26, 5 May 2020, and the cases cited therein).

115. The Court has also previously stated that, when exercising their right to freedom of expression by way of providing an outlet and thereby assisting others in the dissemination of their statements, chief editors, media owners and publishers are subject to the “duties and responsibilities” under Article 10 § 2, and that their legal liability can be compatible with that Article where those statements were found to incite violence and to stir up hatred, even where they did not personally associate themselves with them (see, among others, *Gürbüz and Bayar v. Turkey*, no. 8860/13, §§ 43-44, 23 July 2019).

116. The Court further reiterates that a criminal conviction is a serious “penalty” within the meaning of Article 10 § 2 of the Convention and one of the most serious forms of interference with the right to freedom of expression (see *Perinçek*, cited above, § 273). The nature and severity of the sentence imposed on an applicant will also be taken into account on an assessment of the proportionality of an interference (see *Cumpănă and Mazăre v. Romania* [GC], no. 33348/96, § 111, ECHR 2004-XI, in the context of defamation). Although sentencing is in principle a matter for the domestic courts, the imposition of a custodial sentence for a press offence will be compatible with the freedom of the press under Article 10 of the Convention only in exceptional circumstances, notably where other fundamental rights have been seriously impaired, as, for example, in the case of hate speech or incitement to violence (ibid., § 115, and *Erkizia Almandoz v. Spain*, no. 5869/17, § 39, 22 June 2021).

(ii) *Application of those principles to the present case*

117. In the present case, the applicant was convicted in criminal proceedings and given a prison sentence of five years and three months, suspended for two years, for publishing two articles which the domestic courts found to contain statements amounting to public calls against the constitutional order of the State and calls for the forcible seizure of power and its forcible retention, as defined in section 1 of Article 281 of the Criminal Code. The remaining charges under Articles 309 and 313 of the Criminal

Code also stemmed directly from the act of publishing those articles or their contents.

118. Turning to the impugned articles, the Court, in general, agrees with the applicant that they concerned a matter of public interest, as they discussed, *inter alia*, possible reasons for the assassination attempt on the head of the executive authority of the second largest city of the country. The Court also observes that the articles were published against a sensitive background where a well-known public official had been shot and seriously injured.

119. The first article contained the allegation about the altercation said to have occurred in 2011 between E.V. and R.M., went on to quote the views of a political analyst, and in the final part referred to the incident of the assassination of the former head of Ganja in the 1990s. In the second article, the applicant extensively reproduced the material previously published by another media outlet. That article focused primarily on the dissatisfaction and complaints of local residents concerning the alleged unlawful actions taken by E.V. and his rude behaviour towards the population, as well as the lack of response from higher authorities to these allegations. Even statements such as “Why does [I.A.] [the president] not see E.V.’s arbitrariness and rudeness, why does he not punish him? Or does I.A. say these things for form’s sake?” – were not the applicant’s own views; they were the complaints of unnamed individuals quoted from the article cited, which had been published by another media outlet. Likewise, the statements that “... what happened to E.V. was bound to occur sooner or later. If the authorities do not draw conclusions from this, the events of Ismayilli and Quba may be repeated in Ganja”, had been reproduced from the other media outlet.

120. In reaching the conclusion that the applicant had committed the disputed criminal offences, the domestic courts relied extensively on the forensic linguistic expert report and on witness statements, and held that the articles had amounted to public calls against the State, intended to create a negative public opinion among citizens regarding the actions of the authorities, disrupting the political stability of the country’s social and political life, undermining trust in state-organised mass events, and casting doubt on what the law-enforcement agencies were doing in the fight against crime (see paragraphs 34-35 above).

121. The Court is mindful of its fundamentally subsidiary role in the mechanism established by the Convention, according to which the Contracting Parties have the primary responsibility to secure the rights and freedoms defined in the Convention and the Protocols thereto. It also notes, however, that the principle of subsidiarity imposes a shared responsibility between the States Parties and the Court, and that national authorities and courts must interpret and apply the domestic law in a manner that gives full effect to the Convention. It therefore follows that while it is primarily for the national authorities, notably the courts, to interpret and apply domestic law, it falls ultimately on the Court to determine whether the way in which that

law is interpreted and applied produces consequences that are compatible with the Convention (see *Fragoso Dacosta v. Spain*, no. 27926/21, § 27, 8 June 2023, with further references.)

122. In this connection, the Court observes that the Parliament of Azerbaijan construed the term “calls” in Article 281 of the Criminal Code as active actions aimed at influencing people’s will and encouraging them to commit the acts specified in that article (see paragraph 54 above). The Court also takes note of the text of the expert report, which contained descriptions of the actions referred to in Article 281 of the Criminal Code, such as seizing and maintaining power by force and changing the constitutional order of the State.

123. The Court, however, having had regard to the wording of both the articles published by the applicant, finds it difficult to identify any “public call” in those passages and excerpts, read as a whole, which would give rise to the criminalised acts specified in Article 281 of the Criminal Code (compare, *mutatis mutandis*, *RFE/RL Inc. and Others v. Azerbaijan*, nos. 56138/18 and 3 others, § 95, 13 June 2024) or as described in the expert report. Indeed, both articles were presented entirely in a narrative form, setting out facts, allegations, and even rumours, as well as quotations and references to earlier incidents.

124. The Court also observes that even though the domestic courts relied on the statements of two individuals, those witnesses did not point to any specific remarks or statements from those articles (see paragraph 35 above) that they found provocative or to contain public calls against the State. In this connection, the Court reiterates that protection of Article 10 is applicable not only to information or ideas that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. Such are the demands of pluralism, tolerance and broadmindedness without which there is no “democratic society” (see, for example, *Perinçek*, cited above, §§ 196-97).

125. Moreover, both articles extensively quoted others’ opinions and the Court notes that the reasoning of the domestic courts lacked any indication of assessment as to whether, when he published a news article from another media outlet, the applicant genuinely intended to incite others to violence against the authorities, or of assessment of their capacity – if any, and whether direct or indirect – to lead to harmful consequences against the national security, public safety or public order. At this juncture, the Court considers that although the trial court made a cursory reference to the unrest in Ganja on 10 July 2018 following the assassination attempt (see paragraph 36 above), the relevance of that event to the applicant’s impugned articles and to his prosecution on the charges at issue remains unclear. The domestic courts’ judgments provided no explanation of what they sought to justify by referring to that unrest, nor did they explicitly clarify any possible link between the applicant’s writings and those events.

126. The Court is therefore unable to discern from the reasons given by the domestic courts that the restrictions on the applicant's right to freedom of expression were in pursuit of the legitimate aims put forward by the Government in their submissions. In any event, the Court observes that the views in the applicant's articles did not contain any incitement to violence. The domestic authorities therefore could not rely on the reasons set out in Article 10 § 2 of the Convention concerning the protection of territorial integrity and national security and the prevention of disorder or crime to restrict the public's right to receive the views expressed in the applicant's articles (compare *Mukhin*, cited above, § 115, and *Mehdi Tanrikulu*, cited above, § 26).

127. The domestic courts construed the applicant's editorial choice of changing the original headline of the cited article as having been guided by his alleged intention of making public calls against the State without elaborating or explaining how this choice could be regarded as indicating such an intention. They confined themselves to noting that the applicant had misrepresented the original title of the article from personal motives (see paragraph 38 above), without even trying to analyse what personal motives the applicant might have been pursuing.

128. The domestic courts further held that the applicant's articles contained public calls against the fundamentals of the constitutional order of the State and that by publishing those articles the applicant had exceeded the limits of his official authority and committed forgery as an official. The Court finds however that the courts provided no convincing explanation of their reasons for coming to those conclusions. They essentially focused on the wording used by the applicant, limiting their findings to the form and tenor of his articulation, but did not make a proper assessment of the capacity to cause harm, and they failed to take account of all the facts and relevant issues. The reasons they did give were therefore not "relevant and sufficient" so as to justify the interference with the applicant's freedom of expression (compare, *mutatis mutandis*, *Savva Terentyev*, cited above, § 82).

129. As regards the proportionality of the sanctions, the Court observes that the applicant was sentenced to five years and three months' imprisonment suspended on probation for two years, together with a two-years ban on holding public office. Although sentencing is in principle a matter for the domestic courts, the imposition of a prison sentence for an offence in the area of a debate on an issue of legitimate public interest will be compatible with freedom of expression as guaranteed by Article 10 of the Convention only in exceptional circumstances, notably where other fundamental rights have been seriously impaired, as, for example, in cases of hate speech or incitement to violence (see *Cumpănă and Mazăre*, cited above, § 115). The Court has already found (see paragraphs 123 and 126 above) that the applicant's articles were not likely to encourage violence.

130. The Court further notes that even though the applicant was dispensed from having to serve his sentence on condition, that suspended sentence is a custodial one which may be enforced in the event of a new conviction, and which has been entered on the applicant's criminal record (see *Bouton v. France*, no. 22636/19, § 52, 13 October 2022). While the suspension fact may have eased the applicant's situation, it did not erase his conviction or the long-term effects of any criminal record could have on the work of media professionals, including journalists (see, *mutatis mutandis*, *Artun and Güvener v. Turkey*, no. 75510/01, § 33, 26 June 2007, and *Otegi Mondragon v. Spain*, no. 2034/07, § 60, ECHR 2011). The Court therefore does not agree with the Government's argument that the sentence imposed on the applicant was a light sentence. In any event, the absence of valid and sufficient reasons for restricting the right to freedom of expression could not be compensated by the argued "light" nature of the sanction imposed on the applicant (see *Tőkés v. Romania*, nos. 15976/16 and 50461/17, § 98, 27 April 2021).

131. Having had regard to the above considerations, the Court finds that, in reaching their conclusions the domestic courts failed to take account of all the facts and relevant issues and that they failed to carry out an appropriate analysis of the case in the light of the criteria set out and applied by it in cases relating to freedom of expression. The Court concludes that the reasoning of the domestic courts was not "relevant and sufficient" so as to justify the applicant's conviction and imposing a lengthy suspended prison sentence on him for publishing the impugned articles on the basis of the legitimate aims referred to. Accordingly, the interference with the applicant's freedom of expression was not "necessary in a democratic society".

132. There has therefore been a violation of Article 10 of the Convention.

V. ALLEGED VIOLATION OF ARTICLE 18 TAKEN IN CONJUNCTION WITH ARTICLE 10 OF THE CONVENTION

133. The applicant complained under Article 18 of the Convention in conjunction with Article 10 of the Convention that his right to freedom of expression had been restricted for purposes other than those permitted under the Convention and that the sole purpose of his criminal conviction had been to hinder and to punish him for his journalistic activities. 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

1. *The parties' submissions*

134. The Government submitted that as the applicant had not raised this complaint with the domestic courts it had to be declared inadmissible for non-exhaustion of domestic remedies.

135. The applicant did not make any submission as regards the Government's argument about non-exhaustion of domestic remedies.

2. *The Court's assessment*

136. It is not necessary for a Convention right to be explicitly raised in domestic proceedings provided that the complaint is raised "at least in substance" (see *Vučković and Others v. Serbia* (preliminary objection) [GC], nos. 17153/11 and 29 others, § 72, 25 March 2014, and *Kemal Çetin v. Turkey*, no. 3704/13, §§ 28-30, 26 May 2020).

137. The Court observes that the applicant had expressly mentioned Article 18 of the Convention in his submissions on appeal in the domestic courts. The arguments made by the applicant before the Court have been essentially raised before the domestic courts (see paragraph 40 above). The Court therefore rejects the Government's objection of non-exhaustion of domestic remedies.

138. The Court takes the view that the complaint under Article 18 of the Convention is closely linked to the complaints under Article 10 and that it is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It therefore declares the complaint admissible (see also *Şik v. Turkey (no. 2)*, no. 36493/17, § 194, 24 November 2020).

B. Merits

1. *The parties' submissions*

139. The applicant submitted that his criminal conviction was politically motivated because the harsh sanctions by the domestic authorities forced him to censor his own work, and that while the same articles had been widely published by other journalists, the Government had selectively convicted him and two other independent journalists for publishing articles about the "Ganja events". He further argued that the Government had misused the interests of national security as a legitimate aim, as there was nothing in his writings threatening national security, and that the Government had sought to prevent dissemination of information previously published by meymdan.tv – a media outlet.

140. The Government submitted that none of the restrictions imposed by the State were applied for the purposes other than those envisaged by the

relevant legal provision. They further argued that the applicant's arguments were general, vague and unsupported by any evidence and they lacked any supporting facts, and that the applicant had failed to prove beyond reasonable doubt the existence of an ulterior purpose.

2. The Court's assessment

141. The Court refers to the general principles concerning the interpretation and application of Article 18 of the Convention, in particular, as set out in its judgments in *Merabishvili v. Georgia* ([GC], no. 72508/13, §§ 287-317, 28 November 2017); and *Navalnyy v. Russia* ([GC], nos. 29580/12 and 4 others, §§ 164-65, 15 November 2018).

142. The Court pointed out in *Merabishvili* that the mere fact that a restriction of a Convention right or freedom does not meet all the requirements of the clause that permits it does not necessarily raise an issue under Article 18. Separate examination of a complaint under that Article is only warranted if the claim that a restriction has been applied for a purpose not prescribed by the Convention appears to be a fundamental aspect of the case (see *Merabishvili*, cited above, § 291, and *Khadija Ismayilova v. Azerbaijan (no. 4)*, nos. 71556/16 and 74112/17, § 107, 27 January 2026).

143. The Court further reiterates that a right or freedom is sometimes restricted solely for a purpose which is not prescribed by the Convention. But it is equally possible that a restriction is applied both for an ulterior purpose and a purpose prescribed by the Convention; in other words, that it pursues a plurality of purposes. The question in such situations is whether the prescribed purpose invariably expunges the ulterior one, whether the mere presence of an ulterior purpose contravenes Article 18, or whether there is some intermediary answer. Which purpose is predominant in a given case depends on all the circumstances (see *Merabishvili*, cited above, §§ 292 and 307). In examining whether the restriction pursued an ulterior purpose, the Court will assess the evidence as a whole, irrespective of which party produced it. Its assessment is not confined to direct evidence of the authorities' intentions: contextual facts and the sequence of events may also support the necessary inferences (*ibid.*, § 317).

144. Turning to the present case, the Court observes that the applicant's complaint under Article 18 of the Convention is raised in conjunction with Article 10, in respect of which the Court found a violation (see paragraph 132 above), holding, *inter alia*, that it could not discern from the domestic courts' reasoning that they pursued the legitimate aims put forward by the Government in their submissions (see paragraph 126 and 131 above). No purpose prescribed by the Convention has therefore been identified in the present case. However, that finding is not by itself sufficient to conclude that Article 18 has also been violated. There is still a need to examine the question whether there was an identifiable ulterior purpose (see *Navalnyy*, cited above, § 166).

145. The Court further observes that, in support of his allegation that the authorities were pursuing an ulterior purpose in convicting him, the applicant advanced the following arguments, all formulated in a general and succinct manner:

- (i) the severe criminal sanctions imposed on him compelled him to censor himself;
- (ii) the Government had misused the grounds of national security;
- (iii) despite the publication of the same articles by other media outlets, the Government had selectively punished him and two other independent journalists; and
- (iv) he was penalised for republishing information which had previously been disseminated by meydan.tv and the dissemination of which the Government sought to prevent.

146. In respect of the first and second arguments that the severe sanctions compelled the applicant to censor himself and that the Government had misused the grounds of national security, the Court notes that it essentially addressed these issues when it dealt with the complaint under Article 10 of the Convention. Given the domestic courts' failure to provide relevant and sufficient reasons for the applicant's conviction in the interests of the claimed legitimate aims, including in the interests of national security (see paragraphs 122 and 131 above), the Court found a violation of Article 10. It concluded that the applicant's criminal conviction and lengthy suspended prison sentence were not necessary in a democratic society. The Court accepts that the applicant's conviction on such serious charges might have a chilling effect on his willingness to express his views in public and that it was liable to create a climate of self-censorship affecting him and all journalists reporting and commenting on the running of the government and on various political issues of the day (see *Şik*, cited above, § 210). However, this finding is insufficient to conclude that there has also been a violation of Article 18 (see *Ahmet Hüsrev Altan v. Turkey*, no. 13252/17, § 244, 13 April 2021).

147. As to the applicant's third argument – that the Government selectively prosecuted independent journalists, including him, while not bringing charges against other media outlets that had published the same information – the Court observes that in the absence of any further detailed substantiation or supporting evidence this allegation is insufficient to demonstrate the existence of an ulterior purpose behind the applicant's conviction. In this connection, the Court further notes that initially the criminal proceedings against criminal.az and bastainfo.com were instituted under Article 313 of the Criminal Code for disseminating false information, on the grounds that, despite two prior warnings, they had once again published material deemed incorrect, biased, and false (see paragraph 15 above). However, the applicant advanced no additional arguments capable of demonstrating the alleged “hidden” purpose behind the authorities' decision to prosecute him for disseminating false information in the present case. In

any event, the material in the case file indicates that, contrary to the applicant's argument that he had been selectively prosecuted, the authorities had also issued formal warnings to other media outlets for disseminating false information about the Ganja events, in addition to those identified by the applicant as independent journalists.

148. As regards the remaining fourth argument – that in prosecuting him the Government sought to prevent the dissemination of information previously published by meydan.tv – the Court notes that this argument is likewise unsubstantiated, and the applicant did not elaborate on it. The subject matter of the present application concerns the applicant's conviction for publishing the articles about the Ganja events, and in those articles, he had never referred to meydan.tv as the source of information. The applicant also did not explain in his submissions to the Court how this argument, which he presented without further detail and elaboration, demonstrated the existence of an ulterior purpose behind his conviction for publishing those specific articles about the Ganja events.

The Court's assessment cannot, however, be confined to examining only the applicant's arguments. It must also take account of the documents emanating from the authorities in connection with his prosecution. In this regard, the Court notes that the press statement issued by the Prosecutor General's Office on 9 July 2018 described the impugned publications not only in terms of alleged incitement to terrorism and violent action against the State, but also by reference to their alleged aim of discrediting the measures taken by law-enforcement authorities and causing citizens to distrust State action. The statement linked the publications to the institution of criminal proceedings and also recorded a request to block access to the websites concerned, including criminal.az (see paragraph 15 above).

Similar considerations appeared in the expert examination and in the reasoning supporting the applicant's conviction. The terms of reference of the linguistic examination included the question whether the articles portrayed government policies in a negative light. The expert subsequently identified the passages as public calls against the State, which also aimed at disrupting the country's political stability and could be used against the State in an "information war" (see paragraphs 30–31 above). The trial court, in turn, relied to a significant extent on that report. In finding that the applicant had exceeded his official powers and committed forgery in his official role, it expressly relied on the alleged intention to create negative public opinion about the Ganja events, undermine trust in State-organised mass events and cast doubt on the actions of law-enforcement agencies (see paragraph 34 above). Those considerations therefore formed part of the grounds on which criminal liability was imposed.

Taken together, those documents show that, at successive stages of the proceedings, the authorities associated criticism of government policies and the undermining of public confidence in State action with the applicant's

alleged criminal conduct. The evidential value of those documents must be assessed together with the other circumstances of the case, in accordance with the Court's approach to proof under Article 18, which permits inferences to be drawn from the evidence as a whole and does not require direct proof of an ulterior purpose (see *Merabishvili*, cited above, §§ 310–17).

149. In carrying out that assessment, the Court attaches weight to the repeated references to criticism of the authorities and to the undermining of public confidence in State action. Nevertheless, the context and wording of the documents must also be considered. The proceedings concerned reporting on a specific assassination attempt, and the references in question appeared alongside allegations that the publications encouraged violent action, mass unrest and disobedience to the authorities. Having considered those documents and the parties' submissions, the Court does not find that the evidence available to it permits to establish beyond reasonable doubt (*ibid*, § 314) that the applicant's conviction was motivated by an ulterior purpose linked to his journalistic activities.

150. Accordingly, there has been no violation of Article 18 taken in conjunction with Article 10 of the Convention in the present case.

VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

151. 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

152. The applicant claimed 4,500 euros (EUR) in respect of pecuniary damage and EUR 31,000 in respect of non-pecuniary damage.

153. The Government did not make any submissions as regards the applicant's claims.

154. The Court notes that the applicant did not submit any evidence supporting his claims for compensation for pecuniary damage. It therefore cannot assess whether there was any causal link between the violation found and the pecuniary damage alleged and, accordingly, rejects this claim.

155. The Court considers, however, that the applicant has suffered non-pecuniary damage which cannot be compensated for solely by the finding of violations, and that an award should therefore be made on that account. Making its assessment on an equitable basis, as required by Article 41 of the Convention, the Court awards the applicant the sum of EUR 6,000 under this head, plus any tax that may be chargeable on that amount.

B. Costs and expenses

156. The applicant also claimed EUR 5,000 for the costs and expenses incurred in the domestic courts and before the Court, consisting of legal fees to be paid to his lawyer, which also included the translation costs.

157. The Government did not comment on this claim.

158. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 1,500 covering costs under all heads, plus any tax that may be chargeable to the applicant.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* the complaints under Articles 8, 10, 13 and 18 of the Convention and Article 1 of Protocol No. 1 to the Convention admissible;
3. *Holds* that there has been a violation of Article 8 of the Convention;
4. *Holds* that there has been a violation of Article 10 of the Convention;
5. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to the Convention;
6. *Holds* that there is no need to examine the complaint under Article 13 of the Convention in conjunction with Article 1 of Protocol No. 1 to the Convention;
7. *Holds* that there has been no violation of Article 18 of the Convention in conjunction with Article 10 of the Convention;
8. *Holds*
 - (a) that the respondent State is to pay the applicant, 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 6,000 (six thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

- (ii) EUR 1,500 (one thousand five hundred euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses, to be paid directly to the representative E. Sadigov;
- (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 applicant's claim for just satisfaction.

Done in English, and notified in writing on 6 October 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško
Registrar

Ioannis Ktistakis
President