



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

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THIRD SECTION

Application no. 49076/21
Elmir ABBASOV
against Azerbaijan
lodged on 2 September 2021
communicated on 2 October 2026

SUBJECT MATTER OF THE CASE

The application concerns administrative-offence proceedings instituted against the applicant - a political activist - which resulted in his conviction under Article 206 of the Code on Administrative Offences for illegal drug possession.

On 19 February 2021 the police arrested the applicant and brought him to a police station where drugs were found on him during a search.

By a judgment of 20 February 2021, the Sumgayit City Court, relying on the statements of the police officers, a forensic expert report of the substance seized from him and other evidence, found the applicant guilty as charged and sentenced him to one month administrative detention.

The applicant appealed arguing, *inter alia*, that he had been arrested in the absence of a reasonable suspicion and that the drugs found on him had been planted by the police. He further argued that he had been arrested and convicted because of a post he had published on Facebook on 16 February 2021 in which he had criticised the President for corruption. By a final decision of 3 March 2021, the Sumgayit Court of Appeal, without addressing the applicant's arguments, upheld the lower court's judgment.

Meanwhile, the applicant lodged a complaint with the prosecuting authorities concerning his alleged ill-treatment by the police. According to the applicant, this complaint went unanswered.

Relying on Article 3 of the Convention, the applicant complains that he was subjected to police ill-treatment and that his complaints in this regard were not examined by the domestic authorities. Under Article 6 of the Convention, the applicant complains about the alleged unfairness of the proceedings. In particular, he argues that his conviction was based on planted evidence. He further submits, under Article 10 and Article 18 in conjunction with Article 10 of the Convention that his arrest and conviction had actually been related to his social media post, amounted to a violation of his right to freedom of expression and did not pursue legitimate purposes.

QUESTIONS TO THE PARTIES

1. Has the applicant been subjected to inhuman or degrading treatment, in breach of Article 3 of the Convention? Having regard to the procedural protection from inhuman or degrading treatment (see *Labita v. Italy* [GC], no. 26772/95, § 131, ECHR 2000-IV), was the investigation in the present case by the domestic authorities in breach of Article 3 of the Convention? Did the applicant exhaust all available and effective domestic remedies in respect of this complaint?

2. Did the applicant have a fair hearing in the determination of the criminal charges against him, in accordance with Article 6 § 1 of the Convention? In particular, was the principle of equality of arms respected? Was the applicant afforded an adequate opportunity to challenge the authenticity of the evidence against him and to oppose its use? Was the applicant's right to a reasoned judgment respected (see *Layijov v. Azerbaijan*, no. 22062/07, §§ 62-76, 10 April 2014)? Was the applicant able to defend himself through legal assistance of his own choosing, as required by Article 6 § 3 (c) of the Convention (see *Gafgaz Mammadov v. Azerbaijan*, no. 60259/11, §§ 88-93, 15 October 2015)?

3. Has there been an interference with the applicant's freedom of expression, within the meaning of Article 10 § 1 of the Convention? If so, was that interference prescribed by law and necessary in terms of Article 10 § 2 (see *Ibrahimov and Mammadov v. Azerbaijan*, nos. 63571/16 and 5 others, §§ 170-74, 13 February 2020)?

4. Were the restrictions imposed by the State in the applicant's case, purportedly permitted under Article 10 of the Convention, applied for a purpose other than those envisaged by those provisions, contrary to Article 18 of the Convention (see *Ukraine v. Russia (re Crimea)* [GC], nos. 20958/14 and 38334/18, §§ 1341 et seq., 25 June 2024, and *Khadija Ismayilova v. Azerbaijan (no. 4)*, nos. 71556/16 and 74112/17, §§ 108-10, 27 January 2026)?

The parties are requested to submit evidence in support of their submissions (copies of documents related to the applicant's arrest, search and seizure records, expert reports, video recordings of search, if any, and so on).