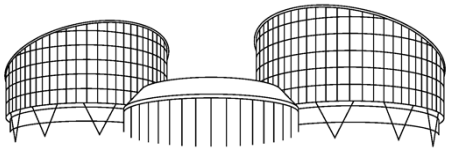

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF EMIN HUSEYNOV v. AZERBAIJAN (No. 2)

(Application no. 1/16)

JUDGMENT

Art 8 • Private life • Termination of the Azerbaijani citizenship of the applicant, an independent journalist and chairman of an NGO for the protection of journalists, resulting in him becoming a stateless person • Two-pronged consequence-based approach for examining deprivation of citizenship • 1) Measure constituting an interference with Art 8, in view of its consequences for the applicant • 2) Measure arbitrary given the disregard for the requirements of the 1961 United Nations Convention on the Reduction of Statelessness - which was part of the domestic legal order - and the lack of procedural safeguards

STRASBOURG

13 July 2023

FINAL

13/10/2023

This judgment has become final under Article 44 § 2 of the Convention.
It may be subject to editorial revision.

In the case of Emin Huseynov v. Azerbaijan (no. 2),

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

Marko Bošnjak*, President*,
Alena Poláčková,
Krzysztof Wojtyczek,
Lətif Hüseynov,
Péter Paczolay,
Gilberto Felici,
Erik Wennerström*, judges*,
and Renata Degener, *Section Registrar,*

Having regard to:

the application (no. 1/16) 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 a stateless person of Azerbaijani origin, Mr Emin Rafik oglu Huseynov (*Emin Rafik oğlu Hüseynov* - "the applicant"), on 18 December 2015;

the decision to give notice to the Azerbaijani Government ("the Government") of the complaints concerning Articles 8, 10 and 13 of the Convention and an issue raised by the Court of its own motion under Article 18 of the Convention, and to declare inadmissible the remainder of the application;

the decision of the President of the Section to give Mr J. Goldston leave to represent the applicant in the proceedings before the Court (Rule 36 § 4 (a) *in fine* of the Rules of Court);

the observations submitted by the respondent Government and the observations in reply submitted by the applicant;

the comments received from the Council of Europe Commissioner for Human Rights, who exercised her right to intervene in the proceedings and submitted written comments (Article 36 § 3 of the Convention and Rule 44 § 2 of the Rules of Court), as well as the comments submitted by the Institute on Statelessness and Inclusion, Human Rights House Foundation, International Media Support, IFEX, the Committee to Protect Journalists, the International Senior Lawyers Project, the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, which were granted leave to intervene by the President of the Section;

the Chamber's decision not to hold a hearing in the case;

Having deliberated in private on 27 June 2023,

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

INTRODUCTION

1. The application concerns the termination of the applicant's Azerbaijani citizenship, as a result of which he became a stateless person. Relying on Articles 8, 10 and 13 of the Convention, the applicant complained that he had been forced to renounce his citizenship, in breach of his Convention rights. Relying on Article 18 of the Convention, he also alleged in his observations that his Convention rights had been restricted for purposes other than those prescribed in the Convention.

THE FACTS

2. The applicant was born in 1979 and lives in Geneva, Switzerland. He was represented by Mr J. Goldston, a lawyer based in New York and the executive director of the Open Society Justice Initiative, and by Ms M. Melon, a lawyer based in London and a staff member of the Open Society Justice Initiative.

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. At the time of the events the applicant was an independent journalist and the chairman of the Institute for Reporters' Freedom and Safety (IRFS), a non-governmental organisation specialising in the protection of journalists' rights.

6. On 22 April 2014 the Prosecutor General's Office opened criminal case no. 142006023 under Articles 308.1 (abuse of power) and 313 (forgery by an official) of the Criminal Code, in connection with alleged irregularities in the financial activities of a number of non-governmental organisations.

7. Soon thereafter the bank accounts of numerous non-governmental organisations and civil society activists were frozen by the domestic authorities within the framework of criminal case no. 142006023. The domestic proceedings concerning the freezing of some of those bank accounts, including those concerning the freezing of the bank accounts of the applicant and the IRFS, have already been examined by the Court (see *Imranova and Others v. Azerbaijan* [Committee], nos. 59462/14 and 17 others, 16 February 2023).

8. Various human rights defenders and civil society activists were also arrested within the framework of the same criminal proceedings, in connection with their activities within or with various non-governmental organisations. The domestic proceedings concerning the arrest and pre-trial detention of some of those human rights defenders and civil society activists have already been examined by the Court (see, for example, *Rasul Jafarov*

v. Azerbaijan, no. 69981/14, 17 March 2016; *Mammadli v. Azerbaijan*, no. 47145/14, 19 April 2018; *Aliyev v. Azerbaijan*, nos. 68762/14 and 71200/14, 20 September 2018; and *Yunusova and Yunusov v. Azerbaijan (no. 2)*, no. 68817/14, 16 July 2020).

II. INSTITUTION OF CRIMINAL PROCEEDINGS AGAINST THE APPLICANT

9. According to the applicant, in July 2014 he learned that the tax authorities had launched an investigation into the activities of the IRFS.

10. On 5 August 2014 he attempted to take a flight from Baku to Istanbul, but at Baku Airport he was not allowed to leave Azerbaijan.

11. On 7 August 2014 the applicant's mother informed him that she had received a telephone call from an employee of the prosecuting authorities, who had invited the applicant to present himself to the prosecuting authorities for questioning. However, fearing his imminent arrest, the applicant went into hiding.

12. According to the applicant, on 18 August 2014, disguised to avoid detection, he clandestinely went to the embassy of the Swiss Confederation in Baku, where he found refuge.

13. According to the Government, on 19 August 2014 the applicant was charged under Articles 192.2.2 (illegal entrepreneurship), 213.2.2 (large-scale tax evasion) and 308.2 (abuse of power) of the Criminal Code and the Nasimi District Court ordered his arrest. The Government did not provide the Court with a copy of those decisions.

III. THE APPLICANT'S REQUEST TO RENOUNCE HIS AZERBAIJANI CITIZENSHIP AND FURTHER DEVELOPMENTS

14. It appears from the documents submitted by the Government that on 10 February 2015, while at the embassy of the Swiss Confederation, the applicant submitted a request to the President of the Republic of Azerbaijan, stating that he wished to renounce his Azerbaijani citizenship.

15. It further appears from the documents submitted by the Government that on 4 June 2015, while still living at the embassy of the Swiss Confederation, the applicant filled in and submitted an application form to the President of the Republic of Azerbaijan, stating that he wished to renounce his Azerbaijani citizenship. The application form contained various questions about the applicant's family situation, education and work experience, to which the applicant replied. In reply to the question of whether the applicant had had the nationality of any other State and, if so, how he had lost it and obtained Azerbaijani citizenship, the applicant indicated "I do not have any nationality other than Azerbaijani nationality".

16. On 9 June 2015 the Ministry of Finance of the Republic of Azerbaijan received 236,281 United States dollars (USD) from the Swiss authorities by bank transfer, for payment of the applicant's tax debt in Azerbaijan.

17. According to the Government, on the same date the Nasimi District Court revoked the order for the applicant's arrest, having regard to the fact that the tax debt had been paid. The Government did not provide the Court with a copy of that decision.

18. According to the Government, on 11 June 2015 the Nasimi District Court also quashed a decision declaring the applicant a wanted person. The Government did not provide the Court with a copy of that decision.

19. On 12 June 2015 the applicant left Azerbaijan on a plane with the Minister of Foreign Affairs of the Swiss Confederation.

20. On 27 June 2015 the State Migration Service sent the applicant a letter which read as follows:

> "In connection with your request to renounce [your] citizenship of the Republic of Azerbaijan, we inform you that your citizenship of the Republic of Azerbaijan was terminated (*xitam verilmişdir*) by order (*sərəncam*) no. 1269 of 10 June 2015 of the President of the Republic of Azerbaijan."

21. The applicant was not provided with a copy of order no. 1269 of 10 June 2015, and the case file does not contain any information as regards the text of that order being available in the public domain. The Government did not provide the Court with a copy of that order.

22. On 19 October 2015 the applicant was granted asylum in Switzerland.

23. No information is available in the case file as regards the outcome of the criminal proceedings instituted against the applicant in Azerbaijan (see paragraph 13 above).

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. DOMESTIC LAW

A. The Constitution of the Republic of Azerbaijan of 12 November 1995 ("the Constitution")

24. At the material time, the relevant provisions of the Constitution provided as follows:

Article 52. Right to citizenship

> "A person affiliated to the Azerbaijani State, who has a political and legal relationship with, as well as reciprocal rights and duties in respect of, the Republic of Azerbaijan, is a citizen of the Republic of Azerbaijan. A person born on the territory of the Republic of Azerbaijan or to citizens of the Republic of Azerbaijan is a citizen of the Republic of Azerbaijan. A person is a citizen of the Republic of Azerbaijan if one of his parents is a citizen of the Republic of Azerbaijan."

Article 53. Guarantee of the right to citizenship

"I. A citizen of the Republic of Azerbaijan may in no case be deprived of citizenship of the Republic of Azerbaijan.

II. A citizen of the Republic of Azerbaijan may in no case be expelled from the Republic of Azerbaijan or extradited to a foreign State. ..."

Article 109. Powers of the President of the Republic of Azerbaijan

"The President of the Republic of Azerbaijan:

...

20. [has the power to] settle citizenship issues; ..."

Article 113. Acts of the President of the Republic of Azerbaijan

"I. When establishing general rules, the President of the Republic of Azerbaijan shall issue decrees, and shall issue orders in respect of other matters. ..."

Article 130. The Constitutional Court of the Azerbaijan of Republic

"III. The Constitutional Court of the Republic of Azerbaijan, on the basis of a request submitted by the President of the Republic of Azerbaijan, the Milli Majlis of the Republic of Azerbaijan, the Cabinet of Ministers of the Republic of Azerbaijan, the Supreme Court of the Republic of Azerbaijan, the Prosecutor's Office of the Republic of Azerbaijan, and the Ali Majlis of the Autonomous Republic of Nakhchivan, shall resolve the following issues:

1. the conformity of laws of the Republic of Azerbaijan, decrees and orders of the President of the Republic of Azerbaijan, resolutions of the Milli Majlis of the Republic of Azerbaijan, resolutions and orders of the Cabinet of Ministers of the Republic of Azerbaijan, and normative legal acts of central executive bodies with the Constitution of the Republic of Azerbaijan;

2. the conformity of decrees of the President of the Republic of Azerbaijan, resolutions of the Cabinet of Ministers of the Republic of Azerbaijan, and normative legal acts of central executive bodies with laws of the Republic of Azerbaijan;

...

V. Every person shall have the right to lodge, in accordance with the procedure provided for by law, complaints with the Constitutional Court of the Republic of Azerbaijan against normative acts of the legislative and executive authorities, acts of municipalities, and judicial acts infringing his or her rights and freedoms, for resolution by the Constitutional Court of the Republic of Azerbaijan of the issues referred to in items 1-7 of Part III of the present Article, for the purpose of restoration of his or her violated rights and freedoms. ..."

Article 148. Acts constituting the legislative system of the Republic of Azerbaijan

"II. International treaties to which the Republic of Azerbaijan is a party are an integral part of the legislative system of the Republic of Azerbaijan. ..."

Article 151. Legal force of international acts

"If a conflict arises between normative legal acts which form part of the legislative system of the Republic of Azerbaijan (with the exception of the Constitution of the Republic of Azerbaijan and acts adopted by referendum) and international treaties to which the Republic of Azerbaijan is a party, the international treaties shall apply."

B. The Constitutional Law on Normative Legal Acts of 21 December 2010

25. At the material time, Article 3 of the Law on Normative Legal Acts provided that orders of the President of the Republic of Azerbaijan were not normative legal acts.

C. The Law on the Constitutional Court of 23 December 2003

26. At the material time, Article 34.1 of the Law on the Constitutional Court provided as follows:

Article 34 Complaints

"Every person shall have the right to lodge complaints with the Constitutional Court against normative legal acts of the legislative and executive authorities, acts of municipalities, and judicial acts infringing his or her rights and freedoms, for resolution of the issues referred to in items 1-7 of Part III of Article 130 of the Constitution of the Republic of Azerbaijan, for the purpose of restoration of his or her violated rights and freedoms. ..."

D. Legislation relating to administrative proceedings

27. At the material time, Article 2.2.1 of the Code of Administrative Procedure provided that claims in connection with an individual's rights and duties which challenged an administrative act adopted by an administrative body were examined in administrative court proceedings. Article 2.0.1 of the Law on Administrative Proceedings of 21 October 2005 defined administrative bodies as the relevant executive authorities of the Republic of Azerbaijan, their local and other bodies, municipalities, as well as any physical person or legal entity entitled to issue an administrative act. A decision of the Cabinet of Ministers of 28 August 2007 approving the classification of administrative bodies did not include the President of the Republic of Azerbaijan on the list of administrative bodies.

E. The Law on Citizenship of the Republic of Azerbaijan of 30 September 1998 ("the Law on Citizenship")

28. At the material time, the relevant provisions of the Law on Citizenship provided as follows:

Article 2. Guarantee of the right to citizenship

"In accordance with part I of Article 53 of the Constitution of the Republic of Azerbaijan, a citizen of the Republic of Azerbaijan may in no case be deprived of citizenship of the Republic of Azerbaijan. ..."

Article 16. Grounds for termination of citizenship of the Republic of Azerbaijan

"Citizenship of the Republic of Azerbaijan is terminated in the following cases:

(1) As a result of renunciation of citizenship of the Republic of Azerbaijan; ..."

Article 17. Renunciation of citizenship of the Republic of Azerbaijan

"The person concerned may request renunciation of citizenship of the Republic of Azerbaijan, in accordance with this Law.

The request for renunciation of citizenship may be dismissed if the person applying for renunciation of citizenship of the Republic of Azerbaijan has unfulfilled obligations to the State, or property obligations concerning the interests of physical persons and legal entities in the Republic of Azerbaijan.

If the person applying for renunciation of citizenship of the Republic of Azerbaijan is charged as an accused in a criminal case, or there is a final and enforceable court decision in respect of him, or his renunciation of citizenship of the Republic of Azerbaijan is contrary to the State security interests of the Republic of Azerbaijan, citizenship may not be renounced until those circumstances cease to exist. ..."

Article 26. Force of international legal norms related to issues of citizenship

"In the event of a conflict between this Law and international treaties to which the Republic of Azerbaijan is a party, those treaties shall apply."

II. INTERNATIONAL MATERIAL

29. The relevant part of the United Nations Convention relating to the Status of Stateless Persons, which was adopted on 28 September 1954 and entered into force on 6 June 1960, and to which Azerbaijan became a party by accession on 16 August 1996, reads as follows:

Article 1
Definition of the term "stateless person"

"1. For the purpose of this Convention, the term 'stateless person' means a person who is not considered as a national by any State under the operation of its law. ..."

30. The relevant part of the United Nations Convention on the Reduction of Statelessness, which was adopted on 30 August 1961 and entered into force on 13 December 1975, and to which Azerbaijan became a party by accession on 16 August 1996, reads as follows:

Article 7

"1. (a) If the law of a Contracting State permits renunciation of nationality, such renunciation shall not result in loss of nationality unless the person concerned possesses or acquires another nationality.

(b) The provisions of subparagraph (a) of this paragraph shall not apply where their application would be inconsistent with the principles stated in articles 13 and 14 of the Universal Declaration of Human Rights approved on 10 December 1948 by the General Assembly of the United Nations.

2. A national of a Contracting State who seeks naturalization in a foreign country shall not lose his nationality unless he acquires or has been accorded assurance of acquiring the nationality of that foreign country.

3. Subject to the provisions of paragraphs 4 and 5 of this article, a national of a Contracting State shall not lose his nationality, so as to become stateless, on the ground of departure, residence abroad, failure to register or on any similar ground.

4. A naturalized person may lose his nationality on account of residence abroad for a period, not less than seven consecutive years, specified by the law of the Contracting State concerned if he fails to declare to the appropriate authority his intention to retain his nationality.

5. In the case of a national of a Contracting State, born outside its territory, the law of that State may make the retention of its nationality after the expiry of one year from his attaining his majority conditional upon residence at that time in the territory of the State or registration with the appropriate authority.

6. Except in the circumstances mentioned in this article, a person shall not lose the nationality of a Contracting State, if such loss would render him stateless, notwithstanding that such loss is not expressly prohibited by any other provision of this Convention."

Article 8

"1. A Contracting State shall not deprive a person of its nationality if such deprivation would render him stateless. ..."

Article 9

"A Contracting State may not deprive any person or group of persons of their nationality on racial, ethnic, religious or political grounds."

31. The relevant part of the United Nations High Commissioner for Refugees (UNHCR) Guidelines on Statelessness No. 5 (Loss and Deprivation of Nationality under Articles 5-9 of the 1961 Convention on the Reduction of Statelessness) (HCR/GS/20/05) reads as follows:

"**B. Loss of nationality**

14. This section focuses on circumstances in which an individual may lose nationality pursuant to the standards set out in Articles 5-7 of the 1961 Convention.

General prohibition of loss of nationality where it would render a person stateless (1961 Convention, Articles 7(6) and 7(3))

15. Contracting States generally may not permit loss of nationality where it would render a person stateless. Article 7(6) of the 1961 Convention provides that '[e]xcept in the circumstances mentioned in this Article, a person shall not lose the nationality of a Contracting State, if such loss would render him stateless, notwithstanding that such loss is not expressly prohibited by any other provision of this Convention.' A further safeguard against statelessness in the context of loss of nationality is found under Article 7(3) of the 1961 Convention, which provides that '[s]ubject to the provisions of paragraphs 4 and 5 of this Article, a national of a Contracting State shall not lose his nationality, so as to become stateless, on the ground of departure, residence abroad, failure to register or on any similar ground.' Articles 5 and 6 of the 1961 Convention permit loss of nationality which does not result in statelessness under specific circumstances. These are set out in paragraphs 16-32 below. Articles 7(4) and 7(5) of the 1961 Convention establish narrow exceptions to the general prohibition on loss of nationality which results in statelessness, and these are outlined in paragraphs 33-44 below.

...

Renunciation of nationality (1961 Convention, Article 7(1))

22. Pursuant to Article 7 (1)(a) of the 1961 Convention, loss of nationality is permitted where a person voluntarily renounces nationality in accordance with the law of a Contracting State only where 'the person concerned possesses or acquires another nationality'. Under Article 7(1)(b) of the 1961 Convention, Article 7(1)(a) does not apply in situations where it would be 'inconsistent with the principles stated in Articles 13 and 14 of the Universal Declaration on Human Rights.' These provisions of the UDHR set out the rights to freedom of movement and residence within the borders of each State; to leave any country; to return to one's own country; and to seek and enjoy asylum from persecution in other countries. States may not in any event make the enjoyment of the rights set out in Articles 13 and 14 of the UDHR conditional upon renunciation of nationality. Article 7(1)(b) is therefore of very limited relevance to Contracting States.

...

General prohibition of deprivation of nationality where it would render a person stateless (1961 Convention, Article 8(1))

44. Article 8(1) of the 1961 Convention provides that '[a] Contracting State shall not deprive a person of its nationality if such deprivation would render him stateless.' This is the general rule. In order to apply this rule, a Contracting State must first determine and understand whether each of its potential acts of deprivation of nationality would result in statelessness. If an act of deprivation would result in statelessness, then the Contracting State may only proceed if one of the exceptions to the general rule set out in Articles 8(2) or 8(3) applies.

45. A Contracting State's fulfilment of its obligations under the 1961 Convention thus necessarily requires an assessment by the Contracting State on the issue of statelessness before a person is deprived of nationality. Deprivation of nationality procedures that place the onus on the individual concerned to raise potential statelessness in order for it to be considered leave Contracting States and individuals vulnerable to decisions that are inconsistent with Article 8. Likewise, procedures that place the burden of proof solely on the individual to prove statelessness would not be consistent with the Contracting State's obligation to determine whether statelessness would result from the act of deprivation. The process of determining whether a person would be rendered stateless following deprivation of nationality is a collaborative one aimed at clarifying

whether an individual would come within the scope of the definition of statelessness if deprived of nationality. Thus, the individual has a duty to provide as full an account of his or her position as possible and to submit all evidence reasonably available to him or her. A Contracting State should also obtain and present all evidence reasonably available to it to relevant decisionmakers to facilitate an objective determination of whether the person would be rendered stateless.

...

No deprivation on racial, ethnic, religious or political grounds

76. Article 9 of the 1961 Convention provides that Contracting States 'may not deprive any person or group of persons of their nationality on racial, ethnic, religious or political grounds.'

77. Article 9 applies irrespective of whether or not statelessness would result from the deprivation. Under Article 9, a Contracting State may not deprive a group of persons (e.g., a minority ethnic or religious group) of nationality with an administrative, legal or other act. Individual assessments in accordance with Article 8 of the 1961 Convention must take place before a Contracting State deprives an individual of nationality and the basis for the deprivation of nationality may never be one of the grounds prohibited under Article 9.

78. Deprivation of nationality must not be based on conduct which is consistent with an individual's freedom of expression, freedom of assembly or other rights associated with a person's political views consistent with Article 9's prohibition on 'political grounds.' This is particularly relevant to situations in which a Contracting State may seek to rely on an individual's political beliefs as a basis for deprivation of nationality under Article 8(3) of the 1961 Convention. In no circumstances should deprivation of nationality be used as a means to delegitimize political points of view that are different from those of the government in power, or to delegitimate groups holding certain political views. ..."

32. Recommendation No. R (99) 18 of the Council of Europe's Committee of Ministers to member States on the avoidance and reduction of statelessness (adopted on 15 September 1999) states as follows:

"The Committee of Ministers ...

...

Recognising the negative impact of statelessness on individuals and the problems that statelessness creates for States;

Convinced, therefore, of the need to avoid and reduce, as far as possible, cases of statelessness;

...

1. Recommends governments of member States to avoid and reduce statelessness and to this end that:

...

1.4. they apply in particular the following principles and provisions:

I. Principles based on the European Convention on Nationality which have a special relevance to the avoidance and reduction of statelessness

...

c. Nationals should not be arbitrarily deprived of their nationality. Nationals who are deprived of their nationality, renounce or otherwise lose their nationality should not thereafter become stateless.

...

II. Provisions aiming at the avoidance and reduction of cases of statelessness

...

C. Avoiding statelessness as a consequence of loss of nationality

a. Each State should ensure that the renunciation of its nationality will not take place without the possession, actual acquisition or guarantee of acquisition of another nationality. Where another nationality is not acquired or possessed, States should provide that the renunciation is without effect. ..."

33. The relevant part of the European Convention on Nationality (ETS No. 166), which was adopted on 6 November 1997 and entered into force on 1 March 2000, and to which Azerbaijan is not a State party, reads as follows:

Article 4 - Principles

"The rules on nationality of each State party shall be based on the following principles:

a. everyone has the right to a nationality;

b. statelessness shall be avoided;

c. no one shall be arbitrarily deprived of his or her nationality; ..."

Article 8 – Loss of nationality at the initiative of the individual

"1. Each State Party shall permit the renunciation of its nationality provided the persons concerned do not thereby become stateless. ..."

34. The relevant part of the Explanatory Report to the European Convention on Nationality reads as follows:

"30. The heading and introductory sentence of Article 4 recognise that there are certain general principles concerning nationality on which the more detailed rules on the acquisition, retention, loss, recovery or certification of nationality should be based. The words 'shall be based' were chosen to indicate an obligation to regard the following international principles as the basis for national rules on nationality.

...

paragraph b

33. The obligation to avoid statelessness has become part of customary international law; the 1961 Convention on the Reduction of Statelessness sets out rules for its implementation. As regards the definition of statelessness, reference is made to Article 1 of the 1954 Convention relating to the Status of Stateless Persons which provides that 'the term "stateless person" means a person who is not considered as a national by any State under the operation of its law'. Thus, only '*de iure* stateless persons' are covered and not '*de facto* stateless persons'. Refugees are covered to the extent that they are also considered *de iure* stateless persons.

34. The aim of this paragraph is to protect the right to a nationality by preventing the stateless status from arising. Once an individual becomes stateless, he or she may lose certain rights and possibly even become a refugee. This Convention contains many provisions which seek to prevent statelessness from arising. It should be noted that paragraph 3 of Article 7 on loss of nationality, subject to one limited exception, and paragraph 1 of Article 8 (not to allow nationals to renounce nationality if they would become stateless), make such loss subject to the avoidance of statelessness. In addition, Article 6, paragraph 4.g and Article 18 of Chapter VI on State succession also aim to avoid statelessness.

...

78. The will of the individual is a relevant factor in the permanence of the legal bond with the State which characterises nationality; therefore, States Parties should include in their internal law provisions to permit the renunciation of their nationality providing their nationals will not become stateless. Renunciation should be interpreted in its widest sense, including in particular an application to renounce followed by approval of the relevant authorities. ..."

THE LAW

I. PRELIMINARY REMARKS

35. The Government submitted that they had taken note of the decision of the President of the Section giving Mr J. Goldston leave to represent the applicant in the proceedings before the Court. However, according to the Government, the applicant's submissions dated 21 November 2018 made in reply to the Government's submissions of 2 October 2018 should not be admitted to the case file, since those submissions had been signed by Ms L. Bingham, who was not the applicant's representative before the Court.

36. However, the Court observes that the letter accompanying the applicant's submissions dated 21 November 2018 was signed by Mr J. Goldston, and the submissions themselves listed the names of Mr J. Goldston, Ms M. Melon and Ms L. Bingham as the lawyers from the Open Society Justice Initiative. In these circumstances, the Court is satisfied that the applicant's submissions dated 21 November 2018 were made by Mr J. Goldston and Ms M. Melon, who were his representatives before the Court. Accordingly, the objection raised by the Government in this regard must be dismissed.

II. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

37. The applicant complained that the domestic authorities' decision to deprive him of his Azerbaijani citizenship by way of a forced renunciation that had rendered him a stateless person had amounted to a breach of his rights guaranteed by Article 8 of the Convention, which reads as follows:

"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

1. The parties' submissions

38. According to the Government, the applicant had failed to exhaust domestic remedies because he had failed to raise the complaints made to the Court before the domestic authorities. In particular, they submitted that the applicant could have lodged a complaint with the Constitutional Court to challenge order no. 1269 of 10 June 2015. They also asserted that the applicant could have challenged that order before the administrative courts. Lastly, in their view, as the Convention constituted an integral part of Azerbaijani legislation and was directly applicable, the applicant could have raised his complaints before the courts of general jurisdiction.

39. The applicant disagreed with the Government's submissions, arguing that there had been no effective domestic remedies for the complaints he had raised before the Court. He submitted that within the meaning of the domestic law, a presidential order did not constitute a normative legal act to be challenged before the Constitutional Court. He also pointed out that the President of the Republic of Azerbaijan was not considered to be an administrative body whose acts could be challenged in administrative court proceedings. Lastly, he noted that he had never been provided with a copy of the presidential order in question in order to be able to challenge it effectively.

2. The Court's assessment

40. The relevant general principles on exhaustion of domestic remedies have been summarised in *Vučković and Others v. Serbia* ((preliminary objection) [GC], nos. 17153/11 and 29 others, §§ 69-77, 25 March 2014).

41. Turning to the circumstances of the present case, the Court observes at the outset that under Azerbaijani law, every person has the right to lodge complaints with the Constitutional Court against, *inter alia*, normative legal acts of the legislative and executive authorities infringing his or her rights and freedoms (see paragraphs 24 and 26 above). However, the Law on Normative Legal Acts explicitly provides that orders of the President of the Republic of Azerbaijan are not normative legal acts (see paragraph 25 above). Accordingly, presidential order no. 1269 of 10 June 2015 is not a normative legal act which can be challenged before the Constitutional Court.

42. Nor can the Court accept the Government's argument that the applicant could have challenged the order in administrative court

proceedings, since the President of the Republic is not an administrative body within the meaning of the domestic law (see paragraph 27 above).

43. As to the Government's submissions that the applicant could have attempted to have his case examined by the courts of general jurisdiction, the Government did not submit a single example of a domestic decision in which such a course of action had been successful (compare *Makuchyan and Minasyan v. Azerbaijan and Hungary*, no. 17247/13, § 61, 26 May 2020). The Court also cannot overlook the fact that in the present case, the applicant was never provided with a copy of order no. 1269 of 10 June 2015. In those circumstances, the Court does not see how the applicant could have challenged that order before the domestic courts before lodging his application with the Court (compare *Shuriyya Zeynalov v. Azerbaijan*, no. 69460/12, § 42, 10 September 2020).

44. For the above reasons, the Court finds that the applicant's complaint cannot be rejected for non-exhaustion of domestic remedies, and that the Government's objection in this regard must be dismissed.

45. 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

(a) The applicant

46. The applicant maintained his complaint, submitting that he had been forced to renounce his Azerbaijani citizenship, which had amounted to an arbitrary deprivation of citizenship. In that connection, he noted that he had asked to renounce his Azerbaijani citizenship when he had been subject to life-threatening pressures and the risk of unfair imprisonment in Azerbaijan. He drew attention to the general context and peculiar circumstances of his case, such as the payment of his alleged tax debt by a third party and his departure from Azerbaijan on a plane with the Swiss Minister of Foreign Affairs. Lastly, the applicant pointed out that the deprivation of citizenship which had rendered him a stateless person had been in breach of the domestic law and the international obligations of the Republic of Azerbaijan.

(b) The Government

47. The Government contested the applicant's submissions, pointing out that he had asked to renounce his Azerbaijani citizenship. As regards the applicant's argument that he had been forced to renounce his citizenship, the Government submitted that it implied that State authorities had forced him to renounce his citizenship while he had been hiding in the embassy, where he had been for almost ten months. During this period of time there had been no

opportunity for the Azerbaijani authorities to interview the applicant or have any reasonable suspicion as to his actual intentions in connection with the renunciation of his citizenship. In such a situation, any accusation that the applicant had been forced to renounce his nationality should not be addressed to the Azerbaijani authorities.

48. The Government submitted that the decision to grant the applicant's request to renounce his citizenship had been in accordance with the law, namely Article 17 of the Law on Citizenship and Article 109 § 20 of the Constitution. They also submitted that the Court could not ignore the fact that the situation complained of had resulted from the applicant's own choices and actions. In connection with the applicant's argument that he had become a stateless person, the Government noted that his citizenship could be restored in accordance with the Law on Citizenship.

2. The third parties' observations

49. Third-party comments on the situation of journalists and human rights defenders in Azerbaijan and the difficulties faced by them in the exercise of their activities were submitted by the Council of Europe Commissioner for Human Rights, the Institute on Statelessness and Inclusion, Human Rights House Foundation, International Media Support, IFEX, the Committee to Protect Journalists, the International Senior Lawyers Project, the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. The third-party interveners also drew attention to the serious nature of human rights violations resulting from deprivation of citizenship, referring to various international instruments and the case-law of different national and international tribunals.

3. The Court's assessment

50. The Court reiterates that the notion of "private life" within the meaning of Article 8 of the Convention is a broad concept which embraces multiple aspects of a person's physical and social identity (see *Genovese v. Malta*, no. 53124/09, § 30, 11 October 2011, and *Ramadan v. Malta*, no. 76136/12, § 62, 21 June 2016). Although neither the right to citizenship nor the right to renounce citizenship is guaranteed as such by the Convention or its Protocols, the Court has held in a number of cases that the following actions may, in certain circumstances, raise an issue under Article 8 of the Convention because of their impact on the private life of the individual: arbitrary denial of citizenship (see *Karassev v. Finland* (dec.), no. 31414/96, ECHR 1999-II; *Ahmadov v. Azerbaijan*, no. 32538/10, §§ 42-45, 30 January 2020; and *Hashemi and Others v. Azerbaijan*, nos. 1480/16 and 6 others, §§ 45-46, 13 January 2022); arbitrary refusal of a request to renounce

citizenship (see *Riener v. Bulgaria*, no. 46343/99, § 154, 23 May 2006); and revocation or deprivation of citizenship (see *Ramadan*, cited above, § 85; *K2 v. the United Kingdom* (dec.), no. 42387/13, § 49, 7 February 2017; and *Alpeyeva and Dzhalagoniya v. Russia*, nos. 7549/09 and 33330/11, § 108, 12 June 2018).

51. Having examined the various methodological approaches previously used in cases relating to citizenship, the Court holds that it has to follow a consequence-based approach in determining whether an impugned measure constituted an interference with an applicant's rights under Article 8 of the Convention. Accordingly, it firstly has to examine what the consequences of the impugned measure were for the applicant, and then whether the measure in question was arbitrary (see *Usmanov v. Russia*, no. 43936/18, § 58, 22 December 2020, and *Hashemi and Others*, cited above, § 47).

52. Turning to the circumstances of the present case, the Court observes that it is undisputed that the applicant became a stateless person as a result of the termination of his citizenship. The Court notes that the decision terminating the applicant's citizenship left him without any valid identity document, creating general uncertainty as regards his legal status as an individual and directly affecting his social identity. In these circumstances, the Court cannot but conclude that the impugned measure had a significant impact on the applicant's enjoyment of his rights and directly affected his personal and social identity. The Court therefore finds that the impugned measure amounted to an interference with the applicant's right to respect for private life under Article 8.

53. The Court must now determine whether the impugned decision of the domestic authorities was arbitrary. In that connection, the Court observes at the outset that in the present case, although it is undisputed that the applicant's citizenship was terminated by order no. 1269 of 10 June 2015, the parties are in dispute as to whether his citizenship was terminated because he had voluntarily renounced his citizenship. In particular, while the applicant maintained that he had been forced to renounce his citizenship, which had amounted to an arbitrary deprivation of citizenship, the Government submitted that the applicant had voluntarily renounced his citizenship (see paragraphs 46-47 above).

54. The Court reiterates that, bearing in mind that the Convention is intended to safeguard rights that are "practical and effective", it must look behind appearances and investigate the realities of the situation complained of (see *Par and Hyodo v. Azerbaijan*, nos. 54563/11 and 22428/15, § 47, 18 November 2021; *Shorazova v. Malta*, no. 51853/19, § 112, 3 March 2022; and *Shenturk and Others v. Azerbaijan*, nos. 41326/17 and 3 others, § 101, 10 April 2022). The Court also deems it necessary to reiterate that under Azerbaijani law, a citizen of the Republic of Azerbaijan may in no case be deprived of citizenship of the Republic of Azerbaijan (see paragraphs 24 and 28 above).

55. In the instant case, the Court draws attention to the sequence of the events which took place at the beginning of June 2015 and preceded the applicant's departure from Azerbaijan – the revocation of the order for his arrest and the quashing of the decision declaring him a wanted person within a few days after his submission of his request to renounce his citizenship and the payment of his tax debt by the Swiss authorities – as well as the applicant's departure from Azerbaijan with the Minister of Foreign Affairs of Switzerland.

56. However, in the particular circumstances of the present case, for the purposes of examining the arbitrariness of the decision terminating the applicant's citizenship, the Court does not consider it necessary to establish whether the applicant's renunciation of his citizenship was forced or voluntary, which as noted above was a matter in dispute between the parties (compare *G.K. v. Belgium*, no. 58302/10, § 54, 21 May 2019).

57. In determining arbitrariness, the Court should examine whether the impugned measure was in accordance with the law; whether it was accompanied by the necessary procedural safeguards, including whether the person deprived of citizenship was allowed the opportunity to challenge the decision before courts affording the relevant guarantees; and whether the authorities acted diligently and swiftly (see *Ramadan*, cited above, §§ 86-89; *K2*, cited above § 50; *Alpeyeva and Dzhalagoniya*, cited above, § 109; and *Ahmadov*, cited above, § 44).

58. The expression "in accordance with the law" requires that the measure should have some basis in domestic law; it also refers to the quality of the law in question, requiring that it should be accessible to the person concerned and foreseeable as to its effects. The law must indicate the scope of discretion conferred on the competent authorities and the manner of its exercise with sufficient clarity, having regard to the legitimate aim of the measure in question, to give the individual adequate protection against arbitrary interference (see *Usmanov*, cited above, § 64, and *Hashemi and Others*, cited above, § 51).

59. The Court observes that the Government, referring to Article 17 of the Law on Citizenship and Article 109 § 20 of the Constitution, submitted that the termination of the applicant's citizenship had been in accordance with the law. In that connection, the Court draws attention to Article 17 of the Law on Citizenship, which provides that a person who is charged as an accused in a criminal case may not ask to renounce his citizenship (see paragraph 28 above). In the instant case, although it appears from the Government's submissions that the applicant was charged with various criminal offences on 19 August 2014 (see paragraph 13 above), no information is available in the case file as regards the outcome of the criminal proceedings instituted against him or his legal status in those criminal proceedings on 10 June 2015, the date on which his citizenship was terminated.

60. In any event, the Court notes that the domestic authorities gave no heed to the fact that the termination of the applicant's citizenship would render him a stateless person in breach of Article 7 of the United Nations Convention on the Reduction of Statelessness of 30 August 1961, which is an integral part of the legislative system of the Republic of Azerbaijan pursuant to Article 148 and fully applicable by virtue of Article 151 of the Constitution (see paragraph 24 above) and Article 26 of the Law on Citizenship, which expressly confirm the applicability of international legal norms related to issues of citizenship (see paragraph 28 above).

61. The Court notes that Article 7(1)(a) of that Convention expressly provides that if the law of a Contracting State permits renunciation of nationality, such renunciation shall not result in loss of nationality unless the person concerned possesses or acquires another nationality (see paragraph 30 above). The UNHCR Guidelines on Statelessness No. 5 (Loss and Deprivation of Nationality under Articles 5-9 of the 1961 Convention on the Reduction of Statelessness) (HCR/GS/20/05) state that pursuant to Article 7(1)(a) of the 1961 Convention, loss of nationality is permitted where a person voluntarily renounces nationality in accordance with the law of a Contracting State, but only where the person concerned possesses or acquires another nationality (see paragraph 31 above). Recommendation No. R (99) 18 of the Council of Europe's Committee of Ministers to member States on the avoidance and reduction of statelessness also clearly states that each State should ensure that the renunciation of its nationality does not take place without the possession, actual acquisition or guarantee of acquisition of another nationality. Where another nationality is not acquired or possessed, States should provide that the renunciation is without effect (see paragraph 32 above).

62. However, in the present case, the domestic authorities disregarded the above-mentioned requirements of the United Nations Convention on the Reduction of Statelessness of 30 August 1961, which aim to prevent renunciation of nationality resulting in statelessness, and no explanation was given by the Government in that connection.

63. Furthermore, the Government did not argue that the domestic authorities had not been aware of the fact that termination of the applicant's citizenship would render him a stateless person. In that connection, the Court does not lose sight of the fact that in his request dated 4 June 2015 the applicant expressly indicated that he did not have any nationality other than Azerbaijani nationality.

64. Lastly, the Court cannot overlook the fact that the impugned measure was not accompanied by the necessary procedural safeguards, since the applicant had no opportunity to contest the domestic authorities' decision to terminate his citizenship before the domestic courts (see paragraphs 41-43 above).

65. The foregoing considerations are sufficient to enable the Court to conclude that the impugned measure terminating the applicant's citizenship must be considered arbitrary.

66. Accordingly, there has been a violation of Article 8 of the Convention.

III. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

67. Relying on Articles 10, 13 and 18 of the Convention (see paragraph 1 above), the applicant complained that the deprivation of citizenship had constituted an unjustified interference with his right to freedom of expression, that he had not had effective domestic remedies at his disposal, and that his Convention rights had been restricted for purposes other than those prescribed in the Convention.

68. Having regard to the facts of the case, the submissions of the parties, and its findings above, the Court considers that it has dealt with the main legal question raised by the case, and that there is no need to examine the admissibility and merits of the remaining complaints (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014; *Bagirov v. Azerbaijan*, nos. 81024/12 and 28198/15, § 106, 25 June 2020; and *Ayyubzade v. Azerbaijan*, no. 6180/15, § 60, 2 March 2023).

IV. COMPLIANCE WITH ARTICLES 34 AND 38 OF THE CONVENTION

69. In his observations lodged in reply to those of the Government, the applicant argued that there had been a hindrance to the exercise of his right of individual application under Article 34 of the Convention, and that the Government's failure to submit copies of all the relevant documents which had been in their exclusive possession had amounted to a violation of Article 38 of the Convention. These Articles provide as follows:

Article 34

"The Court may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the Protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right."

Article 38

"The Court shall examine the case together with the representatives of the parties and, if need be, undertake an investigation, for the effective conduct of which the High Contracting Parties concerned shall furnish all necessary facilities."

70. The applicant submitted that attacks on his brother had amounted to an interference with his ability to effectively exercise his right of application

to the Court. In particular, three weeks after the lodging of the present application with the Court, his brother had been arrested and repeatedly harassed by the authorities on account of the applicant's activities. The applicant also submitted that the Government had failed to provide a copy of order no. 1269 of 10 June 2015, or any other document supporting their version of events.

71. The Government contested the applicant's submissions as unsubstantiated, submitting that the present application had been lodged with the Court on 18 December 2015, and the Court had given the Government notice of the application on 24 April 2018. The Government could not therefore have been aware of the application before that date. They further submitted that a first-instance court had convicted the applicant's brother of an ordinary crime on 3 March 2017. The Government did not make any observations in connection with Article 38 of the Convention.

72. The Court reiterates that it is of the utmost importance for the effective operation of the system of individual application guaranteed by Article 34 of the Convention that applicants or potential applicants should be able to communicate freely with the Court without being subjected to any form of pressure from the authorities to withdraw or modify their complaints (see *Akdivar and Others v. Turkey*, 16 September 1996, § 105, *Reports of Judgments and Decisions* 1996-IV, and *Kurt v. Turkey*, 25 May 1998, § 159, *Reports* 1998-III). In this context, "any form of pressure" includes not only direct coercion and flagrant acts of intimidation of applicants or potential applicants or their family members or legal representatives, but also other improper indirect acts or communication designed to dissuade or discourage applicants from pursuing a Convention complaint or having a "chilling effect" on the exercise of their right of individual application (see *Kurt*, cited above, §§ 160 and 164; *Annagi Hajibeyli v. Azerbaijan*, no. 2204/11, § 66, 22 October 2015; and *Hilal Mammadov v. Azerbaijan*, no. 81553/12, § 116, 4 February 2016).

73. The Court also reiterates that States should furnish all necessary facilities to make possible a proper and effective examination of applications. This obligation requires the Contracting States to furnish all necessary facilities to the Court, whether it is conducting a fact-finding investigation or performing its general duties as regards the examination of applications. A failure on a government's part to submit such information which is in their hands without a satisfactory explanation may not only give rise to the drawing of inferences as to the well-foundedness of the applicant's allegations, but may also reflect negatively on the level of compliance by a respondent State with its obligations under Article 38 of the Convention (see *Janowiec and Others v. Russia* [GC], nos. 55508/07 and 29520/09, § 202, ECHR 2013).

74. Turning to the circumstances of the present case, having examined the submissions made by the applicant and the material available to it, the Court finds that there is no sufficient factual basis for it to conclude that the

authorities of the respondent State interfered in any way with the applicant's exercise of his right of individual application in the proceedings before the Court in relation to the present application. In that connection, the Court agrees with the Government's submissions that the Government could not have been aware of the lodging of the present application with the Court at the time when the applicant's brother was arrested.

75. As to the applicant's complaint under Article 38 of the Convention, the Court observes that it did not make any explicit request for the submission of specific documents when notice of the present application was given to the Government. In any event, having regard to its findings reached in the present case (see paragraph 66 above), the Court finds that the incompleteness of certain documents did not prevent it from examining the application (see *Giuliani and Gaggio v. Italy* [GC], no. 23458/02, § 343-44, ECHR 2011 (extracts), and *Gakayeva and Others v. Russia*, nos. 51534/08 and 9 others, § 388, 10 October 2013).

76. In view of the foregoing, the Court finds that the respondent State has not failed to comply with its obligations under Articles 34 and 38 of the Convention.

V. APPLICATION OF ARTICLE 46 OF THE CONVENTION

77. Article 46 of the Convention, in so far as relevant, reads as follows:

> "1. The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties.
>
> 2. The final judgment of the Court shall be transmitted to the Committee of Ministers, which shall supervise its execution. ..."

78. The applicant requested that the Court order Azerbaijan to nullify order no. 1269 of 10 June 2015 and restore his Azerbaijani citizenship. He also asked the Court to indicate general measures to address the arbitrary nature of decisions relating to citizenship in Azerbaijan, which stemmed from the unchecked presidential power to settle issues of nationality.

79. The Government did not make any submissions in that regard.

80. The Court reiterates that a judgment in which it finds a violation of the Convention or its Protocols imposes on the respondent State a legal obligation to choose, subject to supervision by the Committee of Ministers, the general and/or, if appropriate, individual measures to be adopted in its domestic legal order to put an end to the violation found by the Court and to redress as far as possible the effects. The respondent State remains free to choose the means by which it will discharge its legal obligation under Article 46 of the Convention provided that such means are compatible with the "conclusions and spirit" set out in the Court's judgment (see *Ilgar Mammadov v. Azerbaijan* (infringement proceedings) [GC], no. 15172/13, § 195, 29 May 2019). This discretion as to the manner of execution of a judgment reflects the freedom of choice attached to the primary obligation of

the Contracting States under the Convention to secure the rights and freedoms guaranteed (see *Assanidze v. Georgia* [GC], no. 71503/01, § 202, ECHR 2004-II).

81. In the particular circumstances of the present case, the Court does not consider it appropriate to indicate the need for any general or individual measures in respect of Azerbaijan (compare *Makuchyan and Minasyan*, cited above, § 232).

VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

82. 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

83. The applicant made the following three claims in respect of pecuniary damage: 61,884 United States dollars (USD) for loss of earnings in relation to the period he had spent in the embassy of the Swiss Confederation and when he had subsequently arrived in Switzerland; USD 236,281 for payment of the tax debt; and 1,000 Swiss francs (CHF) for legal expenses incurred in obtaining legal status and identity documents in Switzerland.

84. The applicant also claimed 35,000 euros (EUR) in respect of non-pecuniary damage.

85. The Government submitted that the amounts claimed by the applicant in respect of pecuniary damage were unsubstantiated, and that there was no causal link between the damage claimed and the alleged violation of the Convention. The Government also drew attention to the fact that the tax debt in question had not been paid by the applicant, but by the Swiss authorities. They also pointed out that the applicant had not submitted any evidence in support of his contention that he had incurred legal expenses in obtaining legal status and identity documents in Switzerland. The Government furthermore asked the Court to dismiss the applicant's claim in respect of non-pecuniary damage.

86. The Court notes that the present application does not concern the criminal proceedings against the applicant during which he went into hiding, or the question of the lawfulness of the tax debt imposed on him and/or the IRFS. Accordingly, the Court does not discern any causal link between the violation found and the pecuniary damage alleged in respect of loss of earnings and payment of the tax debt (see *Democracy and Human Rights Resource Centre and Mustafayev v. Azerbaijan*, nos. 74288/14 and 64568/16, § 120, 14 October 2021). The Court also observes that the applicant failed to

submit any evidence in support of his claim in respect of legal expenses incurred in Switzerland in obtaining legal status and identity documents. Accordingly, it rejects his claim in respect of pecuniary damage.

87. However, the Court considers that the applicant has suffered non-pecuniary damage which cannot be compensated for solely by the finding of a violation, and that compensation should thus be awarded. Making its assessment on an equitable basis, as required by Article 41 of the Convention, the Court awards the applicant the sum of EUR 4,500 under this head, plus any tax that may be chargeable on this amount.

B. Costs and expenses

88. The applicant did not submit a claim for costs and expenses. Accordingly, the Court considers that there is no call to award him any sum on that account.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Article 8 of the Convention admissible;

2. *Holds* that there has been a violation of Article 8 of the Convention;

3. *Holds* that there is no need to examine separately the admissibility and merits of the complaints under Articles 10, 13 and 18 of the Convention;

4. *Holds* that the respondent State has not failed to comply with its obligations under Articles 34 and 38 of the Convention;

5. *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, EUR 4,500 (four thousand five hundred euros) in respect of non-pecuniary damage, plus any tax that may be chargeable on that amount;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

6. *Dismisses* the remainder of the applicant's claims for just satisfaction.

Done in English, and notified in writing on 13 July 2023, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Renata Degener Registrar	Marko Bošnjak President