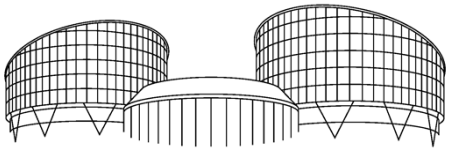

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

CASE OF ROVSHAN HAJIYEV v. AZERBAIJAN

(Applications nos. 19925/12 and 47532/13)

JUDGMENT

Art 10 • Freedom to receive and impart information • Journalist refused access to information of public interest concerning environmental and health impact of former military radar station • Failure to consider procedural requirements and to indicate any substantive grounds for denying access • Manifestly unreasonable interpretation and application of relevant domestic law

STRASBOURG

9 December 2021

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 Rovshan Hajiyev v. Azerbaijan,

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

Síofra O'Leary, *President,*
Mārtiņš Mits,
Stéphanie Mourou-Vikström,
Lətif Hüseynov,
Jovan Ilievski,
Ivana Jelić,
Arnfinn Bårdsen, *judges,*
and Victor Soloveytchik, *Section Registrar,*

Having regard to:

the applications (nos. 19925/12 and 47532/13) 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 Rovshan Bahadur oglu Hajiyev (*Rövşən Bahadur oğlu Hacıyev* – "the applicant"), on 5 March 2012 and 10 January 2013 respectively;

the decision to give notice of the applications to the Azerbaijani Government ("the Government");

the parties' observations;

Having deliberated in private on 16 November 2021,

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

INTRODUCTION

1. The applications, lodged under Articles 6 and 10 of the Convention, concern the denial of access to the information requested by the applicant from the relevant State authorities and the alleged lack of fairness of the domestic proceedings initiated in that regard by the applicant.

THE FACTS

2. The applicant was born in 1961 and lives in Baku. He was represented by Mr R. Hajili and Mrs Z. Sadigova, lawyers based in Strasbourg and Baku respectively.

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

4. The facts of the case, as submitted by the parties, may be summarised as follows.

I. RELEVANT BACKGROUND

5. The applicant was a journalist and editor of the newspaper *Azadlıq*.

6. Gabala Radar Station, which first became operational in 1985, was a Soviet military early warning radar located in the Gabala region of Azerbaijan. It had a range of about 6,000 km and was designed to detect missile launches from as far away as the Indian Ocean. After the dissolution of the Soviet Union, the station became the property of Azerbaijan, but was operated by Russia under a lease agreement until 2012. In 2012, after the events of the present case, the station was closed and all equipment was transported to Russia.

7. By an order of 26 February 2001 the President of Azerbaijan appointed the Azerbaijani side of a joint Azerbaijani-Russian commission ("the Commission") for the purpose of assessing the station's impact on the environment and public health. The Minister of Healthcare was appointed as Chairman of the Commission. By an order of 20 June 2003 the President appointed the Azerbaijani side of a joint commission on monitoring public health and the environment in connection with the station's activity, with the Minister of Healthcare as the chairman but with the rest of the commission's composition different from that created by the order of 26 February 2001.

8. According to the applicant, independent studies showed that the station caused serious public-health problems in the Gabala District and nearby districts.

II. APPLICATION NO. 19925/12

9. On 27 July 2010 the applicant wrote, on his own behalf, to the Ministry of Healthcare, specifying that he was the editor of *Azadlıq* and, with reference to the Law on access to information of 30 September 2005 ("the Law on Access to Information"), requesting the following "information and documents":

> "– Is the State commission created for the purpose of assessing the Gabala Radar Station's impact on the environment and public health ... still active?
>
> – What reports ... have been drawn up and published by relevant State commissions created to date? (we request you to provide us with copies of those reports)."

10. The applicant also noted that the requested information was needed for analysis and discussion of the issues concerning the Gabala Radar Station's environmental and public-health impact.

11. By a letter of 6 August 2010, the Ministry of Healthcare responded that a report prepared by the Commission pursuant to the presidential order of 26 February 2001 had been transmitted to the Cabinet of Ministers.

12. Considering that he had not been provided with the requested information and that the Ministry of Healthcare's reply was in breach of the requirements of the Law on Access to Information, the applicant lodged an action with the Nasimi District Court, seeking a decision ordering the Ministry of Healthcare to provide a copy of the report.

13. In its submissions made before the court, the representative of the Ministry of Healthcare noted that it had no longer been in possession of the report at the time the applicant had made the request and argued that, in the circumstances, it had given a comprehensive reply to the request.

14. By a judgment of 3 February 2011 the Nasimi District Court dismissed the applicant's claim. Referring to, *inter alia*, Article 27 of the Law on Access to Information, it noted that the Ministry of Healthcare was no longer in possession of the report and found that, by having informed the applicant of this fact and "having responded to the other questions", it had fully complied with its obligation to disclose information under the Law on Access to Information.

15. Following an appeal by the applicant, on 2 May 2011 the Baku Court of Appeal upheld the first-instance court's judgment, essentially reiterating its reasoning. In addition, referring to Article 17.2 of the Law on Access to Information, it noted that, as an "information owner" which had not been in possession of the requested information, the Ministry of Healthcare had assisted the applicant in locating the information in question, by informing him that the report had been transmitted to the Cabinet of Ministers.

16. Following a further appeal, on 5 September 2011 the Supreme Court upheld the lower courts' judgments, essentially reiterating their reasoning.

III. APPLICATION NO. 47532/13

17. In the meantime, on 6 December 2010 the applicant wrote to the Cabinet of Ministers, providing the same information concerning himself and the purpose of the request as that submitted to the Ministry of Healthcare, and requesting specifically to be provided with a copy of the report prepared by the Commission pursuant to the presidential order of 26 February 2001.

18. The Cabinet of Ministers received but did not respond to the applicant's request.

19. In February 2011 the applicant lodged an action against the Cabinet of Ministers with Baku Administrative Economic Court No. 1, arguing that the Cabinet of Ministers' failure to respond was in breach of his rights under the Law on Access to Information and Article 10 of the Convention and seeking a decision ordering the Cabinet of Ministers to "execute the information request in accordance with the law".

20. It appears that, while the first-instance proceedings were pending, in April 2011 the applicant repeatedly applied with the same request to the Cabinet of Ministers (no copy of this application is available in the file), but again received no response.

21. During the first-instance proceedings, as well as during the subsequent proceedings before the higher courts, the Cabinet of Ministers

did not send any representatives to any of the court hearings and did not submit any written pleadings.

22. On 23 December 2011 Baku Administrative Economic Court No. 1 dismissed the applicant's claim, reasoning as follows:

> "The court notes that Article 29.1 of the [Law on Access to Information] does not provide for an obligation of an information owner to disclose reports of commissions created for a specific purpose.
>
> Therefore, the court considers that [the applicant's] claim ... cannot be considered as well-founded."

23. The applicant appealed, arguing that the first-instance court's interpretation of Article 29.1 of the Law on Access to Information was incorrect. He submitted that that provision did not limit the scope of obligations of "information owners" to disclose information, but merely provided for a list of types of information that must be publicly disclosed by "information owners" of their own accord, in order to reduce the number of information requests from the public concerning those types of information. Any information which was not mentioned in that provision was required to be disclosed on the basis of an information request, unless access to it was lawfully restricted. The applicant argued that the report requested from the Cabinet of Ministers did not constitute restricted information in accordance with the Law on Access to Information and, therefore, should have been made available to him as information of public interest which he needed for professional reasons as a journalist in order to exercise his right to receive and impart information.

24. On 15 March 2012 the Baku Court of Appeal upheld the first-instance judgment, reiterating the first-instance court's reasoning and finding it lawful. Following a further appeal by the applicant, on 11 July 2012 the Supreme Court upheld the lower courts' judgments, reiterating the same reasoning.

RELEVANT LEGAL FRAMEWORK

25. The following is the summary of the relevant provisions of the Law on Access to Information, as applicable at the material time.

26. Article 3 provided:

> **Article 3 – Principal definitions**
>
> "... 3.0.5. an information owner – state bodies, municipalities, legal entities irrespective of the ownership type, and individuals as determined by Article 9 of this Law to ensure the right of access to information;
>
> 3.0.6. a request for information – a written or oral request to access information;
>
> 3.0.7. a person making a request for information ... – a legal entity or individual applying in writing or verbally to access information;

> 3.0.8. disclosure of information – without a request for information having been made, distribution of information via mass media, official publications, questionnaires or information booklets; placement of information on the internet; declaration of information at briefings, press-releases or conferences; notification of information during official or public events."

27. According to Article 9, State bodies were among those considered as information owners.

28. Article 10 provided for an obligation of information owners to ensure everyone's right of free, unimpeded access to information on equal conditions for all. An information owner was required, *inter alia*, to respond to information requests in the shortest possible time and in a manner most suitable for a person making the request (Article 10.4.1), disclose information which was required to be publicly disclosed in a manner stipulated in the Law (Article 10.4.4), inform the person making the request on restrictions imposed on access to information (Article 10.4.6), and protect the information restricted for access by law (Article 10.4.7).

29. According to Article 17.2, if an information owner to which an information request was addressed was not in possession of the requested information, it were to assist the person making the request with finding where the information in question was held.

30. According to Article 20, having examined a request for information, the information owner's relevant official was required to take one of the following three decisions: refuse the request, grant the request, or forward the request to the relevant information owner.

31. An information owner could refuse to provide access to information in the following cases, *inter alia*: if access was restricted by law (Article 21.1.1); if it was not in possession of the requested information or had difficulties in determining the actual information owner (Article 21.1.2); if the volume of requested information was so large that providing it would significantly disrupt the information owner's official activities or entail unnecessarily high expenses (Article 21.2.3); if responding to a request required systematisation, analysis and documentation of the information (Article 21.2.5).

32. According to Article 21.3, a refusal to provide access to information was to be written in a clear and substantiated manner, to include references to the relevant provisions of the applicable law and to mention the right of the person making the request to challenge the refusal in courts.

33. According to Article 23.1, if a State body or municipality was not in possession of the requested information, it was required to determine the relevant information owner and forward the information request to the latter without a delay, and in any event no later than five working days, and inform the person making the request about it accordingly.

34. Article 29.1 listed the types of information that information owners were obligated to "disclose" (the term defined in Article 3.0.8 cited in

paragraph 26 above) to the public, "in order to meet the public interest in a simpler and more efficient manner and to reduce the number of requests for information". The list, which consisted of thirty-four lines in total, included the following types of information: reports on activities of State bodies and municipalities; information on environment and environmental harm (Article 29.1.14); decisions and orders of State authorities and municipalities; list of information constituting State secrets; and so on.

35. The types of information listed in Article 29.1 could not be requested by way of an individual information request, subject to certain exceptions not relevant to the present case (Article 29.2).

36. According to Article 34.1, information was divided into two types: information open for general use and restricted information. Any information which was not restricted by law was considered open information (Article 34.2). Restricted information was either secret (*məxfi*), which included State secrets, or confidential (*gizli (konfidensial)*), which included various professional and commercial information and confidential investigative and court material (Articles 34.3 and 34.4). Private information could be either confidential or open (Article 34.4).

37. According to Article 35.1, an information owner could restrict access to certain information which it considered to be designated for official use (*xidməti istifadə*). Such restriction was limited in time and could apply to the following types of information, *inter alia*: information which, if disclosed prematurely, could hinder or potentially hinder formation, development or successful completion of State policies, until there was an agreement on completion of the relevant process (Article 35.2.3); information which, if disclosed prematurely, could disrupt or potentially disrupt processes involving an exchange of ideas and consultations within a State body, until a relevant final decision was taken (Article 35.2.5); documents originating from foreign States or international organisations, until a mutual agreement concerning their disclosure was obtained (Article 35.2.8); and "information endangering or potentially endangering the environment", until the causes of such danger were eliminated (Article 35.2.9). In any event, the time-limit for restriction on access to information designated for official use could not exceed five years (Article 40.1).

THE LAW

I. JOINDER OF THE APPLICATIONS

38. 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 10 OF THE CONVENTION

39. The applicant complained that the denial of access to the information sought by him from the relevant State authorities had been in breach of his right under Article 10 of the Convention to access information of public interest. Article 10 of the Convention 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

1. The parties' submissions

40. The Government raised no objections as to the admissibility of the complaint, other than arguing that it was partly substantively unmeritorious (see paragraph 54 below).

41. The applicant submitted that Article 10 of the Convention was applicable to his complaint because the requested access to State-held information was instrumental for the exercise of his right to freedom of expression.

2. The Court's assessment

42. Although the Government have not raised an objection as regards the applicability of Article 10 of the Convention, the Court considers that it must address this issue of its own motion.

43. At the outset, the Court notes that, in the present case, the applicant sent two consecutive information requests to the Ministry of Healthcare and to the Cabinet of Ministers respectively and, having received, in his view, an incomplete reply to the first request and subsequently no reply to the second one, he instituted two separate sets of proceedings against the mentioned authorities. The Court notes that the texts of the relevant requests were not identical. However, both requests made by the applicant to two different State authorities concerned access to the same State-held information relating to the assessment of the environmental and public-health impact of the Gabala Radar Station and, as such, should be

considered to have constituted essentially the same information request (see paragraphs 9-10 and 17 above).

44. The Court reiterates that Article 10 does not confer on the individual a right of access to information held by a public authority or oblige the Government to impart such information to the individual. However, such a right or obligation may arise where access to the information is instrumental for the individual's exercise of his or her right to freedom of expression, in particular "the freedom to receive and impart information" and where its denial constitutes an interference with that right (see *Magyar Helsinki Bizottság v. Hungary* [GC], no. 18030/11, § 156, 8 November 2016).

45. In determining this question the Court will be guided by the principles laid down in *Magyar Helsinki Bizottság* (ibid., §§ 149-80) and will assess the case in the light of its particular circumstances and having regard to the following criteria: (a) the purpose of the information request; (b) the nature of the information sought; (c) the role of the applicant; and (d) whether the information was ready and available.

46. As regards the purpose of the information request and the role of the applicant, the Court notes that the applicant was a journalist at the material time and worked as an editor of *Azadlıq* newspaper. The applicant expressly informed the relevant State authorities that he needed the information in question as a journalist in order to analyse and report on the issues concerning the Gabala Radar Station's environmental and public-health impact (see paragraphs 10 and 17 above). Therefore, in view of the applicant's role and the purpose for which he sought the information in question, the Court is satisfied that the requested information was instrumental for the performance of his professional duties as a journalist.

47. As regards the nature of the information, the Court reiterates that the information to which access is sought must meet a public-interest test. The public interest relates to matters which affect the public to such an extent that it may legitimately take an interest in them, which attract its attention or which concern it to a significant degree, especially in that they affect the well-being of citizens or the life of the community. This is also the case with regard to matters which are capable of giving rise to considerable controversy, which concern an important social issue, or which involve a problem that the public would have an interest in being informed about. What might constitute a subject of public interest will, moreover, depend on the circumstances of each case (see *Magyar Helsinki Bizottság*, cited above, § 162, with further references). In the present case, the Court considers that, by its very nature, the information requested was clearly of general public importance, as it concerned the potential impact of the radar station on the health and well-being of the population of the area where the station was located (see paragraphs 7-8 above). As such, the requested information constituted a matter of public interest.

48. Finally, in so far as the applicant sought to obtain a copy of the Commission's report, the very existence of which has never been disputed and of which the applicant was, in fact, informed in the Ministry of Healthcare's letter of 6 August 2010, the Court considers that the information in question was, in principle, ready and available and that the request did not pose any practical difficulties or an unreasonable burden for the authorities to gather the requested information.

49. In sum, the Court is satisfied that the information sought by the applicant, which was ready and available, constituted a matter of public interest. Access to this information was instrumental for the applicant, as a journalist, to exercise his right to receive and impart information.

50. For these reasons, Article 10 of the Convention is applicable.

51. The Court further notes that the 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

52. The applicant contested the Government's submission that the Cabinet of Ministers was not an "information owner" within the meaning of domestic law (see paragraph 54 below), arguing that that authority had been in possession of the report as officially confirmed by the Ministry of Healthcare. He added that, moreover, the Ministry of Healthcare itself also should have been in possession of a copy of the report. In any event, even if that was not the case, as required by Article 23.1 of the Law on Access to Information, the Ministry of Healthcare should have forwarded the information request to the Cabinet of Ministers, instead of providing an incomplete response to him. Moreover, the Cabinet of Ministers' subsequent complete failure to respond to his second request was in breach of Article 21.3 of that Law.

53. The applicant argued that there had been no substantive lawful grounds for the authorities' denial of access to the requested information. The contents of the Commission's report did not belong to any categories of restricted information. In the absence of public disclosure of the report's contents by the authorities of their own accord in accordance with Article 29.1 of the Law on Access to Information, the authorities had been required by law to provide access to it on the basis of an information request. The domestic courts had failed to give a correct factual and legal assessment of the case. In particular, in the second set of proceedings, the domestic courts had given a manifestly incorrect interpretation of Article 29 of the Law on Access to Information in order to justify the Cabinet of Ministers' inaction.

54. The Government submitted that the domestic courts had correctly concluded that the Ministry of Healthcare had "executed" the applicant's request by responding to his letter. The Government further noted that, since the Commission had been established by the President, the report in question had to be ultimately submitted to the President. In such circumstances, it was the President who was the "information owner" in the present case, and not the Cabinet of Ministers. Although the report had been submitted by the Commission to the Cabinet of Ministers "in accordance with the system of hierarchy", the latter could not be considered an information owner and, therefore, the domestic courts had been correct in dismissing the applicant's complaints.

2. The Court's assessment

55. Having regard to its findings in paragraphs 49-50 above, and noting that the applicant did not receive the Commission's report, the Court considers that the domestic authorities interfered with his rights enshrined in Article 10 § 1 of the Convention.

56. The Court reiterates that an interference with an applicant's rights under Article 10 § 1 will infringe the Convention if it does not meet the requirements of Article 10 § 2. It should therefore be determined 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.

57. The principles relevant to an assessment of whether an interference with freedom of expression was "prescribed by law" have been summarised in *Satakunnan Markkinapörssi Oy and Satamedia Oy v. Finland* ([GC], no. 931/13, §§ 142-45, 27 June 2017). Moreover, the Court reiterates that its power to review compliance with domestic law is limited and it is in the first place for the national authorities, notably the courts, to interpret and apply domestic law, since the national authorities are, in the nature of things, particularly qualified to settle the issues arising in this connection. Unless the interpretation is arbitrary or manifestly unreasonable, the Court's role is confined to ascertaining whether the effects of that interpretation are compatible with the Convention (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 149, 20 March 2018, and *Centre for Democracy and the Rule of Law v. Ukraine*, no. 10090/16, § 108, 26 March 2020). Nor is it for the Court to express a view on the appropriateness of the methods chosen by the legislature of a respondent State to regulate a given field. Its task is confined to determining whether the methods adopted and the effects they entail are in conformity with the Convention (see *Gorzelik and Others v. Poland* [GC], no. 44158/98, § 67, ECHR 2004-I).

58. In assessing the lawfulness of the interference in the present case, the Court will have regard to the text of the relevant law itself as well as the manner in which it was applied and interpreted by the domestic authorities

and courts (see, *mutatis mutandis*, *Jafarov and Others v. Azerbaijan*, no. 27309/14, § 70, 25 July 2019).

59. At the outset, the Court notes that it cannot accept the Government's argument that the information in question should have been requested from the President (see paragraph 54 above), because that argument was not supported by any references to relevant domestic law or practice and because no findings of that nature had been made by the domestic courts. Turning next to the lawfulness of the response given to the applicant by the Ministry of Healthcare, the Court notes that, indeed, as argued by the applicant, it appears that the domestic courts had not adequately addressed the issue of whether the Ministry of Healthcare's response to the applicant's first request had been compliant with Article 23.1 of the Law on Access to Information, which provided that, in situations where the State authority to which the information request had been directed was not in possession of that information, it was required to forward that request to the relevant "information owner" (see paragraph 33 above). Arguably, if it was true that the Ministry did not have the report, under that provision, the Ministry of Healthcare should have forwarded the request to the relevant authority of its own motion and should have informed the applicant about it, which was not done in the present case.

60. Nevertheless, despite the above, the applicant himself applied to the Cabinet of Ministers for a copy of the report but received no reply. In this connection, the Court notes, in particular, that Article 21.3 of the Law on Access to Information required that a refusal to provide access to information was to be made in writing and in a substantiated manner, including references to the applicable provisions of the domestic law serving as a ground for the refusal (see paragraph 32 above). Accordingly, the Cabinet of Ministers' failure to respond to the request was in apparent breach of the above legal requirement. However, this matter was not at all addressed by the domestic courts.

61. Moreover, the Court notes that the reasoning provided by the domestic courts for dismissing the applicant's claim against the Cabinet of Ministers was essentially confined to holding, with reference to Article 29.1 of the Law on Access to Information, that that provision "[did] not provide for an obligation of an information owner to disclose reports of commissions created for a specific purpose" (see paragraph 22 above). Accordingly, the courts found that Article 29.1 of the Law on Access to Information constituted the sole substantive legal basis for denying the applicant access to the report. For the reasons specified below, the Court cannot but agree with the applicant's submission that, in the circumstances of the present case, this finding was based on a manifestly unreasonable interpretation and application of the domestic law.

62. In particular, having regard to the text of Article 29.1 of the Law on Access to Information, read in conjunction with Article 3.0.8 of that Law,

the Court notes that it clearly concerned only the types of information which were required to be publicly disclosed by information owners of their own accord and not in response to individual requests for information (see paragraphs 26 and 34 above). In other words, it did not, as such, limit access by members of the public to State-held information. On the contrary, it facilitated such access by requiring information owners to disclose certain types of often-sought information to the public at large. Within the textual meaning of the relevant provisions of the Law on Access to Information, it appears that access to information which did not belong to the types specifically listed in Article 29.1 could be sought by way of a request for information made on an individual basis (see, *inter alia*, Articles 3.0.6 and 3.0.7 in paragraph 26 above, Article 10 in paragraph 28 above, and Article 29.2 in paragraph 35 above) and that the relevant information owners were required to provide such access to the person making the request, unless the requested information was lawfully restricted for access or there were other specifically defined grounds for refusing to provide access (see, *inter alia*, Articles 10, 20 and 21 in paragraphs 28, 30 and 31 above, respectively).

63. In the present case, the report requested by the applicant had not been publicly disclosed by the State authorities of their own accord under Article 29.1 of the Law on Access to Information. Moreover, it has never been established that it belonged to the types of information which the State authorities were required to disclose under that provision and, in fact, the courts in the present case expressly ruled that it did not.

64. It therefore follows that, by relying on Article 29.1 of the Law on Access to Information, without dealing with its scope of applicability and exact meaning, the domestic courts failed to establish that that provision could constitute a relevant and applicable substantive legal basis for denying to the applicant access to the requested information. Moreover, the crux of the applicant's claim did not concern any failure by the State authorities to disclose the contents of the report of their own accord, but concerned the alleged breach of the legal requirements applicable to processing individual requests for information. However, the domestic courts failed to assess the issues put before them in the light of the requirements of those legal provisions which were actually relevant and applicable to the situation at hand (compare *Yuriy Chumak v. Ukraine*, no. 23897/10, § 45, 18 March 2021, and, *mutatis mutandis*, *Akhverdiyev v. Azerbaijan*, no. 76254/11, § 97, 29 January 2015). In particular, they failed to duly assess the compliance of the information owner with the procedural requirements concerning a written response to an information request, as well as the existence of any applicable substantive grounds for a refusal to provide access to information, such as, *inter alia*, whether the requested information was lawfully restricted for access.

65. In sum, the Court considers that it has not been demonstrated that the denial of access to the requested information by either of the two State authorities in question was in compliance with the procedural requirements of the domestic law and that no relevant substantive legal basis for such denial has been put forward either by the domestic authorities or courts or by the Government. The domestic courts dismissed the applicant's claims against both authorities without due regard to the applicable provisions of the Law on Access to Information and, moreover, in so far as the claim against the Cabinet of Ministers is concerned, they dismissed it by having interpreted and applied the domestic law in a manifestly unreasonable manner.

66. The foregoing considerations are sufficient to enable the Court to conclude that the interference with the applicant's rights in the present case was not "prescribed by law". Having reached that conclusion, the Court does not need to satisfy itself that the other requirements of Article 10 § 2 (legitimate aim and necessity of the interference) have been complied with.

67. There has accordingly been a violation of Article 10 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

68. The applicant complained under Article 6 of the Convention that the domestic courts' judgments in both sets of proceedings had not been adequately reasoned, because the courts had failed to correctly assess his arguments from the standpoint of the domestic law.

69. Having regard to the conclusion reached above under Article 10 of the Convention (see paragraphs 65-67 above) and the parties' submissions, the Court considers that there is no need to give a separate ruling on the admissibility and merits of this complaint in the present case (compare *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

70. 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

71. The applicant claimed 7,000 euros (EUR) in respect of non-pecuniary damage.

72. The Government argued that the claim was excessive.

73. Regard being had to the approach taken in similar cases (see, in particular, *Társaság a Szabadságjogokért v. Hungary*, no. 37374/05, § 41, 14 April 2009; *Centre for Democracy and the Rule of Law*, cited above, § 124; and *Yuriy Chumak*, cited above, § 55), the Court considers that the finding of a violation constitutes, in the specific circumstances of the present case, sufficient just satisfaction for any non-pecuniary damage which the applicant may have suffered and therefore makes no award under this head.

B. Costs and expenses

74. The applicant also claimed EUR 6,552 for the costs and expenses incurred before the domestic courts and the Court. In support of this claim he submitted copies of two contracts for legal services concluded with his representatives. He also requested the Court that any award made in respect of costs and expenses be paid directly to one of his representatives, Mr R. Hajili.

75. The Government argued that the claim was excessive and unreasonable. They noted that an award in the amount of 1,500 Azerbaijani manats would be reasonable under this head.

76. 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.

C. Default interest

77. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;

2. *Declares* the complaint under Article 10 of the Convention admissible;

3. *Holds* that there has been a violation of Article 10 of the Convention;

4. *Holds* that there is no need to examine the admissibility and merits of the complaint under Article 6 of the Convention;

5. *Holds* that the finding of a violation constitutes in itself sufficient just satisfaction for the non-pecuniary damage sustained by the applicant;

6. *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 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 into the bank account of the applicant's representative, Mr R. Hajili;
   (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;

7. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 9 December 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

{signature_p_2}

Victor Soloveytchik	Síofra O'Leary
Registrar	President