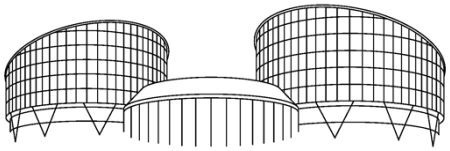

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF TAHIROV v. AZERBAIJAN

(Application no. 31953/11)

JUDGMENT

STRASBOURG

11 June 2015

FINAL

11/09/2015

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

In the case of Tahirov v. Azerbaijan,

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

Isabelle Berro, *President,*
Elisabeth Steiner,
Khanlar Hajiyev,
Mirjana Lazarova Trajkovska,
Julia Laffranque,
Ksenija Turković,
Dmitry Dedov, *judges,*
and Søren Nielsen, *Section Registrar,*

Having deliberated in private on 19 May 2015,

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

PROCEDURE

1. The case originated in an application (no. 31953/11) 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 Ogtay Agja oglu Tahirov (*Oqtay Ağca oğlu Tahirov* – "the applicant"), on 5 May 2011.

2. The applicant, who had been granted legal aid, was represented by Mr R. Mustafazade and Mr A. Mustafayev, lawyers practising in Azerbaijan. The Azerbaijani Government ("the Government") were represented by their Agent, Mr Ç. Asgarov.

3. The applicant alleged, in particular, that he had been arbitrarily refused registration as a candidate in the 2010 parliamentary elections and that he had been discriminated against on the ground of his political affiliation.

4. On 30 August 2013 the complaints under Article 3 of Protocol No. 1 to the Convention and Article 14 of the Convention were communicated to the Government and the remainder of the application was declared inadmissible.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1952 and lives in Sumgayit.

6. The applicant nominated himself to stand as an independent candidate in the parliamentary elections of 7 November 2010 and applied for registration as a candidate in the single-mandate Sumgayit-Absheron Electoral Constituency No. 44.

A. Refusal to register the applicant as a candidate

7. As the Electoral Code required that each nomination as a candidate for parliamentary elections be supported by a minimum of 450 voters, on 6 October 2010 the applicant submitted to the Constituency Electoral Commission ("the ConEC") twelve signature sheets containing 600 voter signatures collected in support of his candidacy.

8. Before the ConEC's decision on the question of the applicant's registration as a candidate, the accuracy of the signature sheets and other registration documents submitted by the applicant were to be first examined by a special working group (*işçi qrupu*) established by the ConEC.

9. On 11 October 2010, the applicant was invited to the ConEC. He was informed that the validity of supporting signatures submitted by him had already been examined by the ConEC working group and that, based on the results of that examination, the ConEC had held a hearing on whether to register him as a candidate. According to the applicant, he orally protested to the fact that he had not been informed of the time of the examination by the working group of his signature sheets and that the ConEC had taken a decision without his participation.

10. On 12 October 2010 the applicant was informed that by a decision of 11 October 2010 the ConEC had refused the applicant's request for registration as a candidate. The ConEC found that, according to the opinion of the working group, a number of submitted supporting signatures were invalid, and that the number of the remaining valid signatures was below 450. According to the ConEC decision, the working group had relied on opinions of two of its experts. In particular, expert M.M. found that 172 signatures were not authentic, because they had been executed repeatedly by the same persons who had already signed the signature sheets. Expert A.V. found that a total of 243 signatures were invalid. No more detail was given in the ConEC decision as for the reasons for the invalidation of those signatures.

11. The applicant was provided with a copy of the ConEC decision on 12 October 2010. However, the relevant expert opinions were not made available to him until a further written request by the applicant to this effect.

12. According to the applicant, the expert opinion by M.M. was undated, while the expert opinion by A.V. was dated 11 October 2010. No copies of those expert opinions were submitted to the Court either by the applicant or the Government. However, it can be discerned from other documents in the case file that, according to those expert opinions, the following grounds

were given for invalidation of some of the signatures: (a) 86 groups of signatures, consisting of a total of 258 signatures, had been "probably (*ehtimal ki*) executed by the same person in each group"; for these reasons, 86 of those signatures were deemed valid, while the remaining 172 were considered invalid; (b) eight signatures were found to be invalid because the information on voters' addresses was incomplete (only the city of residence was mentioned); and (c) 60 signatures were considered invalid because the information on the relevant voters' addresses omitted the city of residence (all those voters lived in Sumgayit).

B. Appeal to the Central Electoral Commission

13. On 14 October 2010 the applicant lodged a complaint with the Central Electoral Commission ("the CEC") against the ConEC decision to refuse registration. He complained, *inter alia*, of the following:

(a) contrary to the requirements of Article 59.3 of the Electoral Code, the applicant had not been invited to participate in the process of examination of the signature sheets by the ConEC working group and, thus, deprived of the right to give necessary explanations to the experts;

(b) contrary to the requirements of Article 59.13 of the Electoral Code, he had not been provided with a copy of the record on the results of the examination of the signature sheets at least twenty-four hours prior to the ConEC meeting on the applicant's registration;

(c) the applicant's presence at the ConEC meeting of 11 October 2010 had not been ensured; and

(d) the findings of the ConEC working group that such a large number of signatures were invalid were factually wrong, arbitrary and unjustifiably formalistic. In particular, the finding that 172 signatures were "executed by the same person" was accepted as an established fact merely on the basis of an indication of such probability by the expert, in the absence of any further factual verification. Furthermore, invalidation of the remaining signatures owing to incomplete information on the voters' addresses had been wrong, because such information was not "incorrect" within the meaning of Article 59.7.1 of the Electoral Code (on which the ConEC had relied), but simply incomplete and could, therefore, be rectified if the applicant had been given an opportunity to do so as required by the Electoral Code. In the applicant's view, taking into account the territorial location of the constituency, it should have been clear to the ConEC that the relevant voters resided in Sumgayit, even though they had not mentioned the city of residence on the signature sheets.

14. Enclosed with his complaint to the CEC, the applicant submitted written statements by ninety-one voters, whose signatures had been declared invalid, affirming the authenticity of their signatures. He also submitted photocopies of ID cards of several voters in order to clarify the situation

with their residence addresses. However, according to the applicant, those documents were not taken into consideration by the CEC.

15. The CEC conducted another examination of the signature sheets by members of its own working group. The applicant was not invited to participate in this process. According to the working group's minutes of 15 October 2010 and two expert opinions, a total of 178 signatures were considered to be invalid. In particular, expert A.A. found that three signatures were invalid because they belonged to persons with no right to vote (minors under eighteen years of age) and that three other signatures had been executed by persons whose identification document number was stated incorrectly. Expert U.A. found that "45 groups of signatures, consisting of a total of 217 signatures, had been probably executed by the same person in each group" (*"217 ədəd imza 45 qrup olmaqla öz aralarında ehtimal ki, eyni şəxs tərəfindən icra olunmuşdur"*). This meant that one signature in each such group should be considered valid (a total of 45), while the remainder should be considered invalid (a total of 172).

16. The applicant was not invited to the CEC meeting dealing with his complaint against the ConEC decision of 11 October 2010.

17. By a decision of 17 October 2010 the CEC dismissed the applicant's complaint and upheld the ConEC decision of 11 October 2010. It found that, based on the findings of the CEC's own working group, 178 out of 600 signatures submitted by the applicant were invalid and that the remaining number of 422 valid signatures was below the minimum required by law.

18. The applicant was given copies of the CEC decision and the relevant working group documents on 18 October 2010.

C. Appeals to domestic courts

19. On 20 October 2010 the applicant lodged an appeal against the CEC decision with the Baku Court of Appeal. He reiterated his complaints made before the CEC concerning the ConEC decision and procedures. Moreover, he raised, *inter alia*, the following complaints:

(a) contrary to the requirements of the electoral law, the CEC failed to notify him of its meetings and to ensure his presence during the examination of the signature sheets and the examination of his complaint;

(b) the relevant CEC documents had been made available to him in a belated manner, which was contrary to the requirements of the electoral law and had deprived him of the opportunity to challenge the decisions of the CEC and its working group more effectively;

(c) both electoral commissions' decisions were based on expert opinions that contained nothing more than conjecture and speculation (that the signatures were "probably" ("*ehtimal ki*") falsified), instead of properly established facts;

(d) the CEC had ignored the written statements by ninety-one voters confirming the authenticity of their invalidated signatures and had failed to take them into account; and

(e) the CEC had failed to provide any reasoning and had not addressed any of the applicant's arguments in its decision.

20. By a judgment of 23 October 2010 the Baku Court of Appeal dismissed the applicant's appeal. In its judgment, the court took note of the ConEC and CEC decisions, proceeded to cite a number of provisions of the Electoral Code and the Code of Civil Procedure without explaining their relevance to the facts of the case at hand, did not address any of the applicant's arguments, and dismissed his appeal as "unsubstantiated" without providing reasons for reaching such a conclusion.

21. On 30 October 2010 the applicant lodged a further appeal with the Supreme Court, reiterating his previous complaints and arguing that the Baku Court of Appeal had not carried out a fair examination of the case and had delivered an unreasoned judgment.

22. On 2 November 2010 the Supreme Court dismissed the applicant's appeal as unsubstantiated, without examining his arguments in detail and finding no grounds for doubting the findings of the electoral commissions and the Court of Appeal.

II. RELEVANT DOMESTIC LAW

A. The Electoral Code

23. Elections and referenda are organised and carried out by electoral commissions, which are competent to deal with a wide range of issues relating to the electoral process (Article 17). There are three levels of electoral commissions: (a) the Central Electoral Commission ("the CEC"); (b) constituency electoral commissions ("the ConEC"); and (c) precinct (polling station) electoral commissions ("the PEC") (Article 18.1). A more detailed summary of the system of electoral commissions, their composition and decision-making procedures, as well as the procedure for examination of election-related appeals, is provided in *Namat Aliyev v. Azerbaijan* (no. 18705/06, §§ 31-44, 8 April 2010).

24. Article 57 of the Electoral Code established the rules for collecting signatures in support of candidates. It read, in the relevant part:

> "57.4. A voter shall record the following information when signing the signature sheet: surname, forename, patronymic, date of birth, address of residence, serial number and number of the ID card or substitute document and its date of issue, and date of signature. This information may be recorded on the signature sheet by the person collecting signatures. This information shall be recorded by hand and its confidentiality ensured."

25. Article 59 of the Electoral Code set out the rules for examination by electoral commissions of the accuracy of signature sheets and other documents submitted by candidates, political parties or blocs of political parties. It provided as follows, in the relevant parts:

> "59.2. An electoral commission may apply to the relevant authorities with the purpose of verifying the accuracy of information and facts submitted in accordance with this Code. ... The relevant electoral commission may decide to create working groups of experts for the purpose of checking the accuracy of signatures and relevant information contained in signature sheets. ... Opinions [of experts of these working groups] shall be accepted as the basis for approving or rejecting the accuracy of the information in the signature sheets. Electoral commissions may use the electoral rolls and the civil registry in order check the accuracy of information in the signature sheets.
>
> 59.3. Candidates and their authorised representatives, as well as authorised representatives of political parties or blocs of political parties, may be present during the process of examination of signature sheets at the relevant electoral commission. The relevant electoral commission shall give advance notice to the above-mentioned persons about the examination of signature sheets. The electoral commission may not object to or obstruct the participation in this procedure of the above-mentioned persons sent by a candidate, political party or bloc of political parties. All signatures in the signature sheets shall be examined.
>
> ...
>
> 59.6. If several signatures of the same person are found during examination of the signature sheets, only one of that person's signatures shall be considered valid and the others shall be considered incorrect.
>
> 59.7. In addition to the circumstances mentioned in Article 59.6 of this Code, the following signatures shall also be considered incorrect:
>
> > 59.7.1. Signatures of persons who do not have the right to vote or voters who provided incorrect information, as determined by a statement given by the relevant executive authority or by an expert opinion mentioned in Article 59.2 of this Code;
> >
> > ...
> >
> > 59.7.4. Signatures made by one person on behalf of several people, or by several people on behalf of one person; ...
>
> ...
>
> 59.13. The head of the working group and a member of the relevant electoral commission with a decisive voting right shall prepare a record [*protokol*] on the results of the examination of the signature sheets of each candidate, sign it, and submit to the electoral commission for a decision. The results record shall indicate the number of examined signatures and the number of invalid signatures, together with grounds for invalidation. The results record shall be annexed to the relevant decision of the electoral commission. A copy of the results record shall be given to the candidate or authorised representative of a political party or bloc of political parties at least 24 hours prior to the electoral commission's meeting on registration of a candidate. If it is found during the examination of signatures that their number is below the required, the candidate ... shall have the right to obtain, in addition to the copy of the results record approved by the head of the working group, also a copy of

the chart on the results of examination indicating the line numbers of the specific signature sheets and the number of the relevant folder containing the grounds for invalidation of voter signatures."

26. Article 60 of the Electoral Code, providing for a procedure for registration as a candidate, read as follows, in the relevant parts:

"60.1. The relevant electoral commission shall take a reasoned decision to register or to refuse to register a candidate within seven days of receiving the signature sheets and other documents required for registration of the candidate. ...

60.2. Within one day after the delivery of the decision to register a candidate, the relevant electoral commission must provide a copy of the decision to the candidate or authorised representatives of a political party or bloc of political parties that nominated the candidate. In the case of refusal to register, grounds for such refusal must be indicated. The following can be a ground for the refusal to register:

...

60.2.4. the number of submitted valid (correct) voter signatures presented in support of a candidate is less than the required number;

...

60.3. Where the grounds indicated in Article 60.2 of this Code are taken as a basis for refusing registration, the decision should be proportional to the mistake, shortcoming or breach made.

60.4. If the grounds provided for in Articles 60.2.2 and 60.2.4 of this Code apply, and if the mistakes and breaches can be eliminated from the relevant documents through corrections by the candidate or authorised representative of a political party or bloc of political parties, then the relevant electoral commission shall notify the candidate or the relevant authorised representative ... within a period of 24 hours, and shall register the candidate after the necessary corrections are made."

27. Article 112-1 of the Electoral Code, providing for a procedure for the examination of complaints concerning violations of citizens' electoral rights, provided as follows:

"112-1.7. Rules for conducting meetings related to the examination of complaints by an electoral commission shall be determined by the Central Electoral Commission. If an applicant expressed a wish to attend the meeting in his or her appeal, he or she must be personally informed about the place and time of the meeting by telephone or mail, a day prior to the meeting."

28. Article 147 of the Electoral Code provided as follows, in respect of elections to the National Assembly:

"147.1. At least 450 voters' signatures should be collected in support of a candidate within the territory of the constituency for which he or she has been nominated."

B. Regulations adopted by the Central Electoral Commission concerning electoral commissions' working groups examining supporting signatures

29. Regulations on working groups established for the purpose of checking the accuracy of the information in signature sheets and other election documents submitted to electoral commissions, adopted by the CEC on 4 July 2008, as amended on 23 July 2010, provided as follows:

"**1. General provisions**

...

1.2. A working group is set up by the relevant electoral commission in accordance with Article 59.2 of the Electoral Code for the purpose of checking the accuracy of the information in election documents and signature sheets.

1.3. Experts [*ekspert*] of the Centre of Forensic Science of the Ministry of Justice and experts chosen among the specialists [*mütəxəssis*] of the Ministry of Finance, the Ministry of Interior, the Ministry of Tax, the State Registry of Immovable Property, the State Committee on Management of State Property, the State Statistics Committee and other agencies can be included in the composition of the working group.

2. Procedure for forming the working group

2.1. The working group is set up pursuant to a decision of the relevant electoral commission.

2.2. The working group is chaired by a member of the electoral commission with a decisive voting right.

2.3. Members of the working group are involved in the group's work with the consent of head officials of the relevant State agencies and carry out their duties [as members of the working group] by temporarily leaving their main job.

2.4. During the period of their activity members of the working group receive salary in accordance with a contract concluded with the relevant electoral commission and in the amount determined by the commission.

3. Rights of the working group and its chairman

3.1. The working group has the following rights:

3.1.1. within its competence, to request and receive information on necessary issues from the relevant entities (candidates, political parties, authorised representatives of blocs of political parties, persons collecting supporting signatures, voters and the relevant authorities);

3.1.2. in order to ensure that its duties are carried out lawfully, to apply to the relevant State authorities, municipalities and other authorities and to request information and materials within its competence;

3.1.3. to issue opinions on the accuracy of the information in signature sheets and, having drawn up a record on the results of examination of signature sheets for each candidate, to submit it to the chairman of the group;

...

4. Duties of the working group

4.1. The experts [*ekspert*] and specialists [*mütəxəssis*] included in the working group check the accuracy of the information in signature sheets and give separate opinions in this respect. Opinions of the working group experts shall be accepted as a basis for confirming the accuracy of the information in signature sheets and other election documents.

4.2. The chairman of the working group draws up a separate record on the results of examination of signature sheets in respect of each candidate and signs it. The results record, together with the annexed expert opinions and the examination chart, is submitted to the relevant electoral commission for a relevant decision. A copy of the results record is presented to the candidate or his authorised representative ... at least twenty-four hours before the meeting of the relevant electoral commission which has the issue of the candidate's registration on its agenda. ..."

III. INTERNATIONAL DOCUMENTS

A. Code of Good Practice in Electoral Matters

30. The relevant excerpts from the Code of Good Practice in Electoral Matters (Guidelines and Explanatory Report) (CDL-AD (2002) 23 rev), adopted by the European Commission for Democracy Through Law ("the Venice Commission") at its 51st and 52nd sessions (5-6 July and 18-19 October 2002), read as follows:

"GUIDELINES ON ELECTIONS

...

1.3. Submission of candidatures

i. The presentation of individual candidates or lists of candidates may be made conditional on the collection of a minimum number of signatures;

ii. The law should not require collection of the signatures of more than 1% of voters in the constituency concerned;

iii. Checking of signatures must be governed by clear rules, particularly concerning deadlines;

iv. The checking process must in principle cover all signatures; however, once it has been established beyond doubt that the requisite number of signatures has been collected, the remaining signatures need not be checked;

v. Validation of signatures must be completed by the start of the election campaign;

vi. If a deposit is required, it must be refundable should the candidate or party exceed a certain score; the sum and the score requested should not be excessive.

...

EXPLANATORY REPORT

...

1.3. Submission of candidatures

8. The obligation to collect a specific number of *signatures* in order to be able to stand is theoretically compatible with the principle of universal suffrage. In practice, only the most marginal parties seem to have any difficulty gathering the requisite number of signatures, provided that the rules on signatures are not used to bar candidates from standing for office. In order to prevent such manipulation, it is preferable for the law to set a maximum 1% signature requirement. The signature verification procedure must follow clear rules, particularly with regard to deadlines, and be applied to all the signatures rather than just a sample; however, once the verification shows beyond doubt that the requisite number of signatures has been obtained, the remaining signatures need not be checked. In all cases candidatures must be validated by the start of the election campaign, because late validation places some parties and candidates at a disadvantage in the campaign.

9. There is another procedure where candidates or parties must pay a deposit, which is only refunded if the candidate or party concerned goes on to win more than a certain percentage of the vote. Such practices appear to be more effective than collecting signatures. However, the amount of the deposit and the number of votes needed for it to be reimbursed should not be excessive."

B. The Organisation for Security and Cooperation in Europe, Office for Democratic Institutions and Human Rights (OSCE/ODIHR) Election Observation Mission Final Report on the Parliamentary Elections of 7 November 2010 (Warsaw, 25 January 2011) ("the OSCE Report")

31. The relevant excerpts from the OSCE Report read as follows:

"V. THE ELECTION ADMINISTRATION

The 7 November parliamentary elections were administered by a three-tiered system of election administration, headed by the 18-member CEC. There are 125 ConECs and 5,175 PECs. These election commissions are permanent bodies appointed for a five-year term. Members of the CEC are elected by parliament, ConECs are appointed by the CEC, and PECs by the relevant ConECs.

...

According to the Election Code, the composition of all election commissions reflects the representation of political forces in the parliament: three equal quotas are reserved for members nominated by the parliamentary majority (i.e. YAP), parliamentarians elected as independent candidates, and the parliamentary minority (defined as the remaining political parties represented in the parliament).

This formula remains highly contentious, since in practice it establishes the domination of the election administration by pro-government forces, which have a decisive majority in all commissions. Moreover, the chairpersons of all election commissions are by law nominees of the parliamentary majority. This domination undermines confidence in the independence and impartiality of election administration bodies and does not ensure that they enjoy public confidence. The OSCE/ODIHR and the Venice Commission have repeatedly recommended that the formula be revised in a manner which would ensure that election commissions are not dominated by pro-government forces and enjoy public confidence, in particular the

confidence of political parties contesting the elections. This recommendation has not been addressed.

...

OSCE/ODIHR EOM LTOs assessed the performance of ConECs as generally efficient and professional as far as the technical preparations of the election process were concerned. However, they expressed serious concerns regarding the impartiality of ConECs, which generally appeared to favor YAP candidates or incumbent independent candidates. The lack of impartiality of ConECs became particularly apparent during the candidate registration process and in the handling of electoral disputes by ConECs.

...

VII. NOMINATION AND REGISTRATION OF CANDIDATES

The two-step process of candidate nomination and registration was handled by the ConECs. First, candidates could be nominated by political parties or by blocs of parties, by groups of voters, or through self-nomination. A political party could nominate individuals who are not party members. After examining the submitted candidate notifications and nominating party documents within a five-day period, the ConECs certified the nomination of 1,412 candidates. Of these, some 445 were nominated by 5 registered electoral blocs, some 350 were nominated by 11 political parties, and the rest were self-nominated or nominated by initiative voter groups.

In order to register a candidate, a ConEC should have received, inter alia, not less than 450 valid voters' signatures in support of the candidacy. The possibility to submit a financial deposit in lieu of signatures was removed from the Election Code in 2008. Within seven days, the ConEC had to check all the submitted documents and the collected signatures and pass a decision on registration of the candidate or on refusal of registration. Some 300 nominees did not submit the documents and signature sheets required for their registration.

Of the 1,115 prospective candidates who submitted their registration documents before the deadline of 8 October, only 699 were initially registered by ConECs. As a result of complaints, 35 rejected candidates were later registered by the CEC, and a further 9 candidates were registered on the basis of Court of Appeal and Supreme Court decisions. Most registrations upon complaint or appeal were instituted after the start of the official campaign period. After 52 candidates withdrew and one was de-registered, 690 candidates ultimately contested the elections.

Over half of the candidates nominated by opposition parties had their registrations rejected, while all 111 YAP candidates who had submitted the required documents were registered. The APFP–Musavat bloc had 38 registered candidates, out of 88 initially nominated, followed by the 'Karabakh' and 'Reform' blocs, with 34 and 31 registered candidates, out of 95 and 97 initially nominated, respectively.

The results of the verification of signatures collected in support of candidates were the main reason for ConECs' decisions to reject requests for registration and were in many cases cause for concern. Fourteen cases were verified by the OSCE/ODIHR EOM where voters' signatures were declared invalid by ConECs because these voters' IDs had expired. Many other rejections resulted from ConECs' opinions about the authenticity of the submitted signatures. This was of concern because ConECs as a rule reached their conclusions without having expert opinions of graphologists or other specialists. Invalidation of voters' signatures in some cases resulted from incomplete information on voters, candidates or the persons collecting the signatures.

Although the Election Code requires that a candidate be made aware of the checking procedure and its results in order to be provided with an opportunity to prove the authenticity of the disputed signatures and to correct information about the candidacy, the OSCE/ODIHR EOM observed a lack of openness and transparency in the activity of many ConECs with regard to the registration process. Moreover, the safeguard of the Election Code which states that a decision on denial of registration "should be proportionate to the mistake (shortcoming, violation) made" did not appear to be respected, as prospective candidates often had their registration rejected for minor technical errors in their documents.

The refusal to register many candidates appeared, in most instances, to be due to unfairly restrictive implementation of provisions of the Election Code and other legislation. As a result, prospective candidates were denied the right to stand based on minor technical mistakes and without due consideration of the principle of proportional responses to errors enshrined in domestic legislation.

The OSCE/ODIHR EOM received credible reports of intimidation of and pressure on voters to sign or withdraw their signatures from signature sheets. In addition, the mission received allegations of direct intimidation of candidates, their relatives and their representatives. Such intimidation and pressure negatively restricted political campaigning in a fair and free atmosphere, in contradiction to Article 7.5 and 7.7 of the Copenhagen Document.

VIII. THE ELECTION CAMPAIGN

...

The pre-election environment was not conducive to the fair and free competition of political ideas and platforms; the whole environment and competitiveness of the election campaign was adversely affected by the fact that a very high number of prospective candidates nominated by opposition parties, as well as many self-nominated candidates, were not registered. ...

...

XIII. PRE-ELECTION COMPLAINTS AND APPEALS

...

The Election Code foresees the creation of expert groups at CEC and ConEC level for the adjudication of electoral disputes, consisting of nine and three members, respectively; it does not, however, provide any criteria for the appointment of these experts. It only states that commissioners with legal background may be members of these groups. The relevant CEC instruction sets as criteria professionalism, ability to conduct factual and legal analysis, experience in the field of elections and existence of high public confidence in their professional activity. In practice, expert groups were composed of commissioners and in some cases also of administrative staff members. The CEC claimed that they did not opt for external lawyers as it would have been difficult to assess whether they enjoy public confidence. It is questionable whether the expert groups added any fact-finding capacity, as was the stated intention when they were introduced, since they consisted of those already working for the election administration and their advisory opinions did not contain detailed argumentation based on the facts or the law.

...

By election day, the CEC had reviewed some 250 complaints. The OSCE/ODIHR EOM was provided with only one tenth of these complaints, despite repeated oral and

written requests. Some 175 complaints challenged ConEC decisions on refusal of candidate registration and the rest alleged inaction and unlawful conduct by ConECs. The CEC satisfied 35 complaints on candidate registration, mostly after the start of the election campaign, and one regarding the withdrawal under pressure of a registered candidate, in ConEC 85; it dismissed all other complaints as groundless. Cases were reviewed in a hasty manner, with practically no debate; the CEC adopted the expert's opinion in all cases, even though the experts never presented the findings of the investigation during the sessions.

The Election Code provides that the plaintiff must be invited to attend the investigation of the case if he or she has explicitly made that request and that the plaintiff has the right to present new evidence. Plaintiffs informed the OSCE/ODIHR EOM and also repeated before the courts that they were not notified by election commissions at all levels when their cases were being reviewed, even though they had explicitly and repeatedly requested to be present. Only on one occasion before election day was a plaintiff able to attend the CEC review session and present his arguments, which were, however, not examined or taken into account by the CEC.

... In contravention of the relevant legal provisions, almost all CEC and ConEC decisions failed to include comprehensive reasoning. In addition, the decisions did not indicate the means of legal redress. This challenged the commitments contained in paragraphs 5.10 and 5.11 of the 1990 OSCE Copenhagen Document.

Until 8 November, 100 appeals were lodged with the Baku Court of Appeal, out of which 89 were examined on their merits. All but four of them requested the annulment of CEC decisions that refused the registration of candidates. Only five of these appeals were granted. Parties had the opportunity to present their arguments during the hearings; however, in most cases the court declined to accept testimonies of witnesses and other evidence suggested by the appellants and did not explain why such evidence was not considered. The court sent only 32 case files to be examined by expert graphologists. ... In contravention of domestic legislation, more than half of the decisions of the Court of Appeal lacked legal argumentation and reasoning and did not address any of the arguments of the appellants.

The OSCE/ODIHR EOM is aware of over 30 cases reviewed by the Supreme Court pertaining to candidate registration. In only four of these cases did the Supreme Court annul the Court of Appeal's decision and enable the candidates to register. The last final decision in favor of a candidate before election day was given on 3 November. In most cases, the Supreme Court failed to rectify the above-mentioned shortcomings of the decisions of election commissions and of the Court of Appeal."

THE LAW

I. THE GOVERNMENT'S REQUEST TO STRIKE OUT THE APPLICATION UNDER ARTICLE 37 OF THE CONVENTION

32. On 16 September 2014 the Government submitted a unilateral declaration with a view to resolving the issues raised by the present application. They further requested the Court to strike the application out of the list of cases in accordance with Article 37 of the Convention.

33. The applicant disagreed with the terms of the unilateral declaration. He noted that it did not contain any undertakings as to general or individual measures to be taken in respect of his case. He argued that the actual intention behind the Government's declaration was to avoid the Court's examination of the case on its merits and to prevent the supervision by the Committee of Ministers of the execution by the Government of the Court's judgment on the merits.

34. The Court recalls that it may be appropriate in certain circumstances to strike out an application, or part thereof, under Article 37 § 1 on the basis of a unilateral declaration by the respondent Government even where the applicant wishes the examination of the case to be continued. Whether this is appropriate in a particular case depends on whether the unilateral declaration offers a sufficient basis for finding that respect for human rights as defined in the Convention does not require the Court to continue its examination of the case (see *Tahsin Acar v. Turkey* (preliminary issue) [GC], no. 26307/95, § 75, ECHR 2003-VI).

35. Relevant factors in this respect include the nature of the complaints made, whether the issues raised are comparable to issues already determined by the Court in previous cases, the nature and scope of any measures taken by the respondent Government in the context of the execution of judgments delivered by the Court in any such previous cases, and the impact of these measures on the case at issue. It may also be material whether the facts are in dispute between the parties, and, if so, to what extent, and what prima facie evidentiary value is to be attributed to the parties' submissions on the facts. Other relevant factors may include whether in their unilateral declaration the respondent Government have made any admissions in relation to the alleged violations of the Convention and, if so, the scope of such admissions and the manner in which the Government intend to provide redress to the applicant. As to the last-mentioned point, in cases in which it is possible to eliminate the effects of an alleged violation and the respondent Government declare their readiness to do so, the intended redress is more likely to be regarded as appropriate for the purposes of striking out the application, the Court, as always, retaining its power to restore the application to its list as provided in Article 37 § 2 of the Convention and Rule 44 § 5 of the Rules of Court (ibid., § 76; see also *Rantsev v. Cyprus and Russia*, no. 25965/04, § 195, ECHR 2010 (extracts)).

36. The foregoing factors are not intended to constitute an exhaustive list of relevant factors. Depending on the particular facts of each case, it is conceivable that further considerations may come into play in the assessment of a unilateral declaration for the purposes of Article 37 § 1 of the Convention (see *Tahsin Acar*, cited above, § 77).

37. Finally, the Court reiterates that its judgments serve not only to decide those cases brought before it but, more generally, to elucidate, safeguard and develop the rules instituted by the Convention, thereby

contributing to the observance by the States of the engagements undertaken by them as Contracting Parties. Although the primary purpose of the Convention system is to provide individual relief, its mission is also to determine issues on public-policy grounds in the common interest, thereby raising the general standards of protection of human rights and extending human rights jurisprudence throughout the community of the Convention States (see *Rantsev*, cited above, § 197, with further references).

38. In considering whether it would be appropriate to strike out the present application on the basis of the unilateral declaration, the Court makes the following observations.

39. The present case is one of a number of cases lodged with the Court in connection with the 2010 parliamentary elections in Azerbaijan. The Court has not yet had an opportunity to examine the merits of any complaint raised in those cases in respect of the alleged types of breaches of individual rights that were specific to the 2010 elections.

40. The Court also emphasises the serious nature of the allegations made in the present case. It further observes, from a more general standpoint, that various types of alleged violations of the rights protected under Article 3 of Protocol No. 1 to the Convention have been an object of recurrent and relatively numerous complaints brought before the Court in cases against Azerbaijan after each parliamentary election that has taken place after the country's ratification of the Convention. The Court notes that this appears to disclose an existence of systematic or structural issues which call for adequate general measures to be taken by the authorities. No such measures are mentioned in the unilateral declaration submitted by the respondent Government in the present case in respect of the specific issues complained of in connection with the 2010 elections (contrast *Gambar and Others v. Azerbaijan* (dec.), nos. 4741/06, 19552/06, 22457/06, 22654/06, 24506/06, 36105/06 and 40318/06, 9 December 2010).

41. Having studied the terms of the Government's unilateral declaration, the Court considers that the proposed declaration does not provide a sufficient basis for concluding that respect for human rights as defined in the Convention and its Protocols does not require it to continue its examination of this particular case.

42. Therefore, the Court refuses the Government's request to strike the application out of its list of cases under Article 37 of the Convention and will accordingly pursue its examination of the admissibility and merits of the case.

II. ALLEGED VIOLATION OF ARTICLE 3 OF PROTOCOL No. 1 TO THE CONVENTION

43. The applicant complained under Article 3 of Protocol No. 1 to the Convention that his right to stand as a candidate in free elections had been

violated because his request for registration as a candidate had been refused arbitrarily. Article 3 of Protocol No. 1 to the Convention reads as follows:

> "The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature."

A. Admissibility

44. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

45. The Government submitted that the Contracting States enjoyed a wide margin of appreciation under Article 3 of Protocol No. 1 in establishing conditions for exercising the right to stand for election. The requirement to collect at least 450 signatures in support of a candidate had a legitimate aim of reducing the number of fringe candidates and avoiding "overcrowded" lists of registered candidates in order to prevent confusion among the electorate.

46. The Government argued that the domestic electoral law contained sufficient safeguards preventing the adoption of arbitrary decisions to refuse registration. Firstly, signature sheets were examined by working groups specially created by electoral commissions in accordance with Article 59.2 of the Electoral Code. These working groups consisted of experts and "specialists" of the relevant State authorities, most of whom were employees of the Centre of Forensic Science of the Ministry of Justice, the Ministry of Interior, the State Register of Immovable Property and other agencies. Before taking up their duties as working group members, they had been trained by experts with the "appropriate knowledge and experience in the relevant field". Secondly, the electoral law required that a working group meeting had to be open to the public, that the nominated candidate's participation be ensured if he wished to attend, and that the working group's documents on the results of examination of signature sheets be made available to the nominated candidate twenty-four hours before the electoral commission met to decide whether to register the candidate. Thirdly, the law required the working group to indicate the basis for invalidating signatures. Fourthly, the nominated candidate had a right to lodge appeals with the CEC and courts against a decision refusing the registration. All of

the above combined to form a sufficient body of safeguards preventing arbitrary refusals to register candidates.

47. In the present case, both the ConEC and CEC working groups found that a large number of signatures collected in support of the applicant were invalid. Therefore, the decision to refuse registration was justified, owing to the applicant's failure to produce at least 450 valid signatures in his support. In his appeal to the Baku Court of Appeal, where he challenged the findings of the electoral commissions' working groups, the applicant failed to request the court to appoint an expert examination by a graphologist. Both the Baku Court of Appeal and the Supreme Court reached a correct conclusion that there were no reasons for doubting the findings of the electoral commissions' working groups.

48. The applicant submitted that, contrary to the requirements of Article 59.3 of the Electoral Code, he had not been informed about the time of the ConEC working group meeting in advance and his participation at the meeting had not been ensured, depriving him of the opportunity to provide necessary explanations to working group members in order to dispel any doubts over authenticity of the disputed signatures.

49. Furthermore, contrary to the requirements of Article 59.13 of the Electoral Code, the working group documents on the results of examination of signature sheets had not been made available to him prior to the ConEC meeting dealing with his registration request. He was eventually given only copies of some of those documents (two expert opinions) in a belated manner, a day after the ConEC had decided to refuse registration. Therefore, he was deprived also of the opportunity to correct any shortcomings found by the working group experts in the signature sheets.

50. Most importantly, in the applicant's view, the decisions of the electoral commissions on invalidation of signatures were substantively incorrect or unlawful, for various reasons. In particular, both the ConEC and the CEC based their decisions on inconclusive findings by the working group experts. In respect of the signatures invalidated on the ground that they had been falsified (172 signatures in total), both the ConEC expert and the CEC expert noted in their opinions that there was only a probability (*"ehtimal"*) that those signatures had been executed by the same person. This meant that the experts abstained from making any definitive conclusions about the authenticity of those signatures based solely on the handwriting analysis of the signature sheets, and that they implicitly acknowledged that there remained a possibility that those signatures were authentic. In such circumstances, the electoral commissions should have either conducted further investigation to conclusively establish the authenticity of the impugned signatures or, in the absence of such further investigation, should have interpreted the inconclusive nature of the experts' findings in the applicant's favour and allowed those signatures to stand as

valid. However, instead, the electoral commissions declared the signatures invalid based merely on probability of inauthenticity.

51. Moreover, one of the ConEC experts found around sixty signatures invalid because the city of residence (Sumgayit) was not mentioned in the signature sheets as part of those voters' addresses. While the ConEC found that, within the meaning of Article 59.7.1 of the Electoral Code, this minor omission constituted incorrect information in respect of those voters, warranting invalidation of their supporting signatures, the applicant argued that such finding had been unlawful and considered that the pertinent information in respect of those voters was merely incomplete and could have been easily verified by checking the civil registry (as provided by Article 59.2 of the Electoral Code) or otherwise rectified before the commission's decision on the applicant's registration.

52. The applicant further noted that, in his appeal to the CEC, he had tried to prove the authenticity of a number of signatures by submitting statements by ninety-one voters confirming the authenticity of their signatures and copies of ID cards of several voters containing their full address. Had this information been taken into account and the authenticity of signatures confirmed, the total number of valid signatures would exceed the statutory threshold of 450 signatures. However, the CEC ignored those documents without giving any reasons.

2. The Court's assessment

53. Article 3 of Protocol No. 1 enshrines a characteristic principle of an effective political democracy and is accordingly of prime importance in the Convention system (see *Mathieu-Mohin and Clerfayt v. Belgium*, 2 March 1987, § 47, Series A no. 113). The Court has established that it guarantees individual rights, including the right to vote and to stand for election (ibid., §§ 46-51).

54. The rights bestowed by Article 3 of Protocol No. 1 are not absolute and there is room for "implied limitations". In their internal legal orders the Contracting States may make the rights to vote and to stand for election subject to conditions which are not in principle precluded under Article 3. While the Contracting States enjoy a wide margin of appreciation in this sphere, it is for the Court to determine in the last resort whether the requirements of Article 3 of Protocol No. 1 have been complied with. In particular, it has to satisfy itself that the conditions do not curtail the rights in question to such an extent as to impair their very essence and deprive them of their effectiveness; that they are imposed in pursuit of a legitimate aim; and that the means employed are not disproportionate (see *Mathieu-Mohin and Clerfayt*, cited above, § 52, and *Yumak and Sadak v. Turkey* [GC], no. 10226/03, § 109, ECHR 2008). Such conditions must not thwart the free expression of the people in the choice of the legislature – in other words, they must reflect, or not run counter to, the concern to

maintain the integrity and effectiveness of an electoral procedure aimed at identifying the will of the people through universal suffrage (see *Hirst v. the United Kingdom (no. 2)* [GC], no. 74025/01, § 62, ECHR 2005-IX).

55. States have broad latitude to establish constitutional rules on the status of members of parliament, including criteria for declaring them ineligible. These criteria vary according to the historical and political factors specific to each State. For the purposes of applying Article 3, any electoral legislation must be assessed in the light of the political evolution of the country concerned, so that features that would be unacceptable in the context of one system may be justified in the context of another (see *Mathieu-Mohin and Clerfayt*, cited above, § 54; and *Melnychenko v. Ukraine*, no. 17707/02, § 55, ECHR 2004-X).

56. The Court observed that stricter conditions may be imposed on the eligibility to stand for election to parliament, as distinguished from voting eligibility (see *Melnychenko*, cited above, § 57). On that point, it took the view that, while it is true that States have a wide margin of appreciation when establishing eligibility conditions in the abstract, the principle that rights must be effective requires that the eligibility procedure contain sufficient safeguards to prevent arbitrary decisions (see *Podkolzina v. Latvia*, no. 46726/99, § 35, ECHR 2002-II, and *Yumak and Sadak*, cited above, § 109 (v)).

57. The Court has also emphasised that it is important for the authorities in charge of electoral administration to function in a transparent manner and to maintain impartiality and independence from political manipulation (see *Georgian Labour Party v. Georgia*, no. 9103/04, § 101, ECHR 2008) and that their decisions must be sufficiently reasoned (see *Namat Aliyev*, cited above, §§ 81-90).

58. For the purposes of the present complaint, the Court is prepared to accept the Government's submission that the requirement for collecting 450 supporting signatures for nomination as a candidate pursued a legitimate aim of reducing the number of fringe candidates.

59. It remains to be seen whether, in the present case, the procedure for verifying the compliance with this eligibility condition was conducted in a manner affording sufficient safeguards against an arbitrary decision.

60. The Court has first had regard to the observations made in the OSCE Report (see paragraph 31 above). In particular, the report notes that the OSCE observers expressed serious concerns regarding the impartiality of ConECs, which generally appeared to favor candidates nominated by the ruling party or incumbent independent candidates, particularly during the candidate registration process where all YAP-nominated candidates were registered while over half of opposition-nominated candidates and many self-nominated candidates were refused registration. With regard to the registration process, they further observed a general lack of openness and transparency in the activity of many ConECs and noted that a number of

statutory safeguards were not respected by the electoral commissions. The provisions of the Electoral Code were implemented unfairly restrictively and prospective candidates were denied the right to stand based on minor technical mistakes and without due consideration of the principle of proportional responses to errors, enshrined in domestic legislation.

61. Furthermore, by election day the CEC received around 175 complaints challenging ConEC decisions refusing registration, most of which were dismissed by the CEC as groundless. According to the OSCE Report, the CEC reviewed cases in a hasty manner and adopted the working-group expert's opinion in all cases, with practically no debate or presentation of the expert's findings at the CEC session. Despite the Electoral Code's provisions requiring a complainant to be invited to participate in the examination of his complaint and allowing him to present new evidence, the OSCE observers were informed that those provisions were not respected, even when complainants repeatedly insisted to be present. Furthermore, the OSCE Report notes that both the CEC and the domestic courts declined to examine any evidence suggested by the appellants without any explanation and that their decisions often lacked legal argumentation or comprehensive reasoning.

62. The Court also notes that, after the 2010 elections, around thirty applications have been lodged with it by some of the above-mentioned candidates who had been refused registration owing to invalidation of supporting signatures, including the present application.

63. Turning to the present case, the Court notes that, at both electoral commission levels (the ConEC and the CEC), the applicant's signature sheets were examined by two working-group experts and it appears that one of them examined the authenticity of signatures themselves, while the other reviewed the accuracy of other information in the signature sheets. In the absence of any other information to suggest otherwise, it appears that the experts of the ConEC and the CEC working groups examining the authenticity of signatures did so solely on the basis of handwriting analysis.

64. Despite a question put by the Court to the Government in this respect, the Government have not provided sufficiently specific information about the qualifications and credentials of the experts in the present case (in particular, expert M.M. of the ConEC working group and expert U.A. of the CEC working group). The Government simply noted that all working group experts had been appointed from among "employees of the Centre of Forensic Science of the Ministry of Justice, the Ministry of Interior, the State Register of Immovable Property and other agencies", without specifying whether the experts charged with conducting the handwriting analysis were actually qualified to do so by their occupation. The Government further noted that the working-group experts had been trained by other experts with the "appropriate knowledge and experience in the relevant field", without however specifying what exact type of training had

been provided. The CEC regulations on electoral commissions' working groups, in force at the material time (see paragraph 29 above), also fail to specify any requirements as to the relevant qualifications of prospective working group experts or as to trainings they were to attend. The Court also takes note of the OSCE Report which stated that the fact that many refusals to register candidates resulted from findings of alleged inauthenticity of supporting signatures "was of concern because ConECs as a rule reached their conclusions without having expert opinions of graphologists or other specialists" (see paragraph 31 above). In the Court's view, lack of clear and sufficient information about the professional qualifications and the criteria for selection and appointment of working-group experts charged with the task of examining signature sheets is a factor that can seriously undermine the overall confidence in the fairness of the procedure of candidate registration and of the elections in general.

65. In any event, the Court notes that both expert M.M. and expert U.A. found in their respective opinions that there was only a probability that a number of signatures were inauthentic, without even specifying how high that probability was. The Court accepts the applicant's argument that a mere probability that signatures could be inauthentic cannot be taken as constituting a definitively established fact. The applicant's right to stand for election should not hinge on probabilities and vague opinions; it should be defined by clearly established criteria for compliance with the eligibility conditions. However, as it is apparent from the material in the case file, no further steps were taken by the electoral commissions or their working groups to investigate the matter in order to arrive at a definitive conclusion concerning the authenticity of the impugned signatures. In this connection, the Court notes that section 3 of the CEC regulations on electoral commissions' working groups laid out some of the steps that could be taken in this regard, such as requesting more information from the nominated candidate, persons collecting signatures, voters or the relevant authorities, and so on (see paragraph 29 above). However, as no such steps were taken, the Court considers that the electoral commissions' decisions to declare the impugned supporting signatures invalid, without any further investigation into the experts' inconclusive findings, were arbitrary.

66. Furthermore, as for other procedural guarantees against the arbitrariness, the Court notes that the Government pointed out in their observations that the Electoral Code provided for a number of procedural safeguards designed to protect nominees from arbitrary decisions and expressed an opinion that those safeguards were sufficient. In particular, the Government mentioned such safeguards as the nominee's right to be present during the process of examination of signature sheets (Article 59.3) and the right to receive the working group's documents on the results of the examination twenty-four hours before the relevant electoral commission's meeting (Article 59.13; both provisions cited in paragraph 25 above).

However, in the Court's view, it cannot be seriously argued that the mere fact that those procedural rights were included in the Electoral Code was sufficient to prevent arbitrariness. The Government's observations were silent in respect of the applicant's repeated complaints that in the present case those provisions of the Electoral Code had not actually been implemented in practice.

67. In this regard, the Court notes that any safeguard written into a legislative act is meaningless if it merely remains on paper, as it does when the competent domestic authorities, charged with conducting the electoral procedures, systematically fail to abide by those safeguards in situations for which they are designed. It is a fundamental corollary of the rule of law that rights prescribed in legislative acts must be effective and practical, and not theoretical and illusory.

68. The Court notes that, in the present case, neither of the safeguards mentioned by the Government was respected by the electoral commissions. The applicant was not informed of the ConEC working group meeting and the relevant documents were not made available to him within the time period provided by law. As a result, the applicant was deprived of the opportunity to provide relevant explanations, correct any shortcomings in the signature sheets, or to otherwise effectively challenge the findings of the working group in a timely manner, before the decision to refuse registration was made (see also, in this regard, the provisions of Article 60.4 of the Electoral Code cited in paragraph 26 above). The applicant was likewise deprived of the opportunity to benefit from those safeguards at the CEC level after he had appealed against the ConEC decision. As it can be discerned from the OSCE Report, this situation was not particular only to the applicant's case, but was of a systemic nature.

69. The Court further observes that, even having been deprived of an opportunity to benefit from the above-mentioned procedural guarantees prescribed by law, the applicant made an attempt to challenge the ConEC findings by submitting a number of documents to the CEC with the aim of demonstrating that a number of signatures declared invalid were, in fact, authentic. In particular, among other documents, he submitted statements by ninety-one voters maintaining that their original signatures in support of the applicant belonged to them. However, the CEC ignored those statements, without providing any explanation or reasons for doing so. The CEC decision did not address any of the applicant's arguments which, in the Court's view, appeared to be well-founded and serious (see paragraph 13 above). Moreover, it appears that, contrary to the requirements of the electoral law (see Article 112-1.7 of the Electoral Code cited in paragraph 27 above), the CEC failed to ensure the applicant's presence at its meeting.

70. The domestic courts did not address the applicant's complaints about any of the above-mentioned deficiencies either, even though the applicant's

appeals contained prima facie well-founded complaints, referred to the relevant provisions of the domestic law, and disclosed an appearance of arbitrariness in the electoral commissions' decisions. In particular, the Baku Court of Appeal failed to provide any reasoning in its judgment, while the Supreme Court saw no grounds for doubting the electoral commissions' findings, without explaining its reasons for reaching such a decision. Having regard to the foregoing, the Court considers that the conduct of the electoral commissions and courts in the present case and their respective decisions revealed an apparent lack of genuine concern for upholding the rule of law and protecting the integrity of the election (compare *Namat Aliyev*, cited above, § 90, and *Karimov v. Azerbaijan*, no. 12535/06, § 49, 25 September 2014).

71. It follows from the above analysis that, in practice, the applicant was not afforded sufficient safeguards to prevent an arbitrary decision to refuse his registration as a candidate.

72. There has accordingly been a violation of Article 3 of Protocol No. 1 to the Convention.

III. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION

73. In conjunction with the above complaint, the applicant complained that he had been discriminated against due to his opposition-oriented political leanings. He noted that, although he had nominated himself as an independent candidate, his nomination had been viewed favorably by the coalition of the Popular Front and Musavat parties, which were in opposition. He relied on Article 14, which provides as follows:

> "The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

74. The Court notes that this complaint is linked to the one examined above and must therefore likewise be declared admissible.

75. However, having regard to its above finding in relation to Article 3 of Protocol No. 1, the Court considers that it is not necessary to examine whether in this case there has been a violation of Article 14.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

76. 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

77. The applicant claimed 7,500 euros (EUR) in respect of non-pecuniary damage.

78. The Government considered this amount reasonable.

79. The Court awards the applicant EUR 7,500 in respect of non-pecuniary damage.

B. Costs and expenses

80. The applicant also claimed EUR 3,000 for the costs and expenses incurred before the domestic courts and the Court. In support of his claim, he submitted a contract, dated 13 October 2010, for legal and translation services to be provided by his representatives.

81. The Government considered that the amount claimed was excessive, as the same lawyers represented several applicants in similar cases pending before the Court where the submissions prepared by the lawyers were very similar. Taking this factor into account, the Government argued that the amount awarded in each case should be reduced. The Government further argued that the awarded amount should not exceed EUR 1,600 in the present case.

82. 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 have been 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 3,000 covering costs under all heads, less EUR 850 already paid in legal aid by the Council of Europe.

C. Default interest

83. 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. *Rejects* the Government's request to strike the application out of the Court's list of cases;

2. *Declares* the application admissible;

3. *Holds* that there has been a violation of Article 3 of Protocol No. 1 to the Convention;

4. *Holds* that there is no need to examine the complaint under Article 14 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, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:

(i) EUR 7,500 (seven thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

(ii) EUR 2,150 (two thousand one hundred and fifty euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses, to be paid directly into his representatives' bank account;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

Done in English, and notified in writing on 11 June 2015, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen	Isabelle Berro
Registrar	President