



## Inadequate investigation into murder of well-known journalist

The case [Huseynova v. Azerbaijan](#) (application no. 10653/10) was brought by the wife of Elmar Huseynov, a well-known journalist who was shot dead on 2 March 2005.

In today's **Chamber** judgment<sup>1</sup> in the case the European Court of Human Rights held, unanimously, that there had been:

**no violation of Article 2 (right to life) of the European Convention on Human Rights, but  
a violation of Article 2 (right to life/investigation).**

The Court found that there was a lack of evidence to prove the allegation that the State had in some way been involved in the murder of Ms Huseynova's husband, or that the authorities had known or ought to have known about a real risk to his life and had failed to take measures to protect him.

However, the Court considered that the investigation into the murder had not been effective, adequate or prompt, having so far lasted more than 12 years. It identified a number of shortcomings in the investigation, namely: that the Azerbaijani authorities had not taken all the measures available to them to ensure that the two suspects identified, Georgian nationals, be prosecuted, such as transferring the criminal case to the Georgian authorities; that Ms Huseynova had constantly been denied access to the case file by the authorities; and, that no adequate steps had been taken to explore whether Mr Huseynov's murder, apparently very carefully planned, could have been linked to his work as journalist, despite his strongly critical articles of both the Azerbaijani Government and the opposition.

### Principal facts

The applicant, Rushaniya Huseynova, is an Azerbaijani national who was born in 1978 and lives in Norway. She was the wife of Elmar Huseynov, a prominent independent journalist who wrote strongly critical articles of the Government as well as the opposition. In total, over 30 civil and criminal proceedings had been instituted against him by various public officials in connection with his articles. Mr Huseynov was shot dead outside their apartment as he returned home from work on 2 March 2005.

A criminal investigation into the murder was immediately instituted and numerous investigative steps were taken. Among other things, the scene of the crime was inspected, a post-mortem examination carried out, forensic examinations ordered and Ms Huseynova was questioned as a witness. In May 2005 two Georgian nationals were identified as suspects by the investigation and international warrants for their arrest were issued. Soon after, the Azerbaijani authorities asked the Georgian authorities to extradite the two suspects. The Georgian authorities refused on the grounds that the suspects were Georgian nationals and could not be extradited to a foreign country; however, they undertook to prosecute the suspects at the Azerbaijani authorities' request if the criminal case was transferred to them. Since then, the Georgian authorities have conducted various investigative actions – such as the search of two flats in Tbilisi and the questioning of various people,

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution).

including one of the suspects – at the request of their Azerbaijani counterparts, but the investigation is currently apparently still ongoing with no perpetrators having yet been prosecuted.

Throughout the proceedings Ms Huseynova wrote to the investigating authorities enquiring about the progress in the investigation and complaining that, although she had been recognised as a victim, she had not been provided with any information. She was told that the investigation was ongoing and that, under the relevant domestic law, she had the right to familiarise herself with the case file only when the preliminary investigation was over.

## Complaints, procedure and composition of the Court

Relying in particular on Article 2 (right to life) and Article 10 (freedom of expression), Ms Huseynova alleged that the State had been behind the murder of her husband because of his work as a journalist and that the authorities had failed to carry out an effective investigation. She argued in particular that the State had known or ought to have known about a risk to his life, as he had been regularly threatened and targeted in numerous legal proceedings brought against him by various public officials.

The application was lodged with the European Court of Human Rights on 17 February 2010.

Judgment was given by a Chamber of seven judges, composed as follows:

Angelika **Nußberger** (Germany), *President*,  
Erik **Møse** (Norway),  
Faris **Vehabović** (Bosnia and Herzegovina),  
Yonko **Grozev** (Bulgaria),  
Síofra **O’Leary** (Ireland),  
Mārtiņš **Mits** (Latvia),  
Lətif **Hüseynov** (Azerbaijan),

and also Milan **Blaško**, *Deputy Section Registrar*.

## Decision of the Court

Although Elmar Huseynov had published numerous articles criticising various State officials, the Court could not, due to lack of evidence, conclude beyond all reasonable doubt that any official or the State had been behind the murder of Ms Huseynova’s husband. Similarly, there was no material in the case file to indicate that the law enforcement authorities had been aware at any time before the murder of any danger to Mr Huseynov’s life. Nor had Ms Huseynova disputed the Government’s submission that her husband had never actually applied to the domestic authorities for protection or informed them of any danger or threat to his life. There had therefore been no violation of Article 2 as concerned the allegation that the State had in some way been involved in the murder of Ms Huseynova’s husband, or that the authorities had known or ought to have known about a real risk to his life and had failed to take measures to protect him.

However, as concerned the investigation into the murder, the Court identified a number of shortcomings. Firstly, the Azerbaijani authorities had not taken all the measures available to them to obtain the prosecution of the suspects who had been identified, such as transferring the criminal case to the Georgian authorities for the murder charge to be prosecuted there. That possibility had not only clearly been provided for under various international legal instruments but had expressly been referred to by the Georgian authorities in their reply to the extradition request. However, the Azerbaijani Government gave no explanation as to why that possibility had never apparently been examined. Secondly, even though Ms Huseynova had been granted victim status in the investigation, the authorities had constantly denied her access to the case file. Thirdly, the criminal investigation

has not been carried out promptly, taking into account its overall length so far, over 12 years. Lastly, the Court found that no adequate steps had been taken to explore whether Mr Huseynov's murder, apparently very carefully planned, could have been linked to his work as journalist, despite there having been every reason to do so in view of his strongly critical articles of both the Government and the opposition as well as the related criminal and civil proceedings brought against him. Nor indeed had the investigating authorities come up with another plausible explanation for the motives behind the murder.

The Court therefore concluded that the domestic authorities had failed to carry out an adequate and effective investigation into the circumstances surrounding the killing of Ms Huseynova's husband, in violation of Article 2.

Given those findings, the Court held, by five votes to two, that it was not necessary to examine Ms Huseynova's complaint under Article 10.

#### [Just satisfaction \(Article 41\)](#)

The Court held that Azerbaijan was to pay Ms Huseynova 20,000 euros (EUR) in respect of non-pecuniary damage and EUR 10,000 for costs and expenses.

#### Separate opinion

Judges Nußberger and Vehabović expressed a joint partly dissenting opinion which is annexed to the judgment.

*The judgment is available only in English.*

---

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on [www.echr.coe.int](http://www.echr.coe.int). To receive the Court's press releases, please subscribe here: [www.echr.coe.int/RSS/en](http://www.echr.coe.int/RSS/en) or follow us on Twitter [@ECHRpress](https://twitter.com/ECHRpress).

#### **Press contacts**

[echrpres@echr.coe.int](mailto:echrpres@echr.coe.int) | tel.: +33 3 90 21 42 08

**Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)**

Denis Lambert (tel: + 33 3 90 21 41 09)

Inci Ertekin (tel: + 33 3 90 21 55 30)

George Stafford (tel: + 33 3 90 21 41 71)

**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.