European Court of Human Rights: more violations of ECHR rights in the case of investigative journalist Khadija Ismayilova

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Tarlach McGonagle
Institute for Information Law (IViR), University of Amsterdam

In a judgment of 27 January 2026, the European Court of Human Rights (Third Section), found that the human rights of the investigative journalist, Khadija Ismayilova, had been violated by Azerbaijan under Articles 6, 7, 10 and 18 *juncto* 10 of the European Convention on Human Rights (ECHR). This is the fourth case and the fourth finding of violations of ECHR rights arising out of the same broad set of factual circumstances (see: *Khadija Ismayilova v. Azerbaijan*, IRIS 2019-3:1/1; *Khadija Ismayilova v. Azerbaijan (No. 2)*; and *Khadija Ismayilova v. Azerbaijan (No. 3)*, IRIS 2020-7:1/20).

The applicant is a well-known investigative journalist and civil society activist specialising in (alleged) corruption and business activities of public officials. She worked successively as a freelance journalist for the Baku bureau of the Azerbaijani service of Radio Free Europe/Radio Liberty, a non-profit international broadcasting corporation headquartered in Prague and financed by the US Congress; as (acting) head of the bureau on a fixed-term contract that was subsequently extended; and again as a freelance journalist after her contract was terminated.

During the applicant's period as head of the bureau, a colleague attempted to commit suicide. The applicant was prosecuted for allegedly having incited him to commit suicide. She was detained on remand and subsequently charged with additional criminal offences, such as high-level embezzlement, illegal entrepreneurship committed in order to generate a large amount of income, tax evasion and aggravated abuse of power. The applicant was acquitted of the charge of incitement to suicide, but convicted of the other offences. The applicant appealed, arguing that she had been wrongfully convicted of offences she had not committed. She argued that she had faced extensive harassment, including the criminal proceedings, because of her investigative work and with the aim of silencing her and punishing her for her publications exposing high-level corruption. She advanced numerous other arguments, including in respect of the "illegal entrepreneurship" being based on working without state accreditation (which applied to representatives of foreign media, whereas she worked in a freelance capacity during different periods). Furthermore, the accreditation of foreign journalists was not a precondition for engaging in journalism and domestic

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law did not provide for any criminal or other form of liability for not having obtained accreditation. While the applicant's case was still under appeal in the Supreme Court, the Criminal Code was amended to include a reference in parentheses to "tax registration" after "state registration".

After exhausting all domestic judicial remedies, the applicant lodged an application with the European Court of Human Rights, claiming violations of her rights under several articles of the Convention.

Article 7

In its assessment of whether Article 7 (No punishment without law) had been breached, the Court considered "whether the applicant's act, at the time when it was committed, constituted an offence defined with sufficient accessibility and foreseeability by domestic or international law". The Court held that the relevant Criminal Code and Media Law provisions "were extensively and unforeseeably construed to her detriment, in a manner which could not be said to have constituted a development consistent with the essence of the offence". It would therefore have been "difficult – if not impossible" for the applicant, who was a professional journalist and could seek appropriate legal advice, to have foreseen that the law would have been applied in such an arbitrary manner to her situation and that her work as a freelance journalist for national and foreign media without accreditation with the Ministry of Foreign Affairs could lead to a criminal sanction. The applicant's conviction for the offence of illegal entrepreneurship thus violated Article 7 ECHR.

Article 6

In respect of Article 6 (Right to a fair trial), the Court first positioned the present case in relation to the *Khadija Ismayilova (No. 2)* case, in which it found a violation of the applicant's rights under Articles 5, 6 and 18 *juncto* 5, ECHR. The Court found that in respect of both offences – illegal entrepreneurship and tax evasion – the applicant's objections were strong, pertinent and well founded and thus capable of influencing the outcome of the case, had those arguments been properly assessed by the judicial authorities in Azerbaijan. The domestic courts either did not (adequately) address those arguments, or "dismissed them in a very general, stereotypically worded manner". The Court consequently found that "the judicial examination of the applicant's case and the reasoning in the domestic courts' decisions were flawed with arbitrariness which was distinct from an incorrect legal classification or a similar error in the application of domestic criminal law". This "undermined the fairness of the criminal proceedings in such a fundamental way that it rendered other criminal procedure guarantees irrelevant", thus constituting a violation of Article 6, paragraph 1.

Article 10

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The Court next turned its attention to Article 10. It noted that the applicant's conviction for "illegal entrepreneurship" amounted to an interference with her ability to exercise her right to freedom of expression as a journalist. Insofar as an accreditation requirement "seeks to regulate access to the profession or the terms under which journalistic work may lawfully be carried out", notwithstanding its administrative or economic nature, it amounts, in principle, to an interference with a journalist's ability to receive and impart information and ideas. The applicant's conviction for "illegal entrepreneurship" therefore "did not have a merely incidental impact on her journalistic activity" – it struck at the heart of her ability to freely exercise her profession.

The Court deemed it necessary to consider the sequence of events and wider circumstances of the present case; it paid detailed attention to the protracted harassment of the applicant and the attacks on her reputation that followed her investigative reporting into high-level corruption in Azerbaijan.

All in all, the Court considered that there was: "prima facie evidence of a causal link between the applicant's exercise of her freedom of expression and the criminal proceedings against her resulting in her conviction for illegal entrepreneurship and tax evasion".

The Court found that such prima facie evidence should shift the burden of proof to the government but that the government had "failed to show convincingly that the impugned measures bore no relation to the applicant's journalistic activities". The Court also found that the authorities initiated criminal proceedings against the applicant (which ultimately led to her conviction for illegal entrepreneurship and tax evasion) in "retaliation for her journalistic activity". The Court considered that the impugned interference with the applicant's freedom of expression was: "not only unlawful but also grossly arbitrary and incompatible with the principle of the rule of law, which is expressly mentioned in the Preamble to the Convention and is inherent in all its Articles".

It accordingly held – by four votes to three – that the applicant's right to freedom of expression had been violated.

Articles 18 and 10

As regards the alleged violation of Article 18 *juncto* 10, the Court emphasised that this was a different complaint to that in *Khadija Ismayilova (No. 2)*, which amounted to a violation of Article 18 *juncto* 5. The scope of the present complaint related not only to the pre-trial detention period (as in the earlier case), but to the entirety of the criminal proceedings against the applicant, and thus a continuation of the events examined in the earlier case. The Court considered that the contextual factors that were central in the earlier case remained relevant in the present case, such as:

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"*the applicant's status as a prominent investigative journalist critical of the government, the use of coerced and false accusations leading to her arrest, the escalation of charges once prosecutorial misconduct risked exposure, the stigmatising public statements by high-ranking officials equating her work with 'treason', and the broader context of similar retaliatory prosecutions against civil society activists and human rights defenders*".

All of these factors "pointed to an ulterior purpose behind the interference", which was also present in the entirety of the proceedings, given the proceedings were "marred by a significant degree of arbitrariness" and the domestic courts' failure to adequately examine the applicant's arguments (see above).

The Court used strong words to emphasise the importance of the rule of law, under which "judicial review represents the ultimate safeguard for the fundamental rights of individuals and their protection from abuse of power", including the executive branch of government. In light of "the role of a free press in a democratic society, prosecution of journalists or other government critics on spurious charges must attract the closest scrutiny of the courts". It was a matter of "grave concern" for the Court that the national courts had failed to apply such scrutiny in the present case. The Court concluded that the totality of these circumstances:

"*indicates that the authorities' actions were driven by improper reasons and that the actual purpose of the criminal proceedings against the applicant, which constituted the interference with her right to freedom of expression, was to silence and to punish her for her journalistic activities*".

The Court held – by four votes to three – that there had been a violation of Article 18 *juncto* Article 10.

Khadija Ismayilova v. Azerbaijan (No. 4), Nos. 71556/16 and 74112/17, 27 January 2026

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