[Aliyev v. Azerbaijan (no. 68762/14)](http://www.prisonlitigation.org/?email_id=91&user_id=140&urlpassed=aHR0cDovL2h1ZG9jLmVjaHIuY29lLmludC9lbmc%2FaT0wMDEtMTg2MTI2&controller=stats&action=analyse&wysija-page=1&wysijap=subscriptions" \t "_blank)

The case concerned the detention of a lawyer and human rights activist on charges including illegal entrepreneurship, embezzlement and tax evasion. He complained about the conditions of his pre-trial detention and about the lack of adequate medical care and his detention conditions. In addition, the applicant complained that his deprivation of liberty was a means to silence and punish him as a critic of the Government and a Human rights defender.

Complaint under Article 3

The Court found that Mr Aliyev’s medical care in detention had not led to a violation of Article 3 as he had not shown convincingly that it had been inadequate. It found a violation of this provision related to his pre-trial detention between 9 to 12 August 2014 owing to a lack of space in his cell, aggravated by having to share beds with other inmates. However, as of 12 August the conditions of his detention had complied with the Convention.

The Court rejected his complaint about the conditions of his transport to the court on 24 October 2014 as he had not used all the available domestic legal remedies before turning to Strasbourg.

Complaint under Article 18

The Court observed that it was not disputed that the applicant is a human-right lawyer, and is in particular “the legal representative before [it] in a large number of cases” (§208). The Court further noted that it found that the charges against the applicant “were not based on a ‘reasonable suspicion’” (§209, see also §§164-165), and that “the applicant’s arrest was accompanied by stigmatising statements made by public official against the local NGOs and their leaders” (§210). In addition, the Court observed that the search of the applicant’s home and office was conducted in an arbitrary manner as the authorities seized case files unrelated to the charges pressed against him (§211). The Court declared that “the applicant’s situation cannot be viewed in isolation” (§214) as “several notable human-rights activists who have cooperated with international organisations for the protection of human rights, including, most notably, the Council of Europe, have been similarly arrested and charged with serious criminal offences entailing heavy prison sentences” (§214). In view of the above, the Court concluded that “the authorities’ actions were driven by improper reasons and the actual purpose of the impugned measures was to silence and to punish the applicant for his activities in the area of human rights as well as to prevent him from continuing those activities” (§215).

Application of Article 46

The Court observed that similar violations of Article 18 had been found in other cases against Azerbaijan and took the view that this revealed “a troubling pattern of arbitrary arrest and detention of government critics, civil society activists and human-rights defenders through retaliatory prosecutions and misuse of criminal law in defiance of the rule of law” (§223). The Court therefore stated that the Government shall take measures ensuring “the eradication of retaliatory prosecutions and misuse of criminal law against this group of individuals and the non‑repetition of similar practices in the future” (§226).