



## Holding of lawyer in police station for road traffic offence did not infringe Convention requirements

In its decision in the case of [Ursulet v. France](#) (application no. 56825/13) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The case concerns the arrest of Mr Ursulet, a lawyer, on account of a number of road traffic offences, and the fact that he was held in a police station.

The Court found in particular that the measure of constraint imposed on Mr Ursulet constituted a deprivation of liberty, but took the view that it complied with Article 5 § 1 (right to liberty and security) of the European Convention on Human Rights, since it had been permitted under domestic law at the relevant time; the police had noticed, during a vehicle check, that his number-plate did not correspond to the number on the vehicle registration document, a fact that potentially constituted the offence of using false plates; and the measure had been limited to the time strictly necessary (one hour and 25 minutes) to question Mr Ursulet, who was released after being interviewed. The Court thus found this complaint manifestly ill-founded.

The Court also found that the complaint under Articles 3 (prohibition of torture and inhuman or degrading treatment) and 8 (right to respect for private and family life) of the European Convention, concerning the handcuffing of Mr Ursulet, had to be rejected for non-exhaustion of domestic remedies, as he had not raised this matter in his appeal to the Court of Cassation.

### Principal facts

The applicant, Alex Ursulet, is a French national who was born in 1957 and lives in Paris.

On 6 January 2006 Mr Ursulet was stopped while riding his scooter by three police officers who told him that he had committed various traffic offences. When noticing that the vehicle registration document did not correspond to the number-plate, the officers arrested him and took him to the police station. Mr Ursulet was authorised to ride his scooter to the station, followed by the officers on bicycles. According to Mr Ursulet the police officers had addressed him casually (using the “tu” form in French) when they first stopped him and on arriving at the station they had provoked him verbally. He claims that he was insulted and handcuffed for parking in an area reserved for motorcycles rather than the space indicated by the officers. According to him the police officers had then manhandled him and taken him into the station, where he had been handcuffed to a radiator. After a certain time he was taken to another police building and placed in what he claims was a cell for persons in police custody. The handcuffs had only been removed when he was formally interviewed by a senior police officer. Mr Ursulet was then authorised to leave the premises, as the police officers decided not to take him into police custody but to pursue the matter in the form of preliminary enquiries.

On 7 January 2005 Mr Ursulet filed a criminal complaint against the police officers, complaining about the conditions of his arrest and the officers’ behaviour. They, however, denied his allegations, stating that they had, on the contrary, acted professionally when faced with his belligerent attitude and verbal provocations. In the meantime, a manager had come forward as a witness to the altercation and confirmed the police officers’ version. In a decision of 26 August 2011 the investigating judge discontinued the proceedings against the officers, as confirmed by the investigation division of the Court of Appeal on 24 January 2012. Mr Ursulet’s appeal on points of law was dismissed on 19 March 2013. In addition, Mr Ursulet was fully acquitted in a judgment of 5

October 2012 of the Paris Court of Appeal, in the context of the criminal proceedings against him for false number-plates.

## Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 5 September 2013.

Relying on Article 5 § 1 (right to liberty and security), Mr Ursulet complained of an unlawful deprivation of liberty. Under Articles 3 (prohibition of torture and inhuman or degrading treatment) and 8 (right to respect for private and family life), he also complained about having been handcuffed, which in his view had been manifestly disproportionate and intended to humiliate and debase him because of his status as a lawyer.

The decision was given by a Chamber of seven, composed as follows:

Angelika **Nußberger** (Germany), *President*,  
Khanlar **Hajiyev** (Azerbaijan),  
Erik **Møse** (Norway),  
André **Potocki** (France),  
Faris **Vehabović** (Bosnia and Herzegovina),  
Síofra **O’Leary** (Ireland),  
Mārtiņš **Mits** (Latvia), *Judges*,

and also Claudia **Westerdiek**, *Section Registrar*.

## Decision of the Court

### Article 5 § 1 (right to liberty and security)

The Court found that Mr Ursulet had been deprived of his liberty within the meaning of Article 5 § 1 of the Convention, since he had been under the control of the authorities and had not been able to leave the premises without police authorisation. It noted, however, that the measure of constraint imposed on Mr Ursulet had complied with the French legislation in force at the relevant time<sup>1</sup>, allowing a senior police officer to take into police custody or merely detain any individuals, like Mr Ursulet, against whom there existed one or more plausible reasons to suspect that they had committed or attempted to commit an offence. Although no provision had precisely governed the choice of the senior police officer to detain an individual without taking him into police custody, or before doing so, that mere fact, in itself, did not suffice for the Court to find that Mr Ursulet had been deprived of his liberty without any basis in domestic law.

The Court also noted that Mr Ursulet had been held in the police station after being stopped for a number of road traffic offences and arrested when the police noticed that his number-plate did not correspond to the number on the vehicle registration document, a fact that potentially constituted the offence of using false plates. The Court observed that the police officers had not used any measure of restraint at the time of the arrest, even allowing Mr Ursulet to ride his scooter as far as the police station. A passer-by, who had witnessed the scene, had testified that the officers had acted professionally, but also that Mr Ursulet had displayed an aggressive and haughty attitude towards them. Consequently, the Court found that the arrest and subsequent deprivation of liberty did not overstep the security imperatives and were consistent with the aims listed in Article 5 § 1 of the Convention.

<sup>1</sup> Articles 62 and 63 of the Code of Criminal Procedure.

The Court noted, lastly, that Mr Ursulet had been held from 2.20 p.m. to 3.05 p.m. (45 minutes), before being presented to the senior police officer, and that he had been released immediately after his interview at 3.45 p.m., one hour and 25 minutes after his arrest. In that connection – and being mindful of the difficulty of running a police station – the Court acknowledged that such a short period, being confined to what was strictly necessary, might elapse before the detained person could be questioned and ultimately released, as was permitted by the French rules in force at the time.

Consequently, the Court rejected Mr Ursulet's complaint under Article 5 § 1 of the Convention as manifestly ill-founded, finding that his deprivation of liberty had complied with the aims listed in Article 5 § 1 and had been imposed in accordance with that Article.

### Other Articles

In respect of the complaints under Articles 3 (prohibition of torture and inhuman or degrading treatment) and 8 (right to respect for private and family life) of the Convention, the Court noted that even though Mr Ursulet had initially challenged his handcuffing, having filed a criminal complaint for assault by a public official, he had not raised that complaint before the Court of Cassation, merely criticising in his appeal the arbitrariness of his deprivation of liberty. The Court thus found that this complaint had to be rejected for failure to exhaust domestic remedies.

*The decision is available only in French.*

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**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.