



## Judgments and decisions of 5 October 2023

The European Court of Human Rights has today notified in writing 34 judgments<sup>1</sup> and 87 decisions<sup>2</sup>: six Chamber judgments are summarised below;

28 Committee judgments, concerning issues which have already been examined by the Court, and 87 decisions can be consulted on Hudoc and do not appear in this press release.

*The judgment in French below is indicated with an asterisk (\*).*

### Gurbanov v. Armenia (application no. 7432/17)

The applicant, Salman Gurbanov, is an Azerbaijani national who was born in 1968 and lives in Baku.

The applicant's 22-year-old son, a soldier in the Azerbaijani Armed Forces, was killed in military clashes that took place on the border between Azerbaijan and Armenia on 29 December 2016. His body was found in the Tavush region of Armenia.

The case concerns the delayed return by the Armenian authorities of the body, which was only handed over to his family on 5 February 2017.

Relying in particular on Articles 8 (right to respect of private and family life) and 14 (prohibition of discrimination) of the European Convention on Human Rights, the applicant complains of inhuman treatment, that he and his family had not been able to bury the body in accordance with their religious tradition, that no effective remedies were available and that the underlying reasons for the refusal to return the body were discriminatory.

**No violation of Article 8**

**No violation of Article 14**

### Ghazaryan and Bayramyan v. Azerbaijan (no. 33050/18)

The applicants are Armen Ghazaryan and Astghik Bayramyan, who were born in 1959 and 1958, respectively, and live in the village of Berdavan in Armenia a few kilometres away from the border with Azerbaijan.

The case concerns the applicants' 39-year-old son who was apprehended in July 2018 in Azerbaijan not far from Berdavan where he lived with his parents. The Azerbaijani courts subsequently convicted him of conspiracy to carry out sabotage and terrorism attacks and sentenced him to 20 years' imprisonment. He was returned to Armenia in December 2020 as part of an exchange of prisoners.

<sup>1</sup> Under Articles 43 and 44 of the Convention, Chamber judgments are not final. During the three-month period following a judgment's 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. Under Article 28 of the Convention, judgments delivered by a Committee are final.

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)

<sup>2</sup> Inadmissibility and strike-out decisions are final.

The applicants rely in particular on Article 3 (prohibition of inhuman or degrading treatment) and Article 5 (right to security and liberty) of the European Convention to complain about their son's capture, detention and trial.

**Violation of Article 5 § 1** in respect of the applicants' son

**Violation of Article 5 § 3** in respect of the applicants' son

**No violation of Article 5 § 4** in respect of the applicants' son

**Violation of Article 3** in respect of the applicants' son

**No violation of Article 3** in respect of the applicants

**Just satisfaction:**

non-pecuniary damage: EUR 10,000 euros for the applicants' son

costs and expenses: EUR 3,225

### [Sarl Couttolenc Frères v. France](#) (no. 24300/20)\*

The applicant is a company incorporated under French law with its registered office in Sauze (France). It has been operating ski-lifts on a commercial basis for several decades.

With the entry into force of the Mountain Development and Protection Act (Law of 9 January 1985), ski-lifts became a public service under the responsibility of municipalities, groupings of municipalities or *départements*. The applicant operated its business under private law for a 14-year transitional period, after which it signed a public-service concession agreement with the relevant public authority. Upon the expiry of that agreement, the public authority decided to take over the operation of the ski-lifts, which resulted in the transfer of the equipment necessary for the public service pursuant to the reversion of assets rule (*règle des biens de retour*).

Relying on Article 1 of Protocol No. 1 (protection of property), the applicant company complains that, as a consequence of the application of that rule, it was deprived of assets it had owned prior to the signing of the public-service concession agreement, without receiving compensation corresponding to their market value and pursuant to a rule that was neither accessible nor foreseeable.

**No violation of Article 1 of Protocol No. 1**

### [Ikotity and Others v. Hungary](#) (no. 50012/17)

The applicants, István Ikotity, Bernadett Szél and Róbert Benedek Sallai are three Hungarian nationals who were born between 1974 and 1977 and live in Hungary in Baja, Pécs and Mezőtúr respectively. At the time of the events, they were opposition members of the Hungarian Parliament, and Ms Szél was the leader of the opposition party *Lehet Más a Politika* parliamentary group.

The case concerns the refusal to grant them permission to use posters during a parliamentary debate on the government's development plans for Budapest, and the sanctions they received for having used the posters without permission.

The applicants complain that those decisions infringed their right to freedom of expression as provided for in Article 10 of the Convention. They also complain under Article 13 that the remedies available with respect to the disciplinary sanctions imposed on them were ineffective.

**No violation of Article 10**

### [Shahzad v. Hungary](#) (no. 2) (no. 37967/18)

The applicant, Khurram Shahzad, is a Pakistani national who was born in 1986 and, according to the most recent information available, lives in Dubai (United Arab Emirates).

Mr Shahzad, an asylum-seeker, crossed into Hungary via Serbia in August 2016 by cutting the border fence. The case concerns his allegation that he was ill-treated by the Hungarian border police when being escorted back to Serbia.

Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Shahzad alleges that he was punched, kicked and beaten with batons and a metal rod during his forced removal, submitting a medical report issued a few hours later by a Serbian hospital certifying that he had two head wounds and bruises all over his body. He also alleges under Article 3 that the investigation into his criminal complaint was ineffective, in particular because the authorities failed to interview him at any point or to re-interview the police officers involved in the incident who had made contradictory statements.

**Violation of Article 3** with regard to its substantive and procedural aspects

**Just satisfaction:**

non-pecuniary damage: EUR 20,000

costs and expenses: EUR 5,000

### [Andrzej Ruciński v. Poland](#) (no. 22716/12)

The applicant, Andrzej Ruciński, is a Polish national who was born in 1958 and lives in Dobra (Poland).

The case concerns a lack of compensation for Mr Ruciński's loss of business profits due to decisions taken by the tax authorities that were disproportionate.

Relying on Article 1 of Protocol No. 1 (protection of property), Mr Ruciński complains that his business sustained serious losses because of the unlawful tax decisions and that the civil court, in rejecting the applicant's action for compensation for pecuniary damage, applied the law in a manner which disproportionately protected the State Treasury against claims brought by private individuals.

**Violation of Article 1 of Protocol No. 1**

**Just satisfaction:** the question is not ready for decision and has been set aside

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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.