



## Judgments and decisions of 7 May 2020

The European Court of Human Rights has today notified in writing eight judgments<sup>1</sup> and six decisions<sup>2</sup>:

four Chamber judgments are summarised below;

a separate press release has been issued for one decision, in the case of *Beshiri v. Albania* (no. 29026/06) and 11 other applications;

four Committee judgments, concerning issues which have already been submitted to the Court, and the other five decisions, can be consulted on [Hudoc](#) and do not appear in this press release.

*The judgments below are available only in English.*

### Anahit Mkrtchyan v. Armenia (application no. 3673/11)

The applicant, Anahit Mkrtchyan, is an Armenian national who was born in 1952 and lives in Baghramyan, a village in Armenia.

The case concerned her complaint about the national authorities' investigation into the death of her 22-year-old son, Arayik Avetisyan, during his military service.

Just over a year after he was drafted into the army, on 30 October 2001, Ms Mkrtchyan's son died from a gunshot wound in the head in the office of his battalion's commanding officer.

From the outset the official explanation for the incident was that another conscript had accidentally shot her son. Ms Mkrtchyan, on the other hand, immediately suspected his commanding officer who she alleged had been abusing her son and extorting money from him.

Immediately after the incident, an investigator carried out an on-site examination and seized a gun. The following day a criminal case was opened, an autopsy was ordered and several key witnesses, other conscripts, were questioned.

One week later one of the conscripts was charged with murder. He was eventually indicted for negligent homicide resulting from breaching the rules on handling firearms. During these proceedings the domestic courts remitted the case to the prosecution three times, pointing out shortcomings in the investigation, in particular, a failure to address contradictions in witness statements and the forensic data.

Both before and during his trial the accused conscript admitted to unintentionally killing the applicant's son, but when he was questioned again in March 2011 following another remittal of the case, he denied all his previous statements, maintaining that he had had to incriminate himself out of fear for his and his family's security.

<sup>1</sup> Under Articles 43 and 44 of the Convention, Chamber judgments are not final. During the three-month period following a Chamber 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 investigation is still ongoing today, with the criminal proceedings having been stayed for the second time in March 2019 on the grounds that it had not been possible to identify the person against whom charges should be brought. The investigation has neither established the origin of the non-ballistic injuries on the victim's body, which according to experts had not been caused by his falling after the gunshot, nor the gun from which the shot was fired.

Relying in particular on Article 2 (right to life) of the European Convention on Human Rights, Ms Mkrtchyan alleged that the national authorities' investigation into the death of her son, lasting so far more than 18 years, had not been effective.

### Violation of Article 2

**Just satisfaction:** 24,000 euros (EUR) for non-pecuniary damage and EUR 2,000 for costs and expenses

### Khadija Ismayilova v. Azerbaijan (no. 3) (no. 35283/14)

The applicant, Khadija Rovshan gizi Ismayilova, is an Azerbaijani national who was born in 1976 and lives in Baku.

The applicant is a well-known investigative journalist who has worked for the Azerbaijani service of Radio Free Europe/Radio Liberty ("Azadliq Radio"), among other outlets. In particular she has conducted journalistic investigations into high-level corruption in Azerbaijan.

This is the third case the applicant has brought before the Court linked to an alleged campaign of intimidation against her because of her journalistic activity.

In March 2012 a video filmed secretly with a hidden camera in her bedroom, showing scenes of a sexual nature of her and her then boyfriend taken, was posted online. That and related events were the subject of the Court's 2019 judgment finding violations of the applicant's rights in *Khadija Ismayilova v. Azerbaijan*.

At around the same time and afterwards articles criticising the applicant were published in various newspapers. Another video of the same nature was posted online in the middle of 2013.

In November 2012 the pro-Government newspaper *Səs* published an article which made various derogatory remarks about opposition-oriented journalists and opposition politicians. Among other things the article stated: "If opposition newspapers' pen-pushing blabbermouths have such cheap and narrow thoughts, let them make room for Khadija Ismayilova in their Public Chamber and name her the Public Chamber's Pornstar Cicciolina!" The article went on to make a number of sexually-themed statements concerning "Cicciolina".

The applicant sued the newspaper, alleging that the article was insulting and damaging to her honour and dignity, her right to respect for her private and family life, and her right to freedom of expression. She submitted that she was facing blackmail in connection with her journalistic activity as her private life had recently been invaded and a secret video-recording of her had been filmed and released on the Internet. The Sabail District Court dismissed her claim in February 2013. Appeals by her were also dismissed in June and October 2013.

In December 2014 the applicant was arrested and detained on a charge of having incited a former colleague to commit suicide. Those events were the subject of the Court's judgment, finding violations of the applicant's rights, in the Court's 2020 judgment of *Khadija Ismayilova v. Azerbaijan (no. 2)*.

In the current application the applicant complained that the respondent State had failed to protect, in particular, her rights under Article 8 (right to respect for private life) of the European Convention

as the courts had not sanctioned the newspaper for its article on what it had depicted as her private and sexual life.

### **Violation of Article 8**

**Just satisfaction:** EUR 4,500 for non-pecuniary damage and EUR 1,500 for costs and expenses

### **Vardosanidze v. Georgia (no. 43881/10)**

The applicant, Lali Vardosanidze, is a Georgian national who was born in 1961 and lives in Kutaisi (Georgia).

The case concerned the death of the applicant's son from carbon monoxide poisoning, which she alleged had been the result of the failure to adequately regulate and supervise the use of gas-operated household devices in Georgia.

The applicant's son was found dead on 30 April 2008 in the apartment he rented with his grandmother in Tbilisi. The autopsy concluded that the cause of death was asphyxiation from carbon monoxide poisoning.

Approximately ten months earlier, gas inspectors from Kaztransgaz-Tbilisi, the only company licensed to distribute natural gas in Tbilisi, had carried out a safety check at the applicant's son's flat and discovered that a gas-operated water heater had been incorrectly installed. According to the inspection record, they had therefore "disconnected the water heater, sealed the gas meter in cellophane and provided the resident ... with instructions".

As part of the subsequent criminal investigation into the death, the inspectors stated that they had warned the applicant's family about the risks associated with using such a water heater and that it should not be re-connected. They also later specified that there was a ban on installing gas-operated water heaters in buildings with five or more floors, such as the building where the applicant's son was renting, as they lacked chimney systems and could not be adequately ventilated.

The investigation was closed in October 2009, concluding on accidental death. It found that the applicant's son had been responsible for the accident because he must have re-connected the water heater, in breach of safety standards and despite the warning from the gas company.

That finding was upheld by the domestic courts, in a final decision handed down in December 2009.

Relying on Article 2 (right to life), the applicant complained that the Georgian Government had been aware that there had been a widespread problem of poisoning from carbon monoxide and should have taken measures to protect her son's life, and that the investigation into his death had not been effective.

She also alleged under Article 38 (obligation to furnish necessary facilities for the examination of the case) that the Government had failed to submit crucial documents from the criminal case file during the proceedings before the European Court.

### **No violation of Article 2**

### **No violation of Article 38**

Just satisfaction

### **Sadocha v. Ukraine (no. 77508/11)**

The applicant, Vasil Sadocha, is a Czech national who was born in 1972 and lives in Olomouc (the Czech Republic).

The case concerned the applicant's complaint about Ukrainian customs officials seizing 31,000 euros cash from him which he had failed to declare when crossing the border.

In its principal judgment of 11 July 2019, the Court found that there had been a violation of Article 1 of Protocol No. 1 (protection of property). The Court held that the question of the application of Article 41 (just satisfaction) of the Convention in respect of pecuniary damage was not ready for decision and reserved it for examination at a later date.

**Just satisfaction:** In its judgment today the Court held that the respondent State was to pay Mr Sadocha EUR 29,456.70 for pecuniary damage.

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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.