



## Judgments and decisions of 20 September 2018

The European Court of Human Rights has today notified in writing 23 judgments<sup>1</sup> and 13 decisions<sup>2</sup>:

five Chamber judgments are summarised below; separate press releases have been issued for five other Chamber judgments in the cases of *Mushegh Saghatelyan v. Armenia* (application no. 23086/08), *Aliyev v. Azerbaijan* (nos. 68762/14 and 71200/14), *Jishkariani v. Georgia* (no. 18925/09), *Annen v. Germany* (nos. 2-5) (nos. 3682/10, 3687/10, 9765/10, and 70693/11), and *Solska and Rybicka v. Poland* (nos. 30491/17 and 31083/17);

a separate press release has also been issued for one decision, in the case of *Tuheiava v. France* (no. 25038/13);

13 Committee judgments, concerning issues which have already been submitted to the Court, and the 12 other decisions, can be consulted on [Hudoc](#) and do not appear in this press release.

*The judgments below are available only in English.*

### Gaspari v. Armenia (application no. 44769/08)

The applicant, Vartgez Gaspari, is an Armenian national who was born in 1957 and lives in Yerevan.

The case concerned his complaint about the conditions of and reasons for his detention for ten months in 2008.

Following protest rallies against the 2008 presidential election, there were clashes with the police and on 1 March 2008 Mr Gaspari was arrested on suspicion of assaulting a police officer. Shortly afterwards, he was formally charged and the courts allowed the investigator's application for his pre-trial detention. He lodged an appeal, arguing that he had a place of residence and a minor child and was known to be of good character. However, the Court of Appeal dismissed his appeal, concluding that he had misled the investigating authorities about his identity because his arrest record indicated his name as both Vartgez Gaspari and Vardges Gasparyan and that there were therefore grounds to believe that he might abscond or obstruct the course of justice. All his other requests to be released were dismissed.

Mr Gaspari was found guilty as charged and sentenced to one year's imprisonment in November 2008. He was released in February 2009.

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights, he complained about the conditions of his detention between 6 March and 23 December 2008 when he had been held in seven different cells in Nubarashen Remand Prison. He alleged that certain cells had been overcrowded, had lacked natural light and fresh air and had been regularly flooded by sewage, that in others he had had to take turns sleeping with fellow inmates and that he had been constantly exposed to cigarette smoke.

<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.

Also relying on Article 5 § 3 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial) of the Convention, he alleged that the domestic courts had failed to give good reasons for his detention. In particular, the Court of Appeal's decision about his identity had distorted the facts; the arrest record had mentioned his Armenian name, Vardges Gasparyan, and, because he was an ethnic Armenian who had been born and raised in Iran, the Iranian version of his name, Vartgez Gaspari.

**Violation of Article 3** (degrading treatment) – on account of the conditions of Mr Gaspari's detention in cells nos. 4, 9, 20, 29 and 42

**No violation of Article 3** – concerning the conditions of Mr Gaspari's detention in cells nos. 10 and 79;

**Violation of Article 5 § 3**

**Just satisfaction:** 4,000 euros (EUR) (non-pecuniary damage)

### Gulyan v. Armenia (no. 11244/12)

The applicant, Ashot Gulyan, is an Armenian national who was born in 1942 and lives in Yerevan.

The case concerned the death of his 30-year-old son, Levon Gulyan, when he was being questioned by the police as a witness in a murder case. He was found dead on 12 May 2007 in the courtyard of Yerevan police headquarters after having apparently fallen from a second floor window.

Levon Gulyan had been taken to the headquarters for questioning about a man who had been shot dead three days earlier in front of the restaurant he owned.

The investigation into the death was taken over by a special investigative service in December 2007 and, since then, has been repeatedly closed and resumed. Each time the investigators closed the proceedings, they essentially concluded that Mr Gulyan had been trying to escape a planned confrontation with another witness in the murder case because it would have obliged him to reveal the identity of the murderer. When ordering the reopening of the investigation, the courts pointed out numerous shortcomings, in particular the fact that the investigators had not looked into allegations that Mr Gulyan had been ill-treated and then thrown out of the window. The courts also gave repeated instructions to carry out a reconstitution of the events with a dummy. Most recently the investigation was closed again in February 2012, the decision stating among other things that there was no dummy available to carry out such a reconstitution.

Relying in particular on Article 2 (right to life), the applicant complained inter alia about the death of his son in police custody and the authorities' failure to carry out an effective investigation.

**Violation of Article 2** (right to life)

**Violation of Article 2** (investigation)

**Just satisfaction:** EUR 50,000 (non-pecuniary damage) and EUR 2,000 (costs and expenses)

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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.