



## Judgments of 19 December 2023

The European Court of Human Rights has today notified in writing five Chamber judgments<sup>1</sup>: three judgments are summarised below;

separate press releases have been issued for two other judgments in the cases of *O.J. and J.O. v. Georgia and Russia* (applications nos. 42126/15 and 42127/15) and *Narbutas v. Lithuania* (no. 14139/21).

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

### [Narayan and Others v. Azerbaijan](#) (applications nos. 54363/17, 54364/17, and 54365/17)

The applicants are ten Armenian nationals who were born between 1959 and 1998 and live in Yerevan and Stepanavan (Armenia).

The case concerns the killing of the applicants' relatives by an Azerbaijani soldier who allegedly crossed the border onto Armenian territory and shot them.

Relying on Articles 2 (right to life), 13 (right to an effective remedy) and 14 (prohibition of discrimination) of the European Convention on Human Rights, the applicants complain that their relatives were killed unlawfully given that there was no ongoing armed conflict at the time; that they were discriminated against because of their ethnicity and national origin; and that Azerbaijan failed to conduct an effective investigation into the killings.

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

**Violation of Article 2** (investigation)

#### **Just satisfaction:**

non-pecuniary damage: 16,000 euros (EUR) per application in respect of applications nos. 54363/17 and 54364/17, to be paid jointly to the respective applicants

costs and expenses: EUR 2,780 per application in respect of applications nos. 54363/17 and 54364/17, to be paid jointly to the respective applicants

### [Matkava and Others v. Russia](#) (no. 3963/18)

The applicants are a family of four Georgian nationals, who were born between 1956 and 2008 and live in Zugdidi (Georgia).

They complain that on 19 May 2016, their son/husband/father, Giga Otkhozoria, was killed by a border guard of the *de facto* Republic of Abkhazia – the region in Georgia which is currently outside the *de facto* control of the Georgian Government – , whilst he was trying to take food to a funeral in a village located in Gali District, Abkhazia. They claim that, when trying to cross the bridge

<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)

representing the administrative border line, he got into an argument with the *de facto* border guards and retreated back onto Georgia-controlled territory. However, he was closely followed there by four *de facto* border guards, one of whom shot him four times, the last shot a fatal shot to the head. After shooting him, the guards beat a hasty retreat back onto Abkhaz territory.

Relying on Articles 2 (right to life) and 13 (right to an effective remedy) of the European Convention, the applicants complain that their relative was killed unlawfully and that there was no effective investigation into the killing.

#### **Violation of Article 2** (right to life and investigation)

##### **Just satisfaction:**

non-pecuniary damage: EUR 130,000 to the applicants jointly

costs and expenses: EUR 9,265.15 to the applicants jointly

#### **Arnold and Marthaler v. Switzerland** (nos. 77686/16 and 76791/16)\*

The applicants, Lukas Arnold and Felix Marthaler, are Swiss nationals.

The case concerns the applicants' being restrained behind a police cordon (a measure known as "kettling") during a demonstration held on 1 May 2011, and their subsequent detention. They were released the same day – at around 9 p.m. and 10.30 p.m. respectively – after the police had performed a thorough identity check.

Relying on Article 5 (right to liberty and security) of the Convention, the applicants complain about the kettling measure and their detention, which they allege was unlawful.

#### **Violation of Article 5 § 1**

##### **Just satisfaction:**

non-pecuniary damage: EUR 1,000 to each applicant

costs and expenses: EUR 10,000 to the applicants jointly

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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.