EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

DECISION

Application no. 13255/22
Amir MAFALANI
against Croatia

The European Court of Human Rights (First Section), sitting on 5 February 2026 as a Committee composed of:

Frédéric Krenc*, President*,
Davor Derenčinović,
Alain Chablais*, judges*,

and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to the above application lodged on 1 March 2022,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. The applicant, Mr Amir Mafalani, is a Croatian national who was born in 1982 and is detained in Lepoglava. He was represented before the Court by Ms L. Horvat, a lawyer practising in Zagreb.

2. The Croatian Government ("the Government") were represented by their Agent, Ms Š. Stažnik.

3. The case concerns the alleged ineffectiveness of the reopened investigation into the applicant's ill-treatment by the police after the Court's judgment in *Mafalani v. Croatia* (no. 32325/13, 9 July 2015).

4. In *Mafalani,* the Court found that in 2008 the applicant had been subjected to inhuman and degrading treatment following his arrest by an antiterrorist team of the Special Police Forces in connection with the killing of a well-known Croatian journalist and his business associate. The Court also found that there had been no effective investigation in that regard, contrary to the requirements of the substantive and procedural aspects of Article 3 of the Convention. The Court noted, *inter alia*, that the competent State Attorney's Office had not undertaken any steps to identify the members of the antiterrorist team involved in the applicant's arrest (see *Mafalani*, cited above, § 102).

5. Following the Court's judgment, in December 2015 the State Attorney's Office reopened the investigation into the applicant's ill-treatment. It obtained a copy of an expert report commissioned in the civil proceedings for damages which the applicant had, in the meantime, instituted against the State and questioned a medical expert on the possible cause of the applicant's injuries. Six witnesses and the applicant were also heard. Information was obtained on the identities of the police officers who had conducted an inquiry in respect of the applicant in 2008. On three occasions (in 2015, 2016 and 2020), the State Attorney's Office also asked the Police Directorate to provide information on the identities of the members of the antiterrorist team involved in the applicant's arrest, but the Police Directorate replied that the information in question had been classified as "confidential" and could not be disclosed owing to national security reasons.

6. In June 2019 the applicant lodged a constitutional complaint, complaining of the lack of an effective investigation into his ill-treatment.

7. On 1 March 2022 he lodged the present application with the Court, complaining under Article 3 of the Convention that the reopened investigation was ineffective.

8. In October 2022 the Committee of Ministers concluded the supervision of the execution of the *Mafalani* judgment under Article 46 § 2 of the Convention.

9. On 27 November 2023 the Government were given notice of the application.

10. On 23 April 2024 the Constitutional Court found that the fresh investigation after the Court's judgment in *Mafalani* had not complied with the requirements of the procedural aspect of Article 3 of the Convention and awarded the applicant 4.645,30 euros as just satisfaction for the established breach of the Convention.

11. The criminal investigation into the applicant's ill-treatment is still ongoing.

THE LAW

12. The Government objected that the present application did not raise any new relevant facts possibly entailing a fresh violation of the Convention, submitting that it only concerned the execution of the Court's judgment in the applicant's initial case of *Mafalani v. Croatia* (no. 32325/13, 9 July 2015), which fell outside the Court's competence. Alternatively, they argued that, as a result of the Constitutional Court's ruling of 23 April 2024, the applicant could no longer claim to be a victim of the alleged violation. They further argued that the reopened investigation had been independent and thorough, despite the fact that the State Attorney's Office had faced an objective and insurmountable obstacle in establishing the identities of the police officers involved in the applicant's arrest.

13. The applicant argued that he was still a victim of the alleged violation because the Constitutional Court had neither set a deadline within which the investigation should be completed nor indicated appropriate measures which should be taken. He added that, instead of keeping the identities of the police officers who had arrested him confidential, the authorities could have found another way to protect national security, for example by excluding the public from the proceedings, or by limiting access to specific documents. He also submitted that the amount of compensation awarded to him by the Constitutional Court had been too low and that he had not been compensated for the cost of lodging a constitutional complaint through a lawyer.

14. The Court considers that it must first ascertain whether the Constitutional Court's ruling in the applicant's case (see paragraph 10 above) may lead it to conclude that it is no longer justified to continue the examination of the application (see, for example, *Association SOS Attentats and de Boery v. France* (dec.) [GC], no. 76642/01, §§ 29 and 36, ECHR 2006-XIV), and whether the application may consequently be struck out of its list of cases in accordance with Article 37 § 1 of the Convention.

15. The Court reiterates that it enjoys a wide discretion in identifying grounds capable of being relied upon in striking out an application on this basis, it being understood, however, that such grounds must reside in the particular circumstances of each case (ibid., § 37; see also *Oya Ataman v. Turkey* (striking out), no. 47738/99, § 24, 22 May 2007).

16. In the present case, the Constitutional Court expressly acknowledged that there had been a breach of the procedural aspect of Article 3 of the Convention (see paragraph 10 above). It established that the fresh investigation conducted after the Court's judgment in *Mafalani* had not been prompt; that information about the identities of the police officers of the antiterrorist team who had arrested the applicant had still not been obtained; that the police officers who had conducted the 2008 inquiry – whose identities were known – had not been questioned; and that an independent and thorough forensic examination of the applicant's injuries had not been commissioned. It further warned that the applicant, as the victim of ill-treatment, should be allowed to effectively participate in the investigation and have access to the investigation case file, to the extent necessary for the protection of his legitimate interests.

17. The Court notes that, irrespective of the fact that the Constitutional Court did not expressly order the competent authorities to conduct a Convention-compliant investigation into the applicant's allegations of ill-treatment (compare *Škrpan v. Croatia* (dec.), no. 41317/15, § 45, 8 December 2020), it is clear that the Constitutional Court's decisions have a binding effect and that the domestic authorities are under an obligation to implement them in matters of their competence (see *Kušić and Others v. Croatia* (dec.), no. 71667/17, §§ 38 and 97, 10 December 2019). Accordingly, following the Constitutional Court's decision in the present

case, the authorities are under a legal obligation to resume and continue the investigation into the applicant's ill-treatment, taking into account the Constitutional Court's findings as to the specific deficiencies that it identified in that investigation (see *Škrpan*, cited above, §§ 46-47).

18. Moreover, having regard to the amounts awarded to other applicants by way of just satisfaction in previous similar cases against the respondent State (see *Perkov v. Croatia*, no. 33754/16, § 72, 20 September 2022; *Štitić v. Croatia* [Committee], no. 16883/15, § 78, 6 September 2018; and *Tadić v. Croatia*, no. 10633/15, § 79, 23 November 2017, all of which concerned violations of the procedural aspect of Article 3 of the Convention on account of an ineffective investigation into allegations of police ill-treatment), the Court does not find that the amount awarded to the applicant by the Constitutional Court was too low.

19. As to the complaint that the Constitutional Court did not award the applicant the cost of lodging a constitutional complaint, the Court notes that the applicant made no such claim in his constitutional complaint.

20. In view of the above, the Court is satisfied that respect for human rights as defined in the Convention (Article 37 § 1 *in fine*) does not require it to continue its examination of the present case and considers it appropriate to strike the application out of the list in accordance with Article 37 § 1 (c) of the Convention. This conclusion makes it unnecessary for the Court to examine the pleas of inadmissibility raised by the Government concerning the compatibility *ratione materiae* and loss of the applicant's victim status.

21. The Court would further stress that the foregoing conclusion is without prejudice to the national authorities' continuing obligation to conduct an investigation in compliance with the requirements of the Convention (see *Žarković and Others v. Croatia* (dec.), no. 75187/12, § 23, 9 June 2015) or to any decision the Court might take to restore the case to its list of cases pursuant to Article 37 § 2 of the Convention, should the national authorities fail to fulfil that obligation.

22. In view of the above, it is appropriate to strike the case out of the list.

For these reasons, the Court, unanimously,

Decides to strike the application out of its list of cases.

Done in English and notified in writing on 5 March 2026.

Liv Tigerstedt Deputy Registrar	Frédéric Krenc President