

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

SECOND SECTION

DECISION

Application no. 43315/22
Fitim MUSLIU
against North Macedonia
(see appended table)

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

Stéphane Pisani*, President*,
Juha Lavapuro,
Hugh Mercer*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 30 August 2022,

Having regard to the declaration submitted by the respondent Government requesting the Court to strike the application out of the list of cases,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant's details are set out in the appended table.

The applicant was represented by Mr D. Gjorchevski, a lawyer practising in Skopje.

The application concerns allegations that the applicant was physically attacked and beaten on 3 August 2020, while serving his prison sentence, by a prison guard, in front of the prison canteen. Before the Court, the applicant complained under Article 3 of the Convention that the prison guard had ill-treated him and that the domestic authorities had failed to carry out an effective investigation into those allegations.

These complaints had been communicated to the Government of North Macedonia ("the Government").

THE LAW

After the failure of the attempts to reach a friendly settlement, by a letter of 23 June 2025 the Government informed the Court that they proposed to

make a unilateral declaration with a view to resolving the issue raised by the application. They further requested the Court to strike out the application in accordance with Article 37 of the Convention.

In the declaration submitted to the Court, the Government acknowledged that there had been a violation of the applicant's rights guaranteed by the provisions of the Convention relied on by the applicant. They offered to pay the applicant a sum of 11,295 euros (EUR) to cover all non-pecuniary damage, plus any tax that may be chargeable, and invited the Court to strike the application out of the list of cases in accordance with Article 37 § 1 (c) of the Convention. The amount would be converted into the currency of the respondent State at the rate applicable on the date of payment, and would be payable within three months from the date of notification of the Court's decision. In the event of failure to pay this amount within the above-mentioned three-month period, the Government undertook to pay simple interest on it, from the expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

The payment will constitute the final resolution of the case.

The applicant was sent the terms of the Government's unilateral declaration.

By a letter of 11 July 2025, the applicant indicated that he was not satisfied with the terms of the unilateral declaration. In particular, the applicant argued that, although the Government had acknowledged a breach of his rights, they had failed to specify the measures envisaged to ensure compliance with the Convention, to remedy the violation found, and to address the structural problems concerning ill-treatment, as well as to implement the necessary reforms.

The Court observes that Article 37 § 1 (c) enables it to strike a case out of its list if:

> "... for any other reason established by the Court, it is no longer justified to continue the examination of the application".

Thus, it may strike out applications under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government even if the applicant wishes the examination of the case to be continued (see, in particular, the *Tahsin Acar v. Turkey* judgment (preliminary objections) [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI).

The Court has established in a number of cases, including those brought against North Macedonia, its practice concerning complaints relating to ill-treatment under Article 3 of the Convention (see, for example, *El-Masri v. the former Yugoslav Republic of Macedonia* [GC], no. 39630/09, §§ 182-85, ECHR 2012; *Mocanu and Others v. Romania* [GC], nos. 10865/09 and 2 others, §§ 314-26, ECHR 2014 (extracts); *Bouyid v. Belgium* [GC], no. 23380/09, §§ 81-90 and §§ 114-23, ECHR 2015;

Kitanovski v. the former Yugoslav Republic of Macedonia, no. 15191/12, §§ 76-77 and §§ 83-86, 22 January 2015 and *X and Y v. North Macedonia*, no. 173/17, § 50 and § 56, 5 November 2020).

Noting the admissions contained in the Government's declaration as well as the amount of compensation proposed – which is consistent with the amounts awarded in similar cases – the Court considers that it is no longer justified to continue the examination of the application (Article 37 § 1 (c)).

Moreover, in light of the above considerations, and in particular given the clear and extensive case-law on the topic, the Court is satisfied that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue the examination of the application (Article 37 § 1 *in fine*). In this connection, the Court also points out that the decision in question is without prejudice to the Government's obligation to conduct an investigation in compliance with the requirements of the Convention in view of their acknowledgement of the violation of the applicant's rights protected under Article 3 of the Convention (see *Zarkovic and others v. Croatia* (dec.), no. 75187/12, § 22-23, 9 June 2015, and *Khalil v. Azerbaijan* (dec.), nos. 60659/08 and 2 other applications, § 91, 6 October 2015).

Finally, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declaration, the application may be restored to the list in accordance with Article 37 § 2 of the Convention (see *Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

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

For these reasons, the Court, unanimously,

Takes note of the terms of the respondent Government's declaration and of the arrangements for ensuring compliance with the undertakings referred to therein;

Decides to strike the application out of its list of cases in accordance with Article 37 § 1 (c) of the Convention.

Done in English and notified in writing on 26 February 2026.

Viktoriya Maradudina Acting Deputy Registrar	Stéphane Pisani President

APPENDIX

Application raising complaints under Article 3 of the Convention

Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Date of receipt of Government's declaration	Date of receipt of applicant's comments, if any	Amount awarded for non-pecuniary damage and costs and expenses per applicant (in euros)[1]
43315/22 30/08/2022	**Fitim MUSLIU** 1990	Dime Gjorchevski Skopje	23/06/2025	11/07/2025	11,295

[1] Plus any tax that may be chargeable to the applicant.