



The applicant's living conditions, as an asylum-seeker and unaccompanied minor who was left without accommodation for six months, were in breach of the Convention

In today's **Chamber judgment**¹ in the case of [O.R. v. Greece](#) (application no. 24650/19) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights

The case concerned O.R.'s living conditions in Greece from November 2018 to May 2019. The applicant – an unaccompanied minor and asylum-seeker at the relevant time – alleged that he had remained homeless for nearly six months, without access to basic essentials and without an officially designated legal guardian.

The Court found that throughout the period in question the Greek authorities had left O.R. to fend for himself in an environment that was entirely unsuitable for minors – whether in terms of security, accommodation, hygiene or access to food and care, or in terms of the measures taken to provide for him more generally – and in unacceptably precarious circumstances, given his status as an asylum-seeker and unaccompanied minor. O.R. had therefore found himself in an inhuman and degrading situation that had been in breach of Article 3 of the Convention.

Principal facts

The applicant, O.R., is an Afghan national who was born in 2003. He claimed to have arrived in Greece in November 2018 as an unaccompanied minor.

On 24 November 2018 O.R. informed the relevant authorities for the first time of his personal situation and stated that he wished to file an application for international protection. He subsequently called the authorities' attention to his situation, which is described below, on numerous occasions.

On 19 December 2018 the authorities registered the applicant's application for international protection and, in May 2019, assigned him a place in a reception facility for unaccompanied minors in Athens. He remained there until 25 September 2019, when he left Greece for Berlin (Germany).

O.R. explained that from November 2018 to May 2019 he had been subjected to highly stressful conditions which were ill-adapted to his personal situation.

In particular, O.R. stated that he had remained homeless for several months, including over the winter period, and had suffered on account of the cold and bad weather, without access to drinking water, food, hot water or a toilet. He explained, among other points, that he had been obliged to spend several nights in public squares in Athens, and then had been accommodated for a few days in overcrowded houses, in the company of adult men. He further alleged that he had slept for several nights at the Skaramagas and Malakasa camps, without authorisation, either on the floor in rooms

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its 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.

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.

reserved for adult men, or outdoors. He alleged that he had been sexually harassed by adults on two occasions during that time and had reported this fact to the contact person for psychosocial matters at the Arsis NGO.

He also pointed out that, despite his status as a minor, no measure had been taken to appoint a guardian for him, and submitted that he had experienced fear, a sense of insecurity and despair.

Complaints, procedure and composition of the Court

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment) of the Convention, the applicant complained of his living conditions during this period, and submitted that they had been inadequate.

The application was lodged with the European Court of Human Rights on 8 May 2019.

Judgment was given by a Chamber of seven judges, composed as follows:

Pere **Pastor Vilanova** (Andorra), *President*,
 Jolien **Schukking** (the Netherlands),
 Yonko **Grozev** (Bulgaria),
 Darian **Pavli** (Albania),
 Ioannis **Ktistakis** (Greece),
 Andreas **Zünd** (Switzerland),
 Oddný Mjöll **Arnardóttir** (Iceland),

and also Milan **Blaško**, *Section Registrar*.

Decision of the Court

Article 3

After dismissing the Government's objection alleging the applicant's failure to exhaust all domestic remedies, the Court observed that it had only been on 16 May 2019 that he had been placed in a reception centre for unaccompanied minors in Athens, nearly six months after having first alerted the authorities to his need for accommodation.

The Court was aware of the complexity of the task facing the domestic authorities, especially given the number of unaccompanied minors who had been entering the country at that time. However, having regard to the absolute character of Article 3, this could not absolve a State of its obligations under that provision.

In the Court's view, the situation in which the applicant had found himself had been particularly serious, since the authorities had left him to fend for himself, without access to stable accommodation, for several months, including over the winter period.

The applicant had therefore lived for nearly six months without being able to provide for any of his most elementary needs, since it had been impossible for him to feed or wash himself or to find accommodation. He had thus been in extreme material poverty, even though the Greek authorities had been under an obligation to secure decent material conditions for him, as expressly provided by the relevant national legislation transposing European Union law, namely the Reception Directive².

The applicant's allegations were substantiated by the report of the European Committee for the Prevention of Torture and by the observations of the European Committee of Social Rights, which

² Directive 2013/33/EU (recast) laying down standards for the reception of applicants for international protection.

showed that the situation described by the applicant existed on a large scale at the relevant time and had been the everyday lot of a large number of asylum-seekers with the same profile as that of the applicant.

The applicant had informed the authorities in February 2019 that he did not feel safe in the Malakasa camp and had experienced attempted sexual harassment. In that connection, the psychosocial report sent to the National Service of Social Solidarity ("EKKA") in April 2019 confirmed that the applicant had twice been the victim of sexual harassment at the hands of adults in the camp. The Government disputed neither the applicant's allegations on that point, nor the corresponding passages from the psychosocial report.

In the Court's view, this evidence weakened the Government's argument that the applicant had had access to healthy living conditions in the camps and, on the contrary, disclosed a situation of vulnerability, insecurity and physical and psychological deprivation that was such as to have seriously affected his already-fragile mental state, and undermined the very essence of his human dignity.

Moreover, the authorities had failed to take any steps to comply with their obligations under, among other texts, Presidential Decree no. 220/2007, by appointing a guardian and accelerating O.R.'s placement in an appropriate structure.

Thus, the Court was not persuaded that the relevant authorities – who had failed to secure living conditions for the applicant that were appropriate and adapted to his needs over a particularly lengthy period, namely close to six months – had done everything that could reasonably have been expected of them to fulfil the obligation to provide for and protect him. That obligation was incumbent on the Greek State with regard to an unaccompanied minor who had entered the country in an irregular manner and claimed to be the victim of a violent family history and to have suffered trauma – in other words, an individual who belonged to the class of society's most vulnerable members.

The Court found that, from 24 November 2018 to 16 May 2019, the applicant had been left to fend for himself in an environment that was entirely unsuitable for minors – whether in terms of security, accommodation, hygiene or access to food and care, or in terms of the measures taken to provide for him more generally – and in unacceptably precarious circumstances, given his status as an asylum-seeker and unaccompanied minor. The applicant had therefore found himself, through the fault of the authorities, in an inhuman and degrading situation that had been in breach of Article 3 of the Convention.

It followed that there had been a violation of Article 3 of the Convention.

Just satisfaction (Article 41)

The Court held that Greece was to pay the applicant 8,000 euros (EUR) in respect of non-pecuniary damage.

The judgment is available only in French.

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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.