



Judgments and decisions of 4 February 2016

The European Court of Human Rights has today notified in writing five judgments¹ and 27 decisions²: four Chamber judgments are summarised below; for one other, in the case of *Isenc v. France* (application no. 58828/13), a separate press release has been issued; the 27 decisions can be consulted on [Hudoc](#) and do not appear in this press release.

The judgments in French below are indicated with an asterisk ().*

Kirakosyan v. Armenia (no. 2) (application no. 24723/05)

The applicant, Lavrenti Kirakosyan, is an Armenian national who was born in 1960 and lives in the village of Karakert, Armenia. The case essentially concerned his complaint about an allegedly unlawful search of his home by the police and the subsequent use of the evidence obtained thereby in criminal proceedings against him.

Mr Kirakosyan, who was an opposition activist, was arrested in April 2004 in the wake of several protest rallies in which he had participated. An administrative case was brought against him for disobeying the lawful orders of police officers, and he was sentenced to ten days' administrative detention. After serving that sentence he was taken by the police to his home, where a search was conducted. The search warrant stated that Mr Kirakosyan was suspected of illegally hiding a weapon in his house, which he denied. As a result of the search, police found a plastic bag containing 59 grams of cannabis. Mr Kirakosyan stated that he did not know what the substance was and to whom it belonged. According to his submissions, he was then taken to the police station again, where the chief of police promised that, if Mr Kirakosyan renounced his political convictions and resigned from the opposition party whose local office he headed, no further action would be taken in relation to the drugs found on him. He refused to agree to the deal. A few days later he was charged with illegal drug possession and detained by a court order. In June 2004 he was convicted as charged and sentenced to one and a half years' imprisonment. The judgment was eventually upheld in December 2004. In September 2004 he was released on parole.

Mr Kirakosyan complained in particular that the search warrant and the manner in which the search had been conducted had been in violation of Article 8 (right to respect for private and family life, the home and the correspondence) of the European Convention on Human Rights.

No violation of Article 8

¹ 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

² Inadmissibility and strike-out decisions are final.

Hilal Mammadov v. Azerbaijan (no. 81553/12)

The applicant, Hilal Alif oglu Mammadov, is an Azerbaijani national who was born in 1959 and lives in Baku. The case principally concerned his complaint of having been ill-treated by the police during his arrest and his allegedly unlawful pre-trial detention.

Mr Mammadov, who at the time was the editor-in-chief of a newspaper published bilingually in Azerbaijani and the minority Talysh language, was assaulted by plain-clothes police officers in June 2012. According to his submissions, they hit and kicked him and planted a bag containing drugs on him. Then they dragged him into their car and insulted him, making comments about his ethnic origin and threatening him on account of a video he had uploaded on YouTube. He only realised that he had been arrested by the police when they took him to the narcotics department of the Ministry of Internal Affairs, where an arrest record was drawn up which noted that drugs had been found on him. He made a written statement that the substance did not belong to him.

Mr Mammadov was charged with a number of offences, in particular illegal possession of a large quantity of narcotic substances. Later new charges were added, namely incitement to ethnic, racial, social or religious hatred or hostility. He was placed in pre-trial detention and his appeals against the detention orders were dismissed. In September 2013 he was convicted of all charges and sentenced to five years' imprisonment, the judgment eventually being upheld in June 2014.

Following his arrest, Mr Mammadov complained to the investigating authorities of having been ill-treated by the police. In August 2012 the Deputy Prosecutor General refused to open criminal proceedings in connection with that complaint. That decision was eventually upheld in November 2012.

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment), Mr Mammadov complained of having been ill-treated by the police and of the lack of an effective investigation into his allegation of ill-treatment. He further complained of a breach of his rights under Article 34 (right of individual petition), on account of the fact that his lawyer's license to practice law had been suspended and it had been impossible to meet with him in prison.

Violation of Article 3 (inhuman and degrading treatment)

Violation of Article 3 (investigation)

Violation of Article 34

Just satisfaction: 13,000 euros (EUR) (non-pecuniary damage) and EUR 2,500 (costs and expenses)

Amadou v. Greece (no. 37991/11)*

The applicant, Khan Amadou, is a Gambian national who was born in 1974.

The case concerned Mr Amadou's conditions of detention in Greece, where he lodged an unsuccessful application for asylum.

In July 2010 Mr Amadou entered Greece and was arrested by the border police on the same day. The Orestiada chief of police ordered his temporary detention for a maximum of three days pending the order for his expulsion.

On 3 August 2010 the chief of police ordered Mr Amadou's expulsion and his continuing detention for a period not exceeding six months. Mr Amadou was placed in detention on the premises of the Fylakio border police. On 1 September 2010 he applied to have the decision ordering his expulsion and detention set aside. Mr Amadou maintained on that occasion that the conditions of detention in Fylakio were unacceptable and contrary to Article 3 of the Convention. He complained in particular of overcrowding, poor hygiene conditions and a lack of natural light and exercise.

On 10 September 2010 the District Court sentenced Mr Amadou to three months' imprisonment and to a fine of EUR 1,500 for entering the country unlawfully. The following day he was transferred to the Aliens Directorate for the Attica region and subsequently to the Aspropyrgos detention centre. He lodged an asylum application in September 2010. On 12 November 2010 he was released. Later that month the authorities issued him with an asylum seeker's card. On 24 November he declared that he was homeless and requested the Ministry of Social Solidarity to find a reception facility for him or provide him with material and financial assistance. On 13 March 2012 his asylum application was rejected. He appealed against that decision on 24 May 2012.

Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Amadou complained about his conditions of detention in the Fylakio and Aspropyrgos detention centres. He also complained that he had been left in a state of complete destitution following his release. Relying on Article 5 § 4 (right to a speedy decision on the lawfulness of detention), he alleged that the courts' review of his detention had been ineffective and that, owing to a lack of information and assistance, he had been unable whilst in detention to apply to a court for a ruling on the lawfulness of his detention.

Violation of Article 3 (degrading treatment) – as concerns the conditions of detention in the Fylakio and Aspropyrgos detention centres

Violation of Article 3 (degrading treatment) – as concerns Mr Amadou's living conditions after his release

Violation of Article 5 § 4

Just satisfaction: EUR 10,000 (non-pecuniary damage)

Revision

Dzhabrailovy v. Russia (no. 68860/10)

The applicants, Kisa Dzhabrailova, Adlan Dzhabrailov, and Suleyman Dzhabrailov (now deceased) are Russian nationals who were born in 1951, 1987, and 1974 respectively and lived in Achkhoy-Martan, Chechnya (Russia). The case concerned a request for revision of an ECtHR judgment with regard to the disappearance of the applicants' son and brother, Ibragim Dzhabrailov,.

The applicants alleged in particular that their relative had been unlawfully detained by Russian servicemen during a special operation in Achkhoy-Martan. On 5 November 2002 Ibragim Dzhabrailov was abducted by a group of armed men, most of them wearing camouflage uniforms, from the applicants' house. The applicants have had no news of him since then. They complained of the abduction to law-enforcement bodies, and an official investigation was opened. Subsequently the proceedings were repeatedly suspended and resumed, and have remained pending for several years without having established who was responsible for the abduction. The Russian Government, in their submissions to the Court, did not challenge the account of the events as presented by the applicants, but they stated that there was no evidence to prove that Russian State officials had been involved in the incident.

In its [judgment](#) of 15 January 2015 (*Malika Yusupova and Others v. Russia (nos. 14705/09, 4386/10, 67305/10, 68860/10 and 70695/10)*) the Court found violations of Articles 2 (right to life), 5 (right to liberty and security) and 13 (right to an effective remedy) on account of the disappearance of the applicants' relative and the authorities' failure to carry out an effective investigation into the matter, and of Article 3 (prohibition of inhuman or degrading treatment) on account of the applicants' mental distress and the authorities' response to it. The Court awarded 60,000 euros (EUR) in respect of non-pecuniary damage and EUR 1,000 for costs and expenses to the three applicants (in application no. 68860/10), jointly.

The applicants' representatives now requested revision of the judgment of 15 January 2015, which had not yet been enforced (as concerns application no. 68860/10) because Suleyman Dzhabrailov died before the judgment had been adopted.

The Court decided to revise its judgment of 15 January 2015 insofar as it concerned the claims made under Article 41 (just satisfaction) of the Convention in application no. 68860/10, and held that Russia was to pay Kisa Dzhabrailova and Adlan Dzhabrailov, jointly, EUR 60,000 for non-pecuniary damage and EUR 1,000 for 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.