



## Judgments of 5 June 2018

The European Court of Human Rights has today notified in writing 17 judgments<sup>1</sup>:

seven Chamber judgments are summarised below;

ten Committee judgments, concerning issues which have already been submitted to the Court, can be consulted on [Hudoc](#) and do not appear in this press release.

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

### Khani Kabbara v. Cyprus (application no. 24459/12)

The applicant, Hani Abdul Khani Kabbara, is a Canadian national who was born in 1984 and lives in Canada.

The case concerned an allegation of police ill-treatment.

On 27 February 2011, Mr Khani Kabbara was arrested by the police in front of a bank in Limassol. He was suspected, among other things, of having withdrawn money with a fake credit card from the bank and was immediately taken to the Limassol central police station. Still on the same day, he was examined by doctors at Limassol General Hospital who found various injuries.

Relying in particular on Article 3 (prohibition of torture and of inhuman or degrading treatment) of the European Convention on Human Rights, Mr Khani Kabbara alleged that he had been ill-treated by police officers during his detention at the police station and that no effective investigation had been carried out by the national authorities into his complaint.

**Violation of Article 3** (ill-treatment and investigation)

**Just satisfaction:** 25,000 euros (EUR) (non-pecuniary damage) and EUR 3,000 (costs and expenses)

### Sultan v. the Republic of Moldova (no. 17047/07)\*

The applicant, Alexei Sultan, is a Moldovan national who was born in 1960 and lives in Holercani (the Republic of Moldova).

The case concerned the refusal of the Supreme Court of Justice to examine his appeal.

Mr Sultan brought a civil action for damages against the Holercani mayor's office and the local council, seeking payment of his unpaid salary, together with compensation and reimbursement of his court costs.

The Dubăsari District Court dismissed the applicant's action as unfounded. Mr Sultan appealed to the Chişinău Court of Appeal, which dismissed his appeal on the same grounds. He lodged a further appeal with the Supreme Court of Justice, which rejected the appeal without examining it and

<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)

informed Mr Sultan that the Court of Appeal's decision had become final at the time of its delivery, in accordance with Article 421 of the Code of Civil Procedure.

Relying in particular on Article 6 (right of access to court) of the European Convention, the applicant alleged that the refusal of the Supreme Court of Justice to examine his appeal had breached his right to a court.

#### **Violation of Article 6 § 1**

**Just satisfaction:** EUR 1,500 (non-pecuniary damage) and EUR 1,000 (costs and expenses)

#### **Artur Ivanov v. Russia (no. 62798/09)**

The applicant, Artur Germanovich Ivanov, is a Russian national who was born in 1977 and lives in Novocheboksarsk (Russia).

The case concerned Mr Ivanov's complaint that he had not been awarded enough compensation in domestic proceedings for a breach of his rights under Article 3 (prohibition of inhuman or degrading treatment).

The domestic courts established that a police officer had punched Mr Ivanov on the ear while he was in custody in April 2007, causing bleeding and rupturing the eardrum.

He was ultimately awarded 20,000 Russian roubles (about 440 euros) in compensation in April 2009, a decision that was upheld in May 2009 after an appeal against the amount by Mr Ivanov. The appeal court explicitly rejected his argument that such compensation should be determined by amounts awarded by the European Court of Human Rights in similar situations.

Relying on Article 3 (prohibition of inhuman or degrading treatment) he complained that he remained a victim of a violation of his Convention rights because the amount of compensation had been too low and had not provided him with proper redress. He also raised a complaint under Article 13 (right to an effective remedy) in conjunction with Article 3.

**Violation of Article 3** (inhuman and degrading treatment)

**No violation of Article 13 in conjunction with Article 3**

**Just satisfaction:** EUR 11,000 (non-pecuniary damage)

#### **Štvrtecký v. Slovakia (no. 55844/12)**

The applicant, Miroslav Štvrtecký, is a Slovak national who was born in 1968 and lives in Senica (Slovakia).

The case concerned Mr Štvrtecký's complaint about being held on remand for more than three and a half years.

He was remanded in custody in October 2006 on charges of extortion committed in cooperation with others. The charges against him were expanded on several occasions. The authorities justified his detention by the risk that he may put pressure on witnesses, tamper with evidence or contact other perpetrators and the risk of reoffending. He was kept in detention throughout the further proceedings, which included the investigation and the trial itself. He was convicted of establishing, masterminding and supporting a criminal group, several acts of extortion, aggravated coercion and fraud and sentenced to 25 years' imprisonment in June 2010.

Mr Štvrtecký complained, in particular, of excessive length of detention under Article 5 § 3 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial).

**No violation of Article 5 § 3**

Amerkhanov v. Turkey (no. 16026/12)

Batyrkhairov v. Turkey (no. 69929/12)

The cases essentially concerned the deportation of two asylum-seekers to Kazakhstan.

The applicant in the first case, Samat Amerkhanov, is a Kazakhstani national who was born in 1989 and is currently detained in Atyrau, Kazakhstan. He arrived in Turkey in May 2011. Shortly afterwards he was detained with a view to his deportation because he was considered a national security risk. He was transferred to the Foreigners' Removal Centre in Kumkapı in June 2011. While there, he claimed asylum, and was released in September 2011 pending the outcome of his claim. His asylum claim was however rejected in March 2012 and he was deported to Kazakhstan. After his deportation, he brought proceedings before the administrative courts challenging the rejection of his asylum application and the decision to deport him, without success.

The applicant in the second case, Arman Batyrkhairov, is a Kazakhstani national who was born in 1980 and is also detained in Atyrau. He arrived in Turkey in June 2011. The Kazakh authorities subsequently requested his extradition on terrorism-related charges and he was arrested in January 2012 while trying to leave the country. A month later the domestic courts rejected the extradition request and ordered his release from prison. He was, however, immediately transferred to the Foreigners' Removal Centre in Kumkapı where he was held until his deportation in March 2012. He had in the meantime applied for asylum, but the courts rejected his claim as well as his objection to this decision.

Throughout the asylum/extradition proceedings both applicants claimed before the domestic authorities that they feared ill-treatment or even death if sent back to Kazakhstan.

The applicants brought a number of complaints under Article 3 (prohibition of torture and of inhuman or degrading treatment) and Article 5 §§ 1, 2, 4, and 5 (right to liberty and security) about their deportation to Kazakhstan and detention at the Kumkapı Foreigners' Removal Centre.

In particular, they alleged that they had been unlawfully deported without any assessment of their asylum claims, despite the risk of them being subjected to torture and other ill-treatment.

As concerns their detention, they alleged that it had been unlawful, that they had not been informed of the reasons for it, and could not have it reviewed by a court or request compensation under the domestic law. They further complained that they had been held in poor conditions at the Foreigners' Removal Centre on account of overcrowding and lack of outdoor exercise.

Lastly, they alleged under Article 13 (right to an effective remedy) that they had no effective remedies to complain about most of allegations.

In the case of *Amerkhanov*:

**Violation of Article 3** - on account of Mr Amerkhanov's deportation to Kazakhstan on 19 March 2012;

**Violation of Article 5 § 1**

**Violation of Article 5 § 2**

**Violation of Article 5 §§ 4 and 5**

**Violation of Article 3** - on account of the conditions of Mr Amerkhanov's detention at the Kumkapı Foreigners' Removal Centre;

**Violation of Article 13 in conjunction with Article 3** - on account of the absence of effective remedies to complain about the conditions of detention at the Kumkapı Foreigners' Removal Centre

**Just satisfaction:** EUR 6,500 (non-pecuniary damage) and EUR 3,370 (costs and expenses)

In the case of *Batyrkhairov*:

**Violation of Article 3** - on account of Mr Batyrkhairov's deportation to Kazakhstan on 12 March 2012;

**Violation of Article 5 § 1**

**Violation of Article 5 §§ 4 and 5**

**Violation of Article 3** - on account of the conditions of the applicant's detention at the Kumkapı Foreigners' Removal Centre;

**Violation of Article 13 in conjunction with Article 3** - on account of the absence of effective remedies to complain about the conditions of detention at the Kumkapı Foreigners' Removal Centre;

**Just satisfaction:** EUR 6,500 (non-pecuniary damage) and EUR 3,345 (costs and expenses)

### Fatih Çakır and Merve Nisa Çakır v. Turkey (no. 54558/11)

The applicants, Fatih Çakır and Merve Nisa Çakır, a father and daughter, are Turkish nationals who were born in 1979 and 2007 respectively and live in İzmir (Turkey).

The case concerned a car accident which had killed their wife and mother.

On 25 October 2008, while Mr Çakır was driving in İzmir with his wife and daughter in the back seat, he lost control of his car when the road curved into a sharp bend. The car dropped into an empty concrete canal. Mr Çakır's wife, Yeşim, died and Ms Çakır was slightly injured.

Mr Çakır brought compensation proceedings against the local authorities, claiming in particular that a damaged crash barrier, which could have prevented the car from dropping into the canal, had not been repaired. However, his claims were rejected in 2011. Relying essentially on a traffic accident report, the administrative courts found that Mr Çakır was responsible for the accident as he had lost control of the car, despite a warning sign about the sharp bend ahead.

Relying in particular on Article 2 (right to life), the applicants complained that the domestic authorities had failed to take the necessary safety measures on the road, which had led to the death of their wife and mother. They further alleged that the ensuing judicial proceedings had been inadequate, and had not established whether the authorities had been responsible for the death as the courts had based their decisions solely on the traffic accident report. The applicants argued in particular that a technical expert opinion had been required to be able to ascertain whether Mr Çakır had lost control of his car as a result of a problem with the road.

**Violation of Article 2** (investigation)

**Just satisfaction:** EUR 10,000 (non-pecuniary damage) and EUR 2,000 (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.