

CASE DIGESTS

State Violence Cases before the ECHR

NOVEMBER 2014

This briefing presents summaries of decisions relating to the right to life (Article 2) and the prohibition of torture and degrading treatment (Article 3) - excluding detention cases - delivered by the European Court of Human Rights between January 2013 and October 2014.

Article 2: Right to Life

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Article 2

Mosendz v. Ukraine

17 January 2013, ECtHR, App no 52013/08

Violation of Article 2 (Right to Life, Effective investigation, Positive obligations): Failure to establish responsibility of senior officers for conscript's suicide following incident of hazing

Facts: The case concerned the death of the applicant's son (D.M.), while he was on guard duty, during his mandatory military service. In April 1999 the applicant's son, who was performing mandatory military service at the time, was found dead, with gunshot wounds to his head, about six hundred meters from his post. A criminal investigation which found that the death was a suicide was repeatedly reopened on the grounds that it had not been sufficiently thorough.

Reasoning: The Court first assessed whether the authorities had given a plausible explanation for the death of the applicant's son. It noted that suicide had been the only version considered by the authorities and that gross discrepancies and omissions in the investigation had raised doubts as to their good faith in establishing the truth. The Court held that the authorities had not effectively investigated and duly accounted for D.M.'s death, and that they had not adequately protected his life. The Court, having noted widespread concern over the existence of hazing (*didivshchyna*) in the Ukrainian army, found in particular that limiting the responsibility for D.M.'s death to wrongdoings of individual officers instead of allocating responsibility to upper hierarchical authority levels was especially worrying. Consequently, there had been a violation of Article 2 as regards the positive obligation of the State to protect D.M.'s life while under its control and to adequately account for his death, and as regards the procedural obligation to conduct an effective investigation into the matter.

[Link to full judgment](#)

Aydan v. Turkey

12 March 2013, ECtHR, App no 16281/10

Violation of Article 2 (Positive obligations - Use of force): Gendarme accused of accidental killing by machine-gun fire during violent demonstration not given criminal penalty.

Facts: The case concerned the accidental death of a passer-by who was shot by a gendarme on the fringes of a violent demonstration. The applicants are the widow and mother of A. Aydan, who was fatally wounded on 6 September 2005 by shots fired from a military jeep while he was waiting for a bus close to a demonstration. In July 2006 the Assize Court decided not to impose a criminal penalty on the person who had fired the shots, finding it established that he had exceeded the limits of self-defense while in an excusable state of emotion, fear or panic. The Court of Cassation, followed by the plenary Court of Cassation, upheld that decision.

Reasoning: The Court held that the gendarme had not acted in the honest belief that his own life and physical integrity, and those of his colleagues, had been in danger. Nor was the Court satisfied that he had fired a warning shot into the air. Therefore, the Court held that it was not established that the force used to disperse the demonstrators, which had caused A. Aydan's death, had been necessary; that the State had failed in its obligation to secure the right to life; and lastly, that the courts should have carried out more detailed inquiries or reassessed the evidence in order to take account of the contradictions between witnesses' statements.

[Link to full judgment](#)

Mustafa Tunç and Fecire Tunç v. Turkey

25 June 2013, ECtHR, App no 24014/05

Violation of Article 2 (Effectiveness of investigation - Procedural limb): Effectiveness of investigation into death impaired on account of lack of independence of court upholding a decision to discontinue the proceedings.

Facts: In February 2004, while he was doing his military service, a sergeant was fatally injured by gunfire. A judicial investigation was opened as a matter of course. In June 2004 the prosecutor discontinued the proceedings, finding that no third party could be held responsible for the sergeant's death. In October 2004 a military tribunal of the air-force upheld an appeal by the applicants – the sergeant's parents – and ordered the prosecutor to carry out a further investigation. In December 2004 the prosecutor closed the inquiries and sent the file back to the military tribunal, together with a report on the further investigation requested, presenting the measures taken and addressing the shortcomings identified by the tribunal. The military tribunal dismissed a further appeal by the applicants.

Reasoning: Notwithstanding its findings concerning the prompt, appropriate and comprehensive nature of the investigative measures and the effective participation of the applicants, the Court was of the view that there had been a violation of Article 2 under its procedural head, as the military tribunal did not have the requisite independence in its capacity as supervisory body, at last instance, in respect of the judicial investigation. Case referred to the Grand Chamber on 4 November 2013 on Turkish Government's request.

[Link to full judgment](#)

McCaughey and Others v. the United Kingdom

16 July 2013, ECtHR, App no 43098/09

Violation of Article 2 (Positive Obligations – Effective Investigation): Excessive delay in investigation into deaths at the hands of security forces in Northern Ireland.

Facts: The applicants were close relatives of two men who were shot dead by security forces in October 1990 in Northern Ireland. The police conducted an investigation and the file was passed to the Director of Public Prosecutions ("DPP"), who in 1993 issued a direction of no prosecution of the soldiers involved in the shooting. Subsequently, the coroner who was to hold an inquest into the deaths received certain papers from the police and the DPP. In 2002 the applicants wrote to the coroner asking when the inquest would be listed and requesting pre-inquest disclosure. They also sought disclosure from the Police Service Northern Ireland (PSNI). In October 2002 the first applicant's husband issued judicial-review proceedings against the Coroner and the PSNI, challenging the latter's retention of relevant documentation. Those proceedings culminated in a judgment of the House of Lords of 28 March 2007 requiring the PSNI to disclose to the Coroner such information about the deaths as the PSNI was then or thereafter able to obtain, subject to any relevant privilege or immunity. In 2009, following the judgment of the European Court in *Šilih v. Slovenia*, the first and third applicants began judicial-review proceedings arguing that the inquest was required to be Article 2 compliant. That submission was upheld by the Supreme Court (formerly the House of Lords) in a judgment of 18 May 2011 in which it held that the Coroner holding the inquest had to comply with the procedural obligations under Article 2. The inquest opened in

March 2012 and ended at the beginning of May 2012. The jury considered that the soldiers involved in the operation in October 1990 had shot the deceased in the belief that their position was compromised and their lives were in danger and had thus used reasonable force. In June 2012 the first applicant requested leave to apply for judicial review of the inquest. Those proceedings are still pending.

Reasoning: Article 2 requires investigations to begin promptly and to proceed with reasonable expedition; this is required quite apart from any question of whether the delay actually impacted on the effectiveness of the investigation. While there may be obstacles or difficulties which prevent progress in an investigation in a particular situation, a prompt response by the authorities in investigating a use of lethal force may generally be regarded as essential in maintaining public confidence in their adherence to the rule of law and in preventing any appearance of collusion in or tolerance of unlawful acts. The long periods of inactivity and delays in proceedings could not be regarded as compatible with the State's obligation under Article 2 to ensure the effectiveness of investigations into suspicious deaths, in the sense that the investigative process, however organized under national law, must be commenced promptly and carried out with reasonable expedition. To that extent, the finding of excessive investigative delay of itself entailed the conclusion that the investigation was ineffective for the purposes of Article 2.

[Link to full judgment](#)

Yandiyev and Others v. Russia

10 October 2013, ECtHR, App nos 34541/06, 43811/06 and 1578/07

Violation of Article 2 (substantive and procedural limb)- Failure to effectively investigate civilian disappearances in Ingushetia

Facts. The applicants were close relatives of three men who disappeared in Ingushetia in 2002 and 2004 after being apprehended by armed men they identified as Russian security forces. In each case a criminal investigation was opened by the local prosecutor's office and the proceedings were subsequently suspended and resumed on several occasions. At the time of the European Court's judgment, the proceedings were still pending and the whereabouts of the missing men and the identity of the abductors were still unknown. The parties disputed the level of State involvement in the disappearances as well as whether the abducted men could be presumed dead.

Reasoning. The Court found it established that the applicants' family members had been taken into custody by agents of the State. In the absence of any reliable news of the three men since their abduction, and given the life-threatening nature of such detention, they could be presumed dead. Responsibility for their deaths rested with the respondent State, who had provided no grounds justifying the deaths. It found a violation of the substantive aspect of Article 2.

The investigations into the disappearance of the applicants' relatives had been pending for many years without bringing about any significant development as to the identities of the perpetrators or the fate of the victims. The proceedings in each of the cases had been plagued by a combination of defects. In particular, no steps had been taken to find out the nature and provenance of the special passes the abductors had used when transporting the men. This could have led to the establishment of the abductors' identities and the discovery of their fate.

What was at stake here was nothing less than public confidence in the State's monopoly on the use of force. The State had therefore to ensure, by all means at its disposal, an adequate response, judicial or otherwise, so that the legislative and administrative framework set up to protect the right to life was properly implemented, and any breaches of that right were halted and punished. The respondent State had failed to ensure such an adequate response in the instant case. The Court found a violation of the procedural aspect of Article 2.

[Link to full judgment](#)

Benzer and Others v. Turkey

12 November 2013, ECtHR, App no 23502/06

Violation of Article 2 (right to life, effective investigation) - Bombing of civilian villages by military aircraft and subsequent failure to conduct an effective investigation

Facts. The applicants claimed that, during the Turkish government's attempts to combat the PKK in 1994, the residents of the villages of Kuşkonar and Koçağılı had refused to work for the state security forces and that the military believed that they gave assistance to the PKK. The applicants alleged that on 26 March 1994 a range of Turkish military aircraft fired on and bombed their villages, killing a large number of the inhabitants, injuring others and destroying most of the property and livestock. The Turkish government claimed that this attack was carried out by the PKK (The Kurdistan Workers Party, an illegal organization).

Reasoning. The Court began by examining the Government's arguments to support its claim that the PKK had been responsible for the attack on the village. It noted that the Government relied only on witness statements written in 2008, and all but one of these had been written by people, who were not resident in either of the applicants' two villages and who had not been present at the incident, and were therefore merely hearsay. The Court concluded that the evidence was untenable and the reasoning of the prosecutors was illogical.

Further investigations by the prosecuting authorities conducted in 2004 and 2005 based on eyewitness testimonies had concluded that the village was bombed by aircraft and not the PKK, and flight logs drawn up by the Civil Aviation Directorate established that missions had been flown to the villages' locations at the time that the applicants claim the attack had occurred. In the light of this evidence, the Court concluded that the Turkish government had conducted an aerial attack killing 33 of the applicants' relatives and injuring three of the applicants themselves, in violation of Article 2.

The Court also found that Turkey had violated Article 2 by failing to properly investigate the attack. In particular, it found that almost no steps had been taken immediately after the bombing to investigate what had happened, and when the incident had actually been looked into the investigators were not independent, formed baseless conclusions on extremely minimal investigations, and attempted to withhold investigation documents from the applicants. Crucially, no investigation was apparently carried out into the flight log, the key element for the possible identification and prosecution of those responsible. The Court found that the inadequacy of the investigation had been the result of the national investigating authorities' unwillingness to officially establish the truth and punish those responsible.

[Link to full judgment](#)

Camekan v. Turkey

28 January 2014, ECtHR, App no 54241/08

No Substantive Violation of Article 2 (right to life - use of force non-excessive), Violation of Article 2 (ineffective investigation)

Facts. The applicant, a Turkish national was arrested by the police at night and was injured during a shoot-out on 10 December 2000. The police officers, in their report, stated that they had caught him writing illegal slogans on walls together with a group of four masked individuals. The group had refused to comply with an identity check and had opened fire on the police. The police had issued them with a warning, first by shouting out and then by firing their weapons. One of the individuals escaped and the three others carried on firing back. One of those was killed and the two others, including the applicant, were wounded. On the same day the forensic medical examiners observed a 4-cm wound on the applicant's right ear. The first-instance court, without acquitting the police officers involved in the case, found that they had acted in self-defense and granted them a discharge. The applicant appealed on points of law.

Reasoning. The Court held that the use of force in those conditions, whilst regrettable, had not exceeded what was "absolutely necessary" in order to "ensure the defense of any individual against violence" and in particular "to proceed with a lawful arrest". There had therefore been no substantive violation of Article 2 in that connection.

However, having regard to the significant delay in the criminal proceedings, which were still pending before the Court of Cassation, it found that the Turkish authorities had not acted sufficiently quickly or with reasonable diligence. It held that there had been a violation of Article 2 as concerned the investigation.

[Link to full judgment](#)

Makbule Kaymaz and Others v. Turkey

25 February 2014, ECtHR, App no 651/10

Violation of Article 2 (positive obligation to protect life) - Inadequacies of investigation into use of lethal force by police officers resulting in deaths of father and his 13 year old son

Facts. The applicants were the relatives of a father and his 13 year old son shot dead by police officers. Following an anonymous denunciation to the effect that numerous armed and suspicious individuals had gone to the address of the Kaymaz family to plan a terrorist attack, their house was placed under surveillance. On 21 November the public prosecutor issued a warrant for a search of the house. In the early morning the father, and his 13-year-old son, were shot dead near their home. According to a report of the same day, they were killed in a shoot-out with law-enforcement officers. In December 2004 an indictment was issued against four police officers for homicide resulting from the use of lethal force in circumstances that went beyond the context of self-defense. In April 2007 they were acquitted by the Assize Court. The applicants' appeal on points of law was dismissed.

Reasoning. As this was an incident in which two people, including a 13-year-old, had been killed, the national authorities should have looked further into the possible leads before automatically accepting the version given by the accused police officers, especially as there

were omissions and inconsistencies in the latter's statements. The omissions attributable to the investigating bodies led to the conclusion that it was not established that the lethal force used against the applicants' relatives had not exceeded what was "absolutely necessary". The police operation during which the applicant's relatives lost their lives had not been prepared or supervised such as to reduce any risk, to the extent possible, and it had not been established that the lethal force used in the present case was absolutely necessary within the meaning of Article 2. This amounted to the violation of the substantive limb of Article 2.

The police officers involved in the incident had not been interviewed by the public prosecutor until 10 days later and the two police officers responsible for the surveillance of the Kaymaz family's house had not been interviewed until one year later. The investigative authorities had not bothered to analyze more closely how the surveillance had been carried out and had not sought to determine whether the counter-terrorism operation had been prepared and supervised by the authorities so as to limit the use of lethal force to the minimum extent possible. Furthermore, the Assize Court had rejected the applicants' requests for an on-site reconstruction of the incident which had seriously undermined the national authorities' capacity to contribute to the establishment of the facts. Lastly, no attempt had been made to trace fingerprints on the weapons found next to the bodies of the applicants' relatives and except for the police officers, there had been no witnesses. It could thus be inferred that these shortcomings had undermined the quality of the investigation and reduced its capacity to establish the circumstances of the deaths. This amounted to the violation of the procedural limb of Article 2 of the ECHR.

[Link to full judgment](#)

Jelić v. Croatia

12 June 2014, ECtHR, App no 57856/11

Violation of Article 2 - Ineffective investigation - Prosecution of officer with command responsibility, but not of direct perpetrators of killing

Facts. This case concerned the complaint by a Croatian woman that her husband, who was of Serbian origin, had been arrested during the war in Croatia in November 1991 in the Sisak area and subsequently killed by the Croatian police, and that there had been no adequate investigation into his death.

Reasoning. The Court held in particular that the authorities had failed to follow up credible leads about the identities of those responsible for the killing. It acknowledged the difficulties in investigating the case: in particular, there were allegations of a large number of targeted disappearances and killings of civilians of Serbian origin in the Sisak area, and two men later identified as the main suspects had held senior positions in the regional police until 1999. However, the Court found that those circumstances could not relieve the authorities of their obligation to effectively prosecute the crime. Although the command responsibility of the high official was declared, the Court argued that the punishment of superiors for the failure to take necessary and reasonable measures to prevent or punish war crimes committed by their subordinates could not exonerate the latter from their own criminal responsibility. Overall, the investigation had been plagued by inexplicable delays and by long periods of inactivity without justification, which had to have had a negative effect on the prospects of establishing the truth. The Court held that there had been a violation of Article 2 (right to life) of the

ECHR as regards the authorities' procedural obligation to effectively investigate the death of Ms Jelić's husband.

[Link to full judgment](#)

Ataykaya v. Turkey

22 July 2014, App no 50275/08

Violation of Article 2 (positive obligation to protect life) Excessive Use of force- Fatal injuries caused by tear gas canister fired by member of security forces wearing a balaclava. Ineffective investigation - Use of balaclava preventing identification of member of security forces responsible for fatal injuries

Facts. The case concerned the death of Mr Ataykaya's son, caused by a tear-gas grenade fired by the police during an illegal demonstration.

Reasoning. The Court considered that no meaningful investigation had been carried out at domestic level to enable identification of the person who had fired the fatal shot, and that there was nothing to indicate that the use of fatal force against Mr Ataykaya's son had been absolutely necessary and proportionate. As to the execution of its judgment (Article 46), the Court reiterated its findings in the *Abdullah Yaşa and Others v. Turkey* and *Izci v. Turkey* judgments, and emphasized the need to reinforce, without further delay, the safeguards surrounding the proper use of tear-gas grenades, so as to minimize the risks of death and injury stemming from their use. It emphasized that, so long as the Turkish system did not comply with the requirements of the European Convention, the inappropriate use of potentially fatal weapons during demonstrations was likely to give rise to violations similar to that in the present case. The Court also held that, in order to ensure effective implementation of its judgment, fresh investigative measures were to be taken under the supervision of the Committee of Ministers to identify and – if appropriate – punish those responsible for the death of Mr Ataykaya's son.

[Link to full judgment](#)

Mocanu and Others v. Romania

18 September 2014, ECtHR, App nos 10865/09, 32431/08 and 45886/07

Violation of Article 2 (positive obligation to protect life) Ineffective investigation - Lack of investigation into death of man during June 1990 demonstrations against Romanian regime - a violation of the procedural aspect of Article 2 (right to life - investigation)

Facts. The case concerned the investigation and the length of the proceedings which followed the violent crackdown on anti-government demonstrations in Bucharest in June 1990. During the crackdown, Ms Mocanu's husband was killed by gunfire by the police.

Reasoning. The Court found that the authorities responsible for the investigation had not taken all the measures which could have led to the identification and punishment of those responsible for the violent events and that the applicants had not had the benefit of an effective investigation for the purposes of the Convention.

While acknowledging that the case was indisputably complex, the Court considered that the importance of the political stakes for Romanian society should have led the Romanian

authorities to deal with the case promptly and without delay in order to avoid any appearance of collusion in or tolerance of unlawful acts.

[Link to full judgment](#)

Article 3

Abdullah Yaşa and Others v. Turkey

16 July 2013, ECtHR, App no 44827/08

Violation of Article 3 (Degrading treatment, Inhuman treatment): Serious injury to nose caused by tear gas canister fired by police officer.

Facts: Numerous – unlawful – demonstrations were held in Diyarbakır in March 2006 following the deaths of fourteen members of the PKK (the Kurdistan Workers' Party) during armed clashes. The demonstrations were violent and eleven demonstrators lost their lives. On 29 March 2006 the applicant, who was thirteen at the material time, was struck in the face by a tear gas canister which he claimed had been fired directly into the crowd by a law-enforcement officer during a demonstration. The public prosecutor decided to take no further action, without examining whether the force used had been proportionate, on the grounds that the law-enforcement agencies had acted in the interests of maintaining public order and to defend themselves against a hostile crowd.

Reasoning: The firing of tear gas canisters using a launcher entailed a risk of causing serious injury, as in the present case, or even of killing someone if the launcher was used improperly. Consequently, given the dangerous nature of the equipment used, the Court considered that its case-law on the use of potentially lethal force should apply *mutatis mutandis* in the present case. As well as being authorized under national law, policing operations – including the firing of tear gas canisters – had to be sufficiently regulated by it, within the framework of a system of adequate and effective safeguards against arbitrariness, abuse of force and avoidable accidents. Furthermore, it was not established that the use of force to which the applicant had been subjected had been an appropriate response to the situation from the standpoint of the requirements of Article 3 of the Convention or that it had been proportionate to the aim sought to be achieved, namely the dispersal of a non-peaceful gathering. The seriousness of the applicant's head injuries was not consistent with the use by the police of a degree of force made strictly necessary by his conduct. There had therefore been a violation of Article 3 of the Convention.

[Link to full judgment](#)

Dembele v. Switzerland

24 September 2013, ECtHR, App no 74010/11

Violation of Article 3 (Degrading treatment, Inhuman treatment, Effective investigation): Use of batons to control applicant during identity check.

Facts: On 2 May 2005 the applicant, a Burkina Faso national living in Geneva, was approached by two gendarmes for an identity check. According to the applicant, although he had complied with the gendarmes' request by showing his papers, they subjected him to ill-treatment. He also complained of the lack of a thorough, prompt and independent investigation.

Reasoning: The fractured collarbone sustained by the applicant unquestionably exceeded the threshold of severity required for the treatment to which he had been subjected by the gendarmes who arrested him to come within the scope of Article 3 of the Convention. The applicant had been placed on sick leave for an initial period of twenty-one days as a result of

the injuries caused by the gendarmes' actions. The Court held that the methods employed by the gendarmes, taken overall, disclosed a disproportionate use of force and were therefore in violation of the substantive aspect of Article 3. The Court furthermore held, that the investigation into the incident had not been conducted with the requisite diligence amounting to a violation of the procedural head of Article 3 as well.

[Link to full judgment](#)

Gutsanovi v. Bulgaria

15 October 2013, ECtHR, App no 34529/10

Violation of Article 3 - Degrading treatment - Heavy-handed nature of police operation to arrest politician at his home in the presence of his wife and minor children

Facts. The case concerned a police operation carried out at the home of Mr Gutsanov, an influential politician, leading to his arrest. The events received widespread media coverage and were followed by statements from senior figures in the Bulgarian government. Relying on Article 3 (prohibition of torture and inhuman or degrading treatment), the applicants alleged that they had been subjected to degrading treatment as a result of the police operation at their home.

Reasoning. The Court observed that the aims of the police operation had been an arrest, a search and a seizure of items; those aims were apt to promote the public interest in the prosecution of criminal offences. The Court noted that although the four members of the family had not suffered any physical injuries in the course of the police operation, the latter had nonetheless entailed the use of physical force. The front door of the house had been forced open by a special intervention unit and Mr Gutsanov had been immobilized by armed officers wearing balaclavas, led downstairs by force and handcuffed.

Mr Gutsanov had been chairman of Varna municipal council and a well-known political figure in the city. There had been no evidence to suggest that he had a history of violence and could have presented a danger to the police officers. It was true that he had owned a firearm and ammunition; however, the Court considered that the presence of the weapon in the applicants' home could not in itself justify the deployment of a special intervention unit or the kind of force that had been used.

The Court stressed that the possible presence of family members at the scene of an arrest was a factor to be taken into consideration in planning and carrying out this kind of operation. Moreover, Mr Gutsanov's wife had not been under suspicion and their two daughters had been psychologically vulnerable because they were so young (5 and 7 years of age). It appeared that Mrs Gutsanova and her daughters had been very severely affected by the events. The feelings of fear and anxiety which these three applicants had experienced led the Court to conclude that they had been subjected to degrading treatment. The police operation had been planned and carried out without consideration for a number of factors including the nature of the criminal offences of which Mr Gutsanov was suspected, the fact that he had no history of violence and the possible presence of his wife and daughters in the house. All these elements indicated clearly that the means used to arrest Mr Gutsanov at his home had been excessive; accordingly, he too had been subjected to degrading treatment.

[Link to full judgment](#)

Benzer and Others v. Turkey

12 November 2013, ECtHR, App no 23502/06

Violation of Article 3 (inhuman or degrading treatment) - Bombing of civilian villages by military aircraft – the Government not even providing the minimum of humanitarian aid to deal with the aftermath of the attack

Facts. The applicants claimed that, during the Turkish government's attempts to combat the PKK in 1994, the residents of the villages of Kuşkonar and Koçağılı had refused to work for the state security forces and that the military believed that they gave assistance to the PKK. The applicants alleged that on 26 March 1994 a range of Turkish military aircraft fired on and bombed their villages, killing a large number of the inhabitants, injuring others and destroying most of the property and livestock. The Turkish government claimed that this attack was carried out by the PKK (The Kurdistan Workers Party, an illegal organization).

Reasoning. The Court noted that the bombing had been ordered and carried out without the slightest concern for human life by the pilots or by their superiors, which they had then tried to cover up by refusing to hand over the flight log. Furthermore, a number of applicants had had to witness the killing of their relatives (or the immediate aftermath) and the destruction of their homes, and had been forced to deal with the after-effects of the incident without even the minimum of humanitarian assistance from the Turkish authorities. In particular, in the aftermath of their relatives' deaths, the applicants had had to personally collect what was left of the bodies and take them to nearby villages for burial, some of them from Kuşkonar village even having to place the bodies in plastic bags for burial in a mass grave. The three applicants who were critically injured had to be taken to hospital on tractors by neighboring villagers. The Court considered that the anguish and distress suffered by the applicants had been sufficiently severe as to be categorized as inhuman and degrading. Consequently, the Court held that there had been a violation of Article 3.

[Link to full judgment](#)

Anzhelo Georgiev and Others v. Bulgaria

30 September 2014, ECtHR, App no 51284/09

Violation of Article 3 (prohibition of inhuman or degrading treatment and inadequacy of the investigation) Inhuman or degrading treatment - Use of electrical discharge weapons (Tasers) during police raid on company offices

Facts. The case concerned allegations of excessive use of police force, and notably the use of electroshock weapons. The applicants alleged that they had been ill-treated by armed, masked police officers during a special police operation carried out at their Internet company's offices in order to search and seize illegal software.

Reasoning. The Court found that the preliminary inquiry had not provided a plausible explanation for the necessity of the force used against the applicants. It was particularly unsatisfactory that the prosecuting authorities assumed the lawfulness of the use of electroshock weapons, known to cause intense pain and temporary paralysis, despite insufficient evidence to show that the company employees had disobeyed the police officers' orders in a manner warranting the use of such weapons.

[Link to full judgment](#)

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