KEY THEME[1]
Article 5
The notion of deprivation of liberty

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Introduction

Article 5 § 1 of the Convention guarantees the right to "liberty of the person" in the "classic sense"; that is to say, the physical liberty of the person. Its aim is to ensure that no one should be deprived of their liberty in an arbitrary fashion (*Engel and Others v. the Netherlands*, 1976, § 58; *Khlaifia and Others v. Italy* [GC], 2016, § 64; *Z.A. and Others v. Russia* [GC], 2019, § 133). A deprivation of liberty is not confined to arrest by the police or detention at the hands of the authorities but may take numerous other forms: this Key Theme explores the applicability of Article 5 to those other forms of deprivation of liberty which have arisen in the case-law.

Principles drawn from the current case-law

General:

Deprivation of liberty has an autonomous meaning: the characterisation, or lack of characterisation, given by a State to a factual situation cannot decisively affect the Court's conclusion as to the existence of a deprivation of liberty (*Creangă v. Romania* [GC], 2012, § 92. See also *Khlaifia and Others v. Italy* [GC], 2016, § 71).

Article 5 § 1 does not concern mere restrictions upon liberty of movement (*Engel and Others v. the Netherlands*, 1976, § 58), which are governed under Article 2 of Protocol No. 4, with regard to persons lawfully within the territory of the State. The difference between a deprivation and restriction of liberty is one of degree or intensity, and not one of nature or substance (*De Tommaso v. Italy* [GC], 2017, § 80); *Ilias and Ahmed v. Hungary* [GC], 2019, § 212; *Z.A. and Others v. Russia* [GC], 2019, § 134).

In order to determine whether someone has been "deprived of his or her liberty" within the meaning of Article 5, the starting-point must be his or her specific situation, and account must be taken of a whole range of factors such as the type, duration, effects and manner of implementation of the measure in question (*Ilias and Ahmed v. Hungary* [GC], 2019, § 212; *Z.A. and Others v. Russia* [GC], 2019, § 134). Where several measures are in issue, they must be analysed cumulatively and in combination (*De Tommaso v. Italy* [GC], 2017, § 80).

The requirement to take account of the "type" and "manner of implementation" of the measure in question enables the Court to have regard to the specific context and circumstances surrounding types of restriction other than the paradigm of confinement in a cell. Indeed, the context in which the measure is taken is an important factor, since situations commonly occur in modern society where the public may be called on to endure restrictions on freedom of movement or liberty in the

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interests of the common good (*De Tommaso v. Italy* [GC], 2017, § 81; *Nada v. Switzerland* [GC], 2012, § 226; *Terheş v. Romania* (dec.), 2021, § 36).

Distinguishing the right to liberty of movement (asylum seekers):

In drawing the distinction between a restriction on liberty of movement and deprivation of liberty in the context of the situation of asylum seekers, the approach should be practical and realistic, having regard to the present-day conditions and challenges. It is important to recognise the States' right, subject to their international obligations, to control their borders and to take measures against foreigners circumventing restrictions on immigration (*Ilias and Ahmed v. Hungary* [GC], 2019, § 213; *Z.A. and Others v. Russia* [GC], 2019, § 135).

In determining the distinction between a restriction on liberty of movement and a deprivation of liberty in the context of the confinement of foreigners in airport transit zones and reception centres for their identification and registration, the factors taken into consideration by the Court may be summarised as follows:

- i) the applicants' individual situation and their choices,
- ii) the applicable legal regime of the respective country and its purpose,
- iii) the relevant duration, especially in the light of the purpose and the procedural protection enjoyed by applicants pending the events, and
- iv) the nature and degree of the actual restrictions imposed on or experienced by the applicants (*Ilias and Ahmed v. Hungary* [GC], 2019, § 217; *Z.A. and Others v. Russia* [GC], 2019, § 138).

Regarding the second and third criteria: admission authorisation may be conditional on compliance with relevant requirements. Therefore, absent other significant factors, the situation of an individual applying for entry and waiting for a short period for the verification of his or her right to enter cannot be described as deprivation of liberty imputable to the State (*R.R. and Others v. Hungary*, 2021, § 77; *Ilias and Ahmed v. Hungary* [GC], 2019, § 225; *Z.A. and Others v. Russia* [GC], 2019, § 144).

In principle, as long as the applicant's stay in the transit zone does not exceed significantly the time needed for the examination of an asylum request and there are no exceptional circumstances, the duration in itself should not affect the Court's analysis on the applicability of Article 5 in a decisive manner. That is particularly so where the individuals, while waiting for the processing of their asylum claims, benefitted from procedural rights and safeguards against excessive waiting periods. Legal regulation limiting the length of the stay in the zone is of particular importance (*R.R. and Others v. Hungary*, 2021, § 78; *Ilias and Ahmed v. Hungary* [GC], 2019, § 227; *Z.A. and Others v. Russia* [GC], 2019, § 147).

Regarding the fourth criterion: in the context of a land border, and in the absence of a direct threat to the asylum seekers' life or health, known to or brought to the attention of the authorities at the relevant time, the discontinuation of the applicants' asylum proceedings in the country of reception does not affect their physical liberty to move out of the transit zone by walking into the bordering territory. In contrast to the situation in some cases concerning airport transit zones, the risk of the applicants' forfeiting the examination of their asylum claims in the country of reception and their fears about insufficient access to asylum procedures in the neighbouring territory does not have the effect of making the applicants' stay in the transit zone involuntary from the standpoint of Article 5 (*Ilias and Ahmed v. Hungary* [GC], 2019, § 248; *R.R. and Others v. Hungary*, 2021, § 81).

Applicability of Article 5 in particular situations

Police actions falling short of formal/typical arrest and detention:

Questioning at police stations and other premises

- *Creangă v. Romania* [GC], 2012, §§ 91-100 – Questioning at the premises of the prosecution service after summoning and order by a superior to go to the premises, where the applicant was requested to remain onsite and placed under investigation during the day, gendarmes were present, other police officers were informed they were free to leave and the applicant was informed he could be assisted by lawyer: these events clearly formed part of a large-scale criminal investigation (Article 5 applicable).
- *I.I. v. Bulgaria*, 2005, §§ 83-87 – Questioning at a police station, despite apparently appearing voluntarily, where the authorities considered him to have been arrested and were carrying out investigative actions in criminal proceedings instituted against him the following day (Article 5 applicable).
- *Osypenko v. Ukraine*, 2010, §§ 46-49 – Questioning where it was not established whether the attendance was voluntary, with the applicant being held there while police carried out interrogations and other procedural actions relating to the incident involving him (Article 5 applicable).
- *Salayev v. Azerbaijan*, 2010, §§ 40-43 – Voluntary appearance, at the premises of the Ministry of National Security, as a witness, with no physical restraint, but no opportunity to contact family members or a lawyer of own choosing, and the Government's lack of a reasonable explanation as to why the applicant would have stayed in the building for several hours for no reason (Article 5 applicable) (see also *Farhad Aliyev v. Azerbaijan*, 2010).
- *Cazan v. Romania*, 2016, §§ 66-68 – Lawyer held in an office in a police station for less than ten minutes, having attended the station voluntarily and having been able to leave very shortly after the incident (Article 5 not applicable).
- *Duğan v. Türkiye*, 2023, §§ 35-37 – Applicant held at a police station for less than two hours against her will and without being able to leave the premises (Article 5 applicable).
- *Ishkhanyan v. Armenia*, 2025, §§ 144-152 – Participant in a demonstration held at a police station for over seven hours; failure of the Government to show that he could have left of his own free will three hours after he had been brought to the police station (Article 5 applicable).
- *Bogay and Others v. Ukraine*, 2025, §§ 40-45 – Demonstrators, a number of them handcuffed, taken to a police station for two to three hours (Article 5 applicable).

Crowd control measures

- *Austin and Others v. United Kingdom* [GC], 2012, §§ 61-67 – No deprivation of liberty where peaceful demonstrators had been contained within a police cordon for over seven hours, in the specific and exceptional circumstances of isolating and containing a large crowd in dangerous and volatile conditions, where it was preferred over more robust methods as the least intrusive and most effective means of averting a real risk of serious injury or damage, and where the police had made frequent attempts to commence a controlled release and kept the situation under close review (Article 5 not applicable). However, it cannot be excluded that, in particular circumstances, crowd control techniques adopted by police on public order grounds, such as "kettling", could give rise to an unjustified deprivation of liberty. In each case, the specific context, as well as the

responsibilities of the police to fulfil their duties of maintaining order and protecting the public, must be taken into account (§ 60).

- *Auray and Others v. France*, 2024, §§ 65-74 – The applicants' containment for up to five and a half hours in a town square to ensure the proper conduct of a demonstration and to avert a real risk of serious harm to people or property in the context of the urban violence occurring in the city in the preceding days. Despite its duration and its effects on the applicants and having regard to its nature and the manner in which it had been implemented, the restriction did not amount to a deprivation of liberty (Article 5 not applicable).

Stops and searches

- *Foka v. Turkey*, 2008, §§ 73-79 – Individual brought to a police station for body and bag search after her refusal to show her bag to the authorities at a crossing checkpoint (Article 5 applicable).
- *Gillan and Quinton v. the United Kingdom*, 2010, §§ 56-57 – Element of coercion in the use of stop and search powers indicative of a deprivation of liberty, despite each process not exceeding thirty minutes (not necessary to examine Article 5 complaint).
- *Shimovolos v. Russia*, 2011, §§ 49-50 – Human rights' activist brought to a police station for forty-five minutes with a view to preventing him from committing unspecified offences, with an element of coercion (Article 5 applicable).

Airport border control

- *Gahramanov v. Azerbaijan* (dec.), 2013, § 41 – Where a passenger has been stopped by border officials during a border control in an airport in order to clarify his situation, and where this detention has not exceeded the time strictly necessary to comply with relevant formalities, no issue arises under Article 5. There was therefore no deprivation of liberty where the applicant was placed in a separate room for several hours during a border-control check at an airport, after his name was flagged by a database (Article 5 not applicable).
- Compare with *Kasparov v. Russia*, 2016, §§ 36-47 – Five-hour detention far beyond the time strictly necessary for verifying the formalities normally associated with airport travel (Article 5 applicable).

Other noteworthy examples

- *M.A. v. Cyprus*, 2013, §§ 185-195 – Boarding protestors on buses and transferring them to police headquarters with a view to identifying and deporting unlawful residents, where the coercive nature, scale and aim of the police operation, including that it had been carried out so early in the morning, led to a *de facto* deprivation of liberty (Article 5 applicable).
- *Rozhkov v. Russia (no. 2)*, 2017, §§ 79-88 – Police escort to a station with an element of coercion, notwithstanding the short duration of the procedure (Article 5 applicable).
- *Stănculeanu v. Romania*, 2018, §§ 40-45 – House search in the presence of the applicant, who did not object or refer to any form of restriction of liberty imposed during the search, and where participation in a house search is a procedural safeguard (Article 5 not applicable).
- *Zelčs v. Latvia*, 2020, §§ 32-41 – Administrative detention of an individual placed in a police car to draw up an administrative-offence report for less than two hours with element of coercion (Article 5 applicable).
- *Vadym Melnyk v. Ukraine*, 2022, § 87 – Inability to freely leave courtroom for more than two hours in view of a public disturbance (Article 5 not applicable).

- *Friedrich and Others v. Poland*, 2024, §§ 159-187 – Restrictions imposed on the applicants by Border Guard officers while carrying out identity checks and inspections on board their vessels (Article 5 applicable).
- *Siedlecka v. Poland*, 2025, §§ 61-62 – Participant in a counterdemonstration taken by the police to a courtyard for two hours to carry out an identity check (Article 5 applicable).

Confinement of asylum-seekers:

Airport transit zones

- *Z.A. and Others v. Russia* [GC], 2019, §§ 140-56 – Asylum-seekers' confinement in an airport transit zone while awaiting the outcome of their asylum proceedings, where there was a lack of domestic legal provisions fixing the maximum duration of their stay which was of a largely irregular character and for an excessive duration, with considerable delays in examination of their asylum claims; where freedom of movement was very significantly restricted in a manner characteristic of light regime detention facilities; and where they had no practical possibility of leaving the zone (Article 5 applicable).
- *Amuur v. France*, 1996, §§ 38-49 – Holding asylum-seekers in an airport transit zone for twenty days, left to their own devices for most of the time, placed under strict and constant police surveillance and left without any legal and social assistance, and whose situation was described by the domestic court as an arbitrary detention of liberty (Article 5 applicable).
- *Shamsa v. Poland*, 2003, §§ 44-47 – Holding deportees, who had refused to leave the country, in an airport transit zone where they were under permanent supervision of the immigration authorities, could not exercise freedom of movement and had to remain at the disposal of the Polish authorities (Article 5 applicable).
- *Mogoş v. Romania* (dec.), 2004 – Expulsion of illegal aliens to Romania, who then remained in the Romanian airport transit zone of their own will, despite the possibility to enter the territory (Article 5 not applicable).
- *Mahdid and Haddar v. Austria* (dec.), 2005 – Applicants' decision to stay in the regular airport transit zone after their asylum requests were rejected within three days, where they were left to their own devices and provided with social and legal assistance (Article 5 not applicable).
- *Riad and Idiab v. Belgium*, 2008, § 68 – Confinement of illegal aliens in an airport transit zone a month after their arrival, after final decisions ordering their release, and for fifteen and eleven days respectively (Article 5 applicable).
- *O.M. and D.S. v. Ukraine*, 2022, §§ 112-120 – Applicants knowingly travelling with fake documents taken to a transit zone upon arrival for eleven hours, before being escorted to a plane, not allowed to speak to a lawyer or UNHCR representative, and kept under the constant control and surveillance of border guards: measures not going beyond that strictly necessary for the authorities to comply with the relevant formalities and to ensure the applicants' removal (Article 5 not applicable).

Land border transit zones

- *Ilias and Ahmed v. Hungary* [GC], 2019, §§ 219-49 – Asylum-seekers' confinement in a land border transit zone while awaiting the outcome of asylum applications, with significant restriction on freedom of movement in a manner characteristic of light regime detention facilities, but which had not limited their liberty unnecessarily nor for a time that exceeded what was strictly necessary, and where they had a realistic possibility to leave the zone

without a direct threat to their life or health, in contrast to those in airport transit zones (Article 5 not applicable).

- *R.R. and Others v. Hungary*, 2021, §§ 74-83 – Despite the applicant's voluntary entry, *de facto* deprivation of liberty at a land border transit zone given the duration, the living conditions which violated Article 3, the lack of time-limits and the extent of the restriction on free movement which had become even more restrictive after moving to an isolation section (Article 5 applicable).

Reception centres

- *Khlaifia and Others v. Italy* [GC], 2016, §§ 64-72 – Holding sea-migrants in reception facilities in a centre and on ships, where they were kept under constant surveillance and prohibited from leaving for a not insignificant period of time, despite the contention that the measures were intended to protect or were in the interests of the persons concerned (Article 5 applicable).
- *J.R. and Others v. Greece*, 2018, §§ 83-87 – Keeping irregular migrants in asylum hotspot facilities, subject to orders placing them in detention pending removal or otherwise limiting their freedom of movement over the course of a year (Article 5 applicable).

Health, safety and social care:

Placement in institutions

- *Stanev v. Bulgaria* [GC], 2012, §§ 130-132 – Placement in an open social care home for persons with mental disorders, with regular unescorted access to the unsecured hospital grounds and the possibility of unescorted leave outside the hospital, but where the individual was under constant supervision and not free to leave, not asked his opinion and did not consent to or tacitly accept the placement. The fact that a person lacks legal capacity does not necessarily mean he or she is unable to understand and consent to their situation (Article 5 applicable).
- *De Wilde, Ooms and Versyp v. Belgium*, 1971, §§ 64-65 – Lengthy detention in vagrancy centres pursuant to magistrates' orders, after individuals in a state of distress, with no means of subsistence and no place to stay, gave themselves up to the police (Article 5 applicable).
- *H.M. v. Switzerland*, 2002, §§ 40-48 – Order placing elderly individual in a nursing home, where she was not placed in the secure ward and where, although she had been undecided about the placement, she had subsequently decided to stay, leading to the order being lifted (Article 5 not applicable).
- *H.L. v. the United Kingdom*, 2004, §§ 89-94 – Informal committal of adult lacking legal capacity to a psychiatric institution as an "informal patient", who was compliant and did not resist admission, but where health care professionals had exercised complete and effective control over his care and movements (Article 5 applicable).
- *Storck v. Germany*, 2005, §§ 69-78 – Placement in a private psychiatric clinic (locked ward) with the initial consent of the applicant, who later attempted to escape on several occasions (Article 5 applicable).
- *Shtukaturov v. Russia*, 2008, §§ 104-09 – Patient of a psychiatric hospital deprived of his legal capacity, but who had requested to be discharged, contacted administration and a lawyer with a view to obtaining release, and attempted to escape (Article 5 applicable).
- *N. v. Romania*, 2017, §§ 148-68 – Continued detention after the decision ordering the applicant's release was found to be arbitrary, even though the applicant had agreed to

remain in detention until such time as social services had found an appropriate solution to his situation (Article 5 applicable).

- *Kaganovskyy v. Ukraine*, 2022, §§ 83-87 – Ten-day confinement of the applicant in the enhanced supervision unit of a State-run social care residential institution against his will (Article 5 applicable).

Other healthcare measures

- *Riera Blume and Others v. Spain*, 1999, §§ 29-30 – Suspected members of a sect transferred to and held in a hotel against their will, in order to undergo "de-programming" by a psychologist and psychiatrist (Article 5 applicable).
- *Witold Litwa v. Poland*, 2000, § 46 – Placement in a sobering up centre which, under domestic legislation, the applicant was not allowed to leave until he had become sober (Article 5 applicable).
- *Aftanache v. Romania*, 2020, §§ 81-83 – Individual with diabetes taken against his will by paramedics under police escort to hospital and confined for approximately six hours (Article 5 applicable).
- *Guenat v. Switzerland* (commission dec.), 1995 – Individual in a state of mental confusion accompanied to a police station on humanitarian grounds, without the use of force, where he remained free to walk around the station and did not ask to leave (Article 5 not applicable).
- *C.P. v. Spain*, 2026, §§ 129-134 – Applicant's compulsory admission to hospital to give birth pursuant to a judicial order despite her wish to give birth at home; periods from the police's arrival at the applicant's home until her admission to hospital and from then on until the child was delivered not amounting to a deprivation of liberty (Article 5 not applicable).

Restrictions relating to the COVID-19 pandemic

- *Terheş v. Romania* (dec.), 2021, §§ 39-46 – The Court has considered general lockdown measures imposed to tackle the COVID-19 pandemic. Since the pandemic was liable to have very serious consequences not just for health, but also for society, the economy, the functioning of the State and life in general, the situation should be characterised as an exceptional and unforeseeable context. The case concerned a 52-day general lockdown, where the population had been allowed to leave only for reasons expressly provided for in legislation and with an exemption form. The Court found that the measure had not reached the level of intensity to constitute a deprivation of liberty (Article 5 not applicable).

Disciplinary measures:

Prisoners

- *Stoyan Krastev v. Bulgaria*, 2020, § 38 – Placement in a disciplinary isolation cell for fourteen days, where claims as to profound disturbance and distress were unsubstantiated, and with no major difference from the general prison regime (Article 5 not applicable). Disciplinary steps imposed within a prison, whether formally or informally, which have effects on conditions of detention, cannot generally be considered to constitute deprivation of liberty. Such measures must be regarded, in normal circumstances, as modifications of the conditions of lawful detention and fall outside the scope of Article 5 § 1 of the Convention.

- See also *Bollan v. the United Kingdom* (dec.), 2000 – Prisoner's confinement in a cell as a disciplinary measure a mere variation in the routine conditions of detention (Article 5 not applicable).
- *Munjaz v. the United Kingdom*, 2012, §§ 63-73 – Prisoner's seclusion in a high-security hospital for some forty days where the aim was not to punish but to contain behaviour likely to harm others and where the seclusion was applied flexibly, not amounting to solitary confinement (Article 5 not applicable).

Military servicemen

- Military service does not, of itself, constitute a deprivation of liberty. Regarding disciplinary measures imposed on members of the armed forces, the Court has noted that a system of military discipline by its very nature implies the possibility of placing limitations on certain of the rights and freedoms of the members of these forces which are incapable of being imposed on civilians. A disciplinary penalty or measure which would unquestionably be deemed a deprivation of liberty were it to be applied to a civilian may not possess this characteristic when imposed upon a serviceman. Nevertheless, such penalty or measure does not escape the terms of Article 5 when it takes the form of restrictions that clearly deviate from normal conditions of life within the armed forces of the State in question (*Engel and Others v. the Netherlands*, 1976, § 59). Accordingly, Article 5 was not applicable to "light arrest" (confinement during off-duty hours to dwellings or military premises) or "aggravated arrest" (off-duty hours served in a specially designated place), but was applicable to "strict arrest" (served by day and night locked in a cell with exclusion from performance of normal duties), ibid., §§ 60-66.
- See also *Dacosta Silva v. Spain*, 2006, § 44 – Placement under house arrest for six days by the Civil Guard superior as a disciplinary measure (Article 5 applicable).
- *Dedu v. Romania* (dec.), 2024, §§ 77-81 – Confinement to home during off-duty hours imposed on a senior secret service officer as a disciplinary sanction; measure not amounting to house arrest (Article 5 not applicable).

Children:

Placements made by parents

- In *Nielsen v. Denmark*, 1988, §§ 59-73 – the placement of a child in a hospital by a parent did not amount a deprivation of liberty (Article 5 not applicable). The care and upbringing of children normally and necessarily require that the parent(s) decide where a child must reside and also impose, or authorise others to impose, various restrictions on a child's liberty. Thus, children in a school or other educational or recreational institution must abide by certain rules which limit their freedom of movement and their liberty in other respects. Likewise, a child may have to be hospitalised for medical treatment. In such a case, the decision of hospitalisation is that of the parent(s) in their capacity as holders of parental rights and Article 5 is not applicable in so far as it is concerned with deprivation of liberty by the authorities of the State (§§ 61, 63-64). At the same time, however, the rights of the holder of parental authority cannot be unlimited and it incumbent on the State to provide safeguards against abuse (§ 72).

Placements made by public authorities

- *Blokhin v. Russia* [GC], 2016, §§ 164-72 – Thirty-day placement of a minor in a detention centre for young offenders to "correct his behaviour", which was closed and guarded, with constant surveillance to ensure inmates did not leave without authorisation and with a disciplinary regime enforced by a duty squad (Article 5 applicable).

- *D.L. v. Bulgaria*, 2016, § 69 – Placement in a closed boarding school pursuant to juvenile antisocial behaviour legislation was considered to be a deprivation of liberty, given the system of permanent monitoring, that leave was subject to prior authorisation and the duration of the placement (Article 5 applicable) (see also *A. and Others v. Bulgaria*, 2011).
- In *Tarak and Depe v. Turkey*, 2019, §§ 52-61, where an eight-year-old child was left alone in a police station for over twenty-four hours, and was therefore in a situation of vulnerability, it was immaterial whether he had been kept in closed and guarded premises. Such a very young child could not be expected to leave the police station alone (Article 5 applicable).

Other:

House arrest

- *Buzadji v. the Republic of Moldova* [GC], 2016, § 104 – In view of its degree and intensity, house arrest is considered to amount to a deprivation of liberty within the meaning of Article 5. In this case, there had, furthermore, been no waiver by the applicant asking for placement under house arrest, as this was done under a clear state of duress to avoid the continuation of detention in custody and in the light of his deteriorating health (Article 5 applicable) (see also *Mancini v. Italy*, 2001; *Nikolova v. Bulgaria (no. 2)*, 2004).

Other residence-based restrictions

- *De Tommaso v. Italy* [GC], 2017, §§ 79-90 – Preventive measures entailing restrictions on freedom of movement on an individual considered to be a danger to society, who could leave home during the day and was thereby able to have a social life and maintain relations with the outside world, whose prohibition on leaving home at night could not be equated to house arrest and who had never sought permission to travel away from his place of residence (Article 5 not applicable).
- *Guzzardi v. Italy*, 1980, §§ 90-95 – Preventive measure entailing placement of an individual on a small, isolated island as a compulsory place of residence and the application of special supervision (Article 5 applicable).
- *Domenjoud v. France*, 2024, §§ 71-72 – Preventive home-curfew orders issued under state-of-emergency legislation, including a prohibition on the applicants to leave their homes at night (Article 5 not applicable).

International security measures

- *Nada v. Switzerland* [GC], 2012, §§ 224-33 – Prohibition on travel throughout the country, under legislation implementing the UN Security Council Resolution and concerning persons suspected of association with the Taliban and al-Qaeda, thereby confining the applicant to a 1.6 square kilometre Italian enclave within Switzerland (Article 5 not applicable).
- *El-Masri v. The Former Yugoslav Republic of Macedonia* [GC], 2012, §§ 234-40 – Individual, with suspected ties to Islamic organisations and groups, taken to a hotel room for twenty-three days, constantly supervised, refused contact with his embassy and threatened with a gun upon trying to leave (Article 5 applicable).

Recap of general principles

- *Creangă v. Romania* [GC], 2012, §§ 91-93;
- *Austin and Others v. United Kingdom* [GC], 2012, §§ 53-60;
- *Nada v. Switzerland* [GC], 2012, §§ 225-226;

- *De Tommaso v. Italy* [GC], 2017, §§ 80-88;
- *Ilias and Ahmed v. Hungary* [GC], 2019, §§ 211-217;
- *Z.A. and Others v. Russia* [GC], 2019, §§ 133-138.

Further references

Case-law guides:

- Guide on Article 5 - Right to liberty and security
- Guide on Article 2 of Protocol No. 4 - Freedom of movement

Other key themes:

- Judicial review of short-term detentions

KEY CASE-LAW REFERENCES

Police actions falling short of formal/typical arrest and detention:

- *I.I. v. Bulgaria*, no. 44082/98, 9 June 2005 (Article 5 applicable);
- *Foka v. Turkey*, no. 28940/95, 24 June 2008 (Article 5 applicable);
- *Gillan and Quinton v. the United Kingdom*, no. 4158/05, ECHR 2010 (extracts) (not necessary to examine Article 5 complaint);
- *Osypenko v. Ukraine*, no. 4634/04, 9 November 2010 (Article 5 applicable);
- *Salayev v. Azerbaijan*, no. 40900/05, 9 November 2010 (Article 5 applicable);
- *Farhad Aliyev v. Azerbaijan*, no. 37138/06, 9 November 2010 (Article 5 applicable);
- *Shimovolos v. Russia*, no. 30194/09, 21 June 2011 (Article 5 applicable);
- *Creangă v. Romania* [GC], no. 29226/03, 23 February 2012 (Article 5 applicable);
- *Austin and Others v. United Kingdom* [GC], nos. 39692/09 and 2 others, ECHR 2012 (Article 5 not applicable);
- *Gahramanov v. Azerbaijan* (dec.), no. 26291/06, 15 October 2013 (Article 5 not applicable);
- *M.A. v. Cyprus*, no. 41872/10, ECHR 2013 (extracts) (Article 5 applicable);
- *Cazan v. Romania*, no. 30050/12, 5 April 2016 (Article 5 not applicable);
- *Kasparov v. Russia*, no. 53659/07, 11 October 2016 (Article 5 applicable);
- *Rozhkov v. Russia (no. 2)*, no. 38898/04, 31 January 2017 (Article 5 applicable);
- *Stănculeanu v. Romania*, no. 26990/15, 9 January 2018 (Article 5 not applicable);
- *Zelčs v. Latvia*, no. 65367/16, 20 February 2020 (Article 5 applicable);
- *Vadym Melnyk v. Ukraine*, nos. 62209/17 and 50933/18, 15 September 2022 (Article 5 not applicable);
- *Duğan v. Türkiye*, no. 84543/17, 7 February 2023 (Article 5 applicable);
- *Auray and Others v. France*, no. 1162/22, 8 February 2024 (Article 5 not applicable);
- *Friedrich and Others v. Poland*, nos. 25344/20 and 17 others, 20 June 2024 (Article 5 applicable);
- *Ishkhanyan v. Armenia*, no. 5297/16, 13 February 2025 (Article 5 applicable);
- *Bogay and Others v. Ukraine*, no. 38283/18, 3 April 2025 (Article 5 applicable)
- *Siedlecka v. Poland*, no. 13375/18, 31 July 2025 (Article 5 applicable).

Confinement of asylum-seekers:

- *Amuur v. France*, 25 June 1996, *Reports of Judgments and Decisions* 1996-III (Article 5 applicable);
- *Shamsa v. Poland*, nos. 45355/99 and 45357/99, 27 November 2003 (Article 5 applicable);
- *Mogoş v. Romania* (dec.), no. 20420/02, 6 May 2004 (Article 5 not applicable);
- *Mahdid and Haddar v. Austria* (dec.), no. 74762/01, ECHR 2005-XIII (extracts) (Article 5 not applicable);
- *Riad and Idiab v. Belgium*, nos. 29787/03 and 29810/03, 24 January 2008 (Article 5 applicable);
- *Khlaifia and Others v. Italy* [GC], no. 16483/12, 15 December 2016 (Article 5 applicable);
- *J.R. and Others v. Greece*, no. 22696/16, 25 January 2018 (Article 5 applicable);
- *Ilias and Ahmed v. Hungary* [GC], no. 47287/15, 21 November 2019 (Article 5 not applicable);

- *Z.A. and Others v. Russia* [GC], nos. 61411/15 and 3 others, 21 November 2019 (Article 5 applicable);
- *R.R. and Others v. Hungary*, no. 36037/17, 2 March 2021 (Article 5 applicable);
- *O.M. and D.S. v. Ukraine*, no. 18603/12, 15 September 2022 (Article 5 not applicable).

Health, safety and social care:

- *De Wilde, Ooms and Versyp v. Belgium*, 18 June 1971, Series A no. 12 (Article 5 applicable);
- *Guenat v. Switzerland*, no. 24722/94, Commission decision of 10 April 1995, Decisions and Reports (DR) 81, p. 134) (Article 5 not applicable);
- *Riera Blume and Others v. Spain*, no. 37680/97, ECHR 1999-VII (Article 5 applicable);
- *Witold Litwa v. Poland*, no. 26629/95, ECHR 2000-III (Article 5 applicable);
- *H.M. v. Switzerland*, no. 39187/98, ECHR 2002-II (Article 5 not applicable);
- *H.L. v. the United Kingdom*, no. 45508/99, ECHR 2004-IX (Article 5 applicable);
- *Storck v. Germany*, no. 61603/00, ECHR 2005-V (Article 5 applicable);
- *Shtukaturov v. Russia*, no. 44009/05, ECHR 2008 (Article 5 applicable);
- *Stanev v. Bulgaria* [GC], no. 36760/06, ECHR 2012 (Article 5 applicable);
- *N. v. Romania*, no. 59152/08, 28 November 2017 (Article 5 applicable);
- *Aftanache v. Romania*, no. 999/19, 26 May 2020 (Article 5 applicable);
- *Terheş v. Romania* (dec.), no. 49933/20, 13 April 2021 (Article 5 not applicable);
- *Kaganovskyy v. Ukraine*, no. 2809/18, 15 September 2022 (Article 5 applicable);
- *C.P. v. Spain*, no. 50181/22, 11 June 2026 (Article 5 not applicable).

Disciplinary measures:

- *Engel and Others v. the Netherlands*, 8 June 1976, Series A no. 22 (Article 5 applicable);
- *Bollan v. the United Kingdom* (dec.), no. 42117/98, ECHR 2000-V (Article 5 not applicable);
- *Dacosta Silva v. Spain*, no. 69966/01, ECHR 2006-XIII (Article 5 applicable);
- *Munjaz v. the United Kingdom*, no. 2913/06, 17 July 2012 (Article 5 not applicable);
- *Stoyan Krastev v. Bulgaria*, no. 1009/12, 6 October 2020 (Article 5 not applicable);
- *Dedu v. Romania* (dec.), no. 56397/15, 9 April 2024 (Article 5 not applicable).

Children:

- *Nielsen v. Denmark*, 1988, Series A no. 144 (Article 5 not applicable);
- *A. and Others v. Bulgaria*, no. 51776/08, 29 November 2011 (Article 5 applicable);
- *Blokhin v. Russia* [GC], no. 47152/06, 23 March 2016 (Article 5 applicable);
- *D.L. v. Bulgaria*, no. 7472/14, 19 May 2016 (Article 5 applicable);
- *Tarak and Depe v. Turkey*, no. 70472/12, 9 April 2019 (Article 5 applicable).

Other:

- *Guzzardi v. Italy*, 6 November 1980, Series A no. 39 (Article 5 applicable);
- *Mancini v. Italy*, no. 44955/98, ECHR 2001-IX (Article 5 applicable);
- *Nikolova v. Bulgaria (no. 2)*, no. 40896/98, 30 September 2004 (Article 5 applicable);
- *Nada v. Switzerland* [GC], no. 10593/08, ECHR 2012 (Article 5 not applicable);

- *El-Masri v. The Former Yugoslav Republic of Macedonia* [GC], no. 39630/09, ECHR 2012 (Article 5 applicable);
- *Buzadji v. the Republic of Moldova* [GC], no. 23755/07, 5 July 2016 (Article 5 applicable);
- *De Tommaso v. Italy* [GC], no. 43395/09, 23 February 2017 (Article 5 not applicable);
- *Domenjoud v. France*, nos. 34749/16 and 79607/17, 16 May 2024 (Article 5 not applicable).