



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

CASE OF K.A. v. CYPRUS

(Application no. 5755/25)

JUDGMENT

STRASBOURG

1 October 2026

This judgment is final but it may be subject to editorial revision.

In the case of K.A. v. Cyprus,

The European Court of Human Rights (Fifth Section), sitting as a Committee composed of:

María Elósegui, President,

Gilberto Felici,

Diana Sârcu, *judges*,

and Sophie Piquet, Acting Deputy Section Registrar,

Having regard to:

the application (no. 5755/25) against the Republic of Cyprus lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 13 February 2025 by a Moroccan national, K.A. (“the applicant”), who was born in 1966, lives in Oroklini and was represented by Ms N. Charalambidou, a lawyer practising in Nicosia;

the decision to give notice of the complaints concerning Article 5 §§ 1 and 4 of the Convention to the Cypriot Government (“the Government”), represented by their Agent, Mr G.L. Savvides, Attorney General of the Republic of Cyprus, and to declare the remainder of the application inadmissible;

the decision not to have the applicant’s name disclosed;

the parties’ observations;

Having deliberated in private on 10 September 2026,

Delivers the following judgment, which was adopted on that date:

SUBJECT MATTER OF THE CASE

1. The application concerns the applicant’s detention on national security grounds from 10 January 2019 until 24 February 2020, and the procedural fairness of the domestic proceedings (nos. 422/2019 and 78/2019) whereby he challenged that detention.

I. THE APPLICANT’S DETENTION

2. On 10 January 2019, following his irregular entry into Cyprus through the occupied areas, the applicant applied for asylum with the Aliens and Immigration Service of the Cyprus Police (“the AIS”).

3. On the same day, he was interviewed by the Counter Terrorism Office of the Police (“the CTO”) and the Cyprus Intelligence Service (“the CIS”) after being flagged as a “category B suspect” in the database of a foreign service collaborating with the CTO. The foreign service confirmed on that day that the applicant was suspected of involvement in carrying out terrorism-related operations in support of a terrorist group. As such, the CTO

considered him a threat to public order and national security and informed the relevant Cypriot authorities.

4. On that basis, the Deputy Director of the Civil Registry and Migration Department (“the CRMD”) ordered his detention on national security grounds (“the detention order”) pursuant to section 9ΣΤ(2)(e) of the Refugee Law (no. 6(I)/2020, as amended), which provides for the possibility of detaining an asylum seeker “where the protection of national security or public order so requires”.

5. The applicant was informed of the order on the same day, placed in police custody, and transferred to the Menoyia Detention Centre for Prohibited Immigrants, where he remained throughout his detention.

II. ASYLUM PROCEEDINGS

6. On 12 April 2019 the Asylum Service (“the AS”) recognised the applicant as a refugee. Nevertheless, it revoked his refugee status pursuant to section 6A(1)(c) of the Refugee Law, considering him to pose a threat or danger to the security of the State. It ultimately rejected his application for international protection.

7. The applicant challenged that decision through an administrative appeal with the then Reviewing Authority for Refugees (“the RAR”), which on 30 July 2019 upheld the decision of the AS.

8. On 14 October 2019 the applicant lodged a recourse (no. 229/19) with the Administrative Court for International Protection (“the ACIP”), challenging the decision of the RAR.

9. The proceedings before the ACIP are pending and have suspensive effect.

III. CHALLENGE TO THE LAWFULNESS OF DETENTION

A. Administrative Court

10. On 22 March 2019 the applicant asked the Administrative Court to set aside the detention order as unlawful (recourse no. 422/2019).

11. On 22 April 2019 the Administrative Court dismissed the applicant’s recourse, holding that the detention order was lawful. It held, *inter alia*, that the detention was based on section 9ΣΤ of the Refugee Law, which was fully in line with Article 8 of Directive 2013/33/EU. It also considered that even though his detention as an asylum-seeker was an extraordinary measure restricting his freedom, it nonetheless served a legitimate aim of public interest, namely, the protection of national security and the rights of others. In addition, it found that the order had been based on an individualised assessment and on information indicating the applicant’s suspected involvement in terrorism-related activities.

12. In reaching that conclusion, the court relied on three confidential documents submitted by the State after the applicant had complained that no evidence had been disclosed to justify the assessment that he posed a threat to national security. Those documents were (i) a classified letter from the CTO to the Attorney General dated 18 April 2019; (ii) a memorandum signed by Cyprus and a foreign State on the exchange of terrorism-related information; and (iii) an implementation guide to that memorandum. The court found them to be relevant and directly connected to the authorities' decision to detain the applicant. At the State's request, they were not disclosed to the applicant. The court held that this did not breach his fair-trial rights, as the disclosure of information could be limited where it could hinder judicial or security investigations. Any disadvantage was offset by the court's own access to the information.

13. As to the content of the documents, the court noted that the 18 April 2019 letter referred to the events of 10 January 2019 and to additional information, which it could not consider as it had not been available when the AS had made its decision. The applicant had already been identified as a terrorism suspect in a letter of 10 January 2019 sent by the police to the commander of the AIS. The memorandum governed information-sharing with Cypriot authorities, while the implementation guide. The court found that the detention order had been based on an individualised assessment supported by information indicating that the applicant was suspected of involvement in terrorism-related activities. The decisive factor underlying the order was that the applicant had been flagged in a cooperating foreign State's database as a terrorism suspect, which alone justified detention on national security grounds. The court saw no reason to doubt the source's reliability and held that alternatives to detention could not suffice under the circumstances.

B. Appeal proceedings

14. On 6 May 2019 the applicant appealed to the Supreme Court (appeal no. 78/2019).

15. On 16 October 2024 the Supreme Constitutional Court, to which the applicant's appeal had been transferred, unanimously dismissed the appeal, upholding the findings of the lower court in their entirety.

IV. ACCESS TO ADMINISTRATIVE FILES

16. Following a request to the authorities, the applicant was allowed to inspect the administrative files held by the AS in respect of him. He submitted that, during the inspection, he had seen a letter dated 28 January 2019 sent from the AIS to the head of the AS indicating that the applicant had been suspected of carrying out operational activity in support of a terrorist group,

and that statements made by him during his interviews with the AS had been inconsistent as to whether and why he had made numerous trips to various countries, as well as to the alleged loss of his passport (which had eventually been discovered in his possession). The letter had also allegedly mentioned that partner agencies of the CTO had reported that the applicant had been suspected by the police authorities of Belgium, France and Spain of offences related to illegal entry, rape and sexual assault, fraud and forgery, the use of false documents, resisting arrest, disobeying the authorities, and threatening to bomb the Belgian consulate in Morocco in May 2011. The letter concluded that his continued presence in Cyprus posed a risk to the security of the State.

V. PROCEEDINGS CONCERNING THE LENGTH OF DETENTION

17. In the meantime, on 17 July 2019 the applicant had petitioned the Supreme Court (first-instance jurisdiction) for a writ of habeas corpus (no. 126/2019), claiming that his detention had lasted too long.

18. On 5 August 2019 the Supreme Court dismissed the petition. It noted that the AS had decided to revoke the applicant's refugee status, because he constituted a threat to the security of the State – a decision which had been upheld by the RAR. It observed that his continued detention was linked to the administrative procedures concerning his request for international protection. While those had been completed by the administrative authorities, the AIS's decision was not yet final as the 75-day period for appeal had not yet expired.

19. On 20 November 2019 the CRMD requested an update from the AIS on whether the initial grounds for the applicant's detention persisted.

20. On 19 December 2019, after a review of the applicant's file, the AIS confirmed that the risk and threat to national security remained.

21. On 16 January 2020 the CRMD decided to continue the applicant's detention.

22. On 17 January 2020 the applicant filed a second habeas corpus petition (no. 4/2020) with the Supreme Court (first-instance jurisdiction), challenging the lawfulness of his detention on account of its length.

23. On 24 February 2020 the Supreme Court ordered the applicant's release. It held that the State had failed to justify the applicant's continued detention, having provided neither the material submitted to the Administrative Court nor any substantive evidence from the 16 January 2020 review. Lacking relevant evidence, the court could not assess whether the grounds for detention persisted.

VI. THE APPLICANT'S RELEASE AND SUBSEQUENT DEVELOPMENTS

24. On 24 February 2020, in compliance with the habeas corpus decision, the CRMD revoked the detention order and released the applicant from

detention. It was also decided that no deportation order could be issued while his recourse no. 229/2019 was pending.

25. The applicant currently resides in Larnaca, at an address known to the authorities.

THE COURT'S ASSESSMENT

I. ALLEGED VIOLATION OF ARTICLE 5 § 1 OF THE CONVENTION

26. The applicant complained under Article 5 § 1 of the Convention about the lawfulness of his detention, which he considered, *inter alia*, arbitrary on account of its length.

27. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

28. The general principles concerning Article 5 § 1 (f) of the Convention relevant to the case at hand are set out in *Saadi v. the United Kingdom* ([GC], no. 13229/03, §§ 61-74, ECHR 2008) and have recently been summarised in *M.B. v. the Netherlands* (no. 71008/16, §§ 52-59, 23 April 2024).

29. There is no indication that the place or conditions of the detention were inappropriate, or that the authorities acted in bad faith. What remains to be determined is whether there was a sufficiently close connection between the detention and the purpose of preventing unauthorised entry, and whether the length of detention was reasonable.

30. The Court notes the lack of clarity among the domestic authorities regarding the purpose of the applicant's detention. The CRMD (both in its original decision to detain him and in subsequent decisions to continue his detention) and the Administrative Court repeatedly cited the threat to national security as a stand-alone ground for the applicant's detention, without necessarily linking it to the outcome of the asylum application (see paragraphs 4, 11 and 19-21 above). Conversely, the AS, RAR, and the Supreme Court (petition no. 126/2019) explicitly connected the applicant's detention to the ongoing examination of his request for international protection and, consequently, his right to enter and lawfully remain in the country (see paragraphs 6, 7 and 18 above).

31. It also appears from the Government's submissions that the authorities already had the information necessary to assess the applicant's asylum claim and potentially reject it on national security grounds from the day his detention was decided. On 12 April 2019 the AS rejected the applicant's asylum application on that basis, relying on the applicant's interviews and information from the CRMD; that decision was later upheld by the RAR. No further interviews were conducted thereafter, nor did the CRMD rely on new evidence or seek additional information when reviewing the continuation of

his detention. The material underlying the suspicions remained unchanged throughout the detention period.

32. Moreover, it does not appear that any steps were taken following the initiation of the proceedings before the ACIP to advance the examination of the applicant's asylum application. In the absence of new evidence, and having regard to the time during which the applicant remained within the State's territory (see *M.B. v. the Netherlands*, cited above, § 74), it is difficult to justify the necessity, or even the proportionality, of maintaining the applicant in immigration detention for the purpose of preventing unauthorised entry. The prompt examination of the applicant's asylum claim and the adoption of a final decision would have served both the interests of the applicant – who remained in a state of uncertainty – and those of the State, which sought to address a perceived security risk.

33. In the light of the foregoing, the Court does not find that there was a sufficiently close connection between the immigration detention and the prevention of unauthorised entry. It further considers that the duration of the applicant's detention – 13 and a half months – cannot be regarded as reasonably required for the purposes of the first limb of Article 5 § 1 (f), given the absence of any indication that the examination of his asylum claim was particularly complex and the lack of progress in the proceedings before the ACIP, which remain pending (see *B.A. v. Cyprus*, cited above, §§ 65-66, with further references therein).

34. There has accordingly been a violation of Article 5 § 1 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 5 § 4 OF THE CONVENTION

35. The applicant further complained under Article 5 § 4 that the judicial review of his detention had not met the requirements of procedural fairness and equality of arms. Key evidence underlying the national security allegations had not been disclosed to him, and no adequate counterbalancing safeguards had been provided.

36. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

37. The relevant principles concerning the requirement of procedural fairness under Article 5 § 4 of the Convention have been outlined in *A. and Others v. the United Kingdom* ([GC] no. 3455/05, §§ 202-11, ECHR 2009) and *Al Husin v. Bosnia and Herzegovina* (no. 2) (no. 10112/16, §§ 114-16, 25 June 2019).

38. The Court acknowledges that the authorities were required to disclose as much information as possible without endangering national security. The Administrative Court, as a fully independent body with access to all the relevant evidence, was best placed to ensure that no material was

unnecessarily withheld. Although the national legal system did not provide for special advocates, the applicant was informed of the legal basis and reasons for his detention in the letter of 10 January 2019. With the exception of the letter of 18 April 2019 (part of which, in any event, was not considered by the Administrative Court, as it had not been available to the AS when it reached its decision), and general documents such as the inter-State memorandum and its implementation guide (which did not contain information on the applicant), all other relevant material was disclosed either in the letter of 10 January 2019 or by way of the applicant's inspection of his administrative file (which included information on crimes that he was suspected of having committed – see paragraph 16 above). Represented by a lawyer, the applicant was able to make submissions to the domestic courts and challenge the open material before the domestic courts (see, *mutatis mutandis*, *Al Husin*, cited above, §§ 120-21).

39. In the light of the foregoing, the Court considers that the applicant was given a reasonable opportunity to present his case. There has accordingly been no violation of Article 5 § 4 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

40. The applicant claimed 15,000 euros (EUR) in respect of pecuniary damage without explaining what that amount represented. He also claimed an award in respect of non-pecuniary damage without specifying an amount. In addition, he claimed EUR 7,204.64 in respect of the costs and expenses incurred before the domestic courts; EUR 3,570 for those incurred before the Court for the present application; and EUR 3,105.90 for those incurred before the Court for a previous application (namely, application no. 63076/19).

41. The Government contested those claims as excessive.

42. In the absence of information on the alleged pecuniary damage, the Court rejects this claim. However, it awards the applicant EUR 5,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

43. Having regard to the documents in its possession, the Court considers it reasonable to award EUR 3,570 covering the costs of the proceedings before the Court, plus any tax that may be chargeable to the applicant.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;
2. *Holds* that there has been a violation of Article 5 § 1 of the Convention;
3. *Holds* that there has been no violation of Article 5 § 4 of the Convention;

4. *Holds*

- (a) that the respondent State is to pay the applicant, within three months, the following amounts:
 - (i) EUR 5,000 (five thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 3,750 (three thousand seven hundred and fifty euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
- (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 1 October 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Sophie Piquet
Acting Deputy Registrar

María Elósegui
President