

# Select case law on the use of force in protest

Annex from Lethal in Disguise 2: How Crowd-Control Weapons Impact Health and Human Rights

Case	Court	CCWs
<h3>1. Shmorgunov v Ukraine (2021) (ECHR)</h3> <p><b>Overview</b></p> <p>The applicants participated in a vigil and were unarmed. Police officers surrounded and attacked the protesters by hitting them with rubber and plastic batons. The police officers also used tear gas and stun grenades to disperse the protesters.<sup>1</sup></p>	European Court of Human Rights	<b>Batons</b> <b>Chemical Irritants</b> <b>Disorientation Devices</b>
<p><b>Outcome</b></p> <p>The protesters offered little to no resistance to the police during efforts to disperse them. As a result, <u>the physical force used against the protesters was not strictly necessary and amounted to ill treatment, but it did not rise to the definition of torture.</u><sup>2</sup></p>		
<h3>2. Zakharov v Varzhabetyan (2020) (ECHR)</h3> <p><b>Overview</b></p> <p>Both applicants participated in a political rally where the first applicant was the organiser. The rally was dispersed by police officers, resulting in the first applicant being injured using a rubber baton, which rendered her unconscious. She was later diagnosed with a contused wound of the frontal lobe. The second applicant sustained a head injury and had a soft tissue bruise to the right side of her head.<sup>3</sup></p>	European Court of Human Rights	<b>Batons</b>
<p><b>Outcome</b></p> <p>The Court held that the use of force during political rallies is not prohibited but should not be excessive. In addition, the Court held that <u>the use of force against the protesters was unnecessary, diminished their dignity and was degrading.</u> As a result, the conduct of the police officers violated Article 3 of the Convention, the prohibition against torture.<sup>4</sup></p>		
<h3>3. Guzman v Spain (2020) (ECHR)</h3> <p><b>Overview</b></p> <p>The applicant participated in a spontaneous protest that occurred after the conclusion of an official demonstration. She was struck down with a baton by a police officer after refusing to put down a placard. While protecting her head, the applicant sustained injuries to her mouth and left hand.<sup>5</sup></p>	European Court of Human Rights	<b>Batons</b>
<p><b>Outcome</b></p> <p>The spontaneous protest was dispersed, despite it being peaceful. This amounted to a disproportionate interference with the applicant's rights under Article 11 of the European Convention, the right to freedom of assembly and association. In addition, <u>the use of force was both disproportionate and unjustified.</u><sup>6</sup></p>		

1. Shmorgunov and others v. Ukraine Applications nos. 15367/14 and 13 others (2021) ECHR, available at: <https://policehumanrightsresources.org/shmorgunov-and-others-v-ukraine-applications-nos-15367-14-and-13-others> at para 46-48.

2. Id at para 521.

3. *Zakharov and Varzhabetyan v. Russia* Applications nos. 35880/14 and 75926/17 (2020) ECHR, available at: <https://policehumanrightsresources.org/zakharov-and-varzhabetyan-v-russia-applications-nos-35880-14-and-75926-17> para 4-12.

4. Id at para 69.

5. *Laguna Guzman v. Spain* Application no. 41462/17 (2020) ECHR, available at: <https://policehumanrightsresources.org/laguna-guzman-v-spain-application-no-41462-17> at para 14.

6. Id at para 55.

Case	Court	CCWs
<p><b>4. Saghatelyan v Armenia (2018) (ECHR)</b></p> <p><b>Overview</b></p> <p>The applicant was arrested while camping at a protest. Prior to the applicant's arrest, police officers encircled the camp and beat sleeping demonstrators with rubber batons.<sup>7</sup></p>	<p>European Court of Human Rights</p> <p><b>Outcome</b></p> <p>The applicant's right to freedom of assembly and association was interfered with, and <u>the use of force was unjustified, excessive and without warning.</u><sup>8</sup></p>	<p>Batons</p>
<p><b>5. Thakur v State of Jammu &amp; Kashmir (2016) (India)</b></p> <p><b>Overview</b></p> <p>A group of 2,000 migrants marched peacefully to Delhi to express concerns about their living conditions. The group, which included women, children and older people, was stopped en route and detained for five days by being forced to sit on the road. On the fifth day, the group was beaten with lathis in a most "brutal and barbaric manner" by police officers near Katra in Jammu and Kashmir. Tear gas was also dispersed.<sup>10</sup></p>	<p>Supreme Court of India</p> <p><b>Outcome</b></p> <p><u>The continued use of force by the police officials even after the demonstrators were immobile was unnecessary and an abuse of power.</u><sup>11</sup></p>	<p>Batons</p> <p>Chemical Irritants</p>
<p><b>6. Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2551/2015 (CCPR/C/130/D/2551/2015) State party: Kazakhstan (2015) (UNHRCtte)</b></p> <p><b>Overview</b></p> <p>A journalist from an internet newspaper was sent to report on a spontaneous protest in front of Kazakhstan's parliamentary building. When police arrived, the journalist showed them his credentials and proceeded to report on the protest. After the protest, the police arrived at the home of the journalist and took him to a specialized court for committing an administrative offence.<sup>12</sup></p>	<p>UN Human Rights Committee</p> <p><b>Outcome</b></p> <p>The committee noted that <u>the journalist's right to the freedom to impart information and ideas was interfered with unjustifiably.</u><sup>13</sup></p>	

7. *Mushegh Saghatelyan v. Armenia* Application No. 23086/08 (2018) ECHR, available at: <https://policehumanrightsresources.org/case-of-mushegh-saghatelyan-v-armenia-application-no-23086-08> at para 12.

8. Id at para 248.

9. A long, heavy iron-bound bamboo stick.

10. *Anita Thakur and Others v. State of Jammu & Kashmir* No. 118 of 2007 (2016) Supreme Court of India, available at: <https://main.sci.gov.in/jonew/ropor/rop/all/855673.pdf> at para 1.

11. Id at para 14.

12. Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2551/2015 (CCPR/C/130/D/2551/2015) State party: Kazakhstan (2020) available at: <https://policehumanrightsresources.org/views-adopted-by-the-committee-under-article-5-4-of-the-optional-protocol-concerning-communication-no-2551-2015-ccpr-c-130-d-2551-2015-state-party-kazakhstan> at para 2.1.

13. Id at para 10.3.

Case	Court	CCWs
<p><b>7. Yasa v Turkey (2013) (ECHR)</b></p> <p><b>Overview</b></p> <p>The applicant sustained a nose injury while passing by a dispersal of protesters by police. The applicant's injury was caused by a tear gas grenade fired by the police.<sup>14</sup></p>	<p>European Court of Human Rights</p> <p><b>Outcome</b></p> <p>The use of launchers for tear gas grenades can cause severe injury or death. <u>Launching the tear gas grenade on a direct, flat trajectory and not at a high angle is inappropriate police conduct because of its potential fatal impact.</u><sup>15</sup></p>	<p>Chemical irritants</p> <p>Launchers</p>
<p><b>8. Güneş v Turkey (2012) (ECHR)</b></p> <p><b>Overview</b></p> <p>The applicant and his colleagues assembled peacefully outside an underground station to issue a press release. Police officers approached the unarmed group, detained them and thereafter sprayed tear gas directly at their faces and beat them with batons.<sup>16</sup></p>	<p>European Court of Human Rights</p> <p><b>Outcome</b></p> <p>The use of tear gas in the circumstances was unjustified, as it was fired in a confined space and after the applicant had already been detained. <u>The spraying of tear gas posed serious health risks and subjected the applicant to inhumane and degrading treatment in terms of Article 3 of the European Convention.</u><sup>17</sup></p>	<p>Batons</p> <p>Chemical Irritants</p>
<p><b>9. Andreou v Turkey (2010) (ECHR)</b></p> <p><b>Overview</b></p> <p>The applicant was shot and injured during protests at the Turkish-Cypriot ceasefire line when soldiers fired weapons with live ammunition into a group of protesters.<sup>18</sup></p>	<p>European Court of Human Rights</p> <p><b>Outcome</b></p> <p>The force used against the applicant was unjustified because the applicant was not carrying any weapons and it was unnecessary to cause harm to her. In addition, <u>"firing of [live] rounds into the crowd constituted a disproportionate use of force in the circumstances".</u><sup>19</sup></p>	<p>Live ammunition</p>
<p><b>10. Ataman v Turkey (2008) (ECHR)</b></p> <p><b>Overview</b></p> <p>The applicant participated in a protest and was arrested for posing a threat to public order. The applicant and the other demonstrators were sprayed in the face with pepper spray.<sup>20</sup></p>	<p>European Court of Human Rights</p> <p><b>Outcome</b></p> <p>The conduct of the officers was in violation of Article 11 of the European Convention, which protects freedom of assembly. In addition, <u>"where demonstrators do not engage in acts of violence it is important for the public authorities to show a certain degree of tolerance towards peaceful gatherings".</u><sup>21</sup></p>	<p>Chemical irritants</p>

14. *Abdullah Yasa v. Turkey* Application no. 44827/08 (2013) ECHR, available at: <https://policehumanrightsresources.org/abdullah-yasa-v-turkey-application-no-44827-08> at para 6-7.

15. Id at para 42-48.

16. *Ali Güneş v. Turkey* Application no. 9829/07 (2012) ECHR, available at: <https://policehumanrightsresources.org/ali-gunes-v-turkey-application-no-9829-07> at para 8-10.

17. Id para 41-23.

18. *Andreou v. Turkey* Application no. 45653/99 (2010) ECHR, available at: <https://policehumanrightsresources.org/andreou-v-turkey-application-no-45653-99> at para 11-13.

19. Id at para 55-58.

20. *Oya Ataman v. Turkey* 74552/01 (2007) ECHR, available at: <https://policehumanrightsresources.org/oya-ataman-v-turkey-74552-01> at para 5-10.

21. Id at para 33.