

EUROPEAN COURT OF HUMAN RIGHTS

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Press release issued by the Registrar

Chamber judgments concerning Azerbaijan, Bulgaria, Croatia, Greece, Romania, Russia, the Netherlands and Ukraine

The European Court of Human Rights has today notified in writing the following 20 Chamber judgments, none of which are final¹.

Repetitive cases² and length-of-proceedings cases, with the Court's main finding indicated, can be found at the end of the press release.

Violation of Article 6 § 1 (fairness) *Violation of Article 1 of Protocol No. 1)*

Efendiyeva v. Azerbaijan (application no. 31556/03)

The applicant, Latifa Talat qizi Efendiyeva, is an Azerbaijani national who was born in 1955 and lives in Baku.

In December 1993 Ms Efendiyeva was dismissed from her job as Head of the Republican Maternity Hospital. She sued the Ministry of Healthcare for unlawful dismissal. Her case before the European Court of Human Rights concerned her complaint that the ensuing judgment of 9 September 1994, which ordered her reinstatement to her former post and payment of compensation for wrongful dismissal, was only enforced in July 2007.

She relied, in particular, on Article 6 § 1 (right to a fair hearing), Article 13 (right to an effective remedy) and Article 1 of Protocol No. 1 (protection of property) to the European Convention on Human Rights.

The Court noted that the judgment of 9 September 1994 had not been enforced, following the Convention's entry into force in Azerbaijan, for almost five years and three months and that no reasonable justification had been given for such a delay. The Court therefore held unanimously that there had been a violation of Article 6 § 1 and Article 1 of Protocol No. 1 to the Convention. It further held unanimously that there was no need to examine the complaint under Article 13 and that the question of the application of Article 41 was not ready for decision. (The judgment is available only in English.)

¹ Under Article 43 of the European Convention on Human Rights, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

² In which the Court has reached the same findings as in similar cases raising the same issues under the Convention.

Violation of Article 6 § 1 (length)
Violation of Article 13

Karagyozev v. Bulgaria (no. 65051/01)

The applicant, Veselin Asenov Karagyozev, is a Bulgarian national who was born in 1960 and lives in Plovdiv (Bulgaria).

On 20 June 1997 Mr Karagyozev was charged with theft of 310 kg of nickel worth approximately 3,000 US Dollars (approximately 2,000 euros (EUR)) and ordered not to leave his place of residence without authorisation. On 20 March 2006 the case was still pending before Plovdiv District Court.

Relying on Article 6 § 1 (right to a fair trial within a reasonable time) and Article 13 (right to an effective remedy), the applicant complained about the excessive length of the criminal proceedings against him.

The Court held unanimously that there had been a violation of Article 6 § 1 on account of the proceedings against the applicant having so far already lasted eight years and nine months. It further found that there had been no remedy under Bulgarian law whereby the applicant could have obtained a ruling to uphold his right to have his case heard within a reasonable time and therefore held unanimously that there had also been a violation of Article 13. Mr Karagyozev was awarded EUR 4,000 for non-pecuniary damage and EUR 1,200 for costs and expenses. (The judgment is available only in English.)

Violation of Article 6 § 1 (fairness)

Behar Metushi v. Greece (no. 34148/05)

Luan Metushi v. Greece (no. 34643/05)

Katsivardelos v. Greece (no. 2075/06)

The applicants are Behar Metushi and Luan Metushi, two Albanian nationals, who were born in 1960 and 1965 respectively, and Georgios Katsivardelos, a Greek national, who was born in 1941. Behar Metushi and Luan Metushi are currently being held in Patras Prison (Greece), and Georgios Katsivardelos in Chalkida Prison (Greece).

Relying on Article 6 § 1 (right to a fair hearing within a reasonable time), they complained in particular of the excessive length of the criminal proceedings against them, on charges of drug trafficking in the cases of ***Behar Metushi*** and ***Luan Metushi*** and handling stolen goods in the ***Katsivardelos*** case.

The Court noted that in all three cases the proceedings were still pending. They had already lasted more than five years and seven months in the cases of ***Behar Metushi*** and ***Luan Metushi*** and more than seven years and four months in the ***Katsivardelos*** case. It considered that such periods were excessive and did not satisfy the “reasonable-time” requirement. The Court therefore held unanimously that there had been a violation of Article 6 § 1 and awarded EUR 6,000 to Behar Metushi and Luan Metushi and EUR 5,000 to Georgios Katsivardelos for non-pecuniary damage. (The judgments are available only in French.)

Violation of Article 8

van Vondel v. the Netherlands (no. 38258/03)

The applicant, Joost van Vondel, is a Dutch national who was born in 1954 and lives in Leeds (United Kingdom). Between January 1989 and August 1994, Mr van Vondel worked as a

police officer for the Kennemerland Regional Criminal Intelligence Service (in the Netherlands).

In January 1994 a general parliamentary inquiry was brought into criminal investigation methods in the Netherlands due to a controversy surrounding the North-Holland/Utrecht Interregional Criminal Investigation Team and its methods for fighting organised crime.

Subsequently, in April 1995 the National Police Internal Investigation Department launched a fact-finding inquiry into the Kennemerland Service's operations between 1990 and 1995, particularly concerning its special investigation methods. The final report of March 1996 was highly critical of that service, notably: it was disorganised; it lacked control; and, basic rules governing informers and infiltrators were frequently breached. The report particularly referred to contacts with one of Mr van Vondel's informers, Mr R., a Belgian fruit-juice producer. The applicant had requested him to set up a fruit-juice factory in Ecuador, probably with a view to controlling narcotics shipments, without informing his superiors or the public prosecution department. The report further claimed that Mr R.'s statements had been verified through observation, documents and recording devices.

In a judgment of 5 March 2002 Mr van Vondel was convicted of having committed perjury before the general parliamentary inquiry and of having sought to intimidate a potential witness, Mr R.. He was sentenced to a three-month suspended prison sentence.

Relying on Article 8 (right to respect for private and family life and for correspondence), Mr van Vondel complained that the telephone conversations he had had with Mr R. had been recorded with devices provided by the National Police Internal Investigation Department.

The Court was of the opinion that recording the applicant's conversations had constituted an interference by a public authority with his right to private life and/or correspondence. Although those recordings had been made voluntarily by Mr R., the equipment had been provided by the authorities, who had, on at least one occasion, given him specific instructions as to what information should be obtained from the applicant. The Court was therefore not persuaded that it had ultimately been Mr R. who had been in control of events.

That interference had not been shown by the Government to have had any legal basis. Furthermore, as the National Police Internal Investigation Department had been carrying out a fact-finding inquiry, covert recording of telephone conversations had not been within their investigative powers. The Court did not find it acceptable that the authorities had provided technical assistance which was not governed by rules providing guarantees against arbitrary acts. It was of the opinion that the applicant had been deprived of the minimum degree of protection to which he had been entitled under the rule of law in a democratic society. The Court therefore found that the interference had not been "in accordance with law" and held unanimously that there had been a violation of Article 8. As Mr van Vondel had not submitted any claim for just satisfaction, the Court held that it was unnecessary to make such an award. (The judgment is available only in English.)

Govorushko v. Russia (no. 42940/06)

Violation of Article 5 §§ 3 and 5

***Violation of Article 5 §§ 3 and 5
Violation of Article 6 § 1 (length)***

Korshunov v. Russia (no. 38971/06)

The applicants are two Russian nationals: Vladimir Nikolayevich Govorushko who was born in 1954 and lives in the Moscow Region; and, Maksim Gennadyevich Korshunov who was born in 1971 and lives in St Petersburg.

Both cases concerned the applicants' arrest on suspicion of, in particular, smuggling. Mr Govorushko was arrested and remanded in custody on 17 January 2005 and Mr Korshunov on 23 November 2003. They both made numerous requests to be released pending their trial. Those requests were rejected on the grounds that they were accused of serious crimes and there was a risk that they would abscond and interfere with the investigation. Ultimately, they were both released on bail on 31 January 2007. The criminal proceedings against them are still pending.

Relying on Article 5 §§ 3 and 5 (right to liberty and security), the applicants complained about the length of their pre-trial detention and that they did not have an enforceable right to compensation for a violation of their right to a trial within a reasonable time or to release pending trial. Further relying on Article 6 § 1 (right to a fair trial within a reasonable time), they also complained about the length of the criminal proceedings against them.

The Court concluded that the Russian authorities had not given "relevant and sufficient" reasons to justify having detained Mr Govorushko for more than two years and seven months and Mr Korshunov for three years and nine months. It therefore held unanimously that there had been a violation of Article 5 § 3. The Court further held unanimously that, in both cases, there had been a violation of Article 5 § 5 on account of Russian law not having provided an enforceable right to compensation for that excessively long detention. In the case of ***Korshunov***, the Court held unanimously that there had been a violation of Article 6 § 1 on account of the length of the criminal proceedings against him having lasted so far more than three years and nine months. That complaint was declared inadmissible in the case of ***Govorushko***. The applicants failed to submit their claims for just satisfaction within the required time-limits and the Court therefore held that it was unnecessary to make such an award. (The judgments are available only in English.)

Violation of Article 6 § 1 (fairness)

Balatskyy v. Ukraine (no. 34786/03)

The applicant, Volodymyr Vasylyovych Balatskyy, is a Ukrainian national who was born in 1958 and lives in Blidcha (Ukraine).

In September 2000, Mr Balatskyy, a teacher in a secondary school, was informed that his teaching hours, and consequently, his wages, had been reduced. Subsequently, he brought two sets of proceedings: in the first set, brought in November 2000, he complained that he had been transferred to a teaching post with lower wages; and, in the second set, brought in January 2001, he alleged that he had been unlawfully dismissed and sought reinstatement and compensation for lost wages. The applicant's claims in the second set of proceedings were dismissed because they had been lodged out of time. Ivankivsky District Court initially dismissed the first set of proceedings on the ground that the reinstatement proceedings were still pending. Ultimately, the applicant received an informal letter in June 2006 which explained that any further examination of the first set of proceedings would be redundant because they were identical to the second set, which had been dismissed. Any formal decision on the case has not, however, been taken yet and the proceedings are still pending before the district court.

Relying on Article 6 § 1 (right to a fair hearing within a reasonable time), the applicant complained in particular about the length and unfairness of the first set of proceedings concerning his transfer to another teaching post, notably that he had been deprived of his right of access to a court because the district court had refused to make a formal decision.

The Court found that the district court's explanation that the two sets of proceedings had been identical had not been plausible and could not justify their failure to make a formal and final decision concerning the unlawful transfer proceedings. Moreover, the reinstatement claims had been dismissed for failure to comply with a time-limit and it was not, therefore, obvious that the unlawful transfer claim would have been dismissed for the same reason. It therefore held unanimously that Mr Balatsky had been deprived of his right of access to a court and that there had been a violation of Article 6 § 1. It further held that it was unnecessary to examine separately the issue of the length of those proceedings. Mr Balatsky was awarded EUR 1,640 for non-pecuniary damage and costs and expenses. (The judgment is available only in English.)

Repetitive cases

The following cases raised issues which have already been submitted to the Court.

Violation of Article 1 of Protocol No. 1

Capetan-Bacskai v. Romania (no. 10754/04)

Ciobotea v. Romania (no. 31603/03)

Isar v. Romania (no. 42212/04)

In these cases the applicants are the former owners of property nationalised by the Romanian State. They brought proceedings to recover their property and to have the contracts of sale to the State declared null and void. The Court held unanimously that there had been violations of Article 1 of Protocol No. 1. In the cases of ***Ciobotea*** and ***Isar*** it also held that it was not necessary to examine the complaint under Article 6 § 1.

Two violations of Article 6 § 1 (fairness) ***Two violations of Article 1 of Protocol No. 1***

Almayeva v. Russia (no. 966/03)

Osher and Osher v. Russia (no. 31296/02)

Violation of Article 1 of Protocol No. 1

Lisnyy v. Ukraine (no. 4204/03)

Violation of Article 6 § 1 (fairness) ***Violation of Article 1 of Protocol No. 1***

Sukhoviyy v. Ukraine (no. 41688/04)

The Court found the above violations in these cases concerning the applicants' complaints about national judicial decisions in their favour not being enforced in good time and, in the ***Almayeva*** and ***Osher and Osher*** cases, also about the subsequent quashing of those judgments in their favour by supervisory review.

Length-of-proceedings cases

In the following cases, the applicants complained in particular about the excessive length of (non-criminal) proceedings.

Violation of Article 6 § 1 (length)

Balen v. Croatia (no. 43429/05)

Husić v. Croatia (no. 14878/04)

Lesnina d.d. v. Croatia (no. 18421/05)

Violation of Article 6 § 1 (length)

Violation of Article 13

Borshchevskaya v. Ukraine (no. 9962/05)

These summaries by the Registry do not bind the Court. The full texts of the Court's judgments are accessible on its Internet site (<http://www.echr.coe.int>).

Press contacts

Emma Hellyer (telephone: 00 33 (0)3 90 21 42 15)

Stéphanie Klein (telephone: 00 33 (0)3 88 41 21 54)

Tracey Turner-Tretz (telephone: 00 33 (0)3 88 41 35 30)

Paramy Chanthalangsy (telephone: 00 33 (0)3 90 21 54 91)

The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.