



## Judgments concerning the Czech Republic, Greece, Portugal, Russia and Ukraine

The European Court of Human Rights has today notified in writing the following ten judgments, of which six (in italics) are Committee judgments and are final. The others are Chamber judgments<sup>1</sup> and are not final.

Repetitive cases<sup>2</sup> and length-of-proceedings cases, with the Court's main finding indicated, can be found at the end of the press release. The judgments in French are indicated with an asterisk (\*).

*The Court has also delivered today judgments in the cases of ADEFDROMIL v. France (application no. 32191/09) and Matelly v. France (no. 10609/10), Fakailo dit Safoka and Others v. France (no. 2871/11), and Hansen v. Norway (no. 15319/09), for which separate press releases have been issued.*

### DELTA PEKÁRNÝ a.s. v. the Czech Republic (application no. 97/11)\*

The applicant company, DELTA PEKÁRNÝ a.s., is a limited company under Czech law with its registered office in Brno (the Czech Republic).

The case concerned an inspection carried out in its premises on 19 November 2003, in the context of administrative proceedings which were opened on the same date and concerned an infringement of competition rules.

According to the inspection report, the grounds for and purpose of the search was to examine documents in the context of those administrative proceedings. During the inspection officials obtained access to certain letters from the company's representatives and, according to the report, were provided with copies of seven documents. The applicant company was subsequently fined for refusing to allow an in-depth examination of its data. It challenged that decision, arguing, among other points, that it was contrary to domestic law and to the European Convention on Human Rights for the Czech Competition Authority to carry out an inspection without having received prior authorisation from a court. All of the appeals lodged by the applicant company, including a constitutional appeal in 2009, were dismissed.

The applicant company alleged, in particular, that the inspection of its premises without any judicial supervision had amounted to a breach of its rights as protected by Article 8 (right to respect for private and family life, home and correspondence) of the European Convention on Human Rights.

#### Violation of Article 8

**Just satisfaction:** 5,000 euros (EUR) (costs and expenses)

### Church of Scientology of St Petersburg and Others v. Russia (no. 47191/06)

The applicants in this case are the Church of Scientology of St Petersburg, an unincorporated group of Russian citizens formed for the collective study of Scientology, and six members of this group:

<sup>1</sup> Under Articles 43 and 44 of the Convention, Chamber judgments are not final. During the three-month period following a judgment's delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Under Article 28 of the Convention, judgments delivered by a Committee are final.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution)

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

Galina Shurinova, Nadezhda Shchemeleva, Anastasiya Terentyeva, Ivan Matsitskiy, Yuliya Bryntseva, and Galina Frolova, Russian nationals, born in 1954, 1955, 1979, 1975, 1977, and 1955 respectively. The case concerned their complaint about the authorities refusing to register their Scientology group as a legal-entity.

Between March 1995 and August 2003 the applicants' Scientology group, led by Ms Shurinova since the late 1980s, submitted six applications for registration. The registration authorities rejected all their applications, each time citing new grounds for their refusal. The most recent refusal referred in particular to the alleged unreliability of a document confirming that the group had been in existence for 15 years, a legal requirement under Russian law for any new religious group to be registered. In October 2003 the applicants challenged the refusals in court and, in December 2005, the St Petersburg District Court held that the refusal to register their group as a legal entity had been lawful, citing defects in the document confirming the existence of the religious group for 15 years. This judgment was upheld on appeal in May 2006.

Relying in particular on Article 9 (freedom of thought, conscience, and religion) interpreted in the light of Article 11 (freedom of assembly and association) of the Convention, the Scientology group complained that the decisions refusing to register them as a legal entity had been arbitrary.

#### **Violation of Article 9 interpreted in the light of Article 11**

**Just satisfaction:** EUR 7,500 to the applicants jointly in respect of non-pecuniary damage

#### **Misan v. Russia (no. 4261/04)**

The applicant, Tatyana Misan, now deceased, is a Russian national who was born in 1973 and lived in Vladivostok. The case concerned a police search of Ms Misan's flat in connection with criminal proceedings brought against her father, a naval officer, who was suspected of forgery.

On 14 March 2003 in the evening the police went to Ms Misan's flat to carry out a search to find and seize objects of relevance to the criminal case against her father. When she refused to let the police in, they broke the door down and, having searched the flat, seized her and her father's seaman passport, a printer and six floppy disks. She lodged a complaint with the domestic courts, complaining that the search had been carried out late at night and that personal belongings, of no relevance to the criminal case against her father, had been seized during the search. Her complaint was ultimately rejected on appeal on 7 July 2003 during a hearing on her case held in her and her lawyer's absence.

Ms Misan complained in particular under Article 8 (right to respect for private and family life and the home) of the Convention about the search of her flat.

#### **Violation of Article 8**

**Just satisfaction:** EUR 7,500 in respect of pecuniary and non-pecuniary damage, and EUR 750 in respect of costs and expenses, to be divided in equal shares between the applicant's two heirs

#### **Veniamin Tymoshenko and Others v. Ukraine (no. 48408/12)**

The case concerned the ban on a strike by AeroSvit Airlines cabin crew.

The applicants, Veniamin Tymoshenko, Andriy Borodin, Olga Ivanova, Oleg Pushnyak, and Taras Tovstyy, are Ukrainian nationals who were born in 1975, 1973, 1971, 1972, and 1984 respectively. Mr Borodin lives in Boryspil (Ukraine) and all the other applicants live in Kyiv.

In September 2011 Aerosvit cabin crew, including the five applicants who were employed with the airline at the time, decided to embark on industrial action seeking resolution of a labour dispute with the management of Aerosvit over a number of issues, including salaries, allowances and safety. The

relevant authorities were notified of the decision to hold a strike. However, in October 2011, following a claim lodged by the management of Aerosvit, the domestic courts banned the strike on the ground that it would be unlawful. The courts relied notably on the Transport Act, which prohibits strikes at transport enterprises if they affect the transportation of passengers and on the Resolution of Labour Disputes Act, which prohibits strikes if they are likely to endanger human life or health.

Relying on Article 11 (freedom of assembly and association) of the Convention, the applicants complained about the authorities' unconditional ban on their strike on the sole ground that they had been employed by a passenger carrier.

#### **Violation of Article 11**

**Just satisfaction:** EUR 20,000 to the applicants jointly in respect of non-pecuniary damage

### Repetitive cases

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

#### ***Dimitras and Gilbert v. Greece*** (no. 36836/09)\*

This case mainly concerned a complaint by Mr Dimitras, alleging that he had been obliged, while being questioned as a witness before a criminal court in the context of criminal proceedings, to reveal that he was not an Orthodox Christian in order to be dispensed from taking the religious oath provided for in the Code of Criminal Procedure. He relied on Article 9 (right to freedom of thought, conscience and religion) and Article 13 (right to an effective remedy).

#### **Violation of Article 9**

#### **Violation of Article 13**

#### ***Koksharova v. Russia*** (no. 25965/03)

The applicant in this case complained about the quashing, by way of supervisory review, of a domestic court's final decision against the Social Security Fund awarding her compensation for damage to her health. She relied on Article 6 § 1 (right to a fair trial) and Article 1 of Protocol No. 1 (protection of property).

#### **Violation of Article 6 § 1**

#### **Violation of Article 1 of Protocol No. 1**

#### ***Smertin v. Russia*** (no. 19027/07)

The applicant in this case complained of the conditions of his pre-trial detention on drug-related charges. He relied on Article 3 (prohibition of inhuman or degrading treatment).

#### **Violation of Article 3**

#### ***Volyanyk v. Ukraine*** (no. 7554/10)

The applicant in this case, a former deputy chief guard for a State-owned railway company, complained that his pre-trial detention on suspicion of covering up thefts from the company's premises had been unlawful. He relied on Article 5 § 1 (c) (right to liberty and security).

#### **Violation of Article 5 § 1 (c)**

### Length-of-proceedings cases

In the following cases, the applicants complained in particular, under Article 6 § 1 (right to a fair trial within a reasonable time) about the excessive length of civil proceedings.

#### ***Mantzava and Others v. Greece*** (nos. 4310/11, 54297/11, 77047/12, and 77081/12)\*

*Pina e Moura v. Portugal* (no. 44199/12)

**Violation of Article 6 § 1** – in both cases

**Violation of Article 13** (right to an effective remedy) – in both cases

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**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.