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

Press Release
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Judgments of 12 January 2016

The European Court of Human Rights has today notified in writing 30 judgments[1]:

20 Chamber judgments are listed below; for six others, in the cases of *Gouarré Patte v. Andorra (application no. 33427/10)*, *Szabó and Vissy v. Hungary (no. 37138/14)*, *Borg v. Malta (no. 37537/13)*, *Bărbulescu v. Romania (no. 61496/08)*, *Rodriguez Ravelo v. Spain (no. 48074/10)* and *Party for a Democratic Society (DTP)' and Others v. Turkey (nos. 3840/10, 3870/10, 3878/10, 15616/10, 21919/10, 39118/10 and 37272/10)*, separate press releases have been issued;

four Committee judgments, which concern issues which have already been submitted to the Court, can be consulted on *Hudoc* and do not appear in this press release.

The judgments in French below are indicated with an asterisk (*).

Genner v. Austria (application no. 55495/08)

The applicant, Michael Genner, is an Austrian national who was born in 1948 and lives in Vienna. The case concerned criminal proceedings against him for defamation.

Mr Genner, who at the time was working for an association which offers support to asylum seekers and refugees, published a statement on the association's website on 1 January 2007 about the Minister for Interior Affairs, who had unexpectedly died on the previous day. It commented: "The good news for the New Year: L.P., Minister for torture and deportation is dead." After referring to several individual stories of asylum seekers, the text stated, in particular, that the Minister had been "a desk criminal just like many others there have been in the atrocious history of this country", that she had been "the compliant instrument of a bureaucracy contaminated with racism" and that "no decent human is shedding tears over her death".

The late Minister's widower filed a private prosecution for defamation against Mr Genner and the association. In September 2007 the Vienna Regional Court convicted Mr Genner of defamation and sentenced him to a fine of 1,200 euros (EUR). It found in particular that a recently enacted amendment to the legislation concerning the status of foreigners and asylum seekers could not justify positioning the Minister in a national-socialist and racist context. The court concluded that the accusations, on the day after her death, overstepped the limits of acceptable criticism, although those limits were widely drawn in the context of a refugee association criticising a politician. The conviction was upheld on appeal, and in October 2009 the Supreme Court dismissed Mr Genner's request to have the proceedings re-opened.

Mr Genner complained that the Austrian courts' judgments had been in breach of his rights under Article 10 (freedom of expression) of the European Convention on Human Rights.

No violation of Article 10

[1] Under Articles 43 and 44 of the Convention, Chamber judgments are not final. During the three-month period following a Chamber 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

Bilbija and Blažević v. Croatia (no. 62870/13)

The applicants, Lenka Bilbija and Sanja Blažević, are Croatian nationals who were born in 1958 and 1961 respectively and live in Zagreb. The case concerned the applicants' complaint about the domestic authorities' inadequate response following the death of their mother.

The applicants' mother died on 13 February 2001 in hospital following her admission with respiratory problems. An autopsy – carried out the following day – indicated that the cause of death was respiratory insufficiency leading to cardiac complications. Ms Bilbija met with health inspectors in July 2001 and in October 2001 made an official complaint to the Croatian medical Chamber of medical negligence. This complaint was ultimately dismissed by the Constitutional Court more than 11 years later in December 2013. The sisters also instituted criminal proceedings in February 2004 which were the subject of a final determination by the Constitutional Court dismissing their request for an investigation in February 2013, more than nine years later.

Relying in particular on Article 2 (right to life) of the Convention, the applicants complained about the effectiveness of the investigation into their mother's death.

Violation of Article 2

Just satisfaction: 15,000 euros (EUR) (non-pecuniary damage) and EUR 3,400 (costs and expenses) to the applicants jointly

Treskavica v. Croatia (no. 32036/13)

The applicants, Draginja Treskavica, Nataša Treskavica, and Valentina Treskavica, are Croatian nationals who were born in 1943, 1975, and 1969, respectively, and live in London (the United Kingdom).

The case concerned the applicants' complaint about the lack of an effective investigation following the death of their husband and father, J.T., on 5 August 1995 during shelling by the Croatian military. The applicants alleged that he was buried in a mass grave without the authorities trying to find out the exact circumstances in which their relative had died. In April 2001 during exhumations at the cemetery in which J.T. was presumed to be buried, Draginja Treskavica approached the police and was subsequently interviewed about the circumstances of her husband's death. In June 2001 the International Criminal Tribunal for the former Yugoslavia issued an autopsy report which concluded that the probable cause of death for the remains (identified – following a DNA analysis – in 2010 as being those of J.T) was a gunshot to the neck. The police opened an inquiry into the circumstances of J.T.'s death in February 2007 and, as result, two witnesses who had hidden with the Treskavica family during the artillery attack and had seen J.T.'s dead body were interviewed. No other leads were, however, discovered. The applicants' civil action against the State seeking damages was dismissed in December 2008 on the ground that they had not proved that their relative had been killed by the Croatian army or that his death had not been war-related. This judgment was ultimately upheld by the Supreme Court in February 2012 and the applicants' constitutional complaint was dismissed in October 2012.

Relying in particular on Article 2 (right to life), the applicants complained about the effectiveness of the investigation into the death of their relative; in particular, they complained that the authorities had not taken appropriate and adequate steps to bring the perpetrators to justice.

No violation of Article 2

Miracle Europe Kft v. Hungary (no. 57774/13)

The applicant company, Miracle Europe Kft, is a limited liability company registered under Hungarian law, based in Budapest. The case concerned the company's complaint about the national procedure

for designating cases to courts other than the territorially competent ones. In January 2012 the applicant company brought an action in damages against a university following a dispute concerning a construction project. The President of the Budapest High Court requested that the case be reassigned to another court due to the court's heavy work load. The President of the National Judicial Office, exercising her discretionary power under the relevant legislation, granted this request. The applicant company's claim was ultimately dismissed in September 2013.

Meanwhile, the company filed a constitutional complaint arguing that the domestic courts had reached decisions in an arbitrary manner and that it was deprived of a 'tribunal established by law' as a result of the reassignment. On 2 December 2013 the Constitutional Court upheld the complaint that the regulations permitting the President of the NJO to reassign cases among courts were unconstitutional and in breach of Article 6 of the European Convention. However, the Constitutional Court's decision did not invalidate any reassignment decisions already taken in ongoing procedures. Relying on Article 6 § 1 (right to a fair hearing), the company complained that the court designated to hear its case had not been a 'tribunal established by law'.

Violation of Article 6 § 1

Just satisfaction: EUR 6,000 (non-pecuniary damage) and EUR 5,000 (costs and expenses)

Buterlevičiūtė v. Lithuania (no. 42139/08)

The applicant, Vitalija Buterlevičiūtė, is a Lithuanian national who was born in 1966 and lives in Panevėžys (Lithuania). The case concerned her complaints about her temporary suspension from work and the criminal proceedings against her.

Ms Buterlevičiūtė, the former head of a municipal kindergarten, was informed on 11 December 2007 that she was under investigation on suspicion of a number of offences including fraud. On 12 December 2007, the first-instance court granted the prosecutor's request to have Ms Buterlevičiūtė suspended from her job as head of the kindergarten for three months. Ms Buterlevičiūtė's appeal was dismissed. On a number of occasions after that the first-instance court granted the prosecutor's requests to extend the suspension. On each occasion the decision of the first-instance court was taken following a written procedure, while the appellate court held oral hearings. Neither Ms Buterlevičiūtė nor her representative was present at any of these hearings. On 13 July 2009 she was found guilty of several charges against her, some of which were overturned on appeal. The Supreme Court ultimately upheld the appellate court's decision on 16 November 2010, sentencing her to a one-year-and-three month prohibition on working for the civil service. In the meantime, Ms Buterlevičiūtė had been dismissed from her job at the kindergarten.

Relying in particular on Article 6 § 1 (right to a fair hearing), Ms Buterlevičiūtė notably complained that the first-instance courts had decided on her suspension from her post without holding oral hearings and, where oral hearings had been held on appeal, she had not been duly informed of them and thus could not participate.

No violation of Article 6 § 1 – in respect of the lack of oral hearings before the first-instance court
Violation of Article 6 § 1 – in respect of the lack of notification of the oral hearings before the appellate court

Just satisfaction: EUR 2,000 (non-pecuniary damage) and EUR 100 (costs and expenses)

Moxamed Ismaaciil and Abdirahman Warsame v. Malta (nos. 52160/13 and 52165/13)

The applicants, Saamiyo Moxamed Ismaaciil and Deeqa Abdirahman Warsame, are Somali nationals who were born in 1988 and 1992 respectively and were, at the time of the introduction of the

application, detained in Malta. The case concerned their detention following their arrival in Malta as asylum seekers.

Both applicants arrived in Malta in August 2012 by boat. They were registered by the immigration police and were each presented with two documents in English, one containing a return decision, the other a removal order. The applicants did not understand the documents, as they did not speak English. According to Ms Moxamed Ismaaciil the contents of the decision were not explained to her; according to Ms Abdirahman Warsame none of the documents she received were explained to her. Both applicants were placed in detention, pursuant to the Immigration Act. Their asylum applications, which they submitted a few days later with the assistance of staff of the Office of the Refugee Commissioner, were rejected at first-instance and eventually on appeal.

The applicants remained in detention until their release in August 2013. They both submit that in the detention centre they were kept in prison-like and very basic conditions. In particular, the centre was overcrowded and noisy; in summer the heat was unbearable and in winter it was too cold; they were fed the same food every day and were allowed only one hour of fresh air per day. Furthermore, they did not have access to adequate medical care. Ms Abdirahman Warsame, who suffered from gastric pains, was not provided with a special diet or medication other than paracetamol.

Both applicants complained that the detention conditions in which they had been kept had been in breach of Article 3 (prohibition of inhuman or degrading treatment). Furthermore, they complained that they had not had a remedy to challenge the lawfulness of their detention, in breach of Article 5 § 4 (right to have lawfulness of detention decided speedily by a court). Finally, they complained that their prolonged detention for almost a year had been arbitrary and unlawful, in violation of Article 5 § 1 (right to liberty and security).

No violation of Article 3
No violation of Article 5 § 1
Violation of Article 5 § 4

Just satisfaction: EUR 4,000 (non-pecuniary damage) to each applicant, and EUR 2,000 (costs and expenses) to the applicants jointly

Morgoci v. the Republic of Moldova (no. 13421/06)*

The applicant, Constantin Morgoci, was a Moldovan national who was born in 1976 and died on 13 August 2010. The case concerned allegations of ill-treatment and the lack of an effective investigation, and also the conditions of Mr Morgoci's detention and the fact that he had contracted tuberculosis while held in pre-trial detention.

While he was serving a 14-year prison sentence in Russia, Mr Morgoci was extradited to the Republic of Moldova on account of proceedings against him for murder. On arrival, he was held in the remand centre at Chisinau police headquarters. In his application, Mr Morgoci alleged that he had been subjected to ill-treatment while there. He also complained about his poor conditions of detention. Following his transfer to a prison in Chisinau, the authorities allegedly continued to ill-treat him in order to obtain a confession. A medical certificate indicates that Mr Morgoci showed signs of self-harm and was suffering from the effects of a head injury and pulmonary tuberculosis.

Mr Morgoci's criminal complaint against the police officers in question was discontinued; the investigating judge at the Râșcani Court (Chisinau) upheld that decision. At the close of proceedings for damages brought by Mr Morgoci against the State, he was awarded an amount equivalent to 985 euros by the Supreme Court of Justice. In the meantime, Mr Morgoci was acquitted of the accusations brought against him; in consequence, he was extradited to the Russian Federation in

order to serve the remainder of the sentence imposed by the Russian authorities. He died two years and nine months later.

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment and failure to conduct an effective investigation), Mr Morgoci complained about the ill-treatment to which he had been subjected while in detention, the failure to carry out an effective investigation in this respect, his conditions of detention in the remand centre at Chisinau police headquarters, and the fact that he had contracted tuberculosis during his detention.

Violation of Article 3

Just satisfaction: EUR 11,000 (non-pecuniary damage) jointly to Ms Tamara Morgoci and Mr Victor Morgoci, respectively the sister-in-law and brother of Constantin Morgoci

A.G.R. v. the Netherlands (no. 13442/08)
A.W.Q. and D.H. v. the Netherlands (no. 25077/06)
M.R.A. and Others v. the Netherlands (no. 46856/07)
S.D.M. and Others v. the Netherlands (no. 8161/07)
S.S. v. the Netherlands (no. 39575/06)

All five cases concerned the threatened expulsion from the Netherlands of Afghan asylum seekers, most of whom had been more or less high ranking officers in the former Afghan army or intelligence service.

The applicant in the first case, Mr A.G.R., is an Afghan national of Pashtun origin national who was born in 1965. He worked as an official for the Afghan security service KhAD/WAD *("Khadimat-e Atal'at-e Dowlati / Wezarat-e Amniyat-e Dowlati"*) from 1982 to 1992, attaining the rank of major after periodical promotions. He fled Afghanistan in 1992, one week after the mujahideen seized power in the country, and, first going to Pakistan, entered the Netherlands in 1997.

The applicants in the second case, Mr A.W.Q. and Ms D.H., husband and wife, are Afghan nationals who were born in 1956 and 1966 respectively. Mr A.W.Q. was a career soldier in the Afghan army from 1981, rising to the rank of senior captain in 1988 and appointed first secretary of the Army Museum in Kabul in 1990. After the collapse of the communist regime in 1992, Mr A.W.Q. first remained in Kabul continuing his work in the Army Museum, then lived in Kunduz from 1994 until 1998 when, on being denounced by relatives, he was arrested and detained by the Taliban. Having managed to abscond he fled to Mazar-e-Sharif, where he was joined by his family and with whom he fled to the Netherlands in December 1999.

The applicants in the third case, Mr M.R.A., his wife, Ms F.A.K., and their three children, are Afghan nationals who were born in 1959, 1966, 1991, 1996, and 2007 respectively. Mr M.R.A. started to work in 1982 as a construction engineer within the ranks of KhAD, attaining the rank of major. He moved to Mazar-e-Sharif in 1992 when the mujahideen seized power and continued to work as a construction engineer until 1998 when the Taliban seized power and he was arrested. Having managed to abscond he fled Afghanistan with his family and entered the Netherlands in April 1999.

The applicants in the fourth case, Mr S.D.M., Ms M.A., a divorced couple, and their child O.M., are Afghan nationals who were born in 1969, 1975 and 2002 respectively. Mr S.D.M. worked from 1988 to 1992 for the Afghan security service, rising to the rank of Second Lieutenant. When the communist regime was overthrown in 1992 he remained in Herat, continuing to work under mujahideen rule until 1996 when the Taliban seized power. In October/November 1995 he was sentenced to death by a Taliban tribunal for conspiracy and, fearing for his life, he fled to Turkmenistan in January 1996 and travelled by plane shortly afterwards to the Netherlands.

The applicant in the fifth case, Mr S.S., is an Afghan national of Pashtun origin who was born in 1964. He started working at an administrative department of one of the directorates of the Afghan security service KhAD/WAD in 1982, rising to the rank of lieutenant-colonel in 1990. After the fall of Kabul in 1992, he fled to Mazar-e-Sharif where he remained until various mujahideen groups came to the city in 1997 and, fearing for his life, he had to go into hiding. He subsequently fled to Pakistan with his family, entering the Netherlands in August 1998.

On arriving in the Netherlands, all the applicants applied for asylum and, in their interviews with immigration officials, claimed in particular that they were at risk of persecution and ill-treatment by the mujahideen and/or the Taliban if returned to Afghanistan, citing both their personal situations as former officials of KhAD/WAD and the general security situation in the country.

Mr A.W.Q.'s wife and four children were granted asylum in September 2010. Mr M.R.A.'s wife, daughter and youngest son were granted a Netherlands residence permit in September 2011; two sets of proceedings concerning the residence permit for his eldest adult son are currently still pending. Mr S.D.M.'s ex-wife and child were granted asylum in the Netherlands in March 2009.

In the asylum proceedings concerning the men, however, they were all later informed of decisions to hold Article 1F of the 1951 Refugee Convention against them, under which they could be excluded from international protection. These decisions were based on an official report of February 2000 by the Netherlands Ministry of Foreign Affairs which found that there were serious reasons to believe that virtually every Afghan asylum seeker holding the rank of third lieutenant or higher for the KHad (or its successor, the WAD), during the communist regime in Afghanistan had been implicated in human rights violations. The immigration authorities analysed each applicant's individual responsibility under Article 1F of the Refugee Convention, finding that throughout their careers in the KhAD, they could not have been unaware of its cruel, lawless methods – including torture – and the climate of terror it had spread throughout the whole of Afghan society. The authorities further examined whether the applicants' expulsion would be in breach of Article 3 (prohibition of inhuman or degrading treatment) of the European Convention and found that there was nothing to indicate that persons in Afghanistan should fear persecution merely because of their ties with the former communist regime. Nor had the applicants shown in a concrete and specific manner that their personal circumstances warranted their protection in the Netherlands. The authorities further considered that it was unlikely that Mr S.D.M.'s death sentence by the Taliban would be followed up on by Afghanistan's present courts. These decisions were all subsequently upheld by the domestic courts and the applicants' appeals rejected.

In the first, second and fifth cases the applicants' expulsion was stayed on the basis of an interim measure granted by the European Court of Human Rights under Rule 39 of its Rules of Court, which indicated to the Dutch Government that the applicants should not be expelled to Afghanistan whilst the Court was considering their cases.

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment), the applicants alleged that their removal to Afghanistan would expose them to a real risk of ill-treatment.

- case of ***A.G.R***:

No violation of Article 3 – in the event of Mr A.G.R.'s removal to Afghanistan

Interim measure (Rule 39 of the Rules of Court) – not to expel Mr A.G.R. – still in force until judgment becomes final or until further order.

The Court further declared **inadmissible** the complaint brought on behalf of Mr A.G.R.'s wife and their children.

- case of ***A.W.Q. et D.H.***:

No violation of Article 3 – in the event of Mr A.W.Q.'s removal to Afghanistan

Interim measure (Rule 39 of the Rules of Court) – not to expel Mr A.W.Q. – still in force until judgment becomes final or until further order.

The Court further **struck the application out of its list of cases** in so far as it concerned the complaints brought on behalf of Ms D.H. and the applicants' four children.

- case of ***M.R.A. and Others***:

No violation of Article 3 – in the event of Mr M.R.A.'s removal to Afghanistan
No violation of Article 13 taken together with Article 3 – in respect of Mr M.R.A.

The Court further **struck the application out of its list of cases** in so far as it concerned the complaints brought on behalf of Mr M.R.A.'s wife and two of their children born in 1996 and 2007 respectively, and declared it **inadmissible** in so far as it concerned their eldest son born in 1991.

- case of ***S.D.M. and Others***:

No violation of Article 3 – in the event of Mr S.D.M.'s removal to Afghanistan

The Court further **struck the application out of its list of cases** in so far as it concerned the complaints brought on behalf of Mr M. S.D.M.'s ex-wife and their child.

- case of ***S.S*** :

No violation of Article 3 – in the event of Mr S.S.'s removal to Afghanistan

Interim measure (Rule 39 of the Rules of Court) – not to expel Mr S.S. – still in force until judgment becomes final or until further order.

Karykowski v. Poland (no. 653/12)
Prus v. Poland (no. 5136/11)
Romaniuk v. Poland (no. 59285/12)

The cases concerned the regime in Polish prisons for detainees who were classified as dangerous.

The applicants are Dariusz Karykowski, Kamil Prus and Tomasz Romaniuk, three Polish nationals who were born in 1966, 1987 and 1985, respectively.

Mr Karykowski is serving a three-year-and-six month prison sentence in Stargard Szczeciński (Poland) for uttering threats. Mr Prus is serving a cumulative sentence in Lublin (Poland) for four criminal convictions, including battery and robbery. Mr Romaniuk is serving a 12-year prison sentence in Sokołów Podlaski (Poland) for battery and attempted murder.

The first two applicants, Mr Karykowski and Mr Prus, were each classified as dangerous prisoners for approximately five months because the prison authorities considered that, as leaders of prison protests, it was necessary to isolate them. Mr Karykowski was placed under the regime from September 2011 following a search of his cell during which a letter was found with his signature voicing criticism of proposed legislative changes. Mr Prus was placed under the regime from November 2010 when he, along with other prisoners, had refused to eat breakfast. The third applicant, Mr Romaniuk, was classified as a dangerous prisoner from the moment when he was remanded in custody in April 2009 on account of the fact that he had been charged with numerous violent offences. The measure was applied for three years until March 2012 when the authorities considered that he no longer posed a danger to security.

Relying on Article 3 (prohibition of inhuman or degrading treatment), all three applicants complained about the special high-security measures to which they had been subjected during their classification as dangerous detainees, namely their solitary confinement, their isolation from their families, the outside world and other detainees, their shackling (handcuffs and fetters joined

together with chains) whenever they were taken out of their cells, the routine daily strip searches and constant monitoring of their cells and sanitary facilities via closed-circuit television.

Violation of Article 3 – in all three cases

Just satisfaction: EUR 5,000 to Mr Karykowski, EUR 3,000 to Mr Prus and EUR 8,000 to Mr Romaniuk in respect of non-pecuniary damage, and EUR 327 to Mr Romaniuk in respect of costs and expenses

Boacă and Others v. Romania (no. 40355/11)

The applicants are seven Romanian nationals, born between 1956 and 1993, who live in Clejani (Romania), except for Tănţica Boacă who lives in Bucharest. They are of Roma origin. The case concerned their complaint that three of them and a family member, deceased in the meantime, had been victims of police brutality.

According to their submissions, three of the applicants, who are brothers, were attacked by a group of 50 villagers when they went to the local police station on 30 March 2006 to report an assault against the wife of one of them. Their father, I.B., joined the scene when he heard the noise. The applicants submit that later on the same day two police officers, together with colleagues of a rapid intervention squad, arrived at I.B.'s home to take him into custody. Without producing a search warrant they took him and two family members to the police station. His three sons were later apprehended in the street by ten masked police officers who took them to the police station as well. On both occasions the police called the applicants and/or their family members "wretched, disgraceful gypsies". At the police station, I.B. was beaten up by police officers, who kicked him in the ribs and punched him, until he lost consciousness. Later, his three sons were also hit by several police officers. Eventually I.B. was allowed to leave. His sons were only released after they had signed confessions, which they were not allowed to read, concerning the rape of a woman and the theft of pipes.

I.B. was subsequently taken to hospital and examined by a forensic doctor a few days later, who concluded that he had suffered a thoracic trauma inflicted by a blow.

According to the Government, on 30 March 2006 an altercation broke out between the applicants' family and another family of Roma origin in front of the local police station. The rapid intervention squad was called to restore public order. There were no incidents during this operation, as the applicants willingly complied with police orders when they were apprehended.

Following the events, a police investigation was opened into the theft of pipes and into a brawl involving 21 people, mainly belonging to the applicants' family and the other family of Roma origin. In May 2007 the prosecutor decided not to prosecute any of the suspects.

In June 2006 I.B. and three of the applicants – his sons – lodged a criminal complaint against the police officers who had allegedly ill-treated them. The prosecutor dismissed the complaints in December 2006, having taken statements from the police officers involved in the events, who all denied having harmed the plaintiffs. Eventually the decision was quashed on appeal, but in August 2008 the prosecutor again refused to institute criminal proceedings against the police officers. The decision was subsequently quashed again, but eventually the appeal court upheld the decision not to institute criminal proceedings in December 2010.

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment), the applicants complained in their own name and on behalf of I.B., who died in April 2010 of causes unrelated to the case, that I.B. and three of the applicants – his sons – had been ill-treated by the police and that there had been no effective investigation into those complains. They further relied on Article 14 (prohibition of discrimination) taken together with Article 3, complaining that the ill-treatment and the decision not to bring criminal charges against the police officers had been mainly due to the applicants' Roma origin, and had thus been discriminatory.

Violation of Article 3 (treatment) – in respect of I.B.
Violation of Article 3 (investigation) – in respect of I.B.
No violation of Article 14 in conjunction with Article 3 (treatment) – in respect of I.B.
Violation of Article 14 in conjunction with Article 3 (investigation) – in respect of I.B.

Just satisfaction: EUR 11,700 (non-pecuniary damage) jointly to Leon Boacă, Christian Boacă, Nicuşor Boacă, Tănţica Boacă, Costel Niculae and Marian Boacă

Khayletdinov v. Russia (no. 2763/13)

The applicant, Ildar Khayletdinov, is a Russian national who was born in 1953 and is serving his sentence in a correctional colony in the Astrakhan Region (Russia). The case concerned his complaint, in particular, that he had not received appropriate medical care in detention.

Mr Khayletdinov, who had been diagnosed with HIV in 2004 and had been receiving antiretroviral therapy since 2011, was remanded in custody in May 2012 on suspicion of murder. His pre-trial detention was extended on several occasions and his appeals against those orders – arguing, in particular, that his suffering from an advanced stage of HIV precluded his detention – were dismissed. In August 2013 the trial court convicted him of murder and sentenced him to seven years' imprisonment, taking a number of mitigating circumstances into account, in particular that he had no criminal record, that he had confessed and that the murder victim had initiated the conflict with him.

According to Mr Khayletdinov, as a result of his detention, in particular the lack of adequate medical care and the lack of an appropriate diet, his health deteriorated significantly.

Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Khayletdinov complained that the authorities had not taken any steps to safeguard his health and well-being in detention, having failed to provide him with adequate medical assistance. He further complained of a violation of Article 5 § 3 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial) on account of his unreasonably long pre-trial detention. Finally, he complained of not having had an effective remedy in respect of his complaint under Article 3, in breach of Article 13 (right to an effective remedy).

Violation of Article 3
Violation of Article 5 § 3
Violation of Article 13

Just satisfaction: EUR 7,000 (non-pecuniary damage) and EUR 280 (costs and expenses)

Salamov v. Russia (no. 5063/05)

The applicant, Aslambek Salamov, is a Russian national who was born in 1960 and lives in Grozny, Chechnya (Russia).

The case concerned the seizure of Mr Salamov's truck during a counter-terrorist operation in Chechnya.

During an identity check in December 1999 military servicemen seized a truck from Mr Salamov's home in Shali (Chechnya). The truck was eventually returned to him in April 2000, but it was damaged. He thus attempted to submit complaints to the local and military prosecutors, but was advised in August 2003 to seek damages in civil proceedings. He therefore went on to sue the military unit concerned for unlawful seizure of his truck, claiming compensation for missing parts and the cost of repairs. He notably submitted eyewitness statements of the truck's seizure, two letters issued by military commanders confirming the seizure and return of the vehicle and findings reached by a local administration commission confirming his account of the circumstances of his

case. However, in July 2004 the domestic courts, relying on the statements of two servicemen from the military unit in question (who denied having seen the truck) as well as the military unit's log book (which had no record of the seizure), found that the State could not be held responsible for the damage to Mr Salamov's truck. This decision was upheld on appeal in September 2004. An internal inquiry was subsequently conducted by the military prosecutor in 2009, during which the military unit stated that it had not conducted any special operations in Shali in December 1999 and that their archives had no trace of any complaints by Mr Salamov regarding the seizure of his truck. Four servicemen in the military unit in question also signed affidavits confirming that they could not recall a truck seized by a local inhabitant having been used by their unit.

Relying on Article 1 of Protocol No. 1 (protection of property), Mr Salamov complained that the seizure of and damage to his truck had breached his property rights.

Violation of Article 1 of Protocol No. 1

Just satisfaction: EUR 8,640 (pecuniary damage)

Milojević and Others v. Serbia (nos. 43519/07, 43524/07, and 45247/07)

The case concerned the dismissal of three police officers from the police force pending criminal proceedings against them and their complaint that, despite their ensuing acquittal, they had not been reinstated.

The applicants, Ivan Milojević, Miodrag Radosavljević, and Petar Veličković, are Serbian nationals who were born in 1978, 1952, and 1962 respectively. Ivan Milojević and Miodrag Radosavljević live in Ćuprija and Petar Veličković lives in Niš (both in Serbia).

All three applicants were charged with criminal offences: Mr Milojević with instigation to abuse of power in 2004, Mr Radosavljević with abuse of power in 2004 and Mr Veličković with unauthorised possession of weapons and ammunition in 1999. All three applicants were dismissed under Article 45 of the Ministry of Interior Act 1991 in force at the time which provided that a police officer could be dismissed if criminal proceedings were pending against him. Subsequently acquitted, they challenged their dismissals in civil proceedings before the national courts. Ultimately in 2007, however, the Supreme Court decided that the applicants' dismissals had been lawful, finding in each case that the applicants' acquittal in the criminal proceedings and the absence of a decision on the merits in disciplinary proceedings were irrelevant.

Relying on Article 8 (right to respect for private and family life), the applicants complained that their dismissals, having brought great shame on them, had affected their reputations and the material well-being of themselves and their families. They alleged in particular that Article 45 of the Ministry of Interior Act gave unlimited discretion to the Ministry to terminate the employment of police officers, solely on the basis of the initiation of criminal proceedings, and – citing another case in which a police officer had been charged with a similar offence and acquitted, but remained in post – that this discretionary power had not been consistently applied. The applicants also alleged under Article 6 § 1 (right to a fair hearing) that the decisions in the civil proceedings concerning their dismissals had been arbitrary.

Violation of Article 8 – in respect of Mr Milojević and Mr Radosavljević
Violation of Article 6 § 1 – in respect of all three applicants

Just satisfaction: EUR 5,800 to Mr Radosavljević and EUR 2,400 to Mr Veličković in respect of non-pecuniary damage; Mr Milojević did not submit a claim for just satisfaction.

İrmak v. Turkey (no. 20564/10)

The applicant, Nurettin İrmak, is a Turkish national who was born in 1977 and is serving a sentence in Diyarbakır prison (Turkey). The case concerned his complaint of ill-treatment in police custody and of the unfairness of the criminal proceedings against him.

Mr İrmak was arrested and taken into police custody in January 1996 on suspicion of being a member of Hizbullah, an illegal organisation. While questioned in police custody in the absence of a lawyer, he acknowledged being a member of the organisation and gave a detailed account of his activities within it. When being brought before the prosecutor, and then before a judge, in February 1996, he retracted his earlier statement, maintaining that he had signed it under duress. He was subsequently placed in detention and indicted with carrying out activities with the aim of bringing about the secession of part of the national territory. In June 1996 he was released pending trial.

While the case was still pending, Mr İrmak was rearrested in February 2002. Questioned by the police in the absence of a lawyer, he again acknowledged his membership in the organisation and that he had been involved in a number of killings and abductions committed by it. In court, he retracted the statement, alleging that he had been blindfolded while in police custody and coerced into signing the document. He was again placed in detention. In July 2008 he was convicted of attempting to undermine the constitutional order by force – the court finding in particular that he had been a member of Hizbullah and had ordered two other members of the organisation to kill two people – and sentenced him to life imprisonment. The judgment was upheld on appeal in October 2009.

Relying in particular on Article 6 §§ 1 and 3 (c) (right to a fair trial and right to legal assistance of own choosing), Mr İrmak notably complained that he had not had any legal assistance during the preliminary investigation stage of his trial.

Violation of Article 6 § 3 (c) of the Convention in conjunction with Article 6 § 1

Just satisfaction: EUR 1,500 (non-pecuniary damage) and EUR 97 (costs and expenses)

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