



Judgments and decisions of 9 June 2016

The European Court of Human Rights has today notified in writing nine judgments¹ and 39 decisions² :

four Chamber judgments are summarised below; for four others, in the cases of *Pilav v. Bosnia and Herzegovina* (application no. 41939/07), *Popovi v. Bulgaria* (no. 39651/11), *Madaus v. Germany* (no. 44164/14), and *Sismanidis and Sitaridis v. Greece* (nos. 66602/09 and 71879/12), separate press releases have been issued;

one Committee judgment, which concerns issues already submitted to the Court, and the 39 decisions, can be consulted on [Hudoc](#) and do not appear in this press release.

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

Gyuleva v. Bulgaria (application no. 38840/08)

The applicant, Valentina Gyuleva, is a Bulgarian national who was born in 1947 and lives in Plovdiv (Bulgaria). The case concerned her complaint that she had not been notified of a set of civil proceedings against her and that she had therefore been unable to defend herself.

Ms Gyuleva had been living in a flat which her parents had bought from the State in 1968, after it had previously been nationalised, and which was the subject of restitution proceedings in the 1990s. At the end of those proceedings the courts found that the pre-nationalisation owners were the true owners of the flat. Those proceedings were the subject of Ms Gyuleva's first application before the European Court of Human Rights, in which the Court found violations of Article 1 of Protocol No. 1 and Article 6 § 1 (application no. 76963/01, judgment of 25 June 2009).

In February 2002 the persons recognised by the Bulgarian courts as the owners of the flat sold it to a married couple, Mr and Ms P., who then brought proceedings against Ms Gyuleva, who still lived in the property, requesting her to vacate it. Their claim was allowed at first instance and while the appeal proceedings were pending, Ms Gyuleva moved out of the flat in January 2003. In 2005 Mr and Ms P. brought another action against her, seeking compensation for the time she had unlawfully lived in the flat between February 2002 and January 2003. The summons letter could not be delivered to Ms Gyuleva, who had moved to a village where she owned a house. Without making any further attempts to find her, the district court, after concluding that she was of "unknown address", published a notification concerning the proceedings and appointed a lawyer to represent her. Eventually the courts ordered her to pay compensation, which together with all relevant fees amounted to the equivalent of over 4,000 euros (EUR). Ms Gyuleva became aware of the proceedings and the relevant judgments against her only when she received a notice from a bailiff in February 2008 to pay the sums due. According to her, the court-appointed lawyer did not adequately defend her interests, in particular because she failed to seek to contact her and failed to appeal against the first-instance judgment. Ms Gyuleva eventually paid the sums in full.

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

² Inadmissibility and strike-out decisions are final.

Relying in substance on Article 6 § 1 (right to a fair hearing) of the European Convention on Human Rights, Ms Gyuleva complained that she had not been duly notified of the proceedings against her and had therefore been unable to participate in them or seek a re-opening of the proceedings.

Violation of Article 6 § 1

Just satisfaction: 3,600 euros (EUR) (non-pecuniary damage) and EUR 2,593.97 (costs and expenses)

Chapin and Charpentier v. France (no. 40183/07)*

The applicants, Stéphane Chapin and Bertrand Charpentier, are French nationals who were born in 1970 and 1973 and live in Plassac (France). The case concerned the right to same-sex marriage.

In May 2004 Mr Chapin and Mr Charpentier submitted a marriage application to the civil registry department of Bègles municipal council. The municipal civil registrar published the banns of marriage. The public prosecutor at the Bordeaux *tribunal de grande instance* served notice of his objection to the marriage on the Bègles municipal civil registrar and on Mr Chapin and Mr Charpentier. Despite the objection, the mayor of Bègles performed the marriage ceremony and made an entry to that effect in the register of births, marriages and deaths. On 22 June 2004 the public prosecutor brought proceedings against Mr Chapin and Mr Charpentier in the Bordeaux *tribunal de grande instance*, seeking to have the marriage annulled. On 27 July 2004 the court annulled the applicants' marriage and ordered its judgment to be recorded in the margin of their birth certificates and the marriage certificate. The Bordeaux Court of Appeal upheld the judgment. Mr Chapin and Mr Charpentier appealed on points of law to the Court of Cassation, which on 13 March 2007 dismissed their appeal.

Relying on Article 12 (right to marry) taken together with Article 14 (prohibition of discrimination), Mr Chapin and Mr Charpentier submitted that limiting marriage to opposite-sex couples amounted to a discriminatory infringement of the right to marry. Relying on Article 8 (right to respect for private and family life) taken together with Article 14, they contended that they had been discriminated against on the basis of their sexual orientation.

No violation of Article 12 taken together with Article 14

No violation of Article 8 taken together with Article 14

Mekras v. Greece (no. 12863/14)*

The applicant, Georgios Mekras, is a Greek national who was born in 1966 and is currently detained in Komotini Prison. He complained of poor conditions of detention in view of his health.

Mr Mekras was arrested on 23 October 2012 on suspicion of drug trafficking and was placed in pre-trial detention until 28 April 2013 in various police stations in Thessaloniki. On 29 April 2013 he was transferred to Diavata Prison in Thessaloniki. He was examined by doctors on admission and was then taken to hospital. It was established that he was suffering from acute pancreatitis and an umbilical hernia and was overweight. He was prescribed treatment. Mr Mekras underwent an operation for his hernia on 25 June 2013. On 25 August 2013, showing symptoms of vertigo, perspiration and numbness, he was admitted to a neurological clinic, where he was diagnosed as having suffered a stroke. He remained in the clinic until 30 August 2013. Mr Mekras suffered a further stroke on 1 October 2014 and was again admitted to hospital.

In February 2013 Mr Mekras applied to be released on licence. He submitted that his physical well-being would be at risk if he remained in detention. However, his detention was extended until the maximum term provided for in Article 6 § 4 of the Constitution. In a decision delivered on 20 December 2013 the Indictment Division rejected a proposal by the public prosecutor to replace Mr Mekras's detention with less restrictive measures and ordered his continued detention. On

19 February 2014 the Thessaloniki Criminal Court of Appeal found Mr Mekras guilty and sentenced him to eight years' imprisonment and a fine of EUR 10,000, specifying that an appeal would not have suspensive effect. Mr Mekras was transferred to Komotini Prison on 4 April 2014.

Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Mekras complained that his detention in Diavata Prison had caused an irreversible deterioration of his health, that he had not been given the medical treatment prescribed for him before and after suffering the stroke and that he had not received either an appropriate diet or treatment for his motor difficulties. Relying on Article 5 § 3 (right to liberty and security), he complained that the Indictment Division had refused his application for release on licence without taking into account his health or examining the possibility of replacing his detention with less restrictive measures.

Violation of Article 3 (inhuman and degrading treatment)

Violation of Article 5 § 3

Just satisfaction: EUR 6,500 (non-pecuniary damage)

Saranchov v. Ukraine (no. 2308/06)

The applicant, Sergey Saranchov, is a Ukrainian national who was born in 1968 and lives in Komsomolskoye village in the Kharkiv Region (Ukraine). The case concerned his complaint that the criminal trial against him had been unfair as he had not been represented by a lawyer at any stage of the proceedings.

In December 2004 Mr Saranchov was extradited from Russia to Ukraine, where he was wanted on suspicion of having committed a violent burglary, and placed in a pre-trial detention facility. In January 2005, when presented with the reasons for his arrest, he signed a record stating that he did not wish to be assisted by a lawyer and would defend himself. According to Mr Saranchov, he was compelled to sign this and several subsequent waivers because the police had told him that they would not provide him with a lawyer as he had initially requested. In March 2005 Mr Saranchov stood trial. According to the trial record, he requested, and was granted, the right to represent himself, and he pleaded guilty. According to him, the record was inaccurate and he had not initially pleaded guilty but had been convinced to do so in exchange for a promise of a lenient sentence from the trial judge. The trial court convicted him of aggravated burglary and sentenced him to six and a half years' imprisonment. On appeal by one of the victims, his sentence was increased to 12 years' imprisonment, the judgment being finally upheld by the Supreme Court in August 2005. Mr Saranchov was eventually released in September 2011.

Relying on Article 6 §§ 1 and 3 (c) (right to a fair trial and right to legal assistance of own choosing), Mr Saranchov complained in particular that he had not been provided with a legal aid lawyer at any stage of the proceedings.

Violation of Article 6 §§ 1 and 3 (c)

Just satisfaction: EUR 2,500 (non-pecuniary damage)

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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.