



Judgments of 11 July 2017

The European Court of Human Rights has today notified in writing eight judgments¹:

five Chamber judgments are listed below;

for three others, separate press releases have been issued: *Belcacemi and Oussar v. Belgium* (application no. 37798/13), *Dakir v. Belgium* (no. 4619/12), and *Oravec v. Croatia* (no. 51249/11).

The judgments listed below are available in English only.

T.G. v. Croatia (no. 39701/14)

The applicant, T.G., is a Croatian national who was born in 1974. The case concerned his complaint about being refused a firearms license on the basis of undisclosed police reports.

T.G. was a member of a hunting association and spent his vacations hunting in Croatia. After having held a firearms license for hunting purposes in Croatia for ten years, he applied to renew it in 2011. The police, having conducted a background check which included reports that T.G. regularly abused alcohol, issued a report of their findings and refused his application. He challenged the decision before the Ministry of the Interior, which ordered the police to produce a new assessment of the background check. The second report provided further detail of the alleged alcohol abuse and confirmed these details with T.G.'s neighbours in Croatia, though their identities were classified. The Ministry of the Interior dismissed the complaint and T.G. challenged their decision before the administrative courts, which then upheld the refusal based on information contained in the confidential file. T.G. complained to the Constitutional Court that he had been denied access to the evidence containing allegations against him and that it had left him without opportunity to challenge them. The Constitutional Court dismissed the complaint as unfounded, holding that the police reports on his background check contained sufficient details regarding the refusal.

Relying in particular on Article 6 § 1 (right to a fair hearing) of the European Convention on Human Rights, T.G. complained that the administrative proceedings had been unfair because the refusal to renew his firearms licence was based on police reports that had not been made available to him or his lawyer.

Violation of Article 6 § 1

Just satisfaction: T.G. did not submit a claim for just satisfaction within the time-limit fixed. The Court awarded him 336 euros (EUR) for costs and expenses.

Ž.B. v. Croatia (no. 47666/13)

The applicant, Ms Ž.B., is a Croatian national who was born in 1981. The case concerned her complaint that the authorities had failed to properly prosecute her husband for his acts of domestic violence against her.

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

Ms Ž.B. lodged a criminal complaint about her husband's alleged acts of physical and psychological violence in May 2007. He was prosecuted and convicted on two occasions, but both judgments were overturned on appeal and remitted to trial, on the ground that some relevant facts had not been established. When the proceedings were resumed again in January 2013, they were discontinued on the grounds that the 2011 Criminal Code had abolished the offence of domestic violence.

Relying in particular on Article 8 (right to respect for private and family life), Ms Ž.B. complained that the domestic authorities had failed to effectively prosecute a person who had committed domestic violence against her.

Violation of Article 8

Just satisfaction: EUR 7,500 in respect of non-pecuniary damage and EUR 115 for costs and expenses

Mardosai v. Lithuania (no. 42434/15)

The applicants, Vygandas Mardosas and Vaida Mardosienė, husband and wife, are Lithuanian nationals who were born in 1971 and 1981 respectively and live in Jurbarkas (Lithuania). The case concerned alleged medical negligence which led to the death of their newborn daughter.

Following the baby's death on 22 May 2009, inquiries by the hospital and the healthcare authorities were carried out finding shortcomings in the doctors' treatment of mother and baby during labour and in particular in resuscitating the baby after its birth by Caesarean section. In June 2009 the couple requested the prosecuting authorities to open a pre-trial investigation into alleged medical negligence leading to their daughter's death. The pre-trial investigation, during which a number of specialist opinions and forensic examinations were ordered and carried out, lasted just over four years and nine months before being discontinued by the Jurbarkas prosecutor on the grounds that no causal link between the doctors' actions and the baby's death had been established. The couple appealed and the case was then transferred in April 2014 to Jurbarkas District Court for examination on the merits. It was however terminated as time-barred one month later. The applicants appealed without success.

The couple were successful in a parallel civil suit against the hospital which was concluded in November 2014. They were awarded 24,115 euros in compensation.

Relying on Article 2 (right to life), Ms Mardosienė and Mr Mardosas complained that the criminal proceedings concerning their daughter's death had been lengthy and ineffective.

No violation of Article 2 (investigation)

Šidlauskas v. Lithuania (no. 51755/10)

The applicant, Antanas Šidlauskas, is a Lithuanian national who was born in 1945 and lives in Jonava (Lithuania). The case concerned his complaint that he had been unlawfully deprived of his home.

In November 2004 Mr Šidlauskas' apartment was sold at auction for 3,390 Lithuanian litai (LTL) (approximately 982 euros), by a bailiff who was seeking recovery of Mr Šidlauskas' unpaid utility bills (amounting to LTL 2,861 Lithuanian litai). In November 2007 Mr Šidlauskas brought an action against the bailiff and its insurer. He claimed that the sale had been unlawful, given that enforcement of unpaid debts against homes was not permitted for debts of under LTL 3,000. He claimed LTL 51,000 in damages, corresponding to the market value of the apartment at the time he submitted his claim. The Supreme Court ultimately ruled in his favour, but only awarded damages of LTL 12,100, corresponding to the property's market value at the time of sale rather than the time Mr Šidlauskas had submitted his claim.

Relying in particular on Article 1 of Protocol No. 1 (protection of property), Mr Šidlauskas complained that he had been unlawfully deprived of his apartment, and that the damages awarded to him had been insufficient for him to acquire a comparable property.

Violation of Article 1 of Protocol No. 1

Just satisfaction: EUR 11,580 (pecuniary damage), EUR 6,500 (non-pecuniary damage), and EUR 690 (costs and expenses)

M.S. v. Ukraine (no. 2091/13)

The applicant, Mr M.S., is a Ukrainian national who was born in 1986 and lives in Sumy (Ukraine). The case concerned the investigation into alleged sexual abuse of his daughter and the determination of her place of residence.

Mr M.S. had a daughter with V. in March 2008 and the two married a short time thereafter. Their relationship deteriorated and in September 2011 V. moved with their daughter to live in a nearby village. In December 2011, Mr M.S. found his daughter in a child care centre and took her for a medical examination which revealed several injuries. The child allegedly reported the injuries had been caused by her mother, but the police refused to open a criminal investigation into either alleged abduction or abuse.

In March and April 2012, Mr M.S.'s mother requested that the authorities bring criminal proceedings against V. because she suspected the child may have been a victim of sexual abuse. During an interview, the child described having seen V. and V.'s uncle engage in sexual activity on several occasions. She also described sex acts she had been made to do. The police refused to open criminal proceedings on three occasions in 2012, but the refusals were quashed by prosecutors. A full-scale investigation into sexual abuse was launched in May 2013. After numerous delays the investigation was still ongoing as of January 2016.

In the meantime, in June 2012 the District Court had dissolved the marriage of Mr M.S. and V. and ruled that their daughter should live with her mother. This decision was upheld on appeal before both the Regional Court of Appeal and the Higher Specialised Court for Civil and Criminal Matters.

Relying in essence on Article 8 (right to respect for private and family life), Mr M.S. complained that the investigation into the sexual abuse of his daughter had been ineffective. He further complained under this article that the domestic courts had failed to properly examine all of the relevant circumstances when determining his daughter's place of residence during the relevant civil proceedings.

Violation of Article 8 – on account of the lack of an effective investigation into the alleged sexual abuse of Mr M.S.'s child

Violation of Article 8 – in respect of the determination of the applicant's child's place of residence

Just satisfaction: EUR 7,000 (non-pecuniary damage), and EUR 27 (costs and expenses)

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Press contacts

echrpres@echr.coe.int | tel: +33 3 90 21 42 08

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Denis Lambert (tel: + 33 3 90 21 41 09)

Inci Ertekin (tel: + 33 3 90 21 55 30)

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.