

Press release issued by the Registrar

**Chamber judgments concerning
Bulgaria, Croatia, Denmark, Romania, Russia and Switzerland**

The European Court of Human Rights has today notified in writing the following 11 Chamber judgments, of which only the friendly-settlement judgment is final.¹

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

***Violation of Article 1 of Protocol No. 1
No violation of Article 6 § 1***

Velikovi and Others v. Bulgaria (application nos 43278/98, 45437/99, 48014/99, 48380/99, 51362/99, 53367/99, 60036/00, 73465/01, and 194/02)

The nine applications were all brought by Bulgarian nationals.

The applications concerned nationalised property acquired by the applicants and the subsequent proceedings brought against them under the Restitution Law by the pre-nationalisation owners or their heirs resulting in the applicants being ordered to vacate their property.

They relied on Article 1 of Protocol No. 1 (protection of property) to the European Convention on Human Rights and, in certain cases, Articles 13 (right to an effective remedy) and 14 (prohibition of discrimination) alleging that they were discriminated against in that the Restitution Law favoured pre-nationalisation owners to the detriment of post-nationalisation owners. In one of the cases, *Nikolovi*, the applicants also relied on Article 6 § 1 (right of access to a court) alleging that the municipality's refusal to sell them an apartment had been unlawful.

The European Court of Human Rights, setting out several factors to be taken into consideration in its assessment of the facts of each of the nine cases, distinguished between cases where the property in question had been obtained through abuse or material violations of housing regulations, cases where the State administration had been responsible for irregularities resulting in the applicants' titles having been annulled and cases where the

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.

domestic courts' interpretation of the Restitution Law's scope of application had been excessive.

On the basis of these distinctions, the Court held unanimously that there had been no violation of Article 1 of Protocol No. 1 in the application of *Velikovi* and one other application because there had been abuse by the applicants in obtaining the property in question and, in any case, they had obtained adequate compensation. It further held that there had been no violation of Article 1 of Protocol No. 1 in two other cases due to there having been material violations of the relevant housing regulations.

The Court held unanimously in four other cases that there had been a violation of Article 1 of Protocol No. 1 either because the State administration had been responsible for irregularities resulting in the applicants' titles having been annulled or because interpretation of the Restitution Law's scope of application had been excessive.

In the case of *Nikolovi*, where the State administration had been responsible for an irregularity resulting in the applicants' title having been annulled, the Court, nevertheless, held, unanimously, that there had been no violation of Article 1 of Protocol No. 1 because it did not find that the threshold of hardship had been reached, the applicants having obtained partial compensation and having been granted the tenancy of a municipal apartment. The Court also held that there had been no violation of Article 6 § 1.

Finally, the Court decided that it was not necessary to examine separately the applicants' complaints under Articles 13 and 14.

The Court further held, unanimously, that, in the four cases where a violation had been found, the question of the application of Article 41 was not ready for decision concerning the claims in respect of damage. The Court awarded the applicants in those four cases a total of 8,000 euros (EUR) for costs and expenses. (The judgment is available only in English.)

Violation of Article 6 § 1 (fairness)

Dobre v. Romania (no. 2239/02)

Violation of Article 1 of Protocol No. 1

The applicant, Romanița Christina Dobre, is a Romanian national who was born in 1943 and lives in Bucharest.

Relying on Article 6 § 1 (access to a court) and Article 1 of Protocol No. 1 (protection of property), the applicant complained about the failure to execute a final judgment of 23 March 1994 ordering that a plot of land be returned to her.

The Court held unanimously that there had been a violation of Article 6 § 1 and Article 1 of Protocol No. 1 and that Romania should execute the 1994 judgment within three months from the date on which the present judgment became final. Failing that, the State was to pay the applicant EUR 160,000 for pecuniary damage. The Court also awarded Mrs Dobre EUR 5,000 for non-pecuniary damage. (The judgment is available only in French.)

Violation of Article 6 § 1 (fairness)

Gheorghe v. Romania (no. 19215/04)

Violation of Article 6 § 1 (length)

The applicant, Ion Gheorghe, is a Romanian national who was born in 1971 and lives in Ploiești (Romania).

The applicant was born with haemophilia A and was recognised as having a second-degree disability entitling him to special protection. He brought administrative proceedings after losing the benefit of legislation on the protection of disabled people. In the course of the proceedings he lodged an appeal with the Supreme Court of Justice. In a judgment of 4 November 2003 the court dismissed the applicant's appeal without responding to his ground of appeal relating to an error concerning the subject of his action.

Relying on Article 6 § 1 (right to a fair hearing within a reasonable time), the applicant complained of the unfairness and length of the proceedings to which he had been a party.

In the absence of a specific and explicit response to the applicant's ground of appeal, the Court considered that it was impossible to establish whether the Romanian courts had simply neglected to examine the content of the complaint concerning the award of damages or whether its dismissal of the appeal had been the result of a manifest error of assessment regarding the subject of the action. It held unanimously that there had been a violation of Article 6 § 1 on account of the lack of fairness of the proceedings. The Court also held unanimously that there had been a violation of Article 6 § 1 on account of the length of the proceedings, which had lasted for over two years and 11 months. The Court awarded Mr Gheorghe EUR 6,000 for non-pecuniary damage and EUR 500 for costs and expenses. (The judgment is available only in French.)

Păduraru v. Romania (no. 63252/00)

Just satisfaction

The applicant, Anatol Păduraru, is a Romanian national who was born in 1922 and lives in Bucharest. He brought proceedings for the recovery of a block of flats in Bucharest that had been nationalised by the State in 1950.

The applicant alleged that the sale of his flats to third parties, which had been upheld by a judicial decision and for which he had received no compensation, amounted to a violation of Article 1 of Protocol No. 1 (protection of property).

By judgment of 1 December 2005 the Court had held unanimously that there had been a violation of Article 1 of Protocol No.1 and considered that the question of just satisfaction was not ready for decision.

In its judgment delivered today, the Court held unanimously that Romania should return the three flats in question to the applicant within three months from the date on which the present judgment became final. Failing that, the State was to pay him EUR 75,000 for pecuniary damage. The Court also awarded the applicant EUR 8,000 for non-pecuniary damage and EUR 1,140 for costs and expenses. (The judgment is available only in French.)

Schrepler v. Romania (no. 22626/02)

Violation of Article 6 § 1 (fairness)

The applicant, Andreas Schrepler, is a German national who was born in 1951 and lives in Stuttgart (Germany).

Relying on Article 6 § 1 (access to a court), the applicant complained about his inability to secure execution of a 1998 judgment in his favour ordering four individuals to pay him compensation for damage to his vehicle.

The Court held unanimously that there had been a violation of Article 6 § 1 and awarded the applicant EUR 2,000 for the damage sustained. (The judgment is available only in French.)

***No violation of Article 8
No violation of Article 14***

Gavrikova v. Russia (no. 42180/02)

No violation of Article 1 of Protocol No. 1

The applicant, Rozaliya Shafikulovna Gavrikova, is a Russian national who was born in 1962 and lives in Zarechniy (Russia).

In the night of 3 to 4 July 2001 Ms Gavrikova's partner, the father of their two children, died in an aeroplane crash. The air carrier offered to pay compensation but Ms Gavrikova, dissatisfied with the amount, sued the air carrier in tort. On 14 June 2002 Ms Gavrikova's claim for non-pecuniary damage was denied on the ground that she had not been bound by marital ties. On 5 October 2005, however, the President of the Regional Court, finding that it was not necessary to be officially married to be entitled to compensation, quashed that part of the judgment. Ms Gavrikova was granted 200,000 Russian roubles (approximately 5,800 euros) in compensation for the non-pecuniary damage caused by the death of her partner.

Relying on Article 8 (right to respect for private and family life), Ms Gavrikova complained about the decision of 14 June 2002. The Court decided to also examine the complaint from the standpoint of Article 1 of Protocol No. 1 (protection of property) and Article 14 (prohibition of discrimination).

The Court observed that the President of the Regional Court, in quashing the judgment of 14 June 2002, had acknowledged that there had been no legal basis for treating married and non-married partners differently in relation to compensation claims and consequently that there had been a breach of Ms Gavrikova's Convention rights. Given that acknowledgement and that the redress amounted to ten times the original sum awarded by the District Court, the Court held unanimously that there had been no violation of Articles 8, 14 or Article 1 of Protocol No. 1. (The judgment is available only in English.)

Violation of Article 6 § 1 (fairness)

Stanislav Volkov v. Russia (no. 8564/02)

Violation of Article 1 of Protocol No. 1

The applicant, Stanislav Yevgenyevich Volkov, is a Russian national who was born in 1968 and lives in Cherkessk (Karachayevo-Cherkessiya Republic, Russia).

The application concerned an action brought by Mr Volkov in August 2000 claiming compensation for being unlawfully detained, firstly, for having disobeyed a lawful order of a police officer and, secondly, on suspicion of participation in a criminal enterprise and unlawful possession of a weapon. He was later acquitted. On 11 March 2001 the Ministry of Internal Affairs was ordered to pay the applicant compensation for non-pecuniary damage. The judgment was not appealed against and became binding and enforceable. On 8 August 2001 the Supreme Court quashed that judgment by way of supervisory review.

The applicant complained about the quashing of the final judgment of 11 March in his favour and ill-treatment by the police. He relied on Article 6 § 1 (right to a fair hearing), Article 1 of Protocol No. 1 (protection of property), Article 5 § 5 (right to liberty and security) and Article 3 (prohibition of inhuman or degrading treatment).

The Court found that the judgment of 11 March had been legally binding and that the President of the Supreme Court setting aside that decision infringed the principle of legal certainty and thus Mr Volkov's right of access to a court. The Court therefore held,

unanimously, that there had been a violation of Article 6 § 1. Also finding that that quashing deprived Mr Volkov of money he had legitimately expected to receive, the Court held that there had been a violation of Article 1 of Protocol No. 1. The Court further held, unanimously, that it was not necessary to examine the applicant's complaint under Article 5 § 5 and declared the remainder of the application inadmissible.

Mr Volkov was awarded RUR 185,000 (approximately EUR 5,356) in respect of pecuniary damage and EUR 2,000 in respect of non-pecuniary damage. (The judgment is available only in English.)

Kaiser v. Switzerland (no. 17073/04)

Violation of Article 5 § 3

The applicant, Célestine Kaiser, is a national of the Central African Republic who was born in 1964 and lives in Zurich.

On 5 November 2003 she was arrested and taken into police custody on suspicion of having brought a foreign woman into Switzerland, supposedly to offer her a job as a waitress but then encouraging her to work as a prostitute. After five days the applicant was presented to a judge, who remanded her in custody.

Relying in particular on Article 5 (right to liberty and security), the applicant complained, among other things, that she had not been brought promptly before a judge following her arrest.

The Court held unanimously that there had been a violation of Article 5 § 3 and considered that the finding of a violation constituted in itself sufficient just satisfaction for the damage sustained by the applicant. It awarded her EUR 2,750 for costs and expenses. (The judgment is available only in French.)

Repetitive cases

In the following cases the Court has reached the same findings as in similar cases raising the same issues under the Convention:

Popara v. Croatia (no. 11072/03)

Violation of Article 6 § 1 (fairness)

The applicants, Marija Popara, and her sister, Željka Popara, are Croatian nationals who were born in 1976 and 1979 respectively and live in Karlovac (Croatia).

The application concerned civil proceedings brought against the State for damages following the business premises owned by the applicants' late father being blown up in 1991 by unknown perpetrators. Some time later, his car was also damaged beyond repair by an explosive device. These proceedings were stayed in February 1998, and again in July 2001, pending enactment of new legislation under the 1996 Amendment to the Civil Obligations Act.

The applicants complained, in particular, that Parliament's enactment of the 1996 Amendment violated Article 6 § 1 (right of access to a court).

The Court held that there had been a violation of Article 6 § 1 and awarded the applicants EUR 2,400, jointly, in respect of non-pecuniary damage. (The judgment is available only in English.)

Petrescu v. Romania (no. 73969/01)

Violation of Article 1 of Protocol No. 1

The applicant, Radu Petrescu, is a Romanian national who was born in 1915 and lived in Bucharest. He died in 2002. His son was authorised by the European Court to continue the present proceedings.

In 1997 the Romanian courts ordered a property in Bucharest that had been nationalised in 1950 to be returned to the applicant.

The applicant alleged that the sale of his flat to the tenants, which had been upheld by the Romanian courts and for which he had received no compensation, had been in breach, in particular, of Article 1 of Protocol No. 1 (protection of property).

The Court held unanimously that there had been a violation of Article 1 of Protocol No. 1 and awarded the applicant's son EUR 15,000 for pecuniary damage and EUR 2,000 for non-pecuniary damage. (The judgment is available only in French.)

Length-of-proceedings case

In the following case, the applicant, relying on Article 6 § 1 (right to a fair hearing within a reasonable time), complained in particular about the excessive length of (non-criminal) proceedings. He also complained under Article 13 that he had no effective remedy concerning his length-of-proceedings complaint.

Brøsted v. Denmark (no. 21846/04)

Friendly settlement

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>).

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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.