



Judgments concerning Armenia, Azerbaijan, Bulgaria, Greece, Hungary, Italy, Republic of Moldova, Poland, Portugal, Romania, Russia, San Marino and Turkey

The European Court of Human Rights has today notified in writing the following 18 judgments, of which the judgment in the case of *Assunção Santos v. Portugal* (in italics) is a Committee judgment and is final. The others are Chamber judgments¹ and are not final.

Repetitive cases², with the Court's main finding indicated, can be found at the end of the press release. The judgments available in French are indicated with an asterisk (*).

Malkhasyan v. Armenia (application no. 6729/07)

The applicant, Vardan Malkhasyan, is an Armenian national who was born in 1953 and lives in Yerevan. Arrested in December 2006 and charged with publicly calling for a violent overthrow of the government at a meeting organised by an NGO, the Unity of Armenian Volunteers, Mr Malkhasyan made a number of complaints about the authorities' decisions to extend his ensuing detention. In particular, he alleged that the domestic courts had failed to give reasons for his continued detention, that his detention between 10 and 22 June 2007 had not been authorised by a court and that he had not been present at any of the hearings to decide on the extension of his detention. He relied in particular on Article 5 §§ 1 and 3 (right to liberty and security). He was found guilty as charged in August 2007 and sentenced to two years' imprisonment.

Violation of Article 5 § 1 (detention between 10 and 22 June 2007)

Violation of Article 5 § 3 (failure to provide relevant and sufficient reasons for the continued detention)

Just satisfaction: EUR 4,500 (non-pecuniary damage), EUR 43 (costs and expenses)

Decheva and Others v. Bulgaria (no. 43071/06)

The applicants, Glikeria (Ganka) Decheva, now deceased, and her heirs and nieces, Antoaneta Georgieva and Maria Marinova, are Bulgarian nationals who were born in 1919, 1937 and 1943, respectively. Ms Decheva lived in Sliven and her nieces currently live in Sofia. The case concerned property owned by the applicants' ancestors in the village of Zheravna, an architectural reserve since 1964, which was expropriated by the State in 1968 for tourism purposes. Following the entry into force of a new law on restitution of private property expropriated for public use, the applicants' request that the expropriation be revoked and their property be restored to them was granted in a

¹ 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

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

final judgment of March 1995. Relying on Article 6 § 1 (right to a fair trial) and Article 1 of Protocol No. 1 (protection of property), the applicants complained that the domestic courts had subsequently re-examined the question of whether they were entitled to restitution and declared the local municipality owner of the disputed property. They notably alleged that that decision had breached the principle of legal certainty and deprived them of their possessions.

Violation of Article 6 § 1 (fairness)

Violation of Article 1 of Protocol No. 1

Just satisfaction: EUR 41,000 (pecuniary damage) jointly to Ms Decheva's heirs, EUR 1,500 (non-pecuniary damage) to each of her heirs and EUR 2,500 (costs and expenses)

Hristova and Others v. Bulgaria (no. 11472/04)*

The applicants, nine Bulgarian nationals, are former employees of the Plama refinery which was partly privatised in the 1990s and converted into a public limited company, Nova Palma AD. Experiencing problems, the refinery went into administration before being wound up by order of the court. It failed to make the payments provided for in the plan for the company's recovery. Relying on Article 6 § 1 (right to a fair hearing), the applicants complained about the delays and obstacles they faced in enforcing court decisions in their favour against their former employer.

Violation of Article 6 § 1 (fairness)

Violation of Article 1 of Protocol No. 1

Just satisfaction: EUR 8,000 to Marinka Velikova Hristova, EUR 1,800 to Hristiyan Dimitrov Traykov, EUR 1,500 to Tsvetanka Georgieva Dikova, EUR 2,000 to Ditka Petrova Dekova EUR 2,000 to Ventsislav Petrov Iliev, EUR 1,500 to Krasimir Boyanov Hristov, EUR 7,000 to Pavlina Tsakova Tsakova, EUR 1,000 to Liliya Ivanova Hristova and EUR 2,500 to Hristo Mladenov Hristov (pecuniary damage), EUR 2,300 to each of the nine applicants (or EUR 20,700 in total) (non-pecuniary damage) and 3,361 (costs and expenses)

Zaharievi v. Bulgaria (no. 22627/03)*

Just satisfaction

The applicants are two Bulgarian nationals, Kiril Grigorov Zahariev and Ventzeslav Grigorov Zahariev. They were born in 1926 and 1928 respectively and live in Sofia. In 1998, under the 1997 Law on Compensation for Owners of Nationalised Real Property – which provided, subject to certain conditions, for the possibility of compensation for the expropriation of property where restitution was impossible – the applicants requested that half the compensation due for a wheat mill that had belonged to their father be awarded in the form of compensation bonds and the other half in shares in the M. company. By a judgment of 2 July 1999 the Court found that there had been a violation of Article 1 of Protocol No. 1. Today's judgment concerned the question of just satisfaction (Article 41).

Just satisfaction: EUR 15,000 (pecuniary damage) and 1,000 (costs and expenses)

Kostadimas and Others v. Greece (nos. 20299/09 and 27307/09)*

The applicants, Georgios Kostadimas, Ioannis Charalambopoulos, Georgios Papageorgiou and Panagiota Kyriazopoulou, are Greek nationals who were born in 1923, 1922, 1926 and 1923 respectively. Relying in particular on Article 1 of Protocol No. 1 (protection of

property), the applicants complained about the State Accounts Department's retrospective adjustment of their retirement pensions in July 1998.

Violation of Article 1 of Protocol No 1

Just satisfaction: EUR 15,000 (pecuniary damage) and EUR 3,000 (costs and expenses) to all four applicants jointly

Borbála Kiss v. Hungary (no. 59214/11)

The applicant, Borbála Kiss, is a Hungarian national who was born in 1983 and lives in Tiszalúc (Hungary). The case concerned excessive force used by the police when called to a family party in Tiszalúc to request that the music be turned down. Ms Kiss, of Roma origin, notably alleged that, when intervening in a heated argument between the police and a man at the party, she had pepper-spray squirted in her eyes and, dragged towards and banged against a police car, her pullover tore and her breasts were exposed to all those present. Relying on Article 3 (prohibition of inhuman or degrading treatment), she alleged that the police's treatment of her had been inhuman and degrading as well as unnecessary in the circumstances and that the ensuing investigation into her allegations had been inadequate.

Violation of Article 3 (treatment and investigation)

Just satisfaction: EUR 5,000 (non-pecuniary damage) and EUR 3,000 (costs and expenses)

Metalco Bt. v. Hungary (no. 34976/05)

Revision

The applicant, Metalco BT., is a Hungarian limited partnership which is based in Pécs (Hungary). In a judgment of 1 February 2011, the Court held that there had been a violation of Article 1 of Protocol No. 1 (protection of property) on account of the unfairness and excessive length of litigation with the Hungarian tax authorities concerning Metalco BT.'s outstanding taxes. The Government have since informed the European Court that the applicant company had been liquidated on 2 December 2010 and they therefore requested revision of that judgment (under Rule 80 of the Rules of Court).

Government's revision request dismissed

Di Pietro v. Italy (no. 73575/01)*

Milazzo v. Italy (no. 77156/01)*

Just satisfaction

In these two cases, the applicants were the owners of land occupied by the administrative authorities with a view to its expropriation and on which they began building work. In the absence of any formal expropriation or compensation the applicants claimed damages for the illegal occupation of their land. By two judgments of 2 November 2006 the Court held that the interference in the applicants' right to peaceful enjoyment of their possessions was incompatible with the principle of legality and that, accordingly, there had been a violation of Article 1 of Protocol No. 1. Furthermore, it found that there had been a violation of Article 6 § 1 (right to a fair hearing) on account of the length of the proceedings. Today's judgments concerned the question of just satisfaction (Article 41).

Di Pietro v. Italy - **Just satisfaction:** 362,000 EUR (pecuniary damage), 10,000 EUR (non-pecuniary damage) and 15,000 EUR (costs and expenses)

Milazzo v. Italy - **Just satisfaction:** 110,000 EUR (pecuniary damage), 10,000 EUR (non-pecuniary damage) and 15,000 EUR (costs and expenses)

Ciesielczyk v. Poland (no. 12484/05)

The applicant, Marek Ciesielczyk, is a Polish national who was born in 1957 and lives in Tarnow (Poland). A local politician, Mr Ciesielczyk complained about proceedings brought against him in 2004 in which he was fined for defamation of a journalist of a local cable television company, S. Tar TV Malopolska Telewizja Kablowa, at a demonstration and via internet. He accused the journalist of "manipulating information" and of being a "collaborator" with other local politicians. Mr Ciesielczyk was notably referring to a decision by the courts in 2002 that found that the cable TV cable company had broadcast inaccurate information about him when he was campaigning for the post of Tarnow's President. He relied in particular on Article 10 (freedom of expression). Mr Ciesielczyk has since been dismissed from his post as local councillor.

No violation of Article 10

Ghiera v. Republic of Moldova (no. 15778/05)*

The applicant, Ion Ghirea, is a Moldovan national who was born in 1956 and lives in Chişinău. A former customs officer, he was accused of accepting bribes. He was acquitted at first instance. The prosecution service subsequently informed the court that the prosecutor in charge of the case file was on leave and had asked for the report on the investigation into the case upon his return. He lodged an appeal the day after his return from leave but the appeal was rejected as being out of time. The Supreme Court examined the admissibility of the prosecution service's appeal and found that only the trial prosecutor could lodge an appeal and that the fact that the prosecutor had been on ordinary leave was indeed a reason to justify an application for leave to appeal out of time. Relying on Article 6 § 1 (right to a fair trial), Mr Ghirea alleged in particular a violation of the principle of legal certainty and a breach of the principle of equality of arms.

Violation of Article 6 § 1 (fairness)

Just satisfaction: 3,600 EUR (non-pecuniary damage) and 1,000 EUR (costs and expenses)

Găitănanu v. Romania (no. 26082/05)*

The applicant, Octavian Găitănanu, is a Romanian national who was born in 1956 and lives in Focşani (Romania). Director of the Focşani public contracts department at the relevant time, Mr Găitănanu was suspected of having accepted bribes while in office and having committed the offences of forgery and using forged documents. On 21 April 2004 he was acquitted of the charge of corruption but found guilty of misuse of authority against the public interest, forgery and using forged documents. The prosecution service lodged an appeal against that judgment. The Court of Appeal upheld the decision of the first instance court. The prosecution service lodged an appeal on a point of law with the High Court of Cassation and Justice which re-examined the case and overturned Mr Găitănanu's acquittal. Relying in particular on Article 6 § 1 (right to a fair trial), the applicant alleged that he had not been given a fair trial as he was convicted on appeal on a point of law on the basis of evidence that had been deemed doubtful and insufficient by the courts having acquitted him at first instance and on appeal, and without any re-examination of the witnesses.

Violation of Article 6 § 1 (fairness)

Just satisfaction: EUR 3,000 (non-pecuniary damage) and EUR 850 (costs and expenses)

Petrea Chisăalău v. Romania (no. 36680/03)*

The applicant, Gheorghe Petrea Chisăalău, is a Romanian national who was born in 1950. On 11 June 2002 he was sentenced to nine years' imprisonment for rape. He was released on 6 June 2007 after having served his sentence in various prisons, including Bacău Prison, Baia Mare Prison and the Dej Prison Hospital. He is currently being held in Iași prison in relation to another criminal case. Relying on Article 3 (prohibition of inhuman or degrading treatment), the applicant alleged that he had been ill-treated by the Bacău prison guards and complained in particular about the poor conditions of detention at Baia Mare Prison.

Violation of Article 3 – conditions of detention in Baia Mare prison

Just satisfaction: The applicant did not submit a claim for just satisfaction

Zubayrayev v. Russia (no. 34653/04)

The applicant, Sayd-Akhmed Zubayrayev, is a Russian national who was born in 1979 and is serving a 21-year prison sentence in the Sverdlovsk Region (Russia) for, among other offences, terrorism, including assassinating a law-enforcement officer, trafficking and possession of illegal firearms and rape. Relying on Article 6 §§ 1 and 3 (c) (right to a fair trial), he complained in particular that the criminal proceedings against him were unfair as he had not been able to participate in an appeal hearing on his case in February 2004.

Violation of Article 6 §§ 1 and 3 (c) (fairness)

Toniolo v. San Marino and Italy (no. 44853/10)

The applicant, Giuseppe Toniolo, is an Italian national who was born in 1949 and lives in San Marino. Arrested in San Marino in August 2009 following criminal proceedings brought against him in Italy for, among other offences, money laundering, Mr Toniolo complained about his preventive detention and subsequent extradition to Italy about a month later. Relying on Article 5 § 1 (right to liberty and security), Mr Toniolo alleged that both San Marino and Italy had been responsible for procedural irregularities in his extradition and, in particular, that his preventive detention in San Marino had been unlawful.

Violation of Article 5 § 1

Just satisfaction: The applicant did not submit a claim for just satisfaction.

Mustafa Taştan v. Turkey (no. 41824/05)

The applicant, Mustafa Taştan, is a Turkish national who was born in 1966 and lives in Kırşehir (Turkey). Mr Taştan was arrested on 29 August 1999 on suspicion of carrying a gun without a licence. The public prosecutor ordered his release the following day after taking down his statement. Relying on Article 3 (prohibition of inhuman or degrading treatment), he alleged that, despite this decision to release him, he had been forcibly taken into police custody again and subjected to ill-treatment by certain police officers at the Security Headquarters. He also complained under Article 3 that the ensuing investigation into his allegation had been ineffective.

Violation of Article 3 (treatment and investigation)

Just satisfaction: The applicant did not submit a claim for just satisfaction.

Repetitive cases

The following cases raise issues which have already been submitted to the Court.

Zulfali Huseynov v. Azerbaidjan (no. 56547/10)

The case concerned the applicant's complaint about the delay in enforcement of a judgment in his favour ordering the eviction of internally displaced persons – from regions under the control of Armenian military forces – from a flat in respect of which he had tenancy rights. He relied in particular on Article 6 § 1 (right to a fair trial) and Article 1 of Protocol No. 1 (protection of property).

Violation of Article 6 § 1 (fairness)

Violation of Article 1 of Protocol No. 1

Length-of-proceedings case

In the following case, the applicant complained in particular under Article 6 § 1 (right to a fair hearing within a reasonable time) about the excessive length of criminal proceedings for criminal conspiracy.

Assunção Santos v. Portugal (no. 6015/09)*

Violation of Article 6 § 1

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Press contacts

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

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

Kristina Pencheva-Malinowski (tel: + 33 3 88 41 35 70)

Céline Menu-Lange (tel: + 33 3 90 21 58 77)

Nina Salomon (tel: + 33 3 90 21 49 79)

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

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.