



Judgments concerning Albania, Bulgaria, Croatia, Hungary, Italy, Montenegro, Poland, Portugal, Romania, Russia and Slovakia

The European Court of Human Rights has today notified in writing the following 20 judgments, of which four (in italics) are Committee judgments and are final. The others are Chamber judgments¹ and are not final.

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

Ceka v. Albania (application no. 26872/05)

The applicant, Gjyste Ceka, is an Albanian national who was born in 1963 and lives in Mirditë (Albania). The case concerned the death of Ms Ceka's son in police custody in July 2004 following his arrest on suspicion of robbery. Relying on Article 2 (right to life) and Article 3 (prohibition of torture and of inhuman or degrading treatment) of the European Convention on Human Rights, she alleged in particular that her son had died as a result of ill-treatment by two police officers and that the ensuing investigation into her allegation had been ineffective.

Given the Government's admission that, in the present case, there had been a violation of Articles 2 and 3 as well as the amount of compensation proposed - EUR 10,000, a fair amount in this case in the Court's view – the Court considered that it was no longer justified to continue the examination of the case and, under Article 37 § 1 (c) (striking out applications), decided to strike it out of its list of cases.

Hadzhiev v. Bulgaria (no. 22373/04)

The applicant, Rumen Hadzhiev, is a Bulgarian national who was born in 1948 and lives in Shumen (Bulgaria). The case concerned Mr Hadzhiev's complaint about legislation in Bulgaria which authorises secret surveillance measures. He notably complained that this legislation had barred the authorities from giving him any information as to whether he had been kept under secret surveillance and that he therefore could not claim damages. He relied in particular on Article 8 (right to respect for private and family life and the home) and Article 13 (right to an effective remedy) of the Convention.

Violation of Article 8
Violation of Article 13

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

Just satisfaction: EUR 2,500 (costs and expenses). The Court held that the finding of a violation constituted sufficient just satisfaction for any non pecuniary damage suffered by the applicant.

Yotova v. Bulgaria (no. 43606/04)*

The applicant, Yolanda Kirilova Yotova, is a Bulgarian national who was born in 1972 and lives in a village called Aglen, in the municipality of Lukovit. She is of Roma origin. She was giving a party at her house in Aglen on the evening of 13 July 1999, two days after serious altercations had occurred between some youths of Roma origin from Aglen and some youths of Bulgarian origin from a nearby village. At about midnight some shots were fired from a car towards the front gate of her house and the applicant was hit in the chest, shoulder and arm. Following the attack she was declared over 75% disabled. Relying in particular on Articles 2 (right to life) and 14 (prohibition of discrimination), Mrs Yotova alleged that the State authorities had failed to comply with their obligation to conduct an effective investigation into her attempted murder. She also complained that the authorities had not attempted to establish whether or not it had been a racially and ethnically motivated crime.

Violation of Article 2 (investigation)

Violation of Article 14 combined with Article 2

Just satisfaction: EUR 12,000 (non-pecuniary damage) and EUR 3,770 (costs and expenses)

Čamovski v. Croatia (no. 38280/10)

The applicant, Tomislav Čamovski, is a Croatian national who was born in 1936 and lives in Varaždin (Croatia). The case concerned Mr Čamovski's complaint that his constitutional complaint with regard to a civil dispute about the possession of a house and a plot of land had been dismissed for being lodged out of time. Relying in particular on Article 6 § 1 (access to court), he notably alleged that the Constitutional Court had miscalculated the time-limit when dismissing his case.

Violation of Article 6 § 1

Just satisfaction: EUR 6,000 (non-pecuniary damage)

Al-Tayyar Abdelhakim v. Hungary (no. 13058/11)

Hendrin Ali Said and Aras Ali Said v. Hungary (no. 13457/11)

Both cases concerned complaints under Article 5 § 1 (right to liberty and security) by asylum-seekers currently staying at the Debrecen Reception Centre for Refugees (Hungary) about the unlawfulness of their detention – without effective judicial review – pending the outcome of their asylum claims.

The applicant in the first case, Alaa Al-Tayyar Abdelhakim, is a Palestinian national who was born in 1985. Stopped by the Hungarian border control at Záhony (Hungary) in July 2010 for using a forged passport, he claimed asylum, explaining that he came from a refugee camp in Tripoli, Lebanon, where he faced security problems.

The applicants in the second case, Hendrin Ali Said and Aras Ali Said, are Iraqi nationals who were born in 1992 and 1989 respectively. They left Iraq in August 2009 and illegally entered Hungary, where they made a first asylum attempt before travelling illegally to the Netherlands with the help of traffickers. Intercepted in the Netherlands, they were

then transferred back to Hungary in September 2010 under the Dublin II procedure². They claimed asylum, alleging that they had been persecuted in Iraq because of their father's former service in Saddam Hussein's army and their Kurdish ethnicity.

Violation of Article 5 § 1

Just satisfaction: EUR 10,000 (non-pecuniary damage) and EUR 2,515 (costs and expenses) to Mr Al-Tayyar Abdelhakim; in the case of *Hendrin Ali Said and Aras Ali Said*, EUR 10,000 (non-pecuniary damage) to each applicant and EUR 2,515 (costs and expenses) to the applicants jointly.

Immobiliare Podere Trieste S.R.L. v. Italy (no. 19041/04)*

Satisfaction équitable

The applicant, Immobiliare Podere Trieste, is an Italian company which owned land which was occupied by the public administrative authorities with a view to its expropriation and on which building work was begun. In the absence of formal expropriation and compensation, Immobiliare Podere Trieste brought proceedings seeking damages for the unlawful occupation of their land. In a judgment of 16 November 2006, the Court held that there had been a de facto expropriation of the applicant company's land that was incompatible with their right to the peaceful enjoyment of their possessions and that, accordingly, there had been a violation of Article 1 of Protocol No. 1 (protection of property). Today's judgment concerned the question of just satisfaction (Article 41).

Just satisfaction: EUR 47,700,000 (pecuniary damage), EUR 20,000 (non-pecuniary damage) and EUR 20,000 (costs and expenses)

Jucha and Żak v. Poland (no. 19127/06)

The applicants, Dorota Jucha and Tomasz Żak, are Polish nationals who were born in 1975 and 1955 and live in Tarnów and Lisia Góra (Poland) respectively. The case concerned a complaint by the applicants, a journalist and editor-in-chief of TEMI, a local weekly newspaper in Tarnów, about their conviction in June 2005 for defamation of a local councillor. They had notably published a series of articles in 2004 criticising the councillor and alleging that he had broken the law (he had been found guilty of defamation of a local radio journalist, had disclosed confidential information from those proceedings and had been accused of financial irregularities in his campaign for President). The applicants relied on Article 10 (freedom of expression).

Violation of Article 10

Just satisfaction: EUR 2,380 (non-pecuniary damage) to the applicants jointly

Ghiță v. Romania (no. 54247/07)

The applicant, Radu Sorin Ghiță, is a Romanian and Canadian national who was born in 1961 and lives in Bucharest. Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment), he complained of police brutality when arrested in May 2006 by two police officers who suspected him of having sexual intercourse with a prostitute in

² A European Union regulation under which member States are required to determine, based on a hierarchy of objective criteria, which member State is responsible for examining an asylum application lodged on their territory.

his car. He also complained that the ensuing investigation into his allegation had been ineffective.

Violation of Article 3 (investigation + treatment)

Just satisfaction: EUR 10,000 (non-pecuniary damage) and EUR 3,000 (costs and expenses)

Dmitriy Rozhin v. Russia (no. 4265/06)

The applicant, Dmitriy Rozhin, is a Russian national who was born in 1980 and lives in Yekaterinburg (Russia). He was an investigator with the prosecutor's office and, in February 2004, was charged with forging a court decision ordering the release of a rape suspect as well as concealing the related criminal case-file. In March 2005 he was found guilty and sentenced to one year's detention in a correctional facility. Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment), he complained about the conditions of his detention both on remand in Yekaterinburg and then, once sentenced, in a correctional facility in Nizhniy Tagil. Further relying on Article 5 § 1 (right to liberty and security), he also alleged that his detention from 4 to 15 August 2005 had been unlawful because he had been placed in a prison-type cell on arriving at the correctional colony, in breach of domestic regulations.

Violation of Article 3 (conditions of detention in remand prison in Yekaterinburg from 15 March to 3 August 2005)

No violation of Article 3 (conditions of detention in correctional facility in Nizhniy Tagil from 4 to 15 August 2005)

Violation of Article 5 § 1 (a)

Just satisfaction: EUR 7,500 (non-pecuniary damage)

Grigoryev v. Russia (no. 22663/06)

The applicant, Vyacheslav Grigoryev, is a Russian national who was born in 1939 and lives in Moscow. In January 2000 he had criminal proceedings brought against him on suspicion of fraud. He was accused of setting up a scheme whereby plots of land around Moscow intended exclusively for agricultural use had been bought and transferred to the members of an organisation "The National Land Use Association" on the understanding that the land could be used for building purposes. In November 2007 the charges against Mr Grigoryev were changed to "taking the law into his own hands" and he was sentenced to compulsory work for 200 hours. His conviction was upheld on appeal in February 2008 and the sentence replaced with a fine. Pending these criminal proceedings against him, he was arrested and taken into pre-trial detention on two occasions in 2001 and 2002; the rest of the time, he was assigned to his residence. Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment), he alleged that on one of the occasions when he had been arrested, in February 2002, an armed police squad had broken into his flat, had kicked and beaten him and had dragged him into a waiting police car before taking him to the local police station. He alleged that the force used against him had been excessive and had resulted in two of his ribs being broken and that the ensuing investigation into his allegation had been inadequate. Lastly, he also complained about the excessive length – over eight years – of the criminal proceedings brought against him, in breach of Article 6 § 1 (right to a fair trial within a reasonable time).

Two violations of Article 3 (investigation + beatings inflicted by the police at the time of the 2002 arrest)

Violation of Article 6 § 1 (length of the criminal proceedings)

Just satisfaction: EUR 7,500 (non-pecuniary damage)

Pichugin v. Russia (no. 38623/03)

The applicant, Aleksey Pichugin, is a Russian national who was born in 1962 and is serving a prison sentence in the Orenburg region (Russia). He was head of the security service of the Yukos oil company. The case essentially concerned his complaint about irregularities in his arrest and detention in June 2003 on charges of murder and attempted murder as well as in the ensuing criminal proceedings. He was found guilty as charged in March 2005 and sentenced to 20 years' imprisonment, later upheld on appeal. He notably alleged under Article 5 §§ 1, 3, and 4 (right to liberty and security) that he had been arrested without a reasonable suspicion making his ensuing detention unlawful, that this detention had been extended for one year and nine months without sufficient reasons and that his appeals against the decisions to extend his decision had not been reviewed speedily or at all. Under Article 6 §§ 1 and 3 (right to a fair trial), he also complained about the unfairness of the criminal proceedings against him, notably on account of a lack of a public hearing in his case as well as the absence of an adequate and effective opportunity to challenge witness statements against him. He also complained under Article 6 that the jury had not been composed in accordance with domestic law and that the presiding judge had been biased.

No violation of Article 5 § 1

Violation of Article 5 § 3

No violation of Article 5 § 4 (length of the proceedings in the appeals against the detention orders of 21 June and 13 August 2003)

Two violations of Article 5 § 4 (excessive length of the proceedings in the appeals against the detention orders of 12 February, 13 April, 17 June and 9 December 2004 + failure to examine the applicant's appeal against the detention order of 10 March 2005)

Violation of Article 6 § 1 (lack of a public hearing)

Violation of Article 6 §§ 1 and 3 (d) (absence of an adequate and effective opportunity to challenge witness statements against the applicant)

Just satisfaction: EUR 6,500 (non-pecuniary damage) and EUR 3,000 (costs and expenses)

Zentsov and Others v. Russia (no. 35297/05)

The applicants, Aleksey Zentsov, Lira Guskova, and Ivan Drozdov, are Russian nationals who were born in 1982, 1982, and 1984 and live in Novosibirsk, Kazan, and Roshal, Moscow Region, respectively. They are members of the National Bolsheviks Party and on 14 December 2004 were involved in a sit-in in a government building in Moscow with other members of the party during which they called for the Russian President's resignation. The group, including the applicants, were arrested the same day and, convicted on 8 December 2005 of participating in mass disorder, were immediately released on probation. Relying on Article 3 (prohibition of inhuman or degrading treatment), the applicants complained about the appalling conditions of their detention on remand, notably on account of overcrowding. Further relying on Article 5 § 3 (right to liberty and security), they also complained about the excessive length of their pre-trial detention.

Violation of Article 3 (first and third applicants)

Violation of Article 5 § 3

Just satisfaction: EUR 6,000 (non-pecuniary damage) to each of the first and third applicants and EUR 2,000 (non-pecuniary damage) to the second applicant.

Majchrák v. Slovakia (no. 21463/08)

The applicant, Peter Majchrák, is a Slovak national who was born in 1958 and lives in Bratislava. Mr Majchrák is an architect. The case concerned his complaint that his constitutional complaint with regard to proceedings brought against him for failure to complete a contract on time had been rejected in December 2007 as lodged out of time. Relying on Article 6 § 1 (right of access to court), he notably complained that the Constitutional Court – using information obtained on its own initiative – had miscalculated the start date of the time-limit to lodge his complaint and, even though there had been a discrepancy with the applicant's calculation as to the date, had not given him an opportunity to comment.

Violation of Article 6 § 1

Just satisfaction: EUR 7,800 (non-pecuniary damage)

Zborovský v. Slovakia (no. 14325/08)

The applicants, Imrich and František Zborovský, brothers, are Slovak nationals who were born in 1954 and 1956 and live in Neratovice (the Czech Republic) and Prešov (Slovakia) respectively. The case concerned proceedings brought by the brothers in 1992 against a State-owned enterprise which had built a garage on a piece of their real estate. Relying in particular on Article 6 § 1 (access to court), they complained that the domestic courts had failed to hear and examine all the evidence concerning the property dispute and treated them unequally, and that their subsequent appeal on points of law as well as two constitutional complaints had been rejected without an examination on the merits. In particular, they contended that their first constitutional complaint had been rejected as premature since their appeal on points of law was still pending and that, upon the rejection of that appeal without an examination of the merits of the case, the second constitutional complaint had been rejected as out of time equally without an examination of the case's merits.

Violation of Article 6 § 1

Just satisfaction: EUR 3,250 (non-pecuniary damage)

Length-of-proceedings cases

In the following cases, the applicants complained in particular under Article 6 § 1 (right to a fair hearing within a reasonable time) about the excessive length of (non-criminal) proceedings.

Novović v. Montenegro (no. 13210/05)*

Pinheiro Silvestre v. Portugal (no. 47031/10)*

Pinho Lopes v. Portugal (no. 32020/10)*

Todirică and Others v. Romania (no. 21504/03)*

Violation of Article 6 § 1

In the following case, the applicant complained in particular about the excessive length of criminal proceedings.

Pimentel Lourenço v. Portugal (no. 9223/10)*

Violation of Article 6 § 1

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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.