



Judgments concerning Bulgaria, Croatia, Denmark, Finland, the Republic of Moldova, Poland, Romania, Russia, Slovakia and the United Kingdom

The European Court of Human Rights has today notified in writing the following 17 judgments, of which two (in italics) are Committee judgments and are final. The others are Chamber judgments¹ and are not final.

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

Bajić v. Croatia (application no. 41108/10)

The applicant, Pero Bajić, is a Dutch national who was born in 1950. Relying in particular on Article 2 (right to life) of the European Convention on Human Rights, he complained that the death of his sister in September 1994, following surgery for an abdominal tumour and allegedly caused by medical negligence, had not been properly investigated in the criminal proceedings against the surgeon.

Violation of Article 2 (investigation)

Just satisfaction: EUR 10,000 (non-pecuniary damage) and EUR 7,900 (costs and expenses)

J.M. v. Denmark (no. 34421/09)

The applicant, J.M., is a Danish national who was born in 1991. In September 2007, at the age of 15, he was arrested and detained on remand on charges of raping and killing an 85 year-old lady. One week later, he was transferred to a closed youth institution. His pre-trial detention there was extended several times until January 2009, when he was convicted by a judgment which was upheld on appeal on 4 July 2009. Relying in particular on Article 5 § 3 (right to liberty and security / right of a detainee to be brought promptly before a judge), he complained that the length of his pre-trial detention had been unreasonable.

No violation of Article 5 § 3

Hämäläinen v. Finland (no. 37359/09)

The applicant, Heli Hämäläinen, is a Finnish national who was born in 1963 and lives in Helsinki. Having undergone male-to-female gender reassignment surgery in 2009 and

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.

having previously changed her first names, the applicant wished to obtain a new identity number that would indicate her female gender in her official documents. However, in order to do so her marriage to a woman would have had to be turned into a civil partnership, which she refused to accept. She complained that making the full recognition of her new gender conditional on the transformation of her marriage into a civil partnership had violated her rights under in particular Article 8 (right to respect for private and family life) and Article 14 (prohibition of discrimination).

No violation of Article 8

No violation of Article 14 taken in conjunction with Article 8

Constantin Modarca v. the Republic of Moldova (no. 37829/08)

The applicant, Constantin Modarca, is a Moldovan national who was born in 1988 and lives in Taraclia (Republic of Moldova). Convicted of murder and sentenced to 15 years' imprisonment in August 2008, he alleged that the conditions of his detention, both pending trial and subsequent to his conviction, had amounted to a violation of Article 3 (prohibition of torture and of inhuman or degrading treatment). In particular, he complained of overcrowding, insufficient ventilation and poor quality of the food.

Violation of Article 3

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

Z v. Poland (no. 46132/08)

The applicant, Z, is a Polish national who was born in 1951 and lives in Piła (Poland). In September 2004, her daughter, who was pregnant and suffered from ulcerative colitis, died in hospital of septic shock after a number of operations. Relying in particular on Article 2 (right to life), Z complained that the doctors treating her daughter had failed to provide her with adequate treatment and that no effective investigation had been conducted which would have allowed to establish the responsibility for her daughter's death.

No violation of Article 2

Cucu v. Romania (no. 22362/06)

The applicant, Viorel Cucu, is a Romanian national who was born in 1977 and lives in Bucharest. Convicted, among other things, of robbery and sentenced to 11 years' imprisonment in November 2001, he complained about the conditions of his detention in two prisons, in particular on account of overcrowding and poor hygiene, and about the fact that he had been detained in solitary confinement between July 2003 and March 2004. He further alleged that in November 2005 he had been beaten on three different occasions in prison by a special intervention squad and that the authorities had not carried out an effective investigation. He relied in particular on Article 3 (prohibition of torture and of inhuman or degrading treatment). Further relying on Article 3 of Protocol No. 1 (right to free elections), he complained about the automatic withdrawal of his voting rights.

Two violations of Article 3 (conditions of detention + investigation)

Violation of Article 3 of Protocol No. 1

Just satisfaction: EUR 13,000 (non-pecuniary damage) and EUR 4,000 (costs and expenses)

E.M.B. v. Romania (no. 4488/03)

The applicant, E.M.B., is a Romanian national who was born in 1946 and lives in Toronto (Canada). A former director of a private oil refinery in Romania, she was charged in July 2002 with a number of offences of fraud related to trade in oil products. The criminal proceedings against her are still pending before the first-instance court. Relying in particular on Article 6 § 1 (right to a fair trial within a reasonable time), E.M.B. complained of the excessive length of those proceedings.

Violation of Article 6 § 1

Just satisfaction: The Court held that the finding of a violation constituted sufficient just satisfaction for any non pecuniary damage suffered by the applicant.

Lăcătuş and Others v. Romania (no. 12694/04)

The applicants, Voichiţa (Rostaş) Lăcătuş, Speranţa-Lămâiţa Rostaş and Rada-Codruţa Rostaş, are Romanian nationals who were born in 1970, 1990 and 1994, respectively, and live in Staden (Belgium). The case concerned an attack on Roma homes in the village of Hădăreni in September 1993 by a mob of non-Roma villagers and the local police, during which the applicants' common-law partner and father, Aurel Pardalian Lăcătuş, had been beaten to death by the crowd. Mr Lăcătuş' brother had also been beaten to death and another Roma man had been burnt to death when the house in which he was hiding had been set fire to by the crowd. The incident had occurred following a row in a bar in which a non-Roma man had been killed. In total 13 Roma houses in the village had been completely destroyed and many Roma, including Ms Lăcătuş who was pregnant at the time and Ms Speranţa-Lămâiţa Rostaş, had been hounded from their home and then obliged to live in crowded and unsuitable conditions. Relying in particular on Article 3 (prohibition of inhuman or degrading treatment) and Article 8 (right to respect for private and family life and the home), the applicants complained about the destruction of their home in September 1993 by the mob and the poor and cramped conditions in which they had been forced to live afterwards. Further relying on Article 6 § 1 (right to a fair trial), the applicants also complained in particular that the courts had failed to provide reasons for the difference in damages awarded to the three widows of the men killed during the attack. The applicants also submitted that the domestic courts and other official authorities had referred to them in disparaging and discriminatory terms in the course of the proceedings to which they had been a party, in breach of Article 14 (prohibition of discrimination) in conjunction with Articles 6 and 8.

Violation of Articles 3 and 8 (for the period after June 1994)

Violation of Article 6 § 1

Violation of Article 14 in conjunction with Articles 6 and 8 of the Convention

Just satisfaction: EUR 17,000 to Ms Voichiţa (Rostaş) Lăcătuş (pecuniary and non-pecuniary damage), EUR 11,000 to Ms Speranţa-Lămâiţa Rostaş (non-pecuniary damage) and 11,000 to Ms Rada-Codruţa Rostaş (non-pecuniary damage) and EUR 3,000 to the applicants jointly (costs and expenses)

Koroleva v. Russia (no. 1600/09)

Pyatkov v. Russia (no. 61767/08)

The cases concerned two Russian nationals who had been arrested in November 2006 on charges of drug trafficking and had spent more than three years in detention awaiting trial.

Both applicants, Yuliya Koroleva (born in 1980) and Yuriy Pyatkov (born in 1963), lived before their arrests in Ufa, Republic of Bashkortostan. In April 2011, they were convicted

of attempted drug trafficking and sentenced to eight and nine years' imprisonment respectively. They are currently detained in Ufa IZ -3/1 remand prison pending examination of their appeal against the conviction.

Relying in particular on Article 5 §§ 1, 3 and 4 (right to liberty and security), both applicants made a number of complaints about their pre-trial detention: namely that two periods of their pre-trial detention in 2008 and 2009 had been unlawful; that it had been excessively long; and, that there had been shortcomings in the proceedings for review of the lawfulness of their continued detention (notably the applicants' absence from the appeal hearings to decide on their continued detention and, in Ms Koroleva's case, the courts' failure at two hearings to address any of the grounds of appeal against certain detention orders).

Case of Ms Koroleva:

No violation of Article 5 § 1 (detention between 24 May and 17 August 2008)
Violation of Article 5 § 1 (detention between 17 August 2008 and 14 August 2009)
No violation of Article 5 § 1 (detention ordered by decision of 14 August 2009)
Violation of Article 5 § 3 (length of pre-trial detention)
Violation of Article 5 § 4 (absence from the appeal hearings)
No violation of Article 5 § 4 (scope of the review of the lawfulness of the detention)

Case of Mr Pyatkov:

Violation of Article 5 § 1 (detention between 17 November 2008 and 14 August 2009)
No violation of Article 5 § 1 (detention ordered by decision of 14 August 2009)
Violation of Article 5 § 3 (length of pre-trial detention)
Violation of Article 5 § 4 (absence from the appeal hearings)

Just satisfaction: EUR 10,000 to each applicant (non-pecuniary damage)

Koryak v. Russia (no. 24677/10)

The applicant, Igor Koryak, now deceased, was a Russian national who was born in 1961 (and lived before his arrest in the city of Orsk, Orenburg Region, Russia). He died in December 2011 in a correctional colony where he was serving a ten-year prison sentence for murder. Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment), he complained in particular – and his mother pursued this complaint on his death – that he had not received adequate medical care for tuberculosis and HIV/AIDS while in detention.

Violation of Article 3

Just satisfaction: EUR 20,000 (non-pecuniary damage)

Y.U. v. Russia (no. 41354/10)

The applicant, Ms Y.U., is a Russian national who was born in 1980 and lives in the town of Khimki, the Moscow Region. The case concerned a child custody dispute. Relying on Article 8 (right to respect for private and family life and the home), Ms Y.U. complained about the State's failure to enforce a court judgment of April 2009 ordering that her son, then aged four years and eight months, should live with her following the breakdown of her marriage. In April 2008 Ms Y.U.'s husband had thrown her out of the family home, keeping their son with him. She has had limited contact with her son ever since as he continues to live with his father, despite the domestic courts' ruling.

Violation of Article 8

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

I.G. and Others v. Slovakia (no. 15966/04)

The applicants, I.G., M.K. and R.H., are Slovakian nationals who were born in 1983, 1981, and 1972 respectively. R.H. died on 9 October 2010 and her three children have expressed the wish to pursue the application in her stead. The case concerned three women of Roma origin who complained in particular that they had been sterilised without their full and informed consent, that the authorities' ensuing investigation into their sterilisation had not been thorough, fair or effective and that their ethnic origin had played a decisive role in their sterilisation. They relied in particular on Article 3 (prohibition of torture and of inhuman or degrading treatment), Article 8 (right to respect for private and family life) and Article 13 (right to an effective remedy).

Violation of Article 3 (treatment – on account of the first and second applicants' sterilisation)

Violation of Article 3 (investigation – in respect of the first and second applicants)

Violation of Article 8 (in respect of the first and second applicants)

No violation of Article 13

As regards the third applicant, the Court decided to strike the application out of its list of cases, under Article 37 § 1 (c) of the Convention

Just satisfaction: EUR 28,500 to the first applicant and 27,000 to the second applicant (non-pecuniary damage) and EUR 4,000 to the first and second applicants each (costs and expenses)

M.M. v. the United Kingdom (no. 24029/07)

The applicant, Ms M.M., is a British national who was born in 1951 and lives in County Tyrone, Northern Ireland. Following a family dispute in April 2000, Ms M.M. received a caution for child abduction which she was told would remain on record for three years. This was subsequently extended to five years. However, in line with current policy and legislation on retention and disclosure of criminal record data, the caution will now be retained for life and can, in certain circumstances, be disclosed to prospective employers. Relying in particular on Article 8 (right to respect for private and family life), Ms M.M. complained about the indefinite retention and disclosure of her caution data and the impact of this on her employment prospects.

Violation of Article 8

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

Van Colle v. the United Kingdom (no. 7678/09)

The applicants, Irwin and Corine Van Colle, husband and wife, are British nationals who were born in 1945 and 1946, respectively, and live in Middlesex (England). The case concerned the murder of their son in 2000 by his former employee, who was the accused in criminal proceedings for theft in which their son had been a witness. Relying on Article 2 (right to life) and Article 8 (right to respect for private and family life), the applicants alleged that the police had failed in their duty to protect their son as they had been aware that his former employee had been threatening him.

No violation of Article 2

No violation of Article 8

Repetitive cases

The following case raised issues which have already been submitted to the Court.

Kaneva v. Bulgaria (no. 33606/05)

Violation of Article 5 § 1 (e)

Violation of Article 5 § 4

Violation of Article 5 § 5

Length-of-proceedings cases

In the following case, 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.

Bańczyk and Sztuka v. Poland (no. 20920/09)

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.