



Judgments concerning Albania, Austria, Bulgaria, Croatia, Georgia, Greece, Romania and Russia

The European Court of Human Rights has today notified in writing the following 10 judgments, of which one (in italics) is a Committee judgment and is final. The others are Chamber judgments¹ and are not final.

One repetitive case², 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 (*).

Qama v. Albania and Italy (application no. 4604/09)

The applicant, Flamur Qama, is an Albanian national who was born in 1960 and lives in Durrës (Albania). His late wife moved to Italy in 1999 with their son, born in 1994. Mr Qama joined them at a later point. After his wife's death, an Italian court granted Mr Qama's sister-in-law custody for the child in 2003, Mr Qama having been expelled from Italy in 2002 for lack of a residence permit. Relying in particular on Article 8 (right to respect for private and family life) of the European Convention on Human Rights, he complained that the Albanian and Italian authorities had not ensured his right of contact with his son, granted by an Albanian court in two decisions in 2006 and 2009.

No violation by Albania of Article 8
Complaint against Italy declared inadmissible

Efe v. Austria (no. 9134/06)

The applicant, Mehmet Efe, is an Austrian and Turkish national who was born in 1955. He has lived and worked in Vienna since 1989, while his children, born in 1978 and 1980 respectively, remained in Turkey. His case concerned the Austrian courts' refusal, in a decision which had become final in August 2005, to grant him family allowance for the period after 1996 – when a Social Security Agreement between Austria and Turkey was terminated – and the refusal to grant him tax credits for maintenance payments, because his children were not resident in Austria. He alleged in particular that this decision had breached Article 14 (prohibition of discrimination) of the Convention in conjunction with Article 1 of Protocol No. 1 (protection of property) to the Convention.

No violation of Article 14 combined with Article 1 of Protocol No. 1

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.

A.K. and L. v. Croatia (no. 37956/11)

The applicants, A.K. and her son L., are Croatian nationals who were born in 1987 and 2008 respectively. After his birth, L. was placed in a foster family - with Ms K.'s consent - on the ground in particular that she was unemployed and attended a special needs programme in school. Relying in particular on Article 8 (right to respect for private and family life), she complained that she had not been represented in subsequent court proceedings which had resulted in a decision divesting her of her parental rights, on the ground that she had a mild mental disability, and that her son had been put up for adoption without her knowledge, consent or participation in the adoption proceedings.

Violation of Article 8

Just satisfaction: EUR 12,500 (non-pecuniary damage) and EUR 2,000 (costs and expenses)

Jashi v. Georgia (no. 10799/06)

The applicant, Davit Jashi, is a Georgian national who was born in 1973 and is currently serving a prison sentence for a drug-related offence. Relying in particular on Article 3 (prohibition of inhuman or degrading treatment), he alleged that while in pre-trial detention he had not been provided with appropriate medical care for his mental health, cardiac and hepatic problems. In particular, he complained that a court decision during a preparatory hearing in January 2006 ordering his admission to a psychiatric hospital for examination had not been enforced. Instead he remained in prison, where he made repeated suicide attempts.

Violation of Article 3 (treatment for mental disorders)

No violation of Article 3 (treatment for cardiac and hepatic problems)

Just satisfaction: EUR 3,000 (non-pecuniary damage)

Dimitras and Others v. Greece (no. 3) (nos. 44077/09, 15369/10 and 41345/10)*

The applicants, Panayote Dimitras, Andrea Gilbert, Nikolaos Mylonas, Grigoris Vallianatos, Evangelia Vlami, Antonia Papadopoulou, Nafsika Papanikolatu and Dimitris Tsabrounis, are Greek nationals who were born respectively in 1953, 1947, 1958, 1956, 1961, 1977, 1955 and 1966 and live in Glyka Nera Attikis (Greece). As members of Greek Helsinki Monitor, a non-governmental organisation active in the field of human rights protection, they took part in 48 sets of criminal proceedings concerning human rights issues in 2009 and 2010. They complained about being obliged in the context of those proceedings to reveal their (non-Orthodox) religious convictions when taking the oath in court. They relied in particular on Articles 9 (right to freedom of thought, conscience and religion) and 13 (right to an effective remedy).

Violation of Article 9

Violation of Article 13

Just satisfaction: EUR 500 to the applicants jointly (costs and expenses)

Bucur and Toma v. Romania (no. 40238/02)*

The applicants, Constantin Bucur and Mircea Toma, both born in 1952, and Sorana Toma, born in 1985, are Romanian nationals who live in Bucharest. In 1996 Mr Bucur worked in the telephone communication monitoring department in a military unit of the

SRI (the Romanian intelligence service) based in Bucharest. Relying on Article 10 (freedom of expression), Mr Bucur complained about his criminal conviction for divulging information classified “top secret”. He had released audio cassettes at a press conference containing recordings of the telephone calls of several journalists and politicians, together with incriminating elements he had noted down in the register of conversations. Mr Bucur had first reported the incriminating remarks to his head of department, who had advised him to drop the allegations. Furthermore, under Article 6 (right to a fair trial), Mr Bucur alleged in particular that the principle of equality of arms had been breached at his trial and that the military courts had lacked independence and impartiality. The other two applicants, Mircea Toma, who worked on the editorial staff at the A.C. newspaper, and his daughter Sorana Toma, relying on Article 8 (right to respect for private and family life and correspondence), complained about the illegal interception of their telephone calls and the keeping of the recordings by the SRI. One of the cassettes Mr Bucur had made available to the press contained a conversation between Mircea Toma’s wife and daughter, recorded at his home. The three applicants also complained under Article 13 (right to an effective remedy) that they had had no effective remedy for their complaints in Romania.

Breach of obligation to cooperate with the Court under Article 38 (obligation to furnish necessary facilities for examination of the case)

Violation of Article 10 – as regards Constantin Bucur

Violation of Article 6 – as regards Constantin Bucur

Violation of Article 8 – as regards Mircea and Sorana Toma

Violation of Article 13 combined with Article 8 – as regards Mircea and Sorana Toma

Just satisfaction: EUR 20,000 to Constantin Bucur and EUR 7,800 each to Mircea and Sorana Toma (non-pecuniary damage) and EUR 7,955 to the three applicants jointly (costs and expenses)

Retunscaia v. Romania (no. 25251/04)

The applicant, Alisa Retunscaia, is a Moldovan national who was born in 1979 and lives in Chişinău (Moldova). In 2003, she was convicted in Romania of a number of drug-related offences and sentenced to six years’ imprisonment. In a second set of criminal proceedings on suspicion of related offences, the charges against her were eventually dismissed in 2005. Relying in particular on Article 3 (prohibition of inhuman or degrading treatment), she complained that she had been ill-treated during her pre-trial detention and that the conditions of that detention had been inadequate. In particular, she maintained that she had been transported to and from the court a number of times in an overcrowded van and that the courthouse cells were dirty and lacked ventilation.

Violation of Article 3 (conditions of transport and of detention in the courthouse cells)

Just satisfaction: EUR 3,000 (non-pecuniary damage)

S.C. Raisa M. Shipping S.R.L. v. Romania (no. 37576/05)*

The applicant company, S.C. Raisa M. Shipping S.R.L., is a shipping agent. It is represented before the Court by its sole shareholder and manager, Mrs Raisa Mocanu, a Romanian national. The case concerned proceedings brought by the applicant company against the River Administration of the Lower Danube Galati concerning the payment of river taxes. The applicant company complained in particular, under Article 6 § 1 (right to a fair hearing), of a breach of its right of access to court in the appeal proceedings, and in particular the way in which notice of the hearing before the Court of Cassation had been served.

Violation of Article 6 § 1

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

Reshetnyak v. Russia (no. 56027/10)

The applicant, Vitaliy Reshetnyak, is a Russian national who was born in 1979. In March 2006, he was convicted of aggravated robbery and sentenced to six and a half years' imprisonment, to be served in a medical correctional facility given that he suffered from tuberculosis. Relying on Article 3 (prohibition of inhuman or degrading treatment), he complained that he had not received adequate medical care in the facility, as a result of which his condition had deteriorated and he had become disabled, and that his detention conditions had been appalling, in particular because of overcrowding. Further relying on Article 13 (right to an effective remedy), he complained that he had not had an effective remedy for his complaints.

Violation of Article 13

Two violations of Article 3 (lack of adequate medical care + conditions of detention)

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

Repetitive case

The following cases raised issues which had already been submitted to the Court.

Nikolay Dimitrov v. Bulgaria (no. 2) (no. 30544/06)

Violation of Article 6 § 1

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court's press releases, please subscribe here: www.echr.coe.int/RSS/en.

Press contacts

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

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

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.