



Judgments concerning Austria, Russia, and Ukraine

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

One length-of-proceedings case, 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 (*).

The Court has also delivered today its judgments in the case of Reznik v. Russia (no. 4977/05), for which a separate press release has been issued.

C.B. v. Austria (application no. 30465/06)

The applicant, C.B., is an Austrian national who was born in 1966 and lives in Maria Enzersdorf (Austria). He was convicted of sexual abuse of minors and of drug-related offences, sentenced to two years' imprisonment and referred to an institution for mentally-ill offenders in a judgment which became final in March 2006. Relying on Article 6 §§ 1 and 3 (d) (right to a fair trial), he complained that the Austrian courts had wrongly assessed the opinion by a court-appointed expert, that the courts had refused to admit the opinion of an expert privately commissioned by Mr B., and that they had refused to allow that expert and three other persons to testify as witnesses.

No violation of Article 6 §§ 1 and 3 (d)

Julius Kloiber Schlachthof GmbH and Others v. Austria (nos. 21565/07, 21572/07, 21575/07, and 21580/07)

The applicants are four meat slaughter companies registered in Austria: Julius Kloiber Schlachthof GmbH, Fa. Pöll Günter, Pöll-Fleisch GmbH, and Schweinespezialbetrieb Innviertel GmbH. The case concerned their obligation, confirmed by court decisions in January 2007, to pay surcharges for non-payment of agricultural marketing charges (of between 10% and 60% of the unpaid contributions) to the national agricultural marketing board. Relying in particular on Article 6 § 1 (access to court / right to a fair hearing), they complained that there had been no tribunal decision in the payment order proceedings.

Violation of Article 6 § 1

Just satisfaction: EUR 3,679.44 to Julius Kloiber Schlachthof GmbH, EUR 3,402.32 to Fa. Pöll Günter, EUR 3,263.76 to Pöll-Fleisch GmbH, and EUR 5,504.20 to Schweinespezialbetrieb Innviertel GmbH (costs and expenses)

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

Ivakhnenko v. Russia (no. 12622/04)

The applicant, Aleksandr Ivakhnenko, is a Russian national who was born in 1960. He was convicted of murder and rape and sentenced to 21 years' imprisonment in a judgment which became final in December 2003. Relying on Article 3 (prohibition of inhuman or degrading treatment), he complained in particular of the conditions of his detention in a remand prison in Voronezh between August 2002 and December 2004. He alleged in particular that the cells had been severely overcrowded, so that he had not had an individual sleeping place, that he had suffered from extreme cold and heat, and that there had been no privacy when using the toilet.

Violation of Article 3 (conditions of detention)

Just satisfaction: EUR 6,250 (non-pecuniary damage)

Markaryan v. Russia (no. 12102/05)

The applicant, Vladimir Markaryan, is a Russian national who was born in 1976 and lived, prior to his arrest, in Shakhty, Rostov Region (Russia). He was convicted of a number of offences, including murder and the organisation of a criminal gang, and sentenced to 20 years' imprisonment in a judgment which became final in September 2004. Relying on Article 3 (prohibition of inhuman or degrading treatment), he complained that he had been ill-treated in police custody in May 2003 – alleging in particular that he had been brutally and repeatedly beaten by several police officers in order to make him confess to the murder – and that there had been no effective investigation into his complaints.

Two violations of Article 3 (ill-treatment + investigation)

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

Just Satisfaction

Tkachevy v. Russia (no. 35430/05)

The applicants, Viktor Tkachev and Elvira Tkacheva, husband and wife, are Russian nationals who were born in 1957 and 1966 respectively and live in Moscow. The case concerned their eviction in 2005 from a flat they had owned on Znamenka Street, in the historical area of Moscow near the Kremlin. They alleged in particular that the decision to expropriate the building in the public interest, first in order to expand the Moscow State Art Gallery and then because it had been dangerous, had not been genuine. They claimed that the building had since been repaired and had become a luxury residence. They relied in particular on Article 1 of Protocol No. 1 (protection of property). In its [judgment on the merits of 14 February 2012](#), the Court held that there had been a violation of Article 1 of Protocol No. 1 in that the expropriation of the applicants' flat in downtown Moscow had lacked a convincingly demonstrated public interest. Today's judgment concerned the question of just satisfaction (Article 41).

Just satisfaction: EUR 142,000 (pecuniary damage) and EUR 10,000 (non-pecuniary damage)

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 civil proceedings.

Tkachenko v. Ukraine (no. 1278/06)*

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.