



Judgments concerning Bulgaria, Hungary, Portugal, Romania, Switzerland, and Turkey

The European Court of Human Rights has today notified in writing the following 11 Chamber judgments¹, none of which is 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 (*).

The Court has also delivered today its judgment in the case of Aswat v. the United Kingdom (no. 17299/12), for which a separate press release has been issued.

Dimitar Shopov v. Bulgaria (application no. 17253/07)

The applicant, Dimitar Shopov, is a Bulgarian national who was born in 1959 and lives in the village of Ovchepoltsi (Bulgaria). In May 1991, he was involved in a fight in his village and was stabbed in the stomach with a knife. He was taken to hospital where he had an urgent operation. The criminal proceedings against his assailants were ultimately discontinued in September 2006 as the prosecution had become time-barred. Relying in particular on Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights, Mr Shopov complained that the criminal investigation into the assault against him had been ineffective.

Violation of Article 3

Just satisfaction: EUR 3,000 (non-pecuniary damage) and EUR 2,000 (costs and expenses)

Fazliyski v. Bulgaria (no. 40908/05)

The applicant, Krasimir Fazliyski, is a Bulgarian national who was born in 1962 and lives in Sofia. The case concerned Mr Fazliyski's dismissal in June 2003 from his post as an inspector for the Bulgarian security services. Relying in particular on Article 6 § 1 (right to a fair hearing) of the Convention, he complained that the judicial review proceedings in which he had challenged his dismissal had been unfair. He alleged in particular that the Supreme Administrative Court had refused to examine the psychological assessment – declaring him mentally unfit for work – which had prompted his dismissal and had not delivered its judgments on his case in public.

Two violations of Article 6 § 1 (refusal to examine the applicant's psychological assessment and judgments not delivered publicly)

Just satisfaction: EUR 1,500 (non-pecuniary damage)

¹ Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its 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.

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

Velev v. Bulgaria (no. 43531/08)

The applicant, Anton Velev, is a Bulgarian national who was born in 1979 and lives in Sofia. The case concerned Mr Velev's allegation that he had been beaten by police officers in order to make him confess to a robbery during his detention and interrogation in police custody from 21 to 24 March 2005. The criminal investigation into Mr Velev's allegations was discontinued in April 2008. In his subsequent civil action, he was however awarded compensation by a domestic court, which accepted that he had been ill-treated by police officers. Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Velev complained about the ill-treatment to which he had been subjected in police custody and the inadequacy of the ensuing criminal investigation.

Violation of Article 3 (inadequate investigation)

Just satisfaction: EUR 4,500 (non-pecuniary damage) and EUR 3,100 (costs and expenses)

A.B. v. Hungary (no. 33292/09)

The applicant, Mr A.B., is a Hungarian national who was born in 1975 and lives in Budapest. The case concerned Mr A.B.'s complaint about his pre-trial detention from January 2007 to December 2008 on charges of aggravated extortion as well as endorsement of and profiteering from prostitution when employed as a security guard. His detention was repeatedly prolonged due to risk of collusion and intimidation of witnesses. Relying on Article 5 §§ 3 and 4 (right to liberty and security), he complained about the excessive length of his pre-trial detention as well as about not being able to effectively challenge his detention because he had not been given access to relevant material in the investigation on his case.

Violation of Article 5 § 3

Violation of Article 5 § 4

Just satisfaction: EUR 6,000 (non-pecuniary damage) and EUR 4 500 (costs and expenses)

Rolim Comercial, S.A. v. Portugal (no. 16153/09)*

The applicant is a public company incorporated under Portuguese law whose registered office is in Cascais (Portugal). The company purchased 11,780 sq.m of land in Oeiras in October 1976. In May 1991 the Oeiras District Council had a viaduct, an approach road and a pedestrian crossing built on part of the land. The applicant company alleged that between 1994 and 1998 they had taken steps to reach a friendly settlement with the District Council, but had been unsuccessful because the latter had insisted that it had owned the land. In July 1998 the applicant company brought proceedings in the Lisbon Administrative Court, which declined jurisdiction. In February 2003 the applicant company sued the Oeiras District Council. The court allowed the company's claim in part. The District Council lodged an appeal and subsequently appealed on points of law to the Supreme Court, which held that there had been *de facto* expropriation and that the part of the applicant company's land in question was now State public property. Relying on Article 1 of Protocol No. 1 (protection of property), the applicant company alleged that it had been deprived of its property.

Violation of Article 1 of Protocol No. 1

Just satisfaction: The Court found that the question of just satisfaction was not ready for decision and reserved it for decision at a later stage.

Bernd v. Romania (no. 23456/04)*

The applicant, Siegle Bernd, is a German national who was born in 1969 and lives in Bierenbach (Germany). On 18 May 2002 M.A. entered Romania driving a vehicle belonging to Mr Bernd. During an inspection the administrative authorities noted that import customs duties had not been paid in respect of the vehicle, which had been offered for sale by a private commercial company at an automobile trade fair. The Regional Head Office of Customs imposed a fine on M.A. and confiscated the vehicle. Relying in particular on Article 6 § 1 (right to a fair hearing), Mr Bernd complained of a breach of the principle of legal certainty, on the ground that the Timis County Court had called into question the binding force of a final judgment that it had itself delivered on 8 June 2003 which had resulted in M.A. being acquitted.

Violation of Article 6 § 1

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

Bucureşteanu v. Romania (no. 20558/04)*

The applicants, Florea and Florin Bucureşteanu, who are father and son, are Romanian nationals who were born in 1953 and 1976 respectively and live in Târgovişte (Romania). On 12 August 2000 Florin Bucureşteanu was attacked by a number of people and urgently admitted to Bucharest Hospital. He needed about two months' treatment. On 29 August 2000 he lodged a criminal complaint with the public prosecutor's office against eight people. On 17 July 2006 Florea Bucureşteanu's home was attacked by members of a "gang" and a shoot-out occurred near the house. The first applicant was taken into police custody and charged with attempted murder and illegal possession of weapons. He was placed in pre-trial detention for a period that was subsequently renewed many times. Relying in particular on Article 3 (prohibition of inhuman or degrading treatment), Florin Bucureşteanu complained of the lack of a prompt and effective investigation into the attack perpetrated against him on 12 August 2000.

Violation of Article 3 (investigation) in respect of Florin Bucureşteanu

Just satisfaction: EUR 7,500 (non-pecuniary damage) and EUR 1,500 (costs and expenses) to Florin Bucureşteanu

Căşuneanu v. Romania (no. 22018/10)

The applicant, Costel Căşuneanu, is a Romanian national who was born in 1959 and lives in Oituz, Bacău (Romania). A former businessman, he held a number of contracts with the State for the rehabilitation of public roads. The case concerned his complaint about his pre-trial detention from 8 to 12 April 2010 on suspicion of trading in influence. Relying on Article 3 (prohibition of inhuman or degrading treatment), he complained in particular about the conditions of his detention for those five days, notably on account of overcrowding and poor hygiene. He further alleged under Article 8 (right to respect for private and family life and the home) that the authorities had leaked to the press excerpts from the prosecution file – and in particular, transcripts of telephone conversations intercepted during the official surveillance operation in his case. The case against Mr Căşuneanu is currently still under examination by the Romanian courts.

Violation of Article 3 (conditions of detention)

Violation of Article 8

Just satisfaction: EUR 4,000 (non-pecuniary damage)

Udeh v. Switzerland (no. 12020/09)*

The applicants are Kinsley Chike Udeh, a Nigerian national who was born in 1972 and lives in Switzerland, his ex-wife, Michèle Udeh, a Swiss national who was born in 1984, and their children, Naira Johanna Udeh and Uzoma Elisa Udeh, of dual Swiss and Nigerian nationality and born in 2003. Mr Udeh came to Switzerland in 2001 under a false identity, having previously been convicted in Austria of a drug-trafficking offence. The Swiss authorities rejected his application for asylum. He left Switzerland but returned in September 2003 and married a Swiss national, Michèle Udeh, with whom he had twin daughters the same year. In 2006 he was arrested in Germany for drug trafficking and sentenced to 3 years and 6 months' imprisonment. In 2008 he came back to Switzerland. In the meantime he has divorced his wife, and has had a third child with another Swiss national whom he wishes to marry. He has been subject to an expulsion order by the Swiss authorities since January 2009. Relying in particular on Article 8 (right to respect for private and family life), Mr Udeh claimed that if the decision refusing him a residence permit was enforced it would be impossible for him to have regular contact with his children, thus ruining his family life.

Violation of Article 8 (in the event of the applicants' expulsion to Nigeria)

Just satisfaction: EUR 9 000 to the applicants jointly (costs and expenses)

Meryem Çelik and Others v. Turkey (no. 3598/03)

The case concerned the alleged raid of the hamlet Ormancık in the Şemdinli district of Hakkari (south-east Turkey) by Turkish security forces on 24 July 1994. The applicants, Meryem Çelik, Zübeyda Uysal, Misrihan Seveli, Emine Çelik, Marya Çelik, Hamit Şengül, Fatma Şengül, Besna Seveli, Hanife İzci, Şakir Öztürk, Kimet Şengül, Hazima Çelik, Şekirnaz İnan and Hamayil İnan are 14 Turkish nationals of Kurdish ethnic origin who are the close relatives (wives, brothers and partners) of 13 people who had gone missing and one person who had allegedly been killed during the raid.

The applicants alleged that during the raid soldiers had ordered them to gather at the hamlet's main square. Hamayil İnan's husband was killed for refusing to obey. The men who had gathered were then stripped naked and beaten, some (their relatives) being put in military vehicles and taken away to the military base. The security forces then set fire to the applicants' houses and forced them to leave. Emine Çelik and Zübeyda Uysal, pregnant at the time, were beaten for protesting, following which they both had miscarriages.

According to the official version of events, there had been an armed clash between the security forces and the PKK (the Workers' Party of Kurdistan, an illegal organisation) in Ormancık that day, forcing the inhabitants to flee soon afterwards to Iraq.

Relying in particular on Article 2 (right to life) and Article 5 (right to liberty and security), the applicants alleged that the Turkish security forces had been responsible for the unlawful detention, disappearance and killing/presumed death of their relatives and that the authorities' ensuing investigation into their allegations had been ineffective. Further relying on Article 3 (prohibition of inhuman or degrading treatment), they also alleged their relatives' disappearance had caused them suffering and distress.

Violation of Article 2 (disappearance and presumed death of 12 of the applicants' relatives)

Violation of Article 2 (killing of one of the applicants' relatives)

Violation of Article 2 (ineffective investigation)

Violation of Article 5 (unlawful detention of 13 of the applicants' relatives)

Violation of Article 3 (suffering of 13 of the applicants due to the disappearance of their relatives)

Just satisfaction:

EUR 60,000 each to Meryem Çelik, Zübeyda Uysal, Misrihan Seveli, Emine Çelik, Marya Çelik, Fatma Şengül, Besna Seveli, Hanife İzci, Kimet Şengül, Hazima Çelik and Şekirnaz İnan (pecuniary damage);

EUR 65,000 to Meryem Çelik, Zübeyda Uysal, Misrihan Seveli, Emine Çelik, Marya Çelik, Fatma Şengül, Besna Seveli, Hanife İzci, Kimet Şengül, Hazima Çelik and Şekirnaz İnan, each (non-pecuniary damage);

EUR 32,500 each to Hamit Şengül and Şakir Öztürk (non-pecuniary damage);

EUR 20,000 to Hamayıl İnan (non-pecuniary damage);

and EUR 5,200 jointly to the applicants (costs and expenses)

Length-of-proceedings case

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 civil proceedings.

Associação de Investidores do Hotel Apartamento Neptuneo and 217 other applicants v. Portugal (no. 46336/09)*

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.