



## Judgments concerning Bulgaria, Montenegro, Poland, Romania, and Turkey

The European Court of Human Rights has today notified in writing the following 12 judgments, of which one (in *italics*) is a Committee judgment and is final. The others are Chamber judgments<sup>1</sup> and are not final.

One repetitive case<sup>2</sup> 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 (\*).

### Vasilev v. Bulgaria (application no. 7963/05)

The applicant, Ivan Stoyanov Vasilev, is a Bulgarian national who was born in 1959 and lives in Bourgas (Bulgaria). His employment as a police officer was terminated in June 2003 following his request for early retirement. According to Mr Vasilev, he had made that request against his will under threat of disciplinary dismissal for having allegedly failed to act with the requisite diligence when handling an incident involving a helicopter. Relying on Article 6 § 1 (right to a fair trial) of the European Convention on Human Rights, Mr Vasilev complained that the review proceedings before the Supreme Administrative Court, which eventually upheld the decision to terminate his employment in October 2004, had been unfair, as the court had refused to examine four witnesses in his favour.

#### Violation of Article 6 § 1

**Just satisfaction:** EUR 1,500 (non-pecuniary damage) and EUR 1,084 (costs and expenses)

### Vukelić v. Montenegro (no. 58258/09)

The applicant, Zvonimir Vukelić, is a Croatian national who was born in 1963 and lives in Skopje ("The former Yugoslav Republic of Macedonia"). The case concerned the non-enforcement of a judgment in his favour, which had become final in March 1997, ordering a private person to pay him compensation. Mr Vukelić complained that the non-enforcement violated his rights under Article 6 § 1 (right to a fair trial) of the Convention, alleging in particular that the authorities had been inactive for several long periods of time.

#### Violation of Article 6 § 1

The judgment is important in that the Court also finds that a request for review must, in principle and whenever available in accordance with the relevant legislation, be

<sup>1</sup> 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](http://www.coe.int/t/dghl/monitoring/execution)

<sup>2</sup> In which the Court has reached the same findings as in similar cases raising the same issues under the Convention.

considered an effective domestic remedy within the meaning of Article 35 § 1 of the Convention in respect of all applications introduced against Montenegro after the date when this judgment becomes final.

**Just satisfaction:** EUR 3,600 in respect of non-pecuniary damage.

### Kostecki v. Poland (no. 14932/09)

The applicant, Rafał Kostecki, is a Polish national who was born in 1974 and lives in Zambrów (Poland). He was convicted of drug trafficking and sentenced to five years and six months' imprisonment in a judgment which became final in June 2008. He complained that his trial had been unfair in that he had been unable to examine witnesses whose statements had served as the main basis for his conviction and 13 witnesses named by him had not been heard by the courts. He relied on Article 6 §§ 1 and 3 (d) (right to a fair trial and right to obtain attendance and examination of witnesses).

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

### Hanu v. Romania (no. 10890/04)

The applicant, Marius Hanu, is a Romanian national who was born in 1973 and lives in Constanța (Romania). Charged with bribery and abuse of power, Mr Hanu was initially acquitted by the first-instance court but subsequently convicted and sentenced to three years' imprisonment suspended in a judgment eventually upheld in July 2003. Relying on Article 6 § 1 (right to a fair trial), he complained that the proceedings against him had been unfair because the Romanian courts had not examined the evidence directly and had reached completely different conclusions on the basis of the same evidence.

**Violation of Article 6 § 1**

**Just satisfaction:** EUR 3,000 (non-pecuniary damage) and EUR 180 (costs and expenses)

### Iulian Popescu v. Romania (no. 24999/04)

The applicant, Iulian Popescu, is a Romanian national who was born in 1953 and lives in Bucharest. He was convicted of aiding and abetting an aggravated theft and sentenced to four years' imprisonment in a judgment eventually upheld in July 2004. Relying in particular on Article 34 (right of individual petition), he complained of being unable to obtain documents from his criminal file which had been relevant for his application with the European Court of Human Rights.

**Violation of Article 34**

**Just satisfaction:** no claim for just satisfaction made by the applicant

### Stelian Roșca v. Romania (no. 5543/06)\*

The applicant, Stelian Roșca, is a Romanian national who was born in 1940 and lives in Constanta. He was dismissed by his employer, the autonomous public transport authority, for repeated absence. In 2000, following a challenge, the county court overturned the decision to dismiss him and ordered that Mr Roșca be reinstated in his previous post. His employer refused to comply with the court's decision. On 18 October 2001, his employer asked the prosecutor's office to order that the applicant be hospitalised, citing its exasperation with the numerous judicial proceedings brought

against it or its senior managers by Mr Roşca. The prosecutor's office asked the forensic medicine institute on two occasions to examine the applicant. On the third occasion, the court ordered that a new psychiatric report be drawn up to assess his mental health. The institute found that the applicant had the necessary psychological capacity to evaluate the content and social and legal consequences of his own conduct and to determine his own interests completely autonomously. Relying in particular on Article 5 § 1 (right to liberty and security), Mr Roşca alleged that he had been unlawfully detained on three occasions for the purpose of unjustified psychiatric examinations. Relying on Article 5 § 5 (right to liberty and security), he complained that he had been unable to obtain compensation for the periods of unlawful detention. Lastly, relying on Article 13 (right to an effective remedy), the applicant complained that he had been denied an effective remedy to obtain acknowledgment of and redress for the serious and irreparable damage caused to his reputation by the authorities and his former employer.

**Violation of Article 5 § 1**

**Violation of Article 5 § 5**

**Violation of Article 13 in conjunction with Article 8**

**Just satisfaction:** EUR 15,600 (non-pecuniary damage) and EUR 1,500 (costs and expenses)

**Teodor v. Romania (no. 46878/06)\***

The applicant, Petru Constantin Teodor, is a Romanian national who was born in 1953 and lives in Bacau. On 24 April 2001 the commercial company which employed him as executive director lodged a complaint against the applicant and other company executives, accusing him of having issued forged documents for the purpose of obtaining reimbursement of expenses incurred whilst on business trips abroad. On 5 May 2005 the prosecutor's office decided to close the proceedings, finding that while there was no doubt that the applicant had used forged documents, the statute of limitations for those offences had expired. On 18 August 2005, the commercial company ended the suspension of the applicant's employment contract, but refused to pay his salary for the period covered by the suspension. Relying on Article 6 § 2 (presumption of innocence), Mr Teodor alleged that the courts had based their decision to dismiss his civil claims on a guilty verdict derived from the decision by the prosecutor's office not to pursue proceedings, issued in the context of criminal proceedings against him which had been closed on account of expiry of the statute of limitations.

**Violation of Article 6 § 2**

**Just satisfaction:** EUR 3,500 (non-pecuniary damage) and EUR 1,000 (costs and expenses)

**Çakır and Others v. Turkey (no. 25747/09)**

The applicants are 40 Turkish nationals, who were born between 1950 and 1985 and live in Sinop (Turkey). In 2005 and 2006, they brought separate sets of proceedings against their employer and, in judgments delivered in 2006, 2007 and 2008, they were awarded compensation for unpaid salaries. Relying in particular on Article 6 § 1 (right to a fair trial) of the Convention and Article 1 of Protocol No. 1 (protection of property) to the Convention, they complained that they had been unable to enforce the judgments in their favour, owing to the Turkish courts' refusal to provide them with copies of the judgments as the other party had failed to pay the required court fees.

**Violation of Article 6 § 1**

**Violation of Article 1 of Protocol No. 1**

**Just satisfaction:** no claim for just satisfaction made by the applicants

## Hikmet Yılmaz v. Turkey (no. 11022/05)

The applicant, Hikmet Yılmaz, is a Turkish national who was born in 1962 and lives in Belgium. In a judgment upheld in July 2004 the Turkish courts convicted him of membership of the PKK (the Kurdistan Workers' Party), an illegal organisation, and sentenced him to 12 years and six months' imprisonment. Relying in particular on Article 6 § 3 (c) (right to legal assistance of own choosing), he complained that he had been denied access to a lawyer during his police custody in June 2002.

### **Violation of Article 6 § 3 (c) in conjunction with Article 6 § 1**

**Just satisfaction:** EUR 1,500 (non-pecuniary damage) and EUR 1,000 (costs and expenses)

## Özalp Ulusoy v. Turkey (no. 9049/06)\*

The applicant, Güllü Özalp Ulusoy, is a Turkish national who was born in 1972 and lives in Istanbul. On 16 March 2004 the applicant and her husband took part in a demonstration in Istanbul to protest about murders committed in Syria and to commemorate the victims of the Halabja massacre of 1988 and also those of the explosion of 16 March 1978. Relying in particular on Article 3 (prohibition of torture and inhuman and degrading treatment), the applicant alleged that she had been ill-treated by the security forces as the demonstration was breaking up and complained of the inadequacy of the investigation conducted by the authorities. Relying also on Article 11 (freedom of assembly and association), she alleged that the police operation to break up the demonstration had constituted an infringement of her freedom to demonstrate.

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

### **Violation of Article 11**

**Just satisfaction:** EUR 5,000 (non-pecuniary damage)

## Rifat Demir v. Turkey (no. 24267/07)\*

The applicant, Rifat Demir, is a Turkish national who was born in 1973. He is currently held in Gümüşhane Prison. On 3 December 2001 he was arrested and placed in police custody in the context of an operation conducted against the illegal organisation Hizbullah. He was suspected of belonging to that organisation and of having committed crimes on its behalf. On 30 December 2009, the assize court convicted the applicant of the charges against him and sentenced him to life imprisonment. Relying in particular on Articles 5 § 3 (right to liberty and security) and 6 (right to a fair hearing), the applicant complained about the length of his pre-trial detention, and alleged that his case had not been tried within a reasonable time and that there had been no effective domestic remedy which would have enabled him to challenge the length of the criminal proceedings brought against him.

### **Violation of Article 5 § 3**

### **Violation of Article 6 § 1**

**Just satisfaction:** EUR 9,000 (non-pecuniary damage)

## Repetitive case

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

***Gridan and Others v. Romania*** (nos. 28237/03, 24386/04, 46124/07 and 33488/10)

The case concerned in particular the applicants' complaints about the quashing of final decisions in their favour by means of revision or of supervisory review. They relied on Article 6 (right to a fair trial) and Article 1 of Protocol No. 1 (protection of property).

**Violation of Article 6**

**Violation of Article 1 of Protocol No. 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.