



Judgments concerning Bulgaria, Italy, the Republic of Moldova, Poland, Portugal, Romania, Turkey, and the United Kingdom

The European Court of Human Rights has today notified in writing the following 17 judgments, of which five (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. The judgments in French are indicated with an asterisk (*).

The Court has also delivered today judgments in the cases of Nagla v. Latvia (no. 73469/10), Węgrzynowski and Smolczewski v. Poland (no. 33846/07), and Abdullah Yaşa and Others v. Turkey (no. 44827/08), for which separate press releases have been issued.

Hadzhigeorgievi v. Bulgaria (application no. 41064/05)

The applicants, Yanko, Dimitar and Ivan (now deceased) Hadzhigeorgievi, two brothers and their uncle, are Bulgarian nationals who were born in 1951, 1959 and 1924 respectively. Yanko Hadzhigeorgiev lives in Sofia and Dimitar Hadzhigeorgiev lives in Yakoruda (Bulgaria). The case concerned their complaint about the Bulgarian authorities' refusal to comply with a final court judgment of July 2000 restoring to them a plot of forestry land in the area of Yakoruda which had been expropriated from their ancestors. They relied on Article 1 of Protocol No. 1 (protection of property) to the European Convention on Human Rights.

Violation of Article 1 of Protocol No. 1 (in respect of Yanko and Dimitar Hadzhigeorgievi, application struck out in respect of Ivan Yankov Hadzhigeorgiev)

Just satisfaction: The Court held that the question of just satisfaction, insofar as it concerned the claims for pecuniary and non-pecuniary damage, was not ready for decision, and reserved it; it further held that Bulgaria was to pay Yanko and Dimitar Hadzhigeorgievi 1,079 euros (EUR) in respect of costs and expenses.

B. v. the Republic of Moldova (no. 61382/09)

Mudric v. the Republic of Moldova (no. 74839/10)

Both cases concerned domestic violence.

The applicants in the first case, Ms O. B., Mr V. B. and Mr I. B., a mother and her two sons, are Moldovan nationals who were born in 1959, 1987 and 1990 respectively and live in Chişinău. Ms O. B. divorced her husband in January 2007 due to repeated

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.

beatings and verbal abuse. The case concerned her complaint about the Moldovan authorities' failure to protect her from the repeated violent and abusive behaviour of her ex-husband, witnessed by her two sons, and in particular that in May 2009 the Moldovan courts refused to order his temporary eviction from the family apartment. They relied on Article 3 (prohibition of inhuman or degrading treatment) and Article 8 (right to respect for private and family life, the home and the correspondence) of the Convention.

The applicant in the second case, Lidia Mudric, is a Moldovan national who was born in 1939 and lives in Lipcani (Republic of Moldova). Divorced from her husband for 22 years, Ms Mudric alleged that in February 2010 her ex-husband broke into her house, beat her up and, moving in permanently, abused her until January 2011 when the police removed him. She alleged that the authorities had tolerated the abuse to which she had been subjected in her home, relying on her ex-husband's mental illness as an excuse for not enforcing the various court protection orders against him. She also alleged that the authorities had failed to apply domestic legislation intended to protect her against domestic violence, as a result of preconceived ideas concerning the role of women in the family. She relied in particular on Articles 3 (prohibition of inhuman or degrading treatment) and 14 (prohibition of discrimination).

Violation of Article 3 (positive obligations) – in both cases

Violation of Article 8 – in the case of *B.*

Violation of Article 14 in conjunction with Article 3 – in the case of *Mudric*

Just satisfaction: EUR 15,000 to Ms O.B. and Ms Mudric each in respect of non-pecuniary damage and EUR 3,000 to Ms O. B. and EUR 2,150 to Ms Mudric in respect of costs and expenses

Remuszko v. Poland (no. 1562/10)

The applicant, Stanisław Remuszko, is a Polish national who was born in 1948 and lives in Warsaw. He is a journalist and in 1999 he published a book – republished in 2003 – about the origins of *Gazeta Wyborcza*, one of the best known Polish daily newspapers, its journalists and the financial dealings of its publisher. He subsequently requested a number of daily and weekly newspapers to publish paid advertisements for the book. All refused. Relying in particular on Article 10 (freedom of expression), he complained that the Polish courts had endorsed *Rzeczpospolita's* (one of the newspapers) refusal to publish paid advertisements for his book.

No violation of Article 10

Bălteanu v. Romania (no. 142/04)

The applicant, Viorel Bălteanu, is a Romanian national who was born in 1973 and lives in Bucharest. The case concerned criminal proceedings brought against Mr Bălteanu, a traffic police officer, for corruption, and the use of transcripts of his recorded telephone conversations in those proceedings. As a result, in January 2003 Mr Bălteanu was arrested and placed in pre-trial detention for accepting a bribe. Relying in particular on Article 8 (right to respect for private and family life, the home and the correspondence), Mr Bălteanu complained that his conversations had been recorded without proper authorisation.

Violation of Article 8

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

Stoleriu v. Romania (no. 5002/05)*

The applicant, Mircea Stoleriu, is a Romanian national who was born in 1954 and lives in Suceava. The case concerned the ill-treatment to which he was allegedly subjected in detention and in hospital. On 9 April 2003 Mr Stoleriu, who was a chief superintendent of police at the time, was charged with several counts of corruption and trading in influence. Following an appeal on points of law he was sentenced to five years' imprisonment in May 2004, before being granted conditional release in August 2006. While in detention Mr Stoleriu was placed in cramped, overcrowded cells where he was subjected, among other things, to second-hand cigarette smoke and to violence from fellow inmates. He was also repeatedly forced to appear in public in handcuffs, including during court appearances. Eventually, owing to his deteriorating health, he was admitted to hospital, where he was handcuffed and chained to his bed throughout his stay. Mr Stoleriu alleged a violation of Article 3 (prohibition of inhuman or degrading treatment).

Violation of Article 3 – with regard to the conditions of detention from October 2004 to June 2006 in Botoşani prison and in the detention premises of the Suceava Tribunal's headquarters during his trial

Violation of Article 3 - with regard to Mr Stoleriu having been handcuffed and chained to his hospital bed in May 2005

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

Abik v. Turkey (no. 34783/07)*

The applicants, Ercan and Nimet Abik, are Turkish nationals who were born in 1969 and 1972 respectively and live in Adana. The case concerned the death of their son, F.A., who was shot and killed during a police incident. On 12 August 2006, after being informed that PKK supporters were staging unlawful demonstrations, four police officers from the Adana anti-terrorism unit caught F.A. and another young man in the process of distributing leaflets in support of the organisation. Despite the warnings issued by the members of the security forces, the two young men ran off and were wounded when shots were fired. On 16 August 2006 F.A. died from his wounds in Adana Hospital. An investigation was opened but the public prosecutor discontinued the proceedings in February 2007 for lack of sufficient evidence that the police officers had fired at F.A. An appeal against that decision lodged by Mr and Ms Abik was dismissed and the decision to discontinue the proceedings was upheld in March 2007. Relying on Article 2 (right to life), the applicants maintained in particular that their son had been killed by the security forces and that no effective investigation had been conducted in order to identify the persons responsible.

No violation of Article 2 (death of the applicants' son)

Violation of Article 2 (investigation)

Just satisfaction: EUR 5,000 to each of the applicants in respect of non-pecuniary damage and EUR 2,630 jointly to the applicants in respect of costs and expenses

Belek and Özkurt v. Turkey (no. 1544/07)*

The applicants, Ahmet Sami Belek and İsmail Muzaffer Özkurt, are Turkish nationals who were born in 1953 and 1978 respectively. They are the owner and editor-in-chief respectively of a daily newspaper based in Istanbul. They were each ordered to pay a fine for having published, in May 2004, statements made by the chairman of a branch of the PKK and, in March 2004, statements made by prisoners explaining why they had embarked on a hunger strike. Mr Belek and Mr Özkurt alleged mainly that their conviction had infringed Article 10 (freedom of expression).

Violation of Article 10

Just satisfaction: EUR 1,502 to Mr Belek and EUR 755 to Mr Özkurt in respect of pecuniary damage, EUR 3,000 each in respect of non-pecuniary damage and EUR 500 jointly to Mr Belek and Mr Özkurt in respect of costs and expenses

Mater v. Turkey (no. 54997/08)*

The applicant, Nadire Mater, is a Turkish national who was born in 1949 and lives in Istanbul. The case concerned a complaint she lodged regarding the virulent criticism expressed in a national newspaper following the publication in 1999 of a book she had written concerning the testimonies of former soldiers who had fought against the PKK. In August 2001, some months after Ms Mater and her editor had been acquitted of insulting the armed forces, a newspaper published a number of editorials directly questioning Ms Mater's integrity. The articles claimed in particular that her book had been funded by an American foundation with links to the CIA, with the aim of championing the cause of the PKK and denigrating the Turkish army. In October 2001 Ms Mater applied to the courts seeking compensation for the non-pecuniary damage she had allegedly sustained as a result of publication of the articles. Following lengthy proceedings her claim was eventually dismissed by the Turkish courts. The Court of Cassation upheld the judgment in 2008. Relying in particular on Article 8 (right to respect for private and family life), Ms Mater complained of the insulting nature of the articles in question and alleged that they had constituted an attack on her professional integrity.

No violation of Article 8

McCaughey and Others v. the United Kingdom (no. 43098/09)

Collette and Michael Hemsworth v. the United Kingdom (no. 58559/09)

Both cases concerned the death of the applicants' relatives at the hands of security forces in Northern Ireland.

The applicants in the first case, Brigid McCaughey³, Pat Grew and Letitia Quinn, are Irish nationals who were born in 1934, 1923 and 1990 respectively and live in County Tyrone (Northern Ireland). Brigid McCaughey's son, Martin McCaughey, and Pat Grew's and Letitia Quinn's son and father, respectively, Desmond Grew, were shot on 9 October 1990 by soldiers from a specialist unit of the British Army. The applicants complained that the use of lethal force had not been absolutely necessary in that the operation had not been planned so as to minimise the risk to life. They maintained that the post-operation investigation – which had not led to any prosecution – had lacked independence and had been ineffective. Finally, they complained that they had not had an effective remedy in respect of those complaints. They relied in particular on Article 2 (right to life) alone and in conjunction with Article 13 (right to an effective remedy).

The applicants in the second case, Collette Hemsworth and Michael Hemsworth, are Irish nationals who were born in 1961 and 1933, respectively and live in Belfast. The applicants' husband and son, respectively, John Hemsworth, died from a cerebral infarction in January 1998, after having sustained head injuries in a violent incident in Belfast in July 1997. According to the applicants, John Hemsworth was walking home at night when he was kicked and hit with a truncheon by police officers of the Royal Ulster

³ Following the adoption of the text of the judgment, the Court was notified that Ms Brigid McCaughey passed away in 2012.

Constabulary who were chasing other people. In May 2011, an inquest jury found that the injuries he sustained during the incident were most probably the cause of his death. So far, no criminal proceedings have been instituted. Relying on Article 2 (right to life) alone and in conjunction with Article 13 (right to an effective remedy), the applicants complained: that John Hemsworth had died as a result of having been assaulted by the police officers; that the investigation of the incident had been ineffective, in particular due to excessive delays in the inquest processes; and, that they had not had an effective remedy in respect of those complaints.

The Court **declared most of the applicants' complaints inadmissible** as premature and/or on the ground of a failure to exhaust domestic remedies because the investigations were still pending and domestic law required, since 2011, that those investigations be conducted in accordance with Article 2 of the Convention. The admissible complaints concerned the procedural aspect of Article 2 namely, the length of the investigations which had lasted for 23 years in the McCaughey case and 13 years in the Hemsworth case.

It held that there had been **a violation of Article 2 (procedural investigation obligations) in both cases on account of the excessive investigative delays.**

The Court further noted that the investigations, notably the holding of "legacy inquests", into killings by the security forces in Northern Ireland had been marked by major delays and that such delays remained a serious and extensive problem. It held under Article 46 (binding force and implementation) that all necessary and appropriate measures had to be taken in the present cases, and in similar cases where inquests were pending, to ensure that the procedural requirements of Article 2 were complied with expeditiously.

Just satisfaction: in respect of non-pecuniary damage EUR 20,000 to Collette and Michael Hemsworth; and, in respect of costs and expenses EUR 14,000 to Brigid McCaughey, Pat Grew and Letitia Quinn and EUR 11,000 to Collette and Michael Hemsworth.

Repetitive cases

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

Ramos Ferreira and Others v. Portugal (nos. 23321/11, 71007/11 and 71014/11)*

Relying on Article 1 or Protocol No. 1 (protection of property), the applicants alleged that the amount of final compensation awarded following an expropriation decision had not constituted fair compensation. They also complained of the delay in assessing and paying the compensation.

Violation of Article 1 or Protocol No. 1

Length-of-proceedings cases

In the following cases, the applicants complained in particular about the excessive length of civil proceedings.

Corrado and Others v. Italy (nos. 32850/02, 32852/02, 34367/02, 34369/02, 34371/02, 34372/02, 34376/02, 34378/02, 34381/02, 34382/02, and 34388/02)*

Fiocca v. Italy (no. 32968/02)*

Gagliardi v. Italy (no. 29385/03)*

Galasso and Others v. Italy (nos. 32740/02, 32742/02, 32743/02, 32748/02, and 32848/02)*

Violation of Article 6 § 1 in the four cases above

In the following case, the applicants complained in particular about the excessive length of criminal proceedings.

Aktaş and Kirtay v. Turkey (nos. 36463/08 and 53948/09)*

Violation of Article 6 § 1

Violation of Article 13 (right to an effective remedy)

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 or follow us on Twitter [@ECHR_Press](https://twitter.com/ECHR_Press).

Press contacts

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

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

Nina Salomon (tel: + 33 3 90 21 49 79)

Denis Lambert (tel: + 33 3 90 21 41 09)

Jean Conte (tel: + 33 3 90 21 58 77)

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.