



Judgments concerning Azerbaijan, Croatia, the Czech Republic, France, Greece, “The former Yugoslav Republic of Macedonia”, Russia, and Slovenia

The European Court of Human Rights has today notified in writing the following ten Chamber judgments¹, none of which is final. The judgments in French are indicated with an asterisk (*).

The Court has also delivered today judgments in the cases of Vosgien v. France (application no. 12430/11), I.B. v. Greece (no. 552/10), Abdulkhanov and Others v. Russia (no. 22782/06), Kasparov and Others v. Russia (no. 21613/07), and Shchokin v. Ukraine (no. 4299/03), for which separate press releases have been issued.

Tahirova v. Azerbaijan (application no. 47137/07)

The applicant, Surayya Musa gizi Tahirova, is an Azerbaijani national who was born in 1953 and lives in Sumgayit (Azerbaijan). The case concerned Ms Tahirova's allegation that she had been beaten by riot police on 26 November 2005 when demonstrators protesting about irregularities in the recently held parliamentary elections had been forcibly dispersed from Galaba Square in Baku. She was taken to hospital where she was diagnosed with blunt trauma and released the next day. Photographs of Ms Tahirova lying unconscious on the ground and surrounded by the police were published in various newspapers and other news outlets. Relying in particular on Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights, she alleged that the force used against her by the police had been unjustified and excessive and that the authorities' ensuing investigation into her allegations had been ineffective. She also alleged a violation of Article 11 (freedom of assembly and association), arguing that there had been no need for the police's violent interference in what had been a peaceful demonstration.

Violation of Article 3 (inhuman and degrading treatment) – as regards the ill-treatment by the police

Violation of Article 3 (procedure) – as regards the lack of an effective investigation into the applicant's allegations of ill-treatment

Violation of Article 11

Just satisfaction: EUR 11,000 (non-pecuniary damage) and EUR 2,650 less EUR 850 granted by way of legal aid (costs and expenses)

Zrilić v. Croatia (no. 46726/11)

The applicant, Slavica Zrilić, is a Croatian national who was born in 1958 and lives in Vinkovci (Croatia). The case concerned Ms Zrilić's complaint about the national courts' decision to order the partition by judicial sale of the house she owned jointly with her former husband following their divorce in May 2005. The house was sold to her former husband and, given a share in the sale, she was ordered to vacate the house in September 2012. Relying on Article 8 (right to respect for private and family life and the home) and Article 1 (protection of property) of Protocol No. 1 to the Convention, she argued in particular that she had built the house with her former husband and lived there for a number of years, even after the divorce, and contested the courts' refusal to order the

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

house to be divided into two flats. She also contested the value of her share, which was not sufficient for her to buy another suitable flat.

No violation of Article 8

No violation of Article 1 of Protocol No. 1

Žáková v. the Czech Republic (no. 2000/09)

The applicant, Sylvie Žáková, is a Czech national who was born in 1938 and lives in Landshut, Germany. She emigrated in 1968 from the then Czechoslovakia and in the 1970s all her property there – consisting in particular of one plot of land in the cadastral area of Třebíč - was seized by the communist regime. In 1991 the decisions on the seizure were declared null and void and Ms Žáková started renting the land to a municipality. Relying on Article 1 (protection of property) of Protocol No. 1, she complained that in 1997 the Land Register entered the municipality as the sole owner of the property and, as a result, she effectively lost the ownership to the land. According to Ms Žáková, she had been registered as the sole owner of the land without interruption from 1960 until 1997. The Government maintained that she had lost ownership of the land in a decision of 1971 which had found her guilty of the offence of fleeing Czechoslovakia and that, after that, she had been registered as owner only as a result of a mistake.

Violation of Article 1 of Protocol No. 1

Just satisfaction: The Court held that the question of the application of Article 41 (just satisfaction) of the Convention was not ready for decision and reserved it.

Douet v. France (no. 16705/10)*

The applicant, Gilbert Douet, is a French national who was born in 1951 and lives in Nonette (France). In August 2005, when driving at night on a country road, Mr Douet made a sudden about-turn on seeing a police car, which then gave chase. The case concerned his complaint that he had been subjected to violence when stopped and arrested. The Clermont-Ferrand *tribunal de grande instance* imposed a suspended sentence of 4 months' imprisonment, suspended his driving licence for 5 months and fined him three hundred euros for having offered violent resistance to the two gendarmes, knowingly failed to obey an order to stop, driven under the influence of alcohol and having failed to stop his vehicle at a stop sign. He appealed and was acquitted of forceful resistance. In turn, the applicant lodged a complaint concerning the violence to which he was allegedly subjected during his arrest. His complaint was set aside as requiring no further action. Relying on Article 3 (prohibition of inhuman and degrading treatment), the applicant complained about the injuries inflicted by the gendarmes. He considered that the use of force against him was neither necessary nor proportionate.

Violation of Article 3 – on the fact that the Government have failed to prove that the use of force against the applicant had been both proportionate and necessary

Just satisfaction: EUR 15,000 (non-pecuniary damage) and EUR 7,000 (costs and expenses)

Giavi v. Greece (no. 25816/09)*

The applicant, Aggeliki Giavi, is a Greek national who was born in 1931 and lives in Glyka Nera. The case concerned unpaid wage supplements and allowances. In June 1997 Ms Giavi, then a cleaner at the West Attica General Hospital, brought proceedings against the hospital to claim 80,449.75 euros, which corresponded to wage supplements and allowances which had allegedly not been paid, and the interest due on that sum. The court dismissed her action on the ground that the wages scheme for public hospital employees did not apply to the applicant's contractual position, which had been

changed. Ms Giavi lodged an appeal and the court of appeal partly quashed the judgment and awarded the applicant some of the amount she had claimed. On 10 September 2001 she lodged an appeal on points of law. Relying on Article 1 of Protocol No. 1 (protection of property) taken together with Article 14 (prohibition of discrimination), Ms Giavi complained that setting shorter time-limits for claims by employees of public entities as compared to those applicable to State or private employees had deprived her of some of the unpaid wage supplements and allowances, without this being justified by a public-interest aim.

No violation of Article 1 of Protocol No. 1 taken together with Article 14

Iljazi v. “The former Yugoslav Republic of Macedonia” (no. 56539/08)

The applicant, Mensur Iljazi, is a Macedonian national who was born in 1962 and lives in Skopje. The case concerned his conviction for drug trafficking. In May 2007, customs officers found a consignment of heroin in his truck. Mr Iljazi maintained that he did not load the goods himself, he did not witness the goods being loaded and he was not aware of their contents. At trial he attempted to obtain two statements from witnesses present at the loading, which he claimed corroborated his account of events. His request to obtain these documents was denied by the court, which also made no attempt to make the witnesses attend. In July 2007, he was convicted of drug trafficking, and sentenced to five years and three months’ imprisonment, the judgment being eventually upheld by the Supreme Court in April 2008. Relying on Article 6 §§ 1 and 3 (d) (right to a fair trial / right to obtain attendance and examination of witnesses), he complained of the national courts’ refusal to admit the statements of and to ensure the attendance of the witnesses in his defence.

Violation of Article 6 §§ 1 and 3 (d)

Just satisfaction: EUR 2,400 (non-pecuniary damage)

Arapkhanov v. Russia (no. 2215/05)

The applicants in this case are ten Russian nationals born between 1933 and 2000 who live in the village of Galashki, Sunzhenskiy District, the Republic of Ingushetia (Russia). They are the wife, cousin, children and mother of Beslan Arapkhanov, who was killed during a search of his house on 20 July 2004 by a group of servicemen of the Russian Federal Security Service (FSB), which according to the Russian Government was conducted in order to find members of illegal armed groups. The second applicant, Beslan Arapkhanov’s cousin, was severely beaten and injured by the servicemen. Relying in particular on Article 2 (right to life), the applicants complained of Beslan Arapkhanov’s killing and of the authorities’ ensuing failure to carry out an effective investigation. Relying on Article 3 (prohibition of inhuman or degrading treatment), the second applicant complained of having been ill-treated by State officials and of the authorities’ failure to carry out an effective investigation of the incident. Under the same article, all applicants complained that, as a result of their relative’s killing and the lack of a proper investigation, they had endured profound mental suffering. They further maintained that the search of their home had been in breach of their rights under Article 8 (right to respect for private and family life and the home). Finally, under Article 13 (right to an effective remedy), the applicants complained that they had been deprived of effective remedies in respect of their rights under Articles 2, 3 and 8.

Violation of Article 2 – in respect of the killing of Beslan Arapkhanov

Violation of Article 2 (procedure) – in respect of the failure to conduct an effective investigation into the circumstances of the killing of Beslan Arapkhanov

Violation of Article 3 (inhuman and degrading treatment) in respect of the second applicant – on account of his ill-treatment by State servicemen

Violation of Article 3 (procedure) – in respect of the failure to conduct an effective investigation into the ill-treatment of the second applicant

No violation of Article 3 in respect of all the applicants – on account of their mental suffering

Violation of Article 8 in respect of the first and fourth to tenth applicants – on account of the search of their home

Violation of Article 13 in conjunction with Article 2 in respect of the killing of Beslan Arapkhonov

Violation of Article 13 in conjunction with Article 3 in respect of the ill-treatment of the second applicant

Violation of Article 13 in conjunction with Article 8 on account of the search of the first and fourth to tenth applicants' home

Just satisfaction: EUR 5,000 to the first and fourth to tenth applicants' jointly, in respect of pecuniary damage; EUR 60,000 to the first and third to tenth applicants' jointly and EUR 3,000 to the second applicant, in respect of non-pecuniary damage; and EUR 5,000 to the applicants jointly, in respect of costs and expenses

Nizomkhon Dzhurayev v. Russia (no. 31890/11)

The applicant, Nizomkhon Dzhurayev, is a Tajik national who was born in 1967. He is a former elected member of the Sughd Regional Assembly in Tajikistan and was a prominent businessman. According to his submissions, he fled to the United Arab Emirates from Tajikistan in June 2007 after the authorities there had started to interfere with his business and he had survived an assassination attempt. Having arrived in Russia in August 2010, he was arrested and detained in Moscow with a view to extradition to Tajikistan where he was being prosecuted on charges of, in particular, misappropriation, embezzlement and money laundering. His detention pending extradition was extended on several occasions. In May 2011 the European Court of Human Rights indicated (under Rule 39 of the Rules of Court - interim measures) to the Russian Government that no extradition should take place until further notice. According to the Russian Government, on 29 March 2012 Mr Dzhurayev was released from the remand centre in the Moscow Region and immediately travelled to Tajikistan of his own will in order to surrender to the Tajik authorities who put him in police custody. Originally complaining that Mr Dzhurayev's extradition would put him at risk of ill-treatment in Tajikistan, his representative now also maintained that he had forcibly been transferred from Moscow to Tajikistan with the involvement of the Russian authorities. He relied in particular on Article 3 (prohibition of torture and of inhuman or degrading treatment). He also complained that by aiding Mr Dzhurayev's repatriation to Tajikistan despite the interim measures issued by the European Court of Human Rights the Russian authorities had breached their obligation under Article 34 (right of individual petition). Finally, Mr Dzhurayev complained of a violation of Article 5 § 4 (right to have lawfulness of detention decided speedily by a court) on account of delays in examining his appeals against the decisions to detain him and to extend his detention.

Violation of Article 3 – on account of the applicant's forced repatriation to Tajikistan

Violation of Article 5 § 4 – on account of the delay in examining the applicant's appeals against the detention order of 21 February 2011

Violation of Article 34 – on account of the State's failure to comply with the interim measures issued by the Court

Violation of Article 38 (examination of the case) – on account of the State's failure to comply with its duty to furnish all necessary facilities for effective examination of the application by the Court

Violation of Article 5 § 4 (right to have lawfulness of detention decided speedily by a court) on account of the delay in examining the applicant's appeals against the detention order of 21 February 2011

Just satisfaction: EUR 30,000 (non-pecuniary damage) and EUR 13,900 (costs and expenses)

Zelenevy v. Russia (no. 59913/11)*

The applicants, Yeleneva Zeleneva and Nicolay Zelenev, are Russian nationals who were born in 1976 and 2010 and live in Moscow and Osseyevo. Ms Zeleneva married in February 2010. She had a son, Nicolay (the second applicant), from that marriage. On 14 July 2010 Ms Zeleneva's husband chased her from the family home, keeping the baby, and forbade her to have any contact with the child. On 2 August 2010 Ms Zeleneva brought proceedings for divorce and applied to have her home established as the child's place of residence. On 30 November 2010 the court dissolved the marriage and ordered that the child reside at the mother's home. Three attempts to enforce that judgment were unsuccessful. Relying in particular on 8 (right to respect for private and family life), the applicants alleged that the national authorities had failed to implement the judgments ordering that Nicolay Zelenev lived at his mother's home.

Violation of Article 8

Just satisfaction: EUR 10,000 to the applicants jointly (non-pecuniary damage)

Gobec v. Slovenia (no. 7233/04)

The applicant, Leon Gobec, is a Slovenian national who was born in 1953 and lives in Maribor (Slovenia). The case concerned the contact arrangements between Mr Gobec and his daughter, who lived with his former wife. In the divorce proceedings in 2002, his former wife was granted full custody of the child and the court did not make a decision regarding contact between Mr Gobec and his daughter, as he and his former wife had come to an agreement. Over the following years the contact between Mr Gobec and his daughter was highly limited, however, as the latter developed an increasingly negative attitude towards him. He unsuccessfully attempted to obtain greater contact through the social centres and eventually lodged a motion before the courts for a contact schedule to be established, which was ultimately rejected in September 2008. Mr Gobec complained of a violation of Article 8 (right to respect for private and family life) in particular on account of the restriction and suspension of his contact rights and the non-enforcement of the contact schedule by the social centres. Relying on Article 6 (right to a fair trial / access to court), he complained of having been denied access to court, as his contact rights had largely been determined by the social centres. Finally, he relied on Article 14 (prohibition of discrimination), complaining that he had been discriminated against on the grounds that he and his former wife lived separately.

No violation of Article 8

No violation of Article 6 taken alone and in conjunction with Article 14

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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.