EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Press Release
issued by the Registrar of the Court

ECHR 288 (2013)
08.10.2013

# Judgments concerning Hungary, Romania, Slovakia, Serbia, Spain, and Turkey

The European Court of Human Rights has today notified in writing the following 11 judgments, of which nine (in italics) are Committee judgments and are final. The other two are Chamber judgments[1] and are not final.

Repetitive cases[2] 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 Haxhia v. Albania (application no. 29861/03) and Mulosmani v. Albania (no. 29864/03), Ricci v. Italy (no. 30210/06) and Cumhuriyet Vakfı and Others v. Turkey (no. 28255/07), for which separate press releases have been issued.*

## Pejčić v. Serbia (application no. 34799/07)

The applicant, Blagoja Pejčić, is a Serbian and Croatian national who was born in 1925 and lives in Novi Sad (Serbia). He was a military officer for the armed forces of the former Socialist Federal Republic of Yugoslavia ("the SFRY") until his retirement in 1973. The case concerned his pension entitlements. Relying in particular on Article 1 of Protocol No. 1 to the European Convention on Human Rights (protection of property), he complained notably that Serbia had refused to reinstate payment of his military pension which he had lost in March 2004 following his moving from Croatia to Serbia. He lodged a request with the Serbian courts in November 2004 for reinstatement of his pension, which they rejected on the grounds that it was the Croatian pension fund's responsibility, and instructing him to move to Croatia. His appeal to the Supreme Court was ultimately rejected in February 2011 and his constitutional complaint is apparently still pending. More recently, the Novi Sad branch of the pension fund, following changes in the pension system, established that he had the right to pension payments as of 1 January 2012. Mr Pejčić alleged in particular that after the dissolution of the SFRY the newly formed states had signed an agreement on succession issues which, entering into force in June 2004, clearly defined responsibility for payment of military pensions between the successor states. He argued that under this agreement, as a citizen of more than one republic of the former SFRY, his pension should be paid by Serbia, which is the State where he currently resides. He also alleged under Article 6 § 1 (right to a fair hearing within a reasonable time) of the Convention that the length of the related proceedings, lasting more than eight years, had been excessive.

**Violation of Article 1 of Protocol No. 1**
**Violation of Article 6**

**Just satisfaction**: EUR 3,900 (non-pecuniary damage), and EUR 4,335 (costs and expenses). The Court further held that Serbia was to pay the applicant, on account of the pecuniary damage suffered, his pension due from 2 June 2004 until 31 December 2011.

[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.

## Roman Zurdo and Others v. Spain (nos. 28399/09 and 51135/09)*

The applicants, Román Zurdo, González Carrasco and Calle Arcal, are Spanish nationals who were born in 1942, 1949 and 1937 respectively. The first and second applicants live in Marbella, and the third in Madrid. They complained that they had been convicted on appeal without having been heard personally, and alleged that their conviction had been based on a fresh assessment of points of facts already declared established by the first-instance courts, and on evidence adduced before those courts. On an unspecified date, the public prosecutor brought proceedings against several municipal councillors in Marbella, including the applicants, the presumed perpetrators of offences related to regional planning. Acquitted by a judgment issued in 2006 after a public hearing during which the applicants were questioned, they were convicted on appeal by a 2007 judgment of the *Audiencia Provincial*, sentenced to a prison term and prohibited temporarily from exercising their functions as municipal councillors. At the hearing before the *Audiencia*, the applicants were not questioned. The *amparo* appeals lodged by Román Zurdo on the one hand, and by González Carrasco and Calle Arcal on the other, were dismissed by the Constitutional Court in 2008 and 2009 respectively. Relying on Article 6 § 1 (right to a fair trial) of the Convention, the applicants alleged in particular that there had been a violation of the principle of immediacy in the proceedings before the *Audiencia Provincial*.

**Violation of Article 6 § 1**

**Just satisfaction**: EUR 8,000 (non-pecuniary damage) to each applicant

## Repetitive cases

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

***Nieto Macero v. Spain*** (no. 26234/12)*

The applicant in this case, relying on Article 6 § 1 (right to a fair trial), complained that the Spanish courts had carried out a fresh assessment of facts declared established in criminal proceedings, without respecting the principle of immediacy.

**Violation of Article 6 § 1**

***Kuzu and Abay v. Turkey*** (no. 17403/10)*

The applicants in this case, relying in particular on Article 5 §§ 3 and 5 (right to liberty and security), complained about the excessive length of their pre-trial detention and the absence of an effective remedy to contest that detention and obtain compensation. Relying in particular on Article 6 § 1 (right to a fair trial within a reasonable time), they also alleged that their case had not been examined within a reasonable time.

**Violation of Article 5 §§ 3 and 5**
**Violation of Article 6 § 1**

## Length-of-proceedings cases

In the following cases, the applicants complained in particular under Article 6 § 1 (right to a fair hearing within a reasonable time) about the excessive length of non-criminal proceedings.

***Agrola Trade Kft. v. Hungary*** (no. 8034/07)
***Müller v. Hungary*** (no. 62930/12)
***Vargáné Fekete v. Hungary*** (no. 27618/10)
***Pauli v. Romania*** (no. 26080/04)*
***Bednár v. Slovakia*** (no. 64023/09)
***Frigo v. Slovakia*** (no. 16111/11)

***Klinovská v. Slovakia*** (no. 61436/09)

**Violation of Article 6 § 1** – in the seven cases
**Violation of Article 13 in conjunction with Article 6 § 1** – in the case of *Agrola Trade Kft. v. Hungary*
**Violation of Article 13** – in the cases of *Bednár v. Slovakia* and *Klinovská v. Slovakia*

---



**Press contacts**
echrpress@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)