



Judgments concerning Italy, the Republic of Moldova, Poland, Romania, Serbia, and Turkey

The European Court of Human Rights has today notified in writing the following 12 Chamber judgments¹, none of which is final.

Repetitive cases², 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 Gutsanovi v. Bulgaria (application no. 34529/10), for which a separate press release has been issued.

Casacchia and Others v. Italy (nos. 23658/07, 24941/07 and 25724/07) Natale and Others v. Italy (no. 19264/07)

These two cases concerned legislative amendments which had affected pending civil proceedings that the applicants, retired employees of the Banco Di Napoli, had brought concerning their pension adjustments following the privatisation of public banks (such as the Banco Di Napoli) in 1990.

The applicants in the first case are 15 Italian nationals who were born between 1922 and 1974 and live in Isernia, Bisceglie, Lecce, Maglie, Turin, Reggio Calabria, Foggia, Rome, Naples, Scafati, and Pompei (Italy).

The applicants in the second case are 16 Italian nationals who were born between 1913 and 1969 and live in Bologna, Fano, Casalecchio di Reno, Rastignano di Pianoro, Monterenzio, and Pianoro (Italy).

Relying in particular on Article 6 § 1 (right to a fair hearing) of the European Convention on Human Rights, the applicants alleged that the amendments had amounted to legislative interference with their pending disputes before the Italian courts which had not respected the principle of equality of arms.

Violation of Article 6 § 1

Just satisfaction:

In the case of *Casacchia and Others*: The Court awarded each applicant, individually, a sum of between EUR 5,500 and EUR 15,000 in respect of pecuniary and non-pecuniary damage; and, per application, a sum of between EUR 15,000 and EUR 28,000 in respect of costs and expenses.

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.

In the case of *Natale and Others*: The Court awarded each applicant, individually, a sum of between EUR 6,500 and EUR 20,500 in respect of pecuniary and non-pecuniary damage; and EUR 35,000 to all applicants jointly in respect of costs and expenses.

Segheti v. the Republic of Moldova (no. 39584/07)

The applicant, Ionel Segheti, is a Romanian national who was born in 1960 and lives in Cricova (the Republic of Moldova). The case concerned Mr Segheti's complaint about inhuman conditions of detention in prisons in Chişinău and Cricova following his arrest in April 2005 on suspicion of making false accusations. He was subsequently convicted and sentenced to eight years' imprisonment. Relying on Article 3 (prohibition of inhuman or degrading treatment) and Article 13 (right to an effective remedy), he notably alleged poor sanitary conditions, with vermin in his cell as well as a foul-smelling toilet, and poor quantity and quality of food.

Violation of Article 3

Violation of Article 13

Just satisfaction: EUR 5,000 (non-pecuniary damage) and EUR 1,500 (costs and expenses)

Timus and Tarus v. the Republic of Moldova (no. 70077/11)

The applicants, Serghei Timus and Victoria Tarus, are Moldovan nationals who were born in 1990 and 1989 respectively and live in Chişinău. The case concerned the killing of the applicants' brother, Alexei Vlasi, on 14 March 2009 during a police operation at an apartment block to arrest a suspect of armed robbery. According to the police officers involved, they thought Alexei Vlasi was the suspect they were after and, when trying to apprehend him, one of the officers was stabbed by him and shot him in self-defense. The applicants alleged that their brother, who was not armed, was beaten by police officers and then shot in the back of his head at close-range. Relying in particular on Article 2 (right to life) and Article 13 (right to an effective remedy), the applicants complained about the police ill-treating and killing their brother and that the authorities' ensuing investigation into his death had been ineffective.

Violation of Article 2 (right to life and investigation)

Violation of Article 13 in conjunction with Article 2

Just satisfaction: EUR 25,000 (non-pecuniary damage) to each applicant and EUR 3,000 (costs and expenses) to the applicants jointly

Just satisfaction

Plechanow v. Poland (no. 22279/04)*

The applicants, Jerzy Plechanow, Ariadna Plechanow and Andrzej Plechanow, are Polish nationals who were born respectively in 1953, 1924 and 1955 and live in Warsaw. Relying mainly on Article 1 of Protocol No. 1 (protection of property), they alleged that the decisions dismissing their claims for compensation with regard to the expropriation of their property had been unfair. In its judgment on the merits of 7 July 2009 the Court held that the applicants, who had been adversely affected by national administrative reforms, the inconsistency of the domestic law and case-law and the lack of legal certainty, had been unable to secure adequate compensation for the damage they had sustained. Today's judgment concerned the question of just satisfaction (Article 41 of the Convention).

Just satisfaction: The Court decided to strike out the part of the case concerning Article 41, pursuant to Article 37 (striking out applications) of the Convention.

Ali v. Romania (no. 30595/09)

The applicant, Ahmad Ali, is a Syrian national who was born in 1962. The case concerned Mr Ali's complaint about the conditions of his detention in Jilava Prison where he had been transferred in December 2008 to serve a 13-year prison sentence for drug trafficking. Relying on Article 3 (prohibition of inhuman or degrading treatment), he complained in particular of overcrowding and poor hygiene in the cells in which he had been detained.

Violation of Article 3 – on account of the applicant's conditions of detention in Jilava Prison

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

Şandru v. Romania (no. 33882/05)

The applicant, Alexandru Şandru, is a Romanian national who was born in 1985 and lives in Râmnicu Vâlcea (Romania). The case concerned his trial for rape in 2006, and his pre-trial detention. On 8 April 2005 he was arrested and detained. He was held in pre-trial detention until 31 March 2006, when he was convicted and sentenced to 2 years and 6 months' imprisonment. Mr Şandru appealed both the conviction and the sentence. However, the prosecutor and victim also appealed the sentence, and in September 2006 an appeal court upheld the conviction, while increasing the sentence to seven years' imprisonment. Mr Şandru relied in particular on Article 5 § 4 (right to have lawfulness of detention decided speedily by a court) to complain that, when the Romanian courts had periodically reviewed his pre-trial detention in July and August 2005 he had not been legally represented, and on other such occasions he had not been brought before the court. He further relied on Article 6 (right to a fair trial and right to obtain attendance and examination of witnesses), to complain that his trial, sentence and subsequent appeals had been unfair since he had not been provided with an opportunity to question the victim.

Violation of Article 5 § 4 – with respect to the court hearings in July and August 2005

Violation of Article 6 §§ 1 and 3 (d) – on account of the impossibility for the applicant to confront the victim

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

Hüseyin Kaplan v. Turkey (no. 20070/08)*

The applicant, Hüseyin Kaplan, is a Turkish national who was born in 1959 and lives in Istanbul. The case concerned the death of his son, Şenal Kaplan, who was born on 18 September 1986 and died on 19 September 2006 while performing his compulsory military service. While he was on guard duty at a gendarmerie station in Bayır (Diyarbakır-Kulp), Şenal Kaplan was found with serious firearms injuries. He was taken immediately by helicopter to hospital, where he died. Mr Kaplan contended that his son had been killed since, in his view, he would have had no reason to commit suicide. Relying on Article 2 (right to life), Mr Kaplan maintained that the exact circumstances of his son's death had not been properly elucidated owing to the lack of an independent and impartial criminal investigation.

Violation of Article 2 (investigation)

Just satisfaction: The applicant did not submit a claim for just satisfaction.

İbrahim Güler v. Turkey (no. 1942/08)

The applicant, İbrahim Güler, is a Turkish national who was born in 1973 and is currently serving a prison sentence in Diyarbakır (Turkey). The case concerned the criminal proceedings brought against Mr Güler for attempting to undermine the constitutional order of the state and his pre-trial

detention. On 5 November 1996 Mr Güler was taken into police custody, during an operation against *Hizbullah*. In the absence of a lawyer, he was questioned about his relationship and activities with the organisation. Mr Güler accepted the allegations made against him, and he was ordered into pre-trial detention. He later retracted his statement, claiming that he had been tortured and threatened while in police custody. In March 2005 he was convicted, and this was upheld on final appeal in January 2009. Mr Güler relied on Article 5 (right to liberty and security) and Article 6 (right to a fair trial) to complain that both his pre-trial detention and the proceedings as a whole had been excessively long, and that he had been denied access to a lawyer when being questioned by the police.

Violation of Article 5 § 3 – on account of the length of the applicant's pre-trial detention

Violation of Article 6 § 1 – on account of the excessive length of the criminal proceedings brought against the applicant

Violation of Article 6 § 3 (c) in conjunction with Article 6 § 1 – on account of the lack of legal assistance afforded to the applicant while in police custody

Just satisfaction: EUR 12,200 (non-pecuniary damage)

Mehmet Hatip Dicle v. Turkey (no. 9858/04)*

The applicant, Mehmet Hatip Dicle, is a Turkish national who was born in 1955 and lives in Diyarbakır. He was convicted in criminal proceedings for writing and publishing an article in which he criticised government policy in the town of Dersim, denouncing the economic situation and the growth of drug trafficking. He also claimed that the Kurds in the region had been victims of a policy of assimilation and genocide. Relying in particular on Article 10 (freedom of expression), Mr Dicle complained that his right to freedom of expression had been infringed.

Violation of Article 10

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

Yılmaz Demir v. Turkey (no. 44767/06)*

The applicant, Yılmaz Demir, is a Turkish national who was born in 1980 and lives in Diyarbakır. The case concerned his lack of access to a lawyer while in police custody. Relying on Article 6 (right to a fair trial), Mr Demir complained that the criminal courts had taken into consideration the confession improperly obtained from him while he had been in police custody without access to a lawyer. The applicant was arrested in June 2001 in the course of an anti-terrorist operation and was taken into police custody on suspicion of abduction and unlawful imprisonment. He admitted having been involved in the abduction and gave the address of the premises of the illegal organisation AMED, a branch of the PKK. When questioned subsequently by the public prosecutor he admitted his involvement in the unlawful imprisonment but denied being a member of the PKK. He claimed that while in police custody he had been subjected to electric shocks to force him to confess to membership of the PKK. Finally, when he was brought before the judge, he again admitted the charges. He was not assisted by a lawyer either while in police custody or before the judge or prosecutor.

Violation of Article 6 § 3 (c) in conjunction with 6 § 1 – on account of the lack of access to a lawyer while in police custody

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

Repetitive case

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

Sekulić and Kučević v. Serbia (nos. 28686/06 and 50135/06)

This case concerned the applicants' complaints about non-enforcement of judgments given in their favour against socially-owned companies. The applicants relied in particular on Article 1 of Protocol No. 1 (protection of property) and Article 6 § 1 (right to a fair hearing / access to court).

Violation of Article 6 § 1

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.