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

Press Release
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Judgments concerning Bulgaria, Lithuania, Spain, and Turkey

The European Court of Human Rights has today notified in writing the following eight judgments, of which one (in italics) is a Committee judgment and is final. The others are Chamber judgments[1] and are not final.

One repetitive case[2], 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 Benzer and Others v. Turkey (application no. 23502/06), for which a separate press release has been issued.

Galina Kostova v. Bulgaria (application no. 36181/05)

The applicant, Galina Georgieva Kostova, is a Bulgarian national who was born in 1970 and lives in Sofia. She is a lawyer, who was included in the list of persons qualified to act as a liquidator of insolvent companies. The case concerned the removal of Ms Kostova from that list by the Minister of Justice on 2 August 2004. Among the reasons given for this removal was that, after she had been appointed as the liquidator of a state-owned company, she had failed to submit a list of creditors of the company within the statutory time limit. The judicial review of the decision to remove her from the list was dismissed in October 2004, and her final appeal was also dismissed in March 2005. Relying in particular on Article 6 § 1 (right to a fair hearing), Ms Kostova complained that the Bulgarian courts had refused to properly review the Minister of Justice's decision to strike her off the list, because they had held that they had not had jurisdiction to examine the harshness of this decision.

No violation of Article 6 § 1

Jokšas v. Lithuania (no. 25330/07)

The applicant, Alvydas Jokšas, is a Lithuanian national who was born in 1956 and lives in Tryškiai (Lithuania). The case concerned the discharging of Mr Jokšas from the Lithuanian military. In March 2006 the daily *Kauno Diena* published an article in which Mr Jokšas criticised new legislation for not adequately protecting the rights of servicemen in disciplinary proceedings. Despite having an ongoing contract, in June 2006 he was dismissed from his position and discharged on the grounds that he had reached retirement age. Mr Jokšas challenged this in the Lithuanian courts, but he was unsuccessful; his final appeal was dismissed in May 2008. Relying on Article 10 (freedom of expression) alone or in conjunction with Article 14 (prohibition of discrimination), Mr Jokšas complained that he had been dismissed because of his opinions and that other servicemen had been allowed to continue in military service beyond pension age. Further relying on Article 6 § 1 (right to a fair hearing), he also alleged that the administrative proceedings concerning his dismissal had been unfair, in particular because the Lithuanian courts had refused his request to obtain and analyse

[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.

evidence of other soldiers in his battalion who should also have been dismissed on grounds of age, without even giving reasons.

Violation of Article 6 § 1
No violation of Article 10 taken alone or in conjunction with Article 14

Just satisfaction: 6,000 euros (EUR) (non-pecuniary damage)

Pyrantienė v. Lithuania (no. 45092/07)

The applicant, Kotrina Pyrantienė, is a Lithuanian national who was born in 1942 and lives in Akademija, Kaunas Region (Lithuania). The case concerned Ms Pyrantienė's complaint about the level of compensation she had received when the Lithuanian authorities had repossessed a plot of land she had owned to grow vegetables to sell at market. In 1996 Ms Pyrantienė acquired the 0.5 hectare plot of land from the State. However, a number of years later the sale was quashed by the Lithuanian courts because it was found that the State did not have the right to sell the property. A valuation of the property in 2005 found that it was worth 112,500 Lithuanian litai (LTL – approximately 32,580 euros (EUR)). Yet in October 2006 the Lithuanian courts held that Ms Pyrantienė would only receive LTL 1,466 in compensation (approximately EUR 430), as this was the value of the investment vouchers she had used to buy the land in 1996. Her appeal of this level of compensation was dismissed by the Lithuanian Court of Appeal in February 2007. Relying on Article 1 of Protocol No. 1 (protection of property), Ms Pyrantienė complained that as a legitimate owner who had acquired the property in good faith, she had not been properly compensated for the deprivation of her land as the Lithuanian courts had not taken into account the plot's market value in 2005 but had instead relied on its nominal value in 1996.

Violation of Article 1 of Protocol No. 1

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

Varnienė v. Lithuania (no. 42916/04)

The applicant, Elena Varnienė, is a Lithuanian national who was born in 1920 and resides in Vilnius. The case concerned her rights to a plot of land in Valakupiai, a neighbourhood in Vilnius. In 2000 local authorities restored her rights to part of this plot, which had belonged to her mother but had been nationalised in the 1940s. Ms Varnienė launched an action to have 0.33 hectares of the plot, which remained as government property, returned to her also. However, it was dismissed in December 2001 because the relevant land had been designated as a forest of national importance which was to be bought out by the State. This decision was quashed by the Supreme Administrative Court in February 2002, and Ms Varnienė obtained an order obliging the local authority to return the land to her in October 2003. However, the local authority appealed the execution order, and in May 2004 the Supreme Administrative Court ruled that its previous judgment ordering the land to be returned to Ms Varnienė had been made in error. Relying on Article 6 § 1 (right to a fair hearing) and Article 1 of Protocol No. 1 (protection of property), Ms Varnienė complained that the land had not been returned to her in kind, and that the Supreme Administrative Court had quashed its earlier decision, despite that ruling being final.

Violation of Article 6 § 1 (right to a fair hearing and right to a court)
Violation of Article 1 of Protocol No. 1

Just satisfaction: EUR 8,000 (non-pecuniary damage) and EUR 580 (costs and expenses)

Halil Göçmen v. Turkey (no. 24883/07)*

The applicant, Halil Göçmen, is a Turkish national who was born in 1939 and lives in Thiers (France). The case concerned the expropriation of land owned by Mr Göçmen. In 1998, without informing the applicant, the administrative authorities issued an expropriation order in respect of a plot of land belonging to him and proceeded to take possession of it. Mr Göçmen lodged a claim for damages with a view to obtaining compensation for the harm caused by the *de facto* expropriation of his land. In a judgment of June 2006 the Court of Cassation quashed the first-instance judgment in the applicant's favour on the grounds that the expert report on which the court had based its conclusions had been flawed. In a final judgment of 17 May 2007 the court to which the case was remitted ordered the authorities to pay the applicant the sum of EUR 420, corresponding to the value of the land as estimated by a new expert report. Relying in particular on Article 1 of Protocol No. 1 (protection of property), Mr Göçmen complained of the fact that the administrative authorities had taken possession of his land without a properly constituted expropriation order. He also alleged that he had been deprived of his property in the absence of any reasons in the public interest and that the amount of damages awarded by the courts of first instance had not corresponded to the actual value of his land.

Violation of Article 1 of Protocol No. 1

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

Sepil v. Turkey (no. 17711/07)

The applicant, Hasan Sepil, is a Turkish national who was born in 1965 and lives in Çanakkale (Turkey). The case concerned Mr Sepil's complaint that he had been convicted for trafficking drugs following police incitement. According to official records, on 26 June 2005 two undercover police officers contacted Mr Sepil by telephone to buy heroin. After meeting at an agreed location, the officers purchased some heroin, and Mr Sepil was arrested immediately afterwards. According to Mr Sepil, he did not sell the heroin, and the police officers only found drugs after searching him. He also maintained that he did not sell drugs, but only bought small quantities for his own personal use. However, Mr Sepil was convicted of drug trafficking in May 2006, and sentenced to six years and three months' imprisonment. The Court of Cassation upheld this judgment in December 2006. Relying on Article 6 § 1 (right to a fair trial), Mr Sepil complained that he had been convicted on the basis of unlawful evidence provided by undercover policemen, who had acted without judicial supervision, and had incited him to commit a crime. He further argued that the Turkish court had failed to take account of substantial evidence, because it had refused to examine records of his telephone conversations prior to his arrest, which might have established that the police had not in fact tried to buy heroin from him.

Violation of Article 6 § 1

Just satisfaction: EUR 4,000 (non-pecuniary damage) and EUR 1,000 (costs and expenses)

Yabansu and Others v. Turkey (no. 43903/09)*

The applicants are eight Turkish nationals who were born between 1936 and 1987 and live in Muş (Turkey). The case concerned the murder of one of their relatives, Selçuk Yabansu, on 29 March 2007 during his military service. The investigation by the military prosecutor's office revealed that Mr Yabansu had been killed by a fellow conscript, M.F.E., who had been declared unfit to use firearms owing to psychological problems but who had been issued with a weapon by Staff Sergeant C.T., contrary to the instructions of his superior officers. In a judgment of 25 July 2008 the military court acquitted C.T. In January 2009 M.F.E. was found guilty of murder and sentenced to 20 years'

imprisonment. The case is apparently still pending before the Court of Cassation. In parallel with the criminal proceedings, the applicants lodged an administrative appeal with a view to obtaining compensation for Mr Yabansu's death. The appeal was dismissed by the Supreme Military Administrative Court for failure to comply with the time-limit for lodging it. Relying in particular on Article 6 § 1 (right to a fair hearing), the applicants complain of the dismissal of their administrative appeal. They also alleged a violation of Article 2 (right to life).

Violation of Article 6 § 1
Violation of Article 2 (right to life)
Violation of Article 2 (procedure)

Just satisfaction: EUR 30,000 to the applicants jointly in respect of non-pecuniary damage

Repetitive case

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

Sainz Casla v. Spain (no. 18054/10)*

This case mainly concerned the fact that the applicant had been convicted on the basis of new factual information without having had an opportunity to give evidence at a public hearing. Relying on Article 6 § 1 (right to a fair trial), the applicant complained in particular of the fact that the *Audiencia Provincial* had re-examined the evidence given before the first-instance judge; in his view, this should have led the Court of Appeal to hear evidence from him at a public hearing.

Violation of Article 6 § 1

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