



## Judgments concerning Croatia, Greece, Russia, and Ukraine

The European Court of Human Rights has today notified in writing the following eight judgments, of which three (in italics) are Committee judgments and are final. The others are Chamber judgments<sup>1</sup> and are not final.

Repetitive cases<sup>2</sup>, 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 Donohoe v. Ireland (no. 19165/08), for which a separate press release has been issued.*

### Zagrebačka Banka D.D. v. Croatia (application no. 39544/05)

The applicant bank, Zagrebačka banka d.d., is a joint stock company incorporated under Croatian law whose office is based in Zagreb.

The case concerned enforcement proceedings leading to the seizure of a substantial amount of money from the applicant bank's account. In 1992 the company Textil brought civil proceedings before commercial courts against the applicant bank seeking repayment of the sum it had contributed to founding the bank, plus statutory default interest. In June 1995 the Croatian courts ruled for the plaintiff and ordered the applicant bank to pay 1,100 Croatian kunas (approximately 311,61 German marks at the time), plus statutory default interest. The applicant bank's appeal was dismissed in October 1995 and the judgment became final. The ensuing enforcement proceedings instituted by Retag (the company to which Textil later assigned its claim against the applicant bank) essentially concerned the exact calculation of the statutory default interest on the principal sum the applicant bank had been ordered to pay and resulted in it having to pay some 21,215,000 euros. In parallel bankruptcy proceedings brought against Retag, the applicant bank attempted, unsuccessfully, to delay the distributions of funds seized from it in the enforcement proceedings.

Relying in particular on Article 6 § 1 (right to a fair hearing), the applicant bank complained that the enforcement proceedings had been unfair. It alleged in particular that it had not been able to comment on the final statutory default interest calculated by the domestic payment agency (FINA) at the request of the first-instance court as it had never been communicated to the bank.

**Violation of Article 6 § 1** – concerning the right to adversarial hearing

**Just satisfaction:** 10,000 euros (EUR) (costs and expenses)

### Kanakis v. Greece (no. 2) (no. 40146/11)\*

The applicant, Vassilios Kanakis, is a Greek national who was born in 1952. He is currently being held in Larissa Prison (Greece). Mr Kanakis was arrested in February 2001 on suspicion of organising

<sup>1</sup> 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](http://www.coe.int/t/dghl/monitoring/execution)

<sup>2</sup> In which the Court has reached the same findings as in similar cases raising the same issues under the Convention.

international drug trafficking together with an accomplice. He was sentenced to life imprisonment in a first-instance judgment of April 2002 and by a further judgment of December 2008 following appeal and cassation proceedings. Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Kanakis complained of the conditions of detention – and in particular of overcrowding – in the four prisons where he had been detained.

**Violation of Article 3** (inhuman and degrading treatment) – in respect of the applicant's conditions of detention in Larissa prison from 10 July 2009 to 15 March 2011

**Just satisfaction:** EUR 8,500 (non-pecuniary damage) and EUR 2,500 (costs and expenses)

### **Khuroshvili v. Greece (no. 58165/10)\***

The applicant, Besik Khuroshvili, is a Georgian national who was born in 1970. The case concerned the applicant's unlawful residence in Greece. The applicant was detained on three occasions over a three-month period but was released each time as the order for his deportation could not be enforced since he had no identity papers. Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Khuroshvili complained mainly of his conditions of detention in the Aspropyrgos detention centre for illegal immigrants. Relying on Article 5 §§ 1 and 4 (right to liberty and security and right to a speedy decision on the lawfulness of detention), he complained that no steps had been taken by the authorities to enforce the deportation order. Lastly, he complained of the fact that no authority had ruled on the lawfulness of his detention.

**Violation of Article 3** (degrading treatment)

**No violation of Article 5 § 1** – as regards the period from 12 June to 12 December 2010

**Violation of Article 5 § 4** – as regards the period from 12 June to 12 December 2010

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

### **Khmel v. Russia (no. 20383/04)**

The applicant, Aleksandr Khmel, is a Russian national who was born in 1960 and lives in Murmansk (Russia). The case concerned the taking and broadcasting of footage of Mr Khmel drunk in a police station when he was a member of the Murmansk regional legislature, and the subsequent legal proceedings. On the afternoon of 27 April 2003, Mr Khmel was taken to a police station on suspicion of drunk driving. He refused to give his name, behaved in an unruly manner and would not leave the building when asked to do so. The police chief invited television crews to the station, and that afternoon Mr Khmel was filmed whilst in a dishevelled state and acting inappropriately. Some of the footage was broadcast on public television the next day. In May 2003 administrative proceedings were brought against Mr Khmel for his actions on the day he was filmed. He was found guilty of various offences, including refusing to take an alcohol test and committing minor disorderly acts. He was fined 1,500 Russian roubles (RUB). In August 2005 he was also found guilty in criminal proceedings of threatening and insulting a public official on the day he was filmed, and fined RUB 7,500. The administrative and criminal judgments against him were upheld on appeal in 2003 and 2005 respectively. Relying on Article 8 (right to respect for private and family life), Mr Khmel complained of the filming of him at the police station and the broadcasting of the footage, which he claimed to be unlawful. He also relied on Article 4 of Protocol No. 7 (right not to be tried or punished twice) to complain that the bringing of both the administrative and criminal proceedings against him had amounted to double jeopardy.

**Violation of Article 8**

**Violation of Article 4 of Protocol No. 7**

**Just satisfaction:** EUR 5,000 in respect of pecuniary and non-pecuniary damage and EUR 450 (costs and expenses)

## Latipov v. Russia (no. 77658/11)\*

The applicant, Abdulvosi Latipov, is a Tajik national who was born in 1968. He is currently missing. The applicant stated that he had worked as a bodyguard for a Tajik opposition leader between 1992 and 2001, after the outbreak of civil war in Tajikistan in 1992. He entered Russian territory in May 2001. In August of that year the Tajik authorities issued a warrant for his arrest. He was accused of organising a criminal gang which had operated between July 1998 and May 2001. Mr Latipov was arrested at his home in Volgograd in November 2010 and was placed in detention by the Russian authorities pending his extradition. In October 2012 the applicant disappeared in mysterious circumstances. In his application to the Court, Mr Latipov alleged in particular that the enforcement of the Russian authorities' decision to extradite him to Tajikistan would place him at risk of treatment contrary to Article 3 (prohibition of torture and inhuman or degrading treatment). After Mr Latipov's disappearance in October 2012 his lawyer claimed that he had been abducted and that the Russian security forces had been involved. The Court then requested the Government to submit observations regarding their positive obligation to protect the applicant against the risk of transfer to Tajikistan, their obligation to conduct an effective investigation into the applicant's abduction and the existence of a domestic remedy by which to have the alleged risk of ill-treatment in Tajikistan examined.

**No violation of Article 3** – in respect of Russia's positive obligation to protect the applicant against the risk of abduction and to conduct an effective investigation into the abduction; as well as the Russian authorities' possible involvement in the abduction

**No violation of Article 3** – in the event of the applicant's extradition to Tajikistan

**Violation of Article 5 § 1** – in respect of the applicant's detention between 21 August and 15 October 2012

**No violation of Article 34**

**Interim measure** (rule 39 of the Rules of Court) – not to extradite the applicant to Tajikistan – still in force until judgment becomes final or until further order.

**Just satisfaction:** The Court rejected the applicant's claim for just satisfaction.

## Repetitive cases

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

*Andrianova and Others v. Ukraine* (no. 10319/04)

*Malakhova and Others v. Ukraine* (no. 35995/09 and 249 other applications)

*Makara and Others v. Ukraine* (no. 40934/06 and 249 other applications)

The applicants in these cases complained mainly of the lengthy non-enforcement of decisions in their favour and of the lack of effective domestic remedies in respect of those complaints. They relied on Article 6 § 1 (right to a fair hearing within a reasonable time), Article 13 (right to an effective remedy) and Article 1 of Protocol No. 1 (protection of property). The Court decided to strike the applications lodged by some of the applicants whilst the complaints of the remaining applicants were declared admissible.

**Violation of Article 6 § 1** – in the three cases as regards the applicants' complaints under Article 6 § 1 which were declared admissible

**Violation of Article 1 of Protocol No. 1** – in the three cases as regards the applicants' complaints under Article 1 of Protocol No. 1 which were declared admissible

**Violation of Article 13** – in the three cases as regards the applicants' complaints under Article 13 which were declared admissible

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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.