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

Press Release
issued by the Registrar of the Court

ECHR 369 (2013)
17.12.2013

Judgments concerning Hungary, Italy, Latvia, the Republic of Moldova, Romania, Slovakia, and Turkey

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

One repetitive case[2] and one length-of-proceedings case, 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 Nikolova and Vandova v. Bulgaria (application no. 20688/04) and Perinçek v. Switzerland (no. 27510/08), for which separate press releases have been issued.

Nicolò Santilli v. Italy (application no. 51930/10)*

The applicant, Nicolò Santilli, is an Italian national who was born in 1975 and lives in Urbino (Italy). The case mainly concerned his inability to exercise access rights to his son. At an unknown date, Mr Santilli left A.B., with whom he had a son, Y. His ex-partner was awarded custody in 2006 and Mr Santilli obtained a right of access. However, the social services established that the visits ordered by the courts had been made impossible by the opposition of A.B. Between 2006 and 2009, Mr Santilli thus applied on several occasions to the courts, which ordered A.B. to allow him to exercise his access rights. In October 2011, faced with A.B.'s constant opposition and the child's worsening psychological situation, the Italian courts ordered the social services to draw up a timetable of visits. Visits then took place until December 2011, when Mr Santilli decided to suspend them in the interest of Y, who was refusing to see his father. In March 2012 the Italian courts ordered both parents to comply with their directions and authorised Mr Santilli to see his son once a week. In August 2012, the social services informed the courts that they had lost contact with Mr Santilli. Relying in particular on Article 8 (right to respect for private and family life) of the European Convention on Human Rights, Mr Santilli complained that, in spite of a number of court decisions providing for his right of access, he had not been able to exercise that right fully since 2006. He further alleged a violation notably of Article 13 (right to an effective remedy).

Violation of Article 8
No violation of Article 13

Just satisfaction: 10,000 euros (EUR) (non-pecuniary damage) and EUR 5,000 (costs and expenses)

Raudevs v. Latvia (no. 24086/03)

The applicant, Mārtiņš Raudevs, is a Latvian national who was born in 1941 and lives in Riga. The case concerned Mr Raudevs' compulsory confinement for almost two months for psychiatric treatment. In November 2000 he sent letters to Latvian institutions and the World Bank, in which he

[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.

accused Latvian judges of corruption and fraud. At the time defamation of State officials was a criminal offence, and Mr Raudevs soon became the subject of criminal proceedings. In September 2002 a Latvian court found him guilty of defamation, but exempted him from criminal liability because it held that he suffered from mental illness. The court ordered that he should undergo compulsory medical treatment in a secure psychiatric hospital, and the judgment was upheld on appeal in December 2002 and January 2003 – though Mr Raudevs was not confined for treatment at this time. In October 2003 the Latvian Constitutional Court found the imposition of criminal liability for the defamation of State officials to be unconstitutional, and the legal provision establishing this crime was repealed with effect from 1 February 2004. Yet on 30 July 2004 an order was issued for Mr Raudevs' confinement, and police took him to a psychiatric hospital later that day. He immediately complained that the law which had led to his confinement order was no longer in force. At first the prosecutor upheld his detention as lawful, but on 24 September 2004 the Latvian courts revoked the decision ordering Mr Raudevs' confinement, and he was released the same day. Relying in particular on Article 5 § 1 (right to liberty and security), Mr Raudev complained that the decision ordering him to undergo compulsory medical treatment had been unlawful, because he had never suffered from a mental illness and because the order had lost its force after changes to the law of criminal defamation. He also relied on Article 5 §§ 4 and 5 to complain that his confinement had not been subjected to judicial review within a reasonable time and that he had not been able to obtain compensation for the allegedly unlawful detention.

Violation of Article 5 § 1
Violation of Article 5 § 4
Violation of Article 5 § 5

Just satisfaction: EUR 10,000 (non-pecuniary damage)

Ion Tudor v. Romania (no. 14364/06)

The applicant, Ion Gheorghe Tudor, is a Romanian national who was born in 1973 and lives in Târgu Jiu (Romania). The case concerned the fairness of an appeal in which a Romanian court upheld his conviction for murder. In July 2004, Mr Tudor was convicted after trial and sentenced to 23 years in prison. His co-defendant had originally stated to police that he committed the act together with Mr Tudor, but at the trial the co-defendant told the court that Mr Tudor had not been involved. Mr Tudor appealed the conviction, and in September 2005 a Court of Appeal quashed it after finding that the evidence in the file did not convincingly link him to the crime. However, in February 2006 the High Court of Cassation and Justice quashed the appeal judgment and upheld the original conviction, after re-examining the evidence in the case. Relying on Article 6 § 1 (right to a fair trial), Mr Tudor complained that the criminal proceedings against him had not been fair; in particular because, though the High Court of Cassation had effectively re-tried the case, it had not heard evidence from him.

Violation of Article 6 § 1

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

Jenița Mocanu v. Romania (no. 11770/08)

The applicant, Jeniţa Mocanu, is a Romanian national who was born in 1929 and lives in Sfântu-Gheorghe (Romania). The case concerned the fairness of an appeal hearing during civil proceedings started by Ms Mocanu. In December 2005, she successfully obtained a judgment in her favour against a third party, which annulled a will and acknowledged her inheritance rights. However, this judgment was quashed on appeal in April 2007. Ms Mocanu attempted to appeal this decision, but her application was held to be inadmissible in November 2007. Relying on Article 6 § 1 (right to a fair hearing), Ms Mocanu complained that the appeal which quashed the judgment in her

favour had been unfair, because the composition of the bench had been unlawful. She claimed that, though appeals on points of law in Romania must be decided by a bench of three judges, her case had only been heard by a bench of two.

Violation of Article 6 § 1

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

Potcoavă v. Romania (no. 27945/07)

The applicant, Ioan Nicolet Potcoavă, is a Romanian national who was born in 1969 and lives in Ungheni (Romania). The case concerned the fairness of Mr Potcoavă's conviction of rape. He was arrested on 4 July 2002 and alleged that he was beaten on the way to the police station and all through the night in order to make him confess to several rapes. He was convicted in August 2003 on the basis of his confession but this decision was later overturned on appeal in October 2003 and the confession set aside as the applicant had not been assisted by a lawyer during his initial police questioning. Following a further criminal investigation, he was acquitted in October 2006 on the ground that Mr Potcoavă had had an alibi and the evidence against him was inconclusive. Ultimately, however, in September 2007 that judgment was reversed and the County Court, basing its decision on Mr Potcoavă's initial confession to the police, convicted him of three counts of rape and one of attempted rape and sentenced him to just over one year and six months' imprisonment. In the meantime, his criminal complaint for police ill-treatment was dismissed as unsubstantiated. Relying in particular on Article 6 §§ 1 and 3 (c) (right to a fair trial / right to legal assistance of own choosing), Mr Potcoavă alleged that the criminal proceedings against him had been unfair in particular because his confession, made during his police custody without the assistance of a lawyer, had been used for his conviction.

Violation of Article 6 §§ 1 and 3 (c)

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

Vartic v. Romania (no. 2) (no. 14150/08)

The applicant, Ghennadii Vartic, is a Moldovan national who was born in 1973 and is currently serving a 25-year prison sentence in Jilava Prison (Romania). Relying in particular on Article 9 (freedom of thought, conscience, and religion), he complained that during his detention in Rahova Prison from April to May 1998 and from 9 to 21 February 2009 the prison authorities had refused to provide him with a vegetarian diet as required by his Buddhist convictions.

Violation of Article 9

Just satisfaction: EUR 3,000 (non-pecuniary damage) and EUR 200 (costs and expenses)

Černák v. Slovakia (no. 36997/08)

The applicant, Mikuláš Černák, is a Slovak national who was born in 1966 and is currently serving a life sentence in Ilava prison (Slovakia). The case concerned the lawfulness of Mr Černák's pre-trial detention and the fairness of the related proceedings. While serving a prison sentence in Slovakia, Mr Černák was released on parole in November 2002. He then left for the Czech Republic, where he was arrested in 2003 following the issuing of an international arrest warrant in Slovakia. Mr Černák was then extradited back to Slovakia in order to serve the remainder of his sentence, which ended in October 2006. However, between December 2005 and February 2007, Mr Černák had new charges brought against him in Slovakia, namely seven counts of murder and conspiracy to murder, which were all alleged to have occurred prior to 2003. On the completion of his previous sentence, Mr Čertnák was remanded in detention pending trial on these charges, but the detention was

cancelled on the ground that it was in breach of the rule of speciality. The Czech authorities then gave permission for the trial of these offences to be held in Slovakia, and the Slovakian authorities applied again for Mr Černák to be placed in pre-trial detention. Following an interlocutory hearing on 2 February 2007, a Slovakian court made a pre-trial detention order on the ground that Mr Černák might abscond before his trial. On 10 July 2007, the court extended the detention. Mr Černák unsuccessfully made interlocutory appeals and a constitutional complaint against both orders arguing that his detention was in breach of the rule of specialty and that the procedure in respect of it was short of the applicable procedural requirements. He was found guilty in November 2009 and sentenced to life imprisonment. Relying in particular on Article 5 § 4 (right to have lawfulness of detention decided speedily by a court), Mr Černák complained that the proceedings establishing his pre-trial detention in February and July 2007 had been unlawful; in particular, because he had not been served with the relevant documents prior to the proceedings, because a written version of the detention order had only been served on him after his interlocutory appeal against it had been dismissed, and his interlocutory appeals against the detention order and the extension order had not been heard by the court before it had made its decision.

Violation of Article 5 § 4

Just satisfaction: The Court held that the finding of a violation constituted in itself sufficient just satisfaction in respect of any non-pecuniary damage suffered by the applicant.

Yavuz and Yaylalı v. Turkey (no. 12606/11)*

The applicants, Merve Yavuz and İbrahim Yaylalı, are Turkish nationals who were born in 1984 and 1974, respectively, and live in Samsun (Turkey). The case concerned their conviction and prison sentences for promoting a terrorist organisation. Following the deaths, during a clash with security forces in June 2005, of 17 individuals belonging to the Maoist Communist Party, an illegal armed organisation, the applicants took part in a demonstration during which various slogans were shouted to protest against the use of force by the security forces. Arrested on suspicion of promoting a terrorist organisation, they were taken into police custody and subsequently detained on remand. Shortly after her conditional release, Ms Yavuz again took part in a demonstration during which she read a statement to the press complaining of the detention measure imposed on her and on the other demonstrators. In February 2007 the public prosecutor called for the applicants to be convicted for promoting a terrorist organisation. In spite of their defence to the charges against them, Mr Yaylalı and Ms Yavuz were sentenced to 10 and 20 months' imprisonment, respectively. They appealed on points of law but, in a judgment of July 2010, the Court of Cassation upheld the judgment at first instance. Relying on Article 10 (freedom of expression), the applicants complained that they had been convicted and harshly sentenced for expressing their opinions. Also alleging that their case had not been heard within a reasonable time, they complained of a violation of Article 6 § 1 (right to a fair trial within a reasonable time).

Violation of Article 10
Violation of Article 6

Just satisfaction: EUR 13,750 each to Mr Yaylalı and Ms Yavuz (non-pecuniary damage), and EUR 3,265 to the applicants jointly (costs and expenses)

Repetitive case

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

Lipcan v. the Republic of Moldova (no. 22820/09)

The applicant in this case complained of the quashing of a final judgment in his favour. He relied in particular on Article 6 § 1 (right to a fair hearing) and Article 1 of Protocol No. 1 (protection of property).

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

Length-of-proceedings case

In the following case, the applicants complained in particular, under Article 6 § 1 (right to a fair trial within a reasonable time), about the excessive length of criminal proceedings brought against them for tax fraud.

Barta and Drajkó v. Hungary (no. 35729/12)

Violation of Article 6 § 1

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