



Judgments concerning Belgium, Croatia, France, Greece, Russia, Slovenia and Ukraine

The European Court of Human Rights has today notified in writing the following 19 judgments, of which seven (in italics) are Committee judgments and are final. The others are Chamber judgments¹ and are not final.

Repetitive cases² 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 its judgment in the case of Pitsayeva and Others v. Russia (applications nos. 53036/08, 61785/08, 8594/09, 24708/09, 30327/09, 36965/09, 61258/09, 63608/09, 67322/09, 4334/10, 4345/10, 11873/10, 25515/10, 30592/10, 32797/10, 33944/10, 36141/10, 52446/10, 62244/10, and 66420/10, for which a separate press release has been issued.

Van Meroye v. Belgium (no. 330/09)*
Oukili v. Belgium (no. 43663/09)*
Caryn v. Belgium (application no. 43687/09)*
Moreels v. Belgium (no. 43717/09)*
Gelaude v. Belgium (no. 43733/09)*
Saadouni v. Belgium (no. 50658/09)*
Plaisier v. Belgium (no. 28785/11)*
Lankester v. Belgium (no. 22283/10)*

The applicants are Ferdinand Van Meroye, a Belgian national who was born in 1962, Mohamed Oukili, a French national who was born in 1969, Jurgen Caryn, Guy Moreels and Davy Gelaude, Belgian nationals who were born in 1982, 1952 and 1977 respectively, Jamal Saadouni, a Moroccan national who was born in 1970, Stijn Plaisier, a Belgian national who was born in 1984, and Raimond Lankester, a Dutch national who was born in 1943. With the exception of Mr Saadouni, who is detained in Louvain Prison's psychiatric wing, they all are or have been detained in the psychiatric wing of Merksplas Prison.

These cases concerned the applicants' detention on the basis of court orders following acts of robbery, burglary, fraud and receiving stolen goods, assault, indecency, rape of a minor and/or homicide. Relying in particular on Article 5 § 1 (right to liberty and security) of the European Convention on Human Rights, all the applicants complained that they had been deprived of their liberty in inappropriate premises. Alleging a violation notably of Article 5 § 4 (right to speedy review of the lawfulness of detention), Mr Van Meroye, Mr Oukili, Mr Gelaude, Mr Moreels and Mr Saadouni also submitted that they had not had an effective remedy or guarantees of a fair hearing in order to draw attention to the inappropriate nature of their place of detention. Finally, Mr Lankester complained that his detention in a prison psychiatric wing, where he had not received treatment or

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.

appropriate support for his mental and physical condition, and without any realistic prospect of rehabilitation, amounted to treatment contrary to Article 3 (prohibition of inhuman or degrading treatment).

Violation of Article 5 § 1 – in all the eight cases

Violation of Article 5 § 4 – in the cases of *Van Meroye, Oukili, Moreels, Gelaude* and *Saadouni*

Violation of Article 3 (degrading treatment) –in the case of *Lankester*

Just satisfaction: 15,000 euros (EUR) each to Mr Van Meroye, Mr Oukili, Mr Caryn, Mr Moreels, Mr Gelaude, Mr Saadouni, and Mr Plaisier, and 16 000 EUR to Mr Lankester (non-pecuniary damage), and EUR 1 500 to Mr Lankester (costs and expenses)

Maravić Markeš v. Croatia (no. 70923/11)

The applicant, Dragica Karla Maravić Markeš, is a Croatian national who was born in 1949 and lives in Zagreb. The case concerned the fairness of legal proceedings on Ms Maravić Markeš's right to severance pay. Ms Maravić Markeš was dismissed from her job as inspector of Zagreb Municipal Council from 31 March 1992. She was not provided with severance pay, and in July 2006 she requested payment from the Municipal Office. However, her request was rejected on the grounds that such an application should have been submitted within three years of her dismissal. Her appeal to the Chief of the Municipal Office was also dismissed in November 2006. Ms Maravić Markeš brought an administrative action against this decision later that year. The Administrative Court asked the Municipal Office to comment on the matter, and the Office provided observations, raising some new arguments. However, though these were sent to the court, they were not forwarded to Ms Maravić Markeš. In May 2009 the court dismissed her action, partly relying on the new arguments of the Municipal Office. Her subsequent constitutional complaint was declared inadmissible in March 2011. Relying on Article 6 § 1 (right to a fair trial), Ms Maravić Markeš complained that the proceedings before the Administrative Court had been unfair, because it had based its decision on the observations of the Municipal Office without giving her a chance to comment on them.

Violation of Article 6 § 1

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

Viard v. France (no. 71658/10)*

The applicant, Gilbert Viard, is a French national who was born in 1947 and lives in Saint-Nazaire (France). A psychotherapist, he was placed under investigation for the sexual assault of four patients, and for abuse of a state of weakness in respect of one of them. He was placed under court supervision and barred from working as a psychotherapist and a psychoanalyst. By an order of 12 February 2010, the Court of Appeal of Rennes upheld an order by the investigating judge, dismissing the applicant's request for partial lifting of the court supervision. On 19 February 2010 Mr Viard appealed on points of law against the judgment of the investigation division, an appeal which was dismissed. Relying on Article 6 § 1 (right of access to a court), the applicant complained that the refusal to examine his appeal as being out of time had infringed his right of access to a court.

Violation of Article 6 § 1

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

Budanov v. Russia (no. 66583/11)

The applicant, Yuriy Budanov, is a Russian national who was born in 1972 and lived until his arrest in the town of Morshansk, Tambov Region (Russia). The case concerned the quality of the medical care given to him in the Russian prison system. Since at least the year 2000, Mr Budanov has suffered from a serious medical condition affecting his brain, which has led to symptoms including severe headaches, epileptic seizures, nausea and insomnia. In October 2002 he was arrested on suspicion of committing a murder in a drunken rage. He was convicted in February 2005 and sentenced to 10 years' imprisonment. Whilst serving his sentence, Mr Budanov has been provided with a wide and varying range of medical treatment by repeatedly changing teams of medical staff in different locations. Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Budanov complained that the Russian authorities had failed to provide him with adequate medical care as his condition had been dealt with only by a prison paramedic and psychiatrist for much of his detention. In particular, he claimed that though his condition required significant medical expertise, the Russian authorities had refused to admit him to hospital for neurosurgery.

Violation of Article 3 (inhuman and degrading treatment) – on account of the lack of adequate medical care of the applicant

Just satisfaction: EUR 15,000 (non-pecuniary damage)

Gorelov v. Russia (no. 49072/11)

The applicant, Viktor Gorelov, is a Russian national who was born in 1965 and lived until his arrest in the village of Sushzavod, in the Novosibirsk Region (Russia). He is serving a sentence in a correctional colony in the town of Raisino, in the same region. The case concerned his claim that medical procedures in Russian prison facilities had led to his infection with HIV, and that subsequent care provided by the Russian authorities had been inadequate. After being arrested in August 2007, Mr Gorelov was convicted of aggravated robbery in January 2008 and aggravated fraud in November 2011. He received prison sentences of nine years and three months for the robbery, and three years for the fraud. Blood tests during his incarceration in 2009 and 2010 produced a negative result for HIV, but a test in February 2011 showed that Mr Gorelov had contracted the virus. He launched a civil action applying for compensation from the prison authorities, but this was rejected on procedural grounds. Mr Gorelov then requested criminal proceedings to be brought against staff at his detention centre. This was also initially rejected in June 2011, but inquiries were later re-opened, and the outcome of these is unknown. Relying in particular on Article 2 (right to life), Mr Gorelov complained that he had been infected with HIV due to the negligence of prison staff, and that the authorities had failed to carry out an effective investigation into the matter.

No violation of Article 2 (right to life)

Violation of Article 2 (investigation)

Just satisfaction: EUR 20,000 (non-pecuniary damage)

Repetitive cases

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

Jevšnik v. Slovenia (no. 5747/10)

The applicant in this case complained about the conditions of his detention in the semi-open and closed sections of Ljubljana Prison between July and December 2009. He relied in particular on Article 3 (prohibition of inhuman or degrading treatment) and Article 13 (right to an effective remedy).

Violation of Article 3 (inhuman or degrading conditions of detention) – as regards the applicant’s detention in the closed section

No violation of Article 3 – as regards the applicant’s detention in the semi-open section

Violation of Article 13

Khaynatskyy and Others v. Ukraine (no. 12895/08 and 249 other applications)

Kyselyova and Others v. Ukraine (no. 6155/05 and 22 other applications)

Semyanisty and Others v. Ukraine (no. 7070/04)

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 trial within a reasonable time), Article 13 (right to an effective remedy) and Article 1 of Protocol No. 1 (protection of property).

Violation of Article 6 § 1 – in all three cases (except in respect of nine applicants in the case of *Khaynatskyy and Others*, and 13 applicants in the case of *Semyanisty and Others*)

Violation of Article 1 of Protocol No. 1 – in all three cases (except in respect of nine applicants in the case of *Khaynatskyy and Others*, and 13 applicants in the case of *Semyanisty and Others*)

Violation of Article 13 – in all three cases (except in respect of nine applicants in the case of *Khaynatskyy and Others*, and 13 applicants in the case of *Semyanisty and Others*)

Length-of-proceedings cases

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

Goulioti-Giannoudi and Others v. Greece (no. 33367/10)*

Katsigiannis and Others v. Greece (no. 35202/10)*

Tasiouli v. Greece (no. 36169/10)*

Violation of Article 6 § 1 – in all three cases

Violation of Article 13 (right to an effective remedy) – in the cases of *Katsigiannis and Others* and *Tasiouli*

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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.