



Judgments concerning Italy, Portugal, and Turkey

The European Court of Human Rights has today notified in writing the following eight judgments, of which five (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 a judgment in the case of Pentikäinen v. Finland (application no. 11882/10), for which a separate press release has been issued.

Ceni v. Italy (no. 25376/06)

The applicant, Rolanda Ceni, is an Italian national who was born in 1953 and lives in Florence (Italy).

The case concerns the cancellation in 1998 of a preliminary contract (without transfer of ownership) to which Ms Ceni was a party, concerning the sale of an off-plan flat. The contract was cancelled by the judicial liquidator in bankruptcy proceedings against the construction firm that was also party to the contract.

violation of Article 1 of the Protocol no. 1

violation of Article 13 taken together with Article 1 of the Protocol no. 1

Mottola and Others v. Italy (application no. 29932/07)*

Staibano and Others v. Italy (no. 29907/07)*

In these two cases the applicants are Italian nationals and they are all doctors who, between 1983 and 1997, worked at the polyclinic of the Federico II University of Naples under fixed-term contracts on an auxiliary basis. They were subsequently employed under permanent contracts. A number of doctors in the same situation applied to the administrative courts to obtain recognition of the existence of a permanent employment relationship between them and the university for the purpose of securing the corresponding social security entitlements. Their actions proved successful, before both the Regional Administrative Court and the *Consiglio di Stato*. In 2004 the applicants lodged similar applications to those of their colleagues with the Regional Administrative Court. However, the proceedings led to their applications being declared inadmissible. Relying in particular on Article 6 § 1 (right to a fair trial) of the European Convention on Human Rights, the applicants complained that they had not had access to a court in order to obtain recognition of the existence of a public employment relationship between them and the University of Naples or, consequently, admission to the relevant pension scheme. Relying on Article 1 (protection of property) of Protocol No. 1 to the Convention, they further complained that they had been deprived of their pension

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.

entitlements for their period of employment as auxiliary doctors, as their administrative application had failed to satisfy the conditions of admissibility.

Violation of Article 6 § 1 – in both cases

Violation of Article 1 of Protocol No. 1 – in both cases

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

Oruk v. Turkey (no. 33647/04)*

In this case the applicant, Fatma Oruk, is a Turkish national who was born in 1961 and lives in Basle (Switzerland). On 29 October 1993 a mortar rocket exploded in the village of Denizli (Kahramanmaraş region) near the army's Bölükçam firing range, killing six children, including Ms Oruk's son. In December 1993, considering that the accident had been the result of military negligence on the part of the army, the public prosecutor declined jurisdiction and transmitted the case file to the Adana military prosecutor's office. In December 1995 the military prosecutor discontinued the proceedings. Ms Oruk lodged an appeal against that decision, but in January 2004 the Gaziantep military tribunal dismissed her appeal. Relying in particular on Article 2 (right to life), Ms Oruk complained that the deaths of her son and five other children had been caused by the conduct of the armed forces, which had put people's lives in danger.

Violation of Article 2

Just satisfaction: EUR 50,000 euros (EUR) (non-pecuniary damage), and EUR 5,000 (costs and expenses)

Repetitive cases

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

Benenati v. Italy (no. 33312/03)*

Pagnozzi v. Italy (no. 6015/05)*

In these two cases the applicants complained in particular about the indirect expropriation of their land. They relied notably on Article 1 (protection of property) of Protocol No. 1.

Violation of Article 1 of Protocol No. 1 – in both cases

Length-of-proceedings cases

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

Cardoso Oliveira v. Portugal (no. 21217/09)*

Monteiro Aires v. Portugal (no. 70935/11)

Pereira Santos v. Portugal (no. 30532/12)

Violation of Article 6 § 1 – in the three cases

Violation of Article 13 (right to an effective remedy) – in the case of *Monteiro Aires*

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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.