



Chamber judgments concerning Azerbaijan, Estonia, and Russia

The European Court of Human Rights has today notified in writing the following six Chamber judgments¹ which are not final. The judgments are available only in English.

Novruz Ismayilov v. Azerbaijan (application no. 16794/05)

The case concerned the pre-trial detention of the founder of a private bank (the Borçalı Bank) in Azerbaijan. The applicant, Novruz Binnat oglu Ismayilov, is an Azerbaijani national who was born in 1961 and is currently serving a nine-year sentence in a prison in Baku for fraud, embezzlement and tax evasion. The charges were brought against him following a financial audit and, as a result, he was arrested in September 2004 and placed in detention for an initial period of three months. His remand in custody was then repeatedly extended until his conviction in January 2006. Relying in particular on Article 5 § 3 (entitlement to trial within a reasonable time or to release pending trial) of the European Convention on Human Rights, Mr Ismayilov alleged that the national courts had failed to sufficiently justify his pre-trial detention, noting in particular that he had always collaborated with the investigating authorities before his arrest and that no account had been taken of his personal situation (he was a permanent resident with family ties, work references and no previous criminal record). Also relying on Article 5 § 4 (right to have lawfulness of detention decided speedily by a court) of the Convention, he alleged that the judicial review of the lawfulness of his continued detention had been unfair. Notably, he complained that the hearings concerning the extension of his pre-trial detention had been held in his absence, that his lawyer had not been informed of the date and place of a hearing held in December 2004 and that the national courts had not addressed his specific arguments for release.

Violation of Article 5 § 3

Violation of Article 5 § 4

Just satisfaction: 4,000 euros (EUR) (non-pecuniary damage) and EUR 2,500 (costs and expenses)

Zayidov v. Azerbaijan (no. 11948/08)

The applicant, Ganimat Salim Oglu Zayidov, is an Azerbaijani national who was born in 1963 and lives in Baku. He was a journalist and the editor-in-chief of the *Azadliq* newspaper. The case concerned his remand in custody following an altercation with a woman and her friend in front of a publishing house in Baku in November 2007. The woman accused Mr Zayidov of having verbally abused her and of slapping, headbutting and punching her friend when he had intervened. Mr Zayidov denied the accusations, stating that the woman had insulted him and that he had had to defend himself when her friend had tried to punch and kick him. Mr Zayidov was remanded in custody as a preventive measure on 11 November 2007 and charged with deliberate infliction of less serious injury to health as well as hooliganism. His remand in custody was repeatedly extended until 7 March 2008 when he was convicted as charged and sentenced to four years' imprisonment. He was released, however, on 17 March 2010 following a presidential pardon. Relying in particular on Article 5 § 3 (right to liberty

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

and security / entitlement to trial within a reasonable time or to release pending trial), Mr Zayidov complained that the national courts had failed to justify the necessity of remanding him in custody and had refused his requests for release on bail without explanation. Notably, they refused to take into account his arguments that he had no criminal record, and, being a well-known journalist in Azerbaijan where he had permanent residence and four young children, that he had never tried to abscond and had always cooperated with the investigation.

Violation of Article 5 § 3

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

Ovsjannikov v. Estonia (no. 1346/12)

The applicant, Fjodor Ovsjannikov, is an Estonian national who was born in 1960 and lives in Narva (Estonia). The case concerns his pre-trial detention. In July 2011, while he was a member of the Narva City Council and chairman of its financial committee, he was arrested on suspicion of prejudicing free competition, influence peddling, demanding bribes and money laundering. Considering the nature of the crimes of which he was suspected and the reasonable suspicion against him, the Estonian courts remanded Mr Ovsjannikov in custody in order to prevent him from committing further offences. Mr Ovsjannikov's appeal against the detention order was dismissed in August 2011. The appeal filed by his lawyer before the Supreme Court was rejected in September 2011. From September 2011 to December 2011, Mr Ovsjannikov's requests before the national courts – for release on bail, for a review of the reasons for his detention and for his placement under electronic surveillance – were systematically dismissed on the grounds that he would be likely to commit further offences and/or exert influence over the witnesses and the other accused. Throughout this period, the defence was never granted access to the case file. In January 2011, Mr Ovsjannikov was released from custody and a prohibition on leaving his place of residence was applied to him as a preventive measure. His criminal case is still apparently pending before the national courts. Relying on Article 5 § 3 (right to liberty and security), Mr Ovsjannikov complained about the length of his pre-trial detention. Under Article 5 § 4 (right to have lawfulness of detention decided speedily by a court), he also complained that he had not been given access to the evidence in the case file on the basis of which the lawfulness of his detention and his requests for release had been examined.

No violation of Article 5 § 3

Violation of Article 5 § 4

Just satisfaction: EUR 4,900 (non-pecuniary damage)

Firstov v. Russia (no. 42119/04)

Shishkov v. Russia (no. 26746/05)

Both cases concerned the applicants' complaints about the conditions of their detention.

The applicant in the first case, Sergey Firstov, is a Russian national who was born in 1972 and lives in the town of Tolyatti, Samara Region (Russia). He complained about extremely poor conditions of detention during his police custody on theft charges following his arrest in October 2003 and during the ensuing pre-trial investigation and court proceedings (which amounted to a month in total). He was convicted of aggravated theft in January 2004 – eventually upheld in March 2004 – and sentenced to five years' imprisonment.

The applicant in the second case, Dmitriy Shishkov, is a Russian national who was born in 1972 and is serving a prison sentence in the Adygeya Republic (Russia). He complained about the appalling conditions of his detention on robbery charges in Mayskiy Temporary Detention Centre in 2004 and

2005. He was convicted as charged in September 2004 – eventually upheld in March 2005 – and sentenced to four years’ imprisonment.

Both applicants relied on Article 3 (prohibition of inhuman or degrading treatment); Mr Firstov alleging in particular that there was no bedding, inadequate food, poor hygiene and lack of sanitary facilities, so that inmates had to go to the toilet in a bucket; and, Mr Shishkov alleging in particular that the cells were cramped and that there were not enough beds for inmates, so that they had to take turns to sleep on the floor.

Mr Shishkov also alleged under Article 6 § 1 (right of access to court) that the courts had repeatedly refused to examine his claims for compensation for those conditions of detention, making the requirements for him to bring his claims – such as paying court fees, substantiating his claims and giving him insufficient time to comply with those directions – so difficult that he had effectively been barred access to court. Lastly, he complained under Article 34 (right of individual petition) that the prison authorities had not dispatched his correspondence to the European Court of Human Rights.

Violation of Article 3 – in both cases

Violation of Article 6 § 1 – in the case of *Shishkov*

No violation of Article 34 – in the case of *Shishkov*

Just satisfaction: EUR 1,000 to Mr Firstov and EUR 5,000 to Mr Shishkov in respect of non-pecuniary damage, and EUR 7 to Mr Firstov in respect of costs and expenses

Nosov and Others v. Russia (nos. 9117/04 and 10441/04)

The applicants are 41 Russian nationals who live in Vladikavkaz (Russia). The case concerned the non-enforcement of judgments awarding them social-payment arrears as former policemen involved in the conflict-resolution and peace-keeping operation during the 1992 Ossetian-Ingush armed conflict. Between 2001 and 2002, they successfully sued the Severnaya Osetiya-Alaniya regional internal-affairs department for social-payment arrears. Despite the department’s refusal to pay the arrears due to a lack of funds, the judgments were eventually enforced between 2004 and 2005. 40 of the applicants then successfully sued the regional internal-affairs department for the delayed enforcement of the judgments in their favour. All except one received compensation for pecuniary damage on various dates in 2005. In the meantime, from September 2003 to December 2003, the applicants held a continuous demonstration which brought together 100 demonstrators in order to protest against the regional internal-affairs department’s failure to settle the social-payments debt. On 11 October 2003, the Russian courts declared the demonstration unlawful. The police was subsequently sent to scatter the demonstrators, without success. The protesters ended the demonstration in December 2003. Relying on Article 6 § 1 (right to a fair trial within a reasonable time) and Article 1 of Protocol No. 1 (protection of property), the applicants complained about the delayed enforcement of the judgments in their favour. Under Article 11 (freedom of assembly and association), they also complained about the restrictions imposed by the authorities on their demonstration.

Violation of Article 6 § 1

Violation of Article 1 of Protocol No. 1

No violation of Article 11

Just satisfaction: EUR 2,000 to each applicant in respect of non-pecuniary damage and EUR 350 to one of the applicants, Mr Aleksandr Nosov, in respect of costs and expenses.

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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.