



## Judgments concerning Bulgaria, Italy, Lithuania, Poland, Spain and Switzerland

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

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 judgments in the cases of Velez v. Bulgaria (application no. 16032/07), Baka v. Hungary (no. 20261/12), and Mustafa Erdoğan and Others v. Turkey (nos. 346/04 and 39779/04), for which separate press releases have been issued.*

### Radkov and Sabev v. Bulgaria (applications nos. 18938/07 and 36069/09)

The case concerned the handcuffing of two life prisoners during a court hearing held on the premises of their prison.

The applicants, Plamen Radkov and Miroslav Sabev, are Bulgarian nationals who were born in 1972 and 1966 respectively. In 2006 they brought civil proceedings to complain about the conditions of their detention in Lovech Prison where they were serving sentences of life imprisonment for numerous crimes, including murder, rape and armed robberies.

Relying on Article 3 (prohibition of inhuman or degrading treatment) and Article 13 (right to an effective remedy) of the European Convention on Human Rights, they complained that their handcuffing during the ensuing court hearing on 26 January 2007 had been inhuman and degrading and that they had had no effective remedy at their disposal for this complaint. They complained in particular about the presiding judge's failure to give any reasons for refusing to order the removal of their handcuffs, alleging that it had not been necessary to handcuff them as the hearing had taken place in a secure environment – in prison – and in the presence of prison warders.

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

**Violation of Article 13**

**Just satisfaction:** 1,000 euros (EUR) each to Mr Radkov and Mr Sabev (non-pecuniary damage)

### Rumor v. Italy (no. 72964/10)

The case concerned domestic violence.

The applicant, Giulia Rumor, is an Italian national who was born in 1968 and lives in Colognola ai Colli, in the province of Verona (Italy). In 2003 she began a relationship with J.C.N., a Kenyan national, which rapidly deteriorated and resulted in 2008 in a particularly violent incident in which J.C.N. locked her in their house and beat her under the threat of a knife and a pair of scissors. One of their two small children, both sleeping, woke up and witnessed the aggression. J.C.N. was immediately arrested and detained on remand. He was subsequently found guilty of attempted

<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)

murder, kidnapping and aggravated violence and sentenced to three years and four months' detention, later replaced by house arrest in a reception centre. He finished serving his sentence in August 2011 but decided to continue living in the reception centre. In the meantime in May 2009, Ms Rumor was granted sole custody of her children and J.C.N was deprived of his parental rights.

Ms Rumor complained that the authorities had failed to support her following the serious incident of domestic violence against her in November 2008 or to protect her from further violence. She complained in particular that her former partner had not been obliged to have psychological treatment and had continued to represent a threat to both her and her children. She further claimed that the reception centre chosen for his house arrest, situated just 15km from her home, had been inadequate, submitting that she had been intimidated twice by employees of the reception centre which had been in breach of a court order prohibiting any form of contact with her former partner. Lastly, she alleged that these failings had been the result of the inadequacy of the legislative framework in Italy in the field of the fight against domestic violence, and that this had discriminated against her as a woman. She relied on Article 3 (prohibition of inhuman or degrading treatment) alone and in conjunction with Article 14 (prohibition of discrimination) of the Convention.

**No violation of Article 3, alone and in conjunction with Article 14**

### Albergas and Arlauskas v. Lithuania (no. 17978/05)

The case concerned a mistake made in 1994 by the authorities with regard to the sale of State land in the context of land reform (notably, the process of restoration of previously nationalised property to its former owners) in Lithuania.

The applicants, Eduardas Albergas and Jurijus Arlauskas, are Lithuanian nationals who were born in 1949 and 1955 respectively and live in Vilnius.

In 1994 Mr Albergas bought a plot of land in Vilnius from the State. In 1997 he sold it on to Mr Arlauskas. On 27 November 2002 the Supreme Court declared that the State's sale of the land to Mr Albergas had been unlawful and annulled the subsequent land transfer to Mr Arlauskas. It was established that the local authorities had not been entitled to sell the property to Mr Albergas as the question of restoration of the rights of the former owners had not yet been resolved. The applicants' ensuing administrative and civil claims requesting to be assigned a new plot of land or damages were all subsequently dismissed.

Relying on Article 1 of Protocol No. 1 (protection of property), both applicants complained that they had been unlawfully deprived of their property without adequate compensation, either in the form of land or money.

**Violation of Article 1 of Protocol No. 1** in respect of Mr Albergas

**Application struck out of the Court's list of cases** in so far as it concerned the complaint of Mr Arlauskas

**Just satisfaction:** EUR 8,000 (pecuniary and non-pecuniary damage) and EUR 190 (costs and expenses) to Mr Albergas

### De La Flor Cabrera v. Spain (no. 10764/09)\*

The applicant, José Luis de La Flor Cabrera, is a Spanish national who lives in Seville (Spain). The case concerned the recording and use of video material as evidence in civil proceedings without the applicant's consent.

In 1997 Mr de la Flor Cabrera was run over by a car while cycling. He brought civil proceedings for damages against the driver and relevant insurance company in respect of the alleged consequences, including post-traumatic neurosis which prevented him from driving. At the hearing, the insurance

company submitted a video – recorded by a private detective agency – on which the applicant could be seen riding a motorbike. On appeal, the Seville *Audiencia Provincial* ruled that the private detectives' report was valid, holding that the circumstances in which the recordings had been made did not amount to interference in the applicant's conduct, and nor had they influenced his conduct. At the same time, Mr de La Flor Cabrera brought proceedings against the insurance company for breach of his right to private life and his right to protection of one's image. The court dismissed his claims and the *Audiencia Provincial* held that the recording of his image had been justified, both with regard to the aim pursued by the insurance company and to the detectives who had filmed him.

Relying on Article 8 (right to respect for private and family life), Mr de La Flor Cabrera alleged that the video recordings, made without his consent and used in the proceedings, had been contrary to his right to honour and his right to private and family life, and also to his right to protection of one's image.

**No violation of Article 8**

### Buchs v. Switzerland (no. 9929/12)

The case concerned proceedings for shared parental authority.

The applicant, Stanislaw Jean Garcia Buchs, is a Swiss national who was born in 1960 and lives in Cully, Canton of Vaud (Switzerland).

Mr Buchs and his wife separated in 2002. They filed a joint petition for divorce, each also applying to have sole custody of their two children, born in 1996 and 1999. In the ensuing civil proceedings the mother was awarded parental authority and Mr Buchs was granted extensive contact rights. Shared parental authority was refused on the ground that it would not be in the best interests of the children given the conflictual relationship between their parents. Account was taken of the mother's opposition to shared parental authority as well as her cooperativeness concerning her ex-husband's contact rights set against Mr Buchs' difficulties in accepting the separation from his wife as well as the pressure under which he put her. Particular regard was also given to the children and the conflict of loyalties in which they found themselves caught up. This decision was upheld by the Appeal Court in February 2010 and by the Federal Supreme Court in August 2011.

Mr Buchs complained about the national courts' decisions refusing him shared parental authority, which, he claimed, it was impossible to award him under the Swiss law in force as the children's mother had been opposed to it, alleging that this also had discriminated against him on grounds of sex. He relied in particular on Article 8 (right to respect for private and family life) and Article 14 (prohibition of discrimination).

**No violation of Article 8**

**No violation of Article 14 in conjunction with Article 8**

### 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.

*Goławski and Pisarek v. Poland* (no. 32327/10)

*Hoszowski v. Poland* (no. 40988/09)

**Violation of Article 6 § 1** in both cases

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on [www.echr.coe.int](http://www.echr.coe.int). To receive the Court's press releases, please subscribe here: [www.echr.coe.int/RSS/en](http://www.echr.coe.int/RSS/en) or follow us on Twitter [@ECHR\\_Press](https://twitter.com/ECHR_Press).

### Press contacts

[echrpess@echr.coe.int](mailto:echrpess@echr.coe.int) | tel: +33 3 90 21 42 08

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Nina Salomon (tel: + 33 3 90 21 49 79)

Denis Lambert (tel: + 33 3 90 21 41 09)

**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.