



Judgments concerning Bulgaria, Italy, the Republic of Moldova, Poland, Romania, Serbia, and Turkey

The European Court of Human Rights has today notified in writing the following 13 judgments, of which one (in italics) is a Committee judgments and is final. The others are Chamber judgments¹ and are not final.

Repetitive cases², 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 Gerasimov and Others v. Russia (applications nos. 29920/05, 3553/06, 18876/10, 61186/10, 21176/11, 36112/11, 36426/11, 40841/11, 45381/11, 55929/11, and 60822/11), and A.B. v. Switzerland (no. 56925/08), for which separate press releases have been issued.

Dimitrov and Others v. Bulgaria (application no. 77938/11)

The case concerned the death of a suspect in drug trafficking and pimping during a police operation.

The applicants, Raycho Angelov Dimitrov, Anita Rumenova Velyanova, Raycho Dimitrov Dimitrov, and Adriana Georgieva Dimitrova, are Bulgarian nationals who were born in 2000, 1979, 1948, and 1950 respectively and live in Blagoevgrad, Sofia, and Kyustendil (Bulgaria).

They are the son, *de facto* spouse and parents of Angel Raychov Dimitrov, born in 1967, who they allege was beaten to death on 10 November 2005 during an operation ordered by the regional police organised-crime unit on the suspicion that he was involved in distributing narcotic drugs and pimping. They claim that Angel Raychov Dimitrov was in his car talking on his mobile phone when police officers arrived, dragged him out of his car, handcuffed him behind his back and beat him for the next ten to fifteen minutes. According to the Government, Mr Dimitrov – who the police had reason to believe was armed, dangerous and under the influence of cocaine – had put up fierce resistance and therefore force had to be used to overcome him. Seeing as Mr Dimitrov was no longer moving, an ambulance was called to the scene and an emergency doctor confirmed that he had died. Five police officers were subsequently investigated and tried on charges of aggravated murder. They were ultimately acquitted in June 2011 by the Supreme Court of Cassation, which held that Mr Dimitrov had died from asphyxia by accident and therefore the officers' blows could not have caused his death.

Relying on Article 2 (right to life) and Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights, the applicants alleged that their relative had been ill-treated and killed as a result of excessive use of force during a poorly planned police operation and that the ensuing investigation was ineffective, even stifled by the authorities. They also alleged under Article 6 § 1 (right to a fair trial/hearing) of the European Convention that the criminal proceedings against the police officers accused of their relative's murder had been biased and unfair, notably as some of the judges of the Supreme Court of Cassation who had heard the case had

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.

been related to employees of the ministry in charge of police matters, namely the Ministry of Internal Affairs.

Violation of Article 2

Violation of Article 3

No violation of Article 6 § 1

Just satisfaction: EUR 50,000 euros (EUR) jointly to all four applicants in respect of non-pecuniary damage; 5,000 Bulgarian leva (BGN) to Anita Rumenova Velyanova, BGN 6,000 to Raycho Dimitrov Dimitrov, and BGN 6,000 to Adriana Georgieva Dimitrova for costs and expenses incurred in the domestic proceedings, and EUR 5,000 and BGN 818 jointly to all four applicants for costs and expenses incurred in the proceedings before the European Court.

Guadagno and Others v. Italy (no. 61820/08)*

The applicants, S. Guadagno, F. Minichini and F. Portoghese, are Italian nationals who were born in 1947, 1941 and 1950 respectively and live in Salerno (Italy). The case concerned the non-enforcement of a judgment of the regional administrative court in their favour.

The applicants are administrative judges who obtained the status of members of the *Consiglio di Stato* on 11 June 1991. In December 1992, by an official request served on their governing body, they requested an adjustment of their salary under Law no. 265 of 8 August 1991, submitting that under the statutory provisions they were entitled to the same salary as that received by other members of the *Consiglio di Stato* who, despite having less seniority, received a higher salary. The regional administrative court upheld their request. The Prime Minister's Office appealed. The *Consiglio di Stato* dismissed the appeal, but the authorities did not enforce the judgment of the regional administrative court. The latter then ordered the authorities to enforce its judgment, whereupon the authorities appealed. The *Consiglio di Stato* upheld the appeal, finding the non-enforcement of the regional administrative court's judgment to be lawful.

Relying on Article 6 § 1 (right to a fair hearing within a reasonable time), the applicants alleged that the entry into force of Law no. 388 of 23 December 2000 had influenced the *Consiglio di Stato's* decision and that there had been a breach of the rule of law and of the fairness of the proceedings.

Violation of Article 6 § 1

Just satisfaction: EUR 87,000 to Mr Guadagno, EUR 104,000 to Mr Minichini, and EUR 95,000 to Mr Portoghese (pecuniary damage)

Saba v. Italy (no. 36629/10)*

The applicant, Valentino Saba, is an Italian national who was born in 1951 and lives in Martis (Sardinia, Italy). The case concerned a complaint by Mr Saba and other prisoners against a number of prison officers for acts of violence that had occurred in Sassari Prison on 3 April 2000.

On 2 May 2000 the judge ordered 22 accused to be placed in pre-trial detention while 60 others were placed under house arrest. Following the investigations the prosecution requested that a number of them be committed for trial, on charges of duress, assault and abuse of official power. The judge committed nine prison officers for trial and gave judgment on the merits of the charges against 61 other accused. In a judgment of 29 September 2009 the Sassari Court declared the proceedings against seven of the nine accused statute-barred and acquitted the other two. The remaining 61 officers were tried separately: 12 were given prison sentences ranging from a year and six months to four months' imprisonment, suspended, for aggravated duress, assault and abuse of official power. The Court of Appeal upheld six convictions, acquitted five defendants and convicted four others who had been acquitted at first instance. The ten accused who had been convicted

appealed to the Court of Cassation, which dismissed nine of the appeals. In all, seven of those who were convicted were given a disciplinary penalty.

Relying in particular on Article 3 (prohibition of inhuman and degrading treatment), Mr Saba notably complained of the treatment to which he had been subjected by the prison officers. He submitted that owing to the delays in the judicial proceedings these had become statute-barred and the perpetrators cannot therefore be punished.

Violation of Article 3 (degrading treatment)

Violation of Article 3 (investigation)

Just satisfaction: EUR 15,000 (non-pecuniary damage) and EUR 5,000 (costs and expenses)

Pareniuc v. the Republic of Moldova (no. 17953/08)

The case concerned an allegation of police entrapment.

The applicant, Vera Pareniuc, is a Moldovan national who was born in 1955 and lives in Edinet (Republic of Moldova).

Ms Pareniuc, a former tax inspector, was convicted of bribe taking in a final decision of 21 March 2007. She was convicted on the strength of evidence (marked money) obtained during a police undercover operation of 17 February 2004 when a shop owner, wired by the police, gave Ms Pareniuc money in exchange for not reporting a discrepancy in the shop's books. Ms Pareniuc was given a fine of 1,200 euros, sentenced to a three years' suspended prison sentence and banned from working for the tax authority for three years.

Relying on Article 6 § 1 (right to a fair trial), Ms Pareniuc claimed in particular that she had been incited to commit the crime of accepting a bribe.

Violation of Article 6 § 1

Just satisfaction: EUR 3,500 (non-pecuniary damage) and EUR 2,440 (costs and expenses)

Ruszkowska v. Poland (no. 6717/08)

The case concerned the repartition of a survivors' pension between a deceased father's biological and foster children.

The applicant, Marzena Ruszkowska, is a Polish national who was born in 1973 and lives in Biała Podlaska (Poland). She and her late husband took care of nine children altogether, two biological and seven fostered. When her husband died suddenly in December 2004, she applied for dissolution of the foster family. As a result, the foster children were either placed with other foster families or went back to live with their biological families or in State-run care establishments. Mr Ruszkowska was covered by an insurance scheme run by the Farmers' Social Security Fund under which all nine children, both biological and fostered, were entitled to a survivorship pension. Ms Ruszkowska made a number of appeals before the national courts against the Fund's decisions to award all nine children the survivors' pension in equal parts, arguing that their decisions put her biological children at a disadvantage as compared to her former foster children who were now provided for by other families, but still continued to receive their part of the survivorship pension. Her appeals were all dismissed, ultimately by the Lublin Court of Appeal in December 2007.

Ms Ruszkowska alleged that the repartition of the survivors' pension had been discriminatory against her and her biological children in comparison with her former foster children, claiming that, if she had not fostered children in the past, her biological children would have been entitled to half the pension each. She relied in particular on Article 8 (right to respect for private and family life), Article 14 (prohibition of discrimination) and Article 1 of Protocol No. 1 (protection of property).

No violation of Article 14 taken in conjunction with Article 1 of Protocol No. 1

No violation of Article 14 taken in conjunction with Article 8, or of Article 8 or Article 1 of Protocol No. 1 taken alone

Blaga v. Romania (no. 54443/10)

The case concerned international child abduction.

The applicant, Octavian Blaga, is a Romanian and American national who was born in 1967 and lives in Suwanee (the United States of America).

In 1993 Mr Blaga married another Romanian and American national in Georgia in the USA. They had three children, born in 1998 and 2000. They all lived in the USA until September 2008, when the mother took the children to Romania, without ever returning. As a result, Mr Blaga submitted a request to the US authorities under the Hague Convention (on the Civil Aspects of International Child Abduction) for the return of his three children, arguing that they had been unlawfully removed from US territory by his wife, in breach of a joint-custody agreement. The US authorities in turn submitted the request to the Romanian Ministry of Justice in December 2008. In a final judgment of March 2010 the Romanian courts, although acknowledging that the mother's refusal to return the children to their habitual residence in the USA was unlawful under the Hague Convention, dismissed Mr Blaga's request, principally on the ground that the children had freely and unequivocally expressed their wish not to return to the USA.

In the meantime, divorce-and-custody proceedings were brought against Mr Blaga by his wife in Romania in October 2008. The Romanian courts ultimately upheld the action in March 2014, awarding sole custody of the children to their mother.

Relying in essence on Article 8 (right to respect for private and family life), Mr Blaga alleged that the Romanian courts had misinterpreted the provisions of the Hague Convention, relying exclusively on the opinion of his children to deny him their return to the USA, and had failed to provide sufficient reasons for ignoring US court injunctions as well as documents submitted by the US authorities. He also complained under Article 6 § 1 (right to a fair hearing within a reasonable time) about the excessive length of the divorce-and-custody proceedings instituted against him by his wife.

Violation of Article 8

Violation of Article 6 § 1

Just satisfaction: EUR 9,750 (non-pecuniary damage) and EUR 8,000 (costs and expenses)

Buciaş v. Romania (no. 32185/04)

The case concerned the sale of immovable property.

The applicants, Alexandru and Ioan Buciaş, brothers, are Romanian nationals who were born in 1938 and 1939 respectively. Alexandru Buciaş died in December 2005 and his widow and daughter have continued the application before the European Court.

In 1994 the applicants' father entered into a loan agreement with a mortgage on his immovable property – a building and the surrounding land – located in Osorhei (Romania) being offered as a guarantee. As he did not reimburse the loan to deadline, his property was auctioned in May 1996 to another family. Mr Buciaş (father) challenged the forced sale before the national courts and in April 2000 the sale was annulled on the ground that the loan had been reimbursed and the price at which the property had been sold was considerably lower than its real value. He could not, however, repossess the property as, in the meantime, the family had sold it on to another individual. He therefore brought further proceedings requesting that both sale agreements be annulled. Ultimately, in April 2004 the courts overturned the annulment of the sale, rejecting the applicants'

claim (their father having died during the proceedings) on the ground that the subsequent buyer of the property had acted in good faith. The applicants continued to live in the house in spite of a number of eviction proceedings brought against them.

Relying on Article 1 of Protocol No. 1 (protection of property), the applicants complained that, in spite of the fact that the sale of their immovable property to another family at auction had been annulled, they had not been able to have its subsequent sale to another buyer annulled. They pointed out, in particular, that both the family and the subsequent buyer had acted in bad faith as they had to have been aware of the proceedings to contest the sale of the property and therefore of its uncertain legal status.

Violation of Article 1 of Protocol No. 1

Just satisfaction: EUR 70,000 (pecuniary damage) and EUR 3,300 (non-pecuniary damage) to the applicants jointly

Mihăilescu v. Romania (no. 46546/12)

The case concerned the applicant's detention conditions.

The applicant, Gabi Ainăld Mihăilescu, is a Romanian national who was born in 1971. He is currently detained in Iași Prison (Romania).

Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Mihăilescu complained about the conditions of his detention pending trial on charges of human trafficking, initially from February 2012 when he had been held in Bacău Police detention facility and then from March 2012 when he had been transferred to Bacău Prison. He complained in particular about overcrowding, poor hygiene and the fact that he, a non-smoker, had had to share his cell with smokers.

Violation of Article 3 concerning the material conditions of the applicant's detention in Bacău Police Department's detention facility and Bacău Prison

Just satisfaction: EUR 3,300 (non-pecuniary damage)

Simon v. Romania (no. 34945/06)*

The applicant, Adolf Simon, is a Romanian national who was born in 1954 and lives in Ghiroda de Veche. The case concerned the length of Mr Simon's pre-trial detention and the justification for extending it.

On 21 October 2004 Mr Simon was placed in police custody, accused of fraud, forgery and use of forged documents. The next day the court ordered his placement in pre-trial detention on the ground that the offence was punishable by over four years' imprisonment and that his release posed a threat to public order. His pre-trial detention was subsequently extended several times. At regular intervals the court examined applications for release by Mr Simon and the appropriateness of keeping him in detention. In a judgment of 1 March 2006 Mr Simon was sentenced to five years' imprisonment for fraud, forgery and use of forged documents and ordered to pay compensation for pecuniary damage sustained by the civil parties. On 5 October 2006 the Court of Appeal found that the pre-trial detention had exceeded a reasonable time and ordered Mr Simon's release. By another final judgment of 9 March 2009, the Court of Appeal found that the charges against Mr Simon in respect of some of the offences were statute-barred.

Relying in substance on Article 5 § 3 (right to liberty and security), Mr Simon submitted that the domestic courts had failed to state relevant reasons for their decisions extending his pre-trial detention.

Violation of Article 5 § 3

Just satisfaction: EUR 2,000 (non-pecuniary damage)

Isaković Vidović v. Serbia (no. 41694/07)

The applicant, Suzana Isaković Vidović, is a Serbian national who was born in 1967 and lives in Celje (Slovenia). The case concerned her complaint that proceedings brought against her former neighbour in Serbia for causing her severe bodily harm had been terminated as time-barred.

In September 1997 Ms Isaković Vidović, who was living in Šabac (Serbia) at the time, was allegedly punched in the face by her neighbour following an argument. She lost consciousness and spent the night in hospital. She lodged a criminal complaint against her neighbour and he was indicted in March 1998 with causing her severe bodily injuries. He was convicted at first-instance and sentenced to a four-month suspended prison sentence. This decision was, however, subsequently quashed and a new trial ordered. The courts held or adjourned six further hearings, but the proceedings were ultimately terminated as time-barred in September 2007.

Relying in particular on Article 8 (right to respect for private life), Ms Isaković Vidović complained about the way in which the criminal proceedings against her neighbor had been conducted and the fact that they had resulted, effectively, in his impunity.

Violation of Article 8

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

Riđić and Others v. Serbia (nos. 53736/08, 53737/08, 14271/11, 17124/11, 24452/11, and 36515/11)

The case concerned the length of enforcement proceedings against a copper mining company with regard to work-related pecuniary claims.

The applicants, Ilija Riđić, Slobodan Srbu, Milan Mitić, Bora Lazarević, Milorad Antonijević, and Goran Pobrić, are Serbian nationals who were born in 1962, 1957, 1962, 1945, 1951, and 1977 respectively and live in Žagubica, Majdanpek, Gornji Vrtoš, and Donji Milanovac (Serbia). They were all employed by a copper mining company based in Majdanpek (Serbia) and, between 2001 and 2005, brought separate civil suits against the company essentially seeking payment of salary arrears. The courts ruled in favour of all the applicants and ordered the mining company to pay them their various work-related claims; following protracted enforcement proceedings, the applicants were paid the full amounts in 2011.

Relying on Article 6 § 1 (right to a fair hearing within a reasonable time), the applicants alleged that the length of the enforcement proceedings had been excessive.

Violation of Article 6 § 1

Just satisfaction: EUR 2,000 to each applicant (non-pecuniary damage and costs and expenses)

Repetitive cases

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

Geta Stanciu and Others v. Romania (no. 29755/06) – Just Satisfaction

This case concerned, in particular, the applicants' complaints that the domestic authorities had failed to enforce final judgments in their favour. In its principal judgment of 23 March 2010 the Court held that there had been violations of Article 1 of Protocol No. 1 (protection of property) and Article 6 § 1 (right to a fair hearing within a reasonable time). Today's judgment concerned the question of just satisfaction (Article 41).

Just satisfaction: The Court held that Romania was to ensure the enforcement of the final domestic judgments in question in their entirety, failing which it would have to pay the applicants EUR 280,000 jointly in respect of pecuniary damage. The Court further awarded EUR 4,700 to the applicants jointly in respect of non-pecuniary damage and EUR 2,516 jointly in respect of costs and expenses.

Şekerci v. Turkey (no. 9961/08)*

In this case the applicant complained of the lack of effective remedies by which to obtain compensation for his allegedly unlawful detention. He was arrested and placed in pre-trial detention in December 2005, and subsequently acquitted for want of evidence in April 2009. He relied on Article 5 § 4 (right to have the lawfulness of his detention decided speedily), Article 5 § 5 (right to compensation), and Article 6 § 1 (right to a fair trial within a reasonable time).

Violation of Article 5 § 4

Violation of Article 5 § 5

Violation of Article 6 § 1

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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.