



## Judgments concerning Armenia, Austria, Azerbaijan, Croatia, Greece, Hungary, Italy, Romania, Russia, Slovenia, and Turkey

The European Court of Human Rights has today notified in writing the following 24 judgments, of which eight (in italics) are Committee judgments and are final. The others are Chamber judgments<sup>1</sup> and are not final.

Repetitive cases<sup>2</sup> 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 Bodein v. France (application no. 40014/10), for which a separate press release has been issued.*

### Islam-Ittihad Association and Others v. Azerbaijan (application no. 5548/05)

The applicants are the Islam-Ittihad Association, an NGO with headquarters in Baku, which was active between 1991 and 2003, and Azer Samadov and Ilgar Allahverdiyev, Azerbaijani nationals who were born in 1961 and 1973 respectively and live in Baku. They were the association's chairman and a member of its management board, respectively.

The association's main activities included the repair and maintenance of mosques, and it engaged in projects aimed at promoting respect for human rights and in a number of humanitarian activities. The case concerned the association's forced dissolution, which had been ordered by a district court in 2003 in proceedings brought by the Ministry of Justice. The court found that the association had unlawfully engaged in religious activities and, despite three warnings by the Ministry, had failed to cease those activities. The decision was eventually upheld in July 2004.

The applicants complained that the forced dissolution of the association had been unlawful and had violated their rights, in particular, under Article 11 (freedom of assembly and association) of the European Convention on Human Rights.

#### Violation of Article 11

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

### Starčević v. Croatia (no. 80909/12)

The applicant, Mario Starčević, is a Croatian national who was born in 1974 and lives in Split. The case concerned his complaint about the criminal investigation into the death of his father, who had been killed in a car accident.

Mr Starčević's father was hit by a car in May 2004 while attempting to cross a motorway and, seriously injured, died at the scene. A subsequent medical report indicated that the driver of the car had been under the influence of alcohol at the time of the accident. In February 2005 the

<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)

<sup>2</sup> In which the Court has reached the same findings as in similar cases raising the same issues under the Convention.

investigating judge declined to open a criminal investigation, finding that there was no reasonable suspicion of a criminal offence, but in September 2006 the Supreme Court allowed an appeal by Mr Starčević and ordered an investigation. Following the acquittal of the driver in 2010, which was subsequently quashed, and the reopening of the case, the proceedings were eventually discontinued in a decision upheld in September 2012.

Relying on Article 2 (right to life), Mr Starčević complained that the criminal investigation into his father's death had been ineffective. He maintained in particular that the investigation had been superficial and had taken an unduly long time, and that he had not been properly informed of relevant steps taken by the authorities.

#### **Violation of Article 2** (procedure)

**Just satisfaction:** EUR 10,000 (non-pecuniary damage) and EUR 7,700 (costs and expenses)

### **Bibi v. Greece (no. 15643/10)\***

The applicants, Konstantina Bibi and Georgia Bibi, are Greek nationals who were born in 1919 and 1949 respectively and live in Athens (Greece). The case concerned the expropriation in 1976 of land allegedly belonging to Ms Georgia Bibi and her husband. The second applicant, who is the first applicant's daughter, acquired an interest in remainder in respect of the land following her father's death.

In 1978 the domestic courts determined the amount of expropriation compensation to be paid. However, the applicants did not receive the compensation as the Nauplia Court of First Instance refused to recognise that they were entitled to compensation, on the grounds that the State's representative had said during the court hearing that the land was public property. The applicants then took proceedings in the civil courts seeking recognition of their ownership rights. The proceedings began in 1984 and ended in 2004 with Ms Konstantina Bibi being recognised as the owner of part of the land. On 29 December 2005 the applicants brought proceedings in the Nauplia Court of Appeal seeking to have the expropriation compensation reassessed or to obtain compensation for the loss of the use of their property since 1979. In a judgment of 28 February 2007, which was upheld following an appeal on points of law, the Court of Appeal declined jurisdiction on the grounds that the applicants' claims in fact amounted to claims for damages against the State and therefore came within the jurisdiction of the administrative courts.

Relying in particular on Article 1 of Protocol No. 1 (protection of property) to the Convention, the applicants notably complained of the refusal of the Nauplia Court of Appeal and of the Court of Cassation to examine their claims concerning the expropriation of their land and the awarding of compensation.

#### **Violation of Article 1 of Protocol No. 1**

**Just satisfaction:** EUR 10,000 (pecuniary damage), EUR 3,000 (non-pecuniary damage) and EUR 2,500 (costs and expenses)

### **MD v. Greece (no. 60622/11)\***

The applicant, Toiabali MD, is a Bangladeshi national who was born in 1978 and lives in Thessaloniki (Greece). The case concerned the conditions and the lawfulness of Mr MD's detention from 4 January to 15 March 2011 in the aliens' police department in Thessaloniki, with a view to his deportation.

Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr MD complained of his conditions of detention, and in particular of overcrowding, a lack of opportunities for physical exercise and a shortage of food. Under Article 5 § 1 (right to liberty and security), he also alleged

that his detention with a view to his deportation had been unlawful. Relying on Article 5 § 4 (right to a speedy review of the lawfulness of detention), he alleged that the domestic authorities had not given due consideration to his complaints in that regard.

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

**No violation of Article 5 § 1**

**Violation of Article 5 § 4**

**Just satisfaction:** EUR 8,000 (non-pecuniary damage)

### Papakonstantinou v. Greece (no. 50765/11)\*

The applicant, Aris Papakonstantinou, is an Italian national who was born in 1979 and is currently detained in Alikarnassos Prison (Greece).

The case concerned the conditions of detention of Mr Papakonstantinou, who was sentenced to life imprisonment for drug-related offences, in Korydallos Prison (from March 2007 to April 2008) and in Patras Prison (from April 2008 to April 2012).

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment), Mr Papakonstantinou complained of his conditions of detention in both prisons, and in particular of overcrowding, poor hygiene and a lack of ventilation and light.

**Violation of Article 3** (inhuman and degrading treatment) – on account of the applicant's conditions of detention in Patras Prison

**Just satisfaction:** EUR 18,200 (non-pecuniary damage) and EUR 2,000 (costs and expenses)

### Just Satisfaction

### Varfis v. Greece (no. 40409/08)\*

The applicant, Spyridonas Varfis, is a Greek national who was born in 1944 and lives in Athens (Greece).

The case concerned the building restrictions imposed on the applicant's property (a plot of land located near Marathon), after he had acquired it and without any compensation being paid.

In its [principal judgment](#) of 19 July 2011 the Court found a violation of Article 1 of Protocol No. 1 (protection of property). Today's judgment concerned the question of just satisfaction (Article 41 of the Convention).

**Just satisfaction:** The Court awarded the applicant EUR 50,000 in respect of pecuniary damage. It further held that the finding of a violation constituted sufficient just satisfaction for the non-pecuniary damage suffered by the applicant.

### Bahnă v. Romania (no. 75985/12)

The applicant, Vasile Bahnă, is a Romanian national who was born in 1976. He is currently detained in Iași Prison (Romania), where he is serving a 15-year prison sentence for rape.

The case concerned his complaint about the conditions in several different prison facilities in Romania in which he has been detained since 2004. In particular, he alleged overcrowding of cells, cells being infested by insects, and insufficient and inappropriate food. Furthermore, he complained of having fallen ill with toxic hepatitis, bronchopneumonia, anaemia and several other diseases during his detention, and maintained that he had not received adequate treatment for those conditions. He relied on Article 3 (prohibition of inhuman or degrading treatment).

**Violation of Article 3** (degrading treatment) – concerning the applicant’s conditions of detention, on account of overcrowding

**Just satisfaction:** EUR 12,000 (non-pecuniary damage)

### Lazariu v. Romania (no. 31973/03)

The applicant, Victoria Lazariu, is a Romanian national who was born in 1951 and lives in Iași (Romania). The case concerned her confinement in a psychiatric hospital for several days against her will and the criminal proceedings against her.

Suspected of having incited witnesses to give false testimony, Ms Lazariu was held for several hours at a district prosecutor’s office on 28 May 2003. On order of the prosecutor, she was subsequently admitted to a psychiatric hospital, where she was examined and, found to be mentally sound, released on 5 June 2003. Her complaints about her treatment on 28 May were dismissed. In subsequent criminal proceedings, Ms Lazariu was convicted of several offences, including fraud and forgery, and eventually sentenced to five years’ imprisonment in a judgment which became final in October 2010.

Relying in particular on Article 5 §§ 1 and 4 (right to liberty and security/right to judicial review of detention), Ms Lazariu complained that her deprivation of liberty on 28 May 2003 and subsequently in the psychiatric hospital had been unlawful and that the decision to order her confinement had not been reviewed by the courts. She further complained, under Article 6 §§ 1 and 3 (c) (right to a fair trial/right to defend oneself in person or through legal assistance), that the criminal proceedings against her had taken an unreasonably long time and that the courts had failed to hear her in person. Finally, relying on Article 8 (right to respect for private and family life), she complained that the authorities had contacted the press when she had been taken by force to the psychiatric hospital, resulting in the publication of her photos in various newspapers.

**Violation of Article 5 § 1 (b)** – with regard to the applicant’s deprivation of liberty on 28 May 2003 before she was transferred to the psychiatric hospital

**Violation of Article 5 § 1 (e)** – with regard to the applicant’s confinement in the psychiatric hospital

**Violation of Article 5 § 4**

**No violation of Article 6 § 1** – on account of the length of the criminal proceedings

**No violation of Article 6 §§ 1 and 3 (c)** – on account of the alleged failure of the Romanian courts to hear the applicant in person

**No violation of Article 6 § 1** – on account of the alleged lack of reasons in the decisions delivered by the appellate courts

**No violation of Article 8**

**Just satisfaction:** EUR 3,000 (non-pecuniary damage) and EUR 550 (costs and expenses)

### Aktürk v. Turkey (no. 70945/10)

The applicant, Ender Bulhaz Aktürk, is a Turkish national who was born in 1982 and is currently detained in the Tekirdağ F-type Prison (Turkey), where he is serving a sentence for having killed a police officer.

The case concerned Mr Aktürk’s complaint of having been ill-treated by the police following his arrest on 18 March 2009. He alleged in particular that he had been beaten at a police station and that, following his subsequent transfer to the anti-terrorism branch of the Bursa Security Headquarters, his testicles had been squeezed, and he had been subjected to hanging by his arms and hosed with cold water. Mr Aktürk filed a complaint with the prosecuting authorities, alleging that he had been ill-treated in custody. In November 2009, the prosecutor decided not to open criminal proceedings.

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment), Mr Aktürk complained of his ill-treatment and maintained that no effective investigation had been conducted into the matter.

**Violation of Article 3** (treatment)

**Violation of Article 3** (procedure)

**Just satisfaction:** EUR 10,000 (non-pecuniary damage) and EUR 2,400 (costs and expenses)

### Ali Rıza Kaplan v. Turkey (no. 24597/08)\*

The applicant, Ali Rıza Kaplan, is a Turkish national who was born in 1977. At the time the application was lodged he was detained in Tekirdağ Prison (Turkey). The case concerned the length of his detention pending trial and the alleged lack of an effective remedy by which to appeal against his continued detention.

Mr Ali Rıza Kaplan was taken into police custody on suspicion of membership of the illegal organisation, the MLKP (Marxist-Leninist Communist Party), and on 20 April 2003 was placed in detention pending trial. He was charged with attempting to overthrow the constitutional order and was tried in the Assize Court. Following the hearings the Assize Court rejected Mr Ali Rıza Kaplan's requests for release on several occasions and ordered his continued detention pending trial. It also dismissed his appeals against the orders for his continued detention, without holding hearings and after requesting the written opinion of the public prosecutor, which was not sent to Mr Ali Rıza Kaplan or his lawyer. Throughout the proceedings the Assize Court also reviewed Mr Ali Rıza Kaplan's detention at regular intervals of its own motion.

Relying on Article 5 § 3 (right to liberty and security), Mr Ali Rıza Kaplan complained of the length of his detention pending trial. Under Article 5 § 4 (right to a speedy review of the lawfulness of detention), he complained in particular of the fact that he had been given no opportunity to reply to the written opinion of the public prosecutor.

**Violation of Article 5 § 3**

**Violation of Article 5 § 4** – concerning the non-communication of the written opinion of the public prosecutor, in so far as this complaint concerned the decisions of 10 January 2008, 17 April 2009 and 27 December 2010

**Just satisfaction:** EUR 8,000 (non-pecuniary damage) and EUR 500 (costs and expenses)

### Cüneyt Polat v. Turkey (no. 32211/07)\*

The applicant, Cüneyt Polat, is a Turkish national who was born in 1959 and lives in Istanbul (Turkey).

The case concerned his arrest on 4 September 2005 after he had taken part in a demonstration in support of Abdullah Öcalan – founder and leader of the PKK (Workers' Party of Kurdistan, an illegal armed organisation) – which was dispersed by the police using force.

Mr Cüneyt Polat was taken into police custody and underwent medical examinations which recorded injuries that were caused, according to him, by blows from police truncheons inflicted during his arrest. He was remanded in custody on 5 September 2005 and charged with aiding and abetting the PKK and possessing dangerous and explosive products. During the criminal proceedings the Istanbul Assize Court held several hearings and on each occasion ordered Mr Cüneyt Polat's continued detention. He lodged two appeals against the orders for his continued detention, which were dismissed by the Assize Court on the basis of the case file. On 4 December 2006 he lodged a complaint against the police officers who he claimed were responsible for his injuries. Nine police officers gave evidence to the public prosecutor, who discontinued the proceedings for lack of evidence. Mr Cüneyt Polat appealed against that decision, without success. On 20 March 2007 he

was sentenced to ten years' imprisonment and payment of a fine. He lodged an appeal on points of law which was dismissed on 28 January 2008.

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment), Mr Cüneyt Polat alleged that he had been subjected to ill-treatment during his arrest and that the investigation by the public prosecutor's office into his complaint against the police officers had been ineffective.

**Violation of Article 3** (treatment)

**Violation of Article 3** (procedure)

**Just satisfaction:** EUR 10,000 (non-pecuniary damage)

### Dinç and Others v. Turkey (no. 34098/05)\*

The applicants, Nursen Dinç, Birsen Lutlu, Aynur Sever, Neşe Dinç and Fatmagül Dinç, are five Turkish nationals who were born in 1950, 1952, 1960, 1962, and 1931 respectively and live in Istanbul.

The case concerned the partial annulment by the civil courts, at the request of the Treasury, of title to a plot of land belonging to the applicants, on the ground that part of the property was designated as coastal land and therefore could not be privately owned. The domestic courts also ordered the demolition of the buildings constructed on part of the land.

Relying in particular on Article 6 (right to a fair hearing within a reasonable time), the applicants complained of the length of the civil proceedings before the domestic courts.

**Violation of Article 6 § 1** (length of proceedings)

**Just satisfaction:** EUR 2,000 to each applicant in respect of non-pecuniary damage, and EUR 3,000 to the applicants jointly in respect of costs and expenses

### Durmaz v. Turkey (no. 3621/07)

The applicant, Ümran Durmaz, is a Turkish national who was born in 1955 and lives in İzmir (Turkey).

The case concerned her complaint of the authorities' failure to carry out an effective investigation into the death of her daughter.

Ms Durmaz' daughter, Gülperi O., died in July 2005 in a hospital in İzmir – where she had been working as a nurse – after her husband had taken her to the emergency department, informing the doctors that she had taken an overdose of two medicines. The doctors pumped her stomach but were unable to save her. When questioned by the police, her husband, who worked at the hospital's pharmacy, also stated that the couple had had a row on the same day and he had hit her. Gülperi O.'s father subsequently lodged a complaint with the prosecutor, stating that she had not been suicidal, and alleging that her husband was responsible for her death. In the course of the ensuing investigation, a forensic medical examination found no trace of medicines or other drugs in Gülperi O.'s blood or in other samples taken from her body, but it noted that there was an advanced oedema in her lungs. In February 2006, the prosecutor decided to close the investigation, concluding that Gülperi O. had committed suicide. An objection by Ms Durmaz – stating, in particular, that the prosecutor had failed to question her late daughter's husband, despite the fact that by his own admission he had beaten her, and that the prosecutor's conclusion ran contrary to the findings of the forensic examination – was dismissed by the courts.

Relying in particular on Article 2 (right to life), Ms Durmaz complained that the investigation into the death of her daughter had been ineffective. In particular, further expert reports would have been required, and the prosecutor should have investigated whether the cause of Gülperi O.'s death could have been an internal haemorrhage caused by the blows inflicted by her husband.



**Violation of Article 2** (procedure) – on account of the Turkish authorities’ failure to carry out an effective investigation into the death of the applicant’s daughter

**Just satisfaction:** EUR 20,000 (non-pecuniary damage) and EUR 2,000 (costs and expenses)

## Repetitive cases

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

**Baghdasaryan and Zariyants v. Armenia** (no. 43242/05)

**Gharibyan and Others v. Armenia** (no. 19940/05)

**Ghasabyan and Others v. Armenia** (no. 23566/05)

The applicants in these cases are Armenian nationals who live in Yerevan. They complained that the forced expropriation of their respective flats in Yerevan, for construction projects, had been unlawful. They relied in particular on Article 1 of Protocol No. 1 (protection of property).

**Violation of Article 1 of Protocol No. 1** – in the three cases

**Panagos v. Greece** (no. 36382/10)\*

This case concerned the applicant’s conditions of detention in Serres police station, where he had been held in pre-trial detention for eighty days before being transferred to Thessaloniki Prison. He relied on Article 3 (prohibition of inhuman or degrading treatment).

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

**G.G. and Others v. Italy** (nos. 3168/11, 3170/11, 15195/11, 15200/11, 15203/11, 15205/11, 15976/11, 30691/11, 30762/11, 30767/11, 30786/11, 30792/11, 30795/11, 30830/11, 30835/11, 30839/11, 30855/11, 30899/11, and 47154/11)\*

These cases concerned the length of civil proceedings brought by the applicants (or their deceased relatives) seeking compensation for the damage they had allegedly sustained after they (or the deceased) had been infected with various viruses in the course of blood transfusions carried out in public hospitals. The applicants relied on Article 2 (right to life).

**Violation of Article 2** (procedure)

**Shalya v. Russia** (no. 27335/13)

The applicant in this case complained that the length of his pre-trial detention, on charges of murder, of which he was later acquitted, had been excessive. He relied on Article 5 § 3 (right to liberty and security).

**Violation of Article 5 § 3**

**Kariž v. Slovenia** (no. 24383/12)

The applicant in this case, who had been fined for a minor offence on the basis of a police report, complained about the unfairness of the proceedings, notably because the courts had upheld the fine without holding a hearing. He relied on Article 6 § 1 (right to a fair trial).

**Violation of Article 6 § 1**

## 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.

**Birnleitner v. Austria (no. 2)** (no. 22601/09)

*Patrikios v. Greece* (no. 28617/10)\*

**No violation of Article 6 § 1** – in the case of *Birnleitner*

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

In the following cases, the applicants complained in particular about the excessive length of criminal proceedings against them.

*Stauder and Gabl v. Austria* (no. 10711/09)

*Havas v. Hungary* (no. 64385/12)

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

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