EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Press Release
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Judgments concerning Bulgaria, Georgia, Hungary, Latvia, Lithuania, the Republic of Moldova, Poland, Portugal, Romania, Serbia, Slovakia, and Turkey

The European Court of Human Rights has today notified in writing the following 16 Chamber judgments[1], none of which is final. The judgments in French are indicated with an asterisk (*).

The Court has also delivered today judgments in the cases of Elberte v. Latvia (no. 61243/08) and Petropavlovskis v. Latvia (no. 44230/06), for which separate press releases have been issued.

Lastly the Court has notified today in writing six Committee judgments, concerning issues which have already been submitted to the Court, including excessive length of proceedings, which can be consulted on HUDOC and do not appear in this press release.

Just Satisfaction

Hadzhigeorgievi v. Bulgaria (application no. 41064/05)

The applicants, Yanko Hadzhigeorgiev and Dimitar Hadzhigeorgiev, are Bulgarian nationals who were born in 1951 and 1959 and live in Sofia and Yakoruda (Bulgaria) respectively. They are brothers.

The case concerned their complaint about the Bulgarian authorities' refusal to comply with a final court judgment of July 2000 restoring to them a plot of forestry land in the area of Yakoruda which had been expropriated from their ancestors.

In its principal judgment of 16 July 2013, the Court found that there had been a violation of Article 1 of Protocol No. 1 (protection of property) to the European Convention on Human Rights.

Today's judgment concerned the question of just satisfaction (Article 41 of the Convention).

Just satisfaction: 8,000 euros (EUR) (pecuniary damage) to the applicants jointly, and EUR 1,000 (non-pecuniary damage) to each applicant.

Just Satisfaction

Saghinadze v. Georgia (no. 18768/05)

The applicants are six Georgian nationals: Batalbi Saghinadze and his wife, Lia Saghinadze; their son, Vasil Saghinadze, his wife, Nana Bliadze; and their daughters Ketevan and Nino Saghinadze.

The case principally concerned the applicants' complaint about the family's eviction in November 2004 from the cottage in Tibilisi in which they had been re-settled following their flight from Abkhazia during the 1992-93 armed conflict. Batalbi Saghinadze, offered a post in 1994 in Georgia as a high-ranking law-enforcement officer, alleged that the eviction was in retribution for the way in which he had led a high-profile criminal case concerning the abduction of the brother of a famous Georgian footballer (the so-called "Kaladze" case). Criminal proceedings were subsequently brought against Batalbi Saghinadze for abuse of power during that investigation (extortion of false

[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

statements and fabricating evidence); he was arrested in June 2006 and ultimately found guilty as charged and sentenced to seven years in prison.

In its principal judgment of 27 May 2010 the Court found that there had been a violation of Article 1 of Protocol No. 1 (protection of property) to the Convention.

Today's judgment concerned the question of just satisfaction (Article 41 of the Convention).

Just satisfaction: The Court held that Georgia should ensure transfer of full ownership of the two apartments in Tbilisi referred to in the judgment, which are currently owned by the State, to the applicant and awarded him EUR 3,000 in respect of pecuniary damage.

Vékony v. Hungary (no. 65681/13)

The applicant, László Vékony, is a Hungarian national who was born in 1950 and lives in Sopron (Hungary).

The case concerned the loss of a family business' tobacco retail license.

Following the entry into force of new legislation on 1 July 2013, aiming to limit the access of minors to tobacco products, tobacco retail became State-owned in Hungary and retailers had to apply for a concession through a tender. Mr Vékony, whose family had owned a tobacco license since 2005, was informed in April 2013 that his application for a concession under the new legislation had been refused, without any indication of his score on the 120-point tender adjudication score-sheet. The decision was not subject to any legal remedy. After losing the license, Mr Vékony's family enterprise was no longer profitable, and the business was eventually wound up. In January 2014 the Constitutional Court dismissed a number of complaints relating to the same matter, noting that the new legislation aimed at eliminating underage smoking.

Relying in particular on Article 1 of Protocol No. 1 (protection of property) to the Convention, Mr Vékony complained about the removal of the family business' license, without compensation.

Violation of Article 1 of Protocol No. 1

Just satisfaction: EUR 15,000 (pecuniary and non-pecuniary damage), and EUR 6,000 (costs and expenses)

Rubins v. Latvia (no. 79040/12)

The applicant, Andris Rubins, is a Latvian national who was born in 1947 and lives in Riga.

The case concerned Mr Rubins' complaint that he had been dismissed from his post as Head of Department at the Riga Stradina University for criticising the University management.

In February 2010 the Council of the Faculty of Medicine decided to merge two departments of the Faculty. As a consequence, the Head of Department position occupied by Mr Rubins was abolished. He sent various emails to the Rector of the University to complain about this decision. In his email of 20 March 2010, he criticised the management of State funds by the University and raised an issue about cases of plagiarism. On 6 May 2010, Mr Rubins received a notice of termination of employment from the University. His appeal was dismissed by the Riga Regional Court who considered in particular that Mr Rubins, in his email, had invited the Rector to carry out "unlawful actions", namely to annul a decision of the Senate of the University and that he had acted in breach of "good morals". Mr Rubins' appeal on points of law was rejected on 26 September 2012.

Relying on Article 10 (freedom of expression), Mr Rubins complained that he had been dismissed for expressing a legitimate opinion about problems prevailing in the University and for attempting to resolve his employment situation.

Violation of Article 10

Just satisfaction: EUR 8,000 (non-pecuniary damage) and EUR 2,280 (costs and expenses)

Manic v. Lithuania (no. 46600/11)

The applicant, Eugeniu Manic, is a Moldovan and Romanian national who was born in 1971 and lives in London.

The case concerned Mr Manic's complaint about his contact rights with his seven-year old son.

Mr Manic lived with his wife and son – both Lithuanian citizens – in London until 2008 when the mother took the boy to live with her permanently in Lithuania. In 2009 the Vilnius Regional Court decided that, taking into account the best interests of the child, he should remain with his mother in Lithuania. Mr Manic then started new court proceedings in the High Court of Justice in England and Wales who confirmed the decision of the Vilnius Regional Court in 2010.

The mother subsequently refused to comply with the High Court of Justice judgment setting out the child contact arrangements. She started fresh court proceedings in Lithuania, with a view to further limiting Mr Manic's contact rights. On 1 March 2011, a Lithuanian court adopted a provisional measure, ordering that the child should not leave Lithuanian territory. In the meantime, the father could go to Lithuania and see his son there in the presence of child care authorities. By a decision of 27 April 2011 the Lithuanian court also dismissed the action against the mother, which a Lithuanian bailiff had lodged for failure to execute the High Court of Justice decision.

Relying in particular on Article 8 (right to respect for private and family life), Mr Manic complained about the passivity of the public authorities in enforcing the High Court of Justice decision defining his right of contact with his child.

Violation of Article 8

Just satisfaction: EUR 7,000 (non-pecuniary damage) and EUR 5,000 (costs and expenses)

Rimschi v. the Republic of Moldova (no. 1649/12)

The applicant, Valentin Rimschi, is a Moldovan national who was born in 1952 and lives in Chişinău. The case concerned his pre-trial detention.

Mr Rimschi was placed in custody on charges of producing and putting into circulation counterfeit money in July 2009. Until his conviction of those charges in January 2012 – being sentenced to 12 years' imprisonment – he remained in pre-trial detention, the warrants being extended on many occasions on the grounds that he had been charged with a serious offence and that he might abscond or interfere with the investigation if released.

Relying in particular on Article 5 § 3 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial), Mr Rimschi complained of the length of his pre-trial detention and maintained that there had been no relevant and sufficient reasons for it.

Violation of Article 5 § 3

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

Silvestru v. the Republic of Moldova (no. 28173/10)

The applicant, Sergiu Silvestru, is a Moldovan national who was born in 1985 and lives in Chişinău.

The case concerned Mr Silvestru's complaint about the conditions of his detention in a Chisinau prison, where he was placed in pre-trial detention in April 2008 and where he remained until

September 2010, in the meantime being convicted of aggravated rape and sentenced to 12 years' imprisonment in December 2009. He maintained in particular that the cells had been overcrowded and dirty, that the food had been of poor quality and that he had not been provided with appropriate medical care. He relied on Article 3 (prohibition of inhuman or degrading treatment).

Violation of Article 3

Just satisfaction: EUR 5,500 (non-pecuniary damage) and EUR 500 (costs and expenses)

Marian Maciejewski v. Poland (no. 34447/05)

The applicant, Marian Maciejewski, is a Polish national who was born in 1955 and lives in Wrocław (Poland). He is a journalist who worked for the newspaper *Gazeta Wyborcza*. The case concerned his conviction of defamation for statements and allegations in an article he had published in the newspaper in November 2000.

The article was part of a series on the alleged theft of valuable hunting trophies from the office of a former bailiff of a Wrocław district court. It carried a subtitle in small print "Thieves in the administration of justice". Among other things, the article described how a prosecutor had conducted the investigation against the former bailiff. In criminal proceedings, Mr Maciejewski was convicted of two counts of defamation committed through the mass media. The Brzeg District Court which convicted him in April 2004 found that the subtitle of the article was defamatory of the court officials in question and that the article alleged that the prosecutor had misconducted the investigation against the former bailiff. Mr Maciejewski was ordered to pay a fine of the equivalent of 450 euros.

Mr Maciejewski complained that his conviction had been in breach of Article 10 (freedom of expression).

Violation of Article 10

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

Łozowska v. Poland (no. 62716/09)*

The applicant, Marzanna Łozowska, is a Polish national who was born in 1964 and lives in Kleosin (Poland).

The case concerned Ms Łozowska's right to freedom of expression; at the relevant time she was a journalist on the regional daily newspaper *Kurier Poranny* and was convicted of malicious defamation on account of remarks published in that newspaper.

Between 1999 and 2001 Ms Łozowska published a series of articles on judicial news in her region, in which she speculated on the possible overlap between presumed members of a mafia-like network and persons working for the local justice system. On 14 September 2007 she published an article, and on 23 October 2007 B.L., a former judge, lodged a complaint against Ms Łozowska for malicious defamation. In the contested article, the journalist expressed the view that judge B.L. had been sanctioned and removed from her functions by the judiciary's disciplinary authorities on account of "her shady links with criminal circles, ... [and] of the role she had played in cases in which her spouse had been implicated".

By a judgment of 8 December 2008, the district court convicted Ms Łozowska of malicious defamation and ordered her to pay several fines. The court noted a clear discrepancy between the real motive for judge B.L.'s dismissal from the judiciary and that put forward by the journalist in her article. Ms Łozowska lodged an appeal. The president of the regional court assigned the appeal to a single-judge bench of that court, then, together with 52 of the 53 other judges in the court, he

withdrew from the case, on the grounds of the ties between them and judge B.L., a former member of their court. He also asked that the case be transferred to another judicial district. The court of appeal accepted the withdrawal of all the judges but one, and, for that reason, refused to grant the request to transfer the case to another judicial district. Sitting as a single judge, the court dismissed Ms Łozowska's appeal. She was unable to appeal on points of law.

Relying in particular on Article 10 (freedom of expression), Ms Łozowska complained that her conviction had been in breach of her right as guaranteed by that Article.

No violation of Article 10

Just Satisfaction

Rolim Comercial, S.A. v. Portugal (no. 16153/09)*

The applicant is a public company incorporated under Portuguese law whose registered office is in Cascais (Portugal). The case concerned the company's complaint about expropriation of its land.

The company purchased 11,780 sq.m of land in Oeiras in October 1976. In May 1991 the Oeiras District Council had a viaduct, an approach road and a pedestrian crossing built on part of the land. The applicant company alleged that between 1994 and 1998 they had taken steps to reach a friendly settlement with the District Council, but had been unsuccessful because the latter had insisted that it had owned the land. In February 2003 the applicant company sued the Oeiras District Council. The court allowed the company's claim in part. The District Council lodged an appeal and subsequently appealed on points of law to the Supreme Court, which held that there had been *de facto* expropriation and that the part of the applicant company's land in question was now State public property.

In its principal judgment of 16 April 2013, the Court held that by expropriating the land without a formal document attesting to the transfer of ownership and without compensation, the domestic authorities had breached the principle of the rule of law and given rise to 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: EUR 464,843 (pecuniary damage).

Iustin Robertino Micu v. Romania (no. 41040/11)

The applicant, Iustin Robertino Micu, is a Romanian national who was born in 1969 and lives in Bucharest. He is a border guard police officer.

The case concerns Mr Micu's detention in police custody, ordered by the National Anticorruption Department (N.A.D.), on suspicion of bribe-taking, from 9 to 10 March 2010. While the N.A.D. ordered his custody for 24 hours, Mr Micu maintains that he remained there for 37 hours. After being questioned by the prosecutor, he was released. Having been convicted in March 2011, he was eventually acquitted on appeal in February 2013. In 2010 and 2011, Mr Micu brought several sets of criminal proceedings against the prosecutors investigating his case, alleging in particular that they had committed abuse of office by unlawfully arresting him and unlawfully monitoring his electronic correspondence. All his complaints were eventually dismissed.

Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Micu complained in particular that, although suffering from diabetes, he had not been provided with food during the time spent in police custody. Relying on Article 5 § 1 (right to liberty and security), he complained that he had been unlawfully deprived of his liberty. Finally, he maintained that he had not had any legal remedy at national level in respect of his complaints, in breach of Article 13 (right to an effective remedy).

Violation of Article 3 – concerning the lack of access to food in spite of the applicant's medical condition for the period he had been under the authorities' control prior to being remanded in police custody
Violation of Article 5 § 1
Violation of Article 13

Just satisfaction: EUR 5,850 (non-pecuniary damage) and EUR 3,000 (costs and expenses)

Jovičić and Others v. Serbia (nos. 37270/11, 37278/11, 47705/11, 47712/11, 47725/11, 56203/11, 56238/11, and 75689/11)

The applicants are eight Serbian nationals who were born between 1954 and 1971, and live in Požega (Serbia). They were all employees of the same company based in Užice. In separate proceedings seeking payment of salary arrears and social security contributions, they obtained final court decisions ordering the company to pay them certain sums. Following the opening of insolvency proceedings in respect of the company in July 2010, they reported their respective claims to the Commercial Court, which partially accepted their claims in June 2011. The insolvency proceedings are still ongoing.

Relying on Article 6 § 1 (right to a fair trial), Article 1 of Protocol No. 1 (protection of property), and Article 13 (right to an effective remedy), the applicants complained of the State's failure to enforce the final court decisions in their favour and of the lack of an effective legal remedy in that respect.

Violation of Article 6 § 1 and Article 1 of Protocol No. 1 – with regard to the court decisions which became final before 11 December 2008

No violation of Articles 6 and 13 or of Article 1 of Protocol No. 1 – with regard to the court decisions which became final after 11 December 2008

The Court further declared **inadmissible** the complaint raised in application no. 47725/11 concerning the court decision of 22 September 2006

Just satisfaction: The Court held that Serbia was to pay the applicants the sums awarded in the court decisions which became final before 11 December 2008; it further awarded each applicant EUR 2,000 in respect of non-pecuniary damage and costs and expenses.

Hoholm v. Slovakia (no. 35632/13)

The applicant, Tommy Hoholm, is a Norwegian national who was born in 1975 and lives in Asvag (Norway). The case concerned proceedings he had lodged in Slovakia for the return of his two children to Norway.

Mr Hoholm was married to a Slovak woman who, after their separation in August 2004 by an administrative decision of the Norwegian authorities, took their two small children from Norway, where the family had been living, to Slovakia in July 2005. This was despite a Norwegian court's interim order that the children should not leave Norway without the consent of each parent.

In December 2005 Mr Hoholm brought proceedings in Slovakia against his former wife under the Hague Convention on the Civil Aspects of International Child Abduction, seeking an order for the return of the children to Norway. After the action had initially been dismissed with the force of a final and binding decision, following Mr Hoholm's complaint, that decision was quashed by the Constitutional Court and the case was remitted to the appeal court, which in turn remitted the case to the first instance. Subsequently, an order for the return of the children was given twice at two levels of jurisdiction and became final and binding, but in both instances it was quashed, in the former following an appeal on points of law by Mr Hoholm's former wife and in the latter following an extraordinary appeal on points of law by the Prosecutor General on her behalf.

Eventually, Mr Hoholm's request was dismissed at two instances by a decision which became final in December 2012, the courts concluding that it was in the best interest of the children, who had spent more than half of their lives in Slovakia, not to be returned to Norway.

Mr Hoholm's subsequent constitutional complaint aimed, among other things, at the length of the proceedings, but it was declared inadmissible.

Relying in particular on Article 6 § 1 (right to a fair trial within a reasonable time) and, in substance, on Article 13 (right to an effective remedy), Mr Hoholm notably complained of the length of the proceedings in his case, in respect of which he alleged not having had an effective legal remedy.

Violation of Article 6 § 1 taken alone and in conjunction with Article 13

Just satisfaction: The applicant did not submit a claim for just satisfaction.

Trančíková v. Slovakia (no. 17127/12)

The applicant, Mira Trančíková, is a Slovak national who was born in 1939 and lives in Bratislava. The case concerned her complaint about the proceedings she brought with regard to a dispute over a lorry.

Ms Trančíková brought an action in July 2007 concerning a lorry which she alleged had been unlawfully seized from her and requesting a court order to have the vehicle returned to her. In October 2009 a first-instance court dismissed her action, finding that she had failed to show that she had lawfully acquired title to the lorry, while the defendant of her action had lawfully purchased it from the receiver appointed in the insolvency of the vehicle's previous owner. The court of appeal then dismissed Ms Trančíková's appeal. She subsequently lodged an appeal on points of law, complaining that the ruling on her appeal had been made without holding a public hearing or communicating to her the defendant's observations in reply to her appeal, and that the court of appeal had failed to summon her to a public pronouncement of its judgment and, in fact, to pronounce that judgment publicly at all. The Supreme Court then declared her appeal inadmissible in April 2011 and this was endorsed by the Constitutional Court in July 2011.

Relying on Article 6 § 1 (right to a fair trial), Ms Trančíková complained that the appeal proceedings concerning the lorry had been unfair, in particular because the defendant's observations in response to her appeal had not been communicated to her and because her appeal had not been heard publicly.

Violation of Article 6

Just satisfaction: The applicant did not submit a claim for just satisfaction.

Revision

Benzer and Others v. Turkey (no. 23502/06)

The applicants in this case are 41 Turkish nationals born between 1907 and 1984.

The case concerned a request for revision of a judgment by the European Court of Human Rights in which the applicants alleged that the Turkish military had bombed their two villages by aircraft, killing 34 of their close relatives. The applicants claimed that, during the Turkish Government's attempts to combat the PKK in 1994, the residents of the villages of Kuşkonar and Koçağili had refused to become village guards, and that the military believed that they gave assistance to the PKK. They alleged that on 26 March 1994 a range of Turkish military aircraft had fired on and bombed their villages, killing a large number of the inhabitants, injuring many others and destroying most of the property and livestock. The Turkish government maintained that the PKK had attacked

the villages because the inhabitants had refused to help the organisation, and that there was no evidence of the State's involvement in the incident.

In its judgment of 12 November 2013 in the case the Court held that there had been a violation of Article 2 (right to life) of the Convention on account of the deaths of 33 of the applicants' close relatives and the injuries caused to three of the applicants themselves; a further violation of Article 2 because of the extremely inadequate investigation into the incident; a violation of Article 3 (prohibition of inhuman or degrading treatment) on account of the terror caused by the bombing, and the Turkish government's failure to provide even the minimum of humanitarian aid to deal with the aftermath of the attack; and, a failure to comply with Article 38 (obligation to provide all necessary facilities for the examination of the case) because the Government had withheld vital evidence, namely the flight log of the planes which had carried out the bombing. The Court also awarded the applicants various sums in respect of non-pecuniary damage.

On 20 May 2014 the applicants' legal representative informed the Court that they had learned that two of the applicants had died in 2009 and 2012, respectively, and that their heirs wished to continue the application. He accordingly requested revision of the judgment within the meaning of Rule 80 of the Rules of Court in so far as the award of pecuniary and non-pecuniary damage was concerned.

The Court decided to revise its judgment of 12 November 2013 in so far as it concerned the claims made by the two deceased applicants under Article 41 (just satisfaction) of the Convention.

Uğur v. Turkey (no. 37308/05)

The applicants, Ferdi and Atilla Uğur, Turkish nationals, are brothers who were born in 1985 and 1987 respectively and live in Istanbul. The case concerned their alleged ill-treatment in police custody.

According to their submissions, the applicants – minors at the time – took a neighbour who had been shot in the street to hospital in the early morning of 23 November 2002, where he died on arrival. They were subsequently taken to a police station, where they were to be questioned as witnesses. They maintain that they were then kept there for more than two days and, questioned in the absence of a lawyer, were ill-treated by the police in order to force them to make incriminatory statements about their implication in the incident. In particular, they submit that they were stripped naked, doused with cold water, kicked, punched and beaten with truncheons.

A criminal investigation subsequently opened against Atilla Uğur on the basis of statements he made at the police station was later discontinued. A criminal investigation against the police officers involved in the alleged ill-treatment, following a complaint by the applicants' lawyer, was eventually also discontinued.

According to the Turkish Government's submissions, the applicants were taken to the police station for questioning as witnesses. The Government also had doubts as to the applicants' credibility, given their contradictory version of events during the criminal proceedings against the police officers.

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment), the applicants notably complained that they had been subjected to ill-treatment. Furthermore, under in particular Article 5 § 1, (right to liberty and security), they complained that, although initially taken to the police station as witnesses, they had then been treated as suspects and kept there unlawfully for more than two days.

Violation of Article 3 (ill-treatment + procedure)
Violation of Article 5 § 1

Just satisfaction: EUR 30,000 (non-pecuniary damage) to each applicant and EUR 5,600 (costs and expenses) to the applicants jointly

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