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

Press Release
issued by the Registrar of the Court

ECHR 008 (2015)
15.01.2015

Judgments and decisions of 15 January 2015

The European Court of Human Rights has today notified in writing 29 judgments and 110 decisions:

-21 Chamber judgments[1] below; five in separate press releases: *Dragojević v. Croatia (application no. 68955/11), A.A. v. France (no. 18039/11), A.F. v. France (no. 80086/13), Arnaud and Others v. France (nos. 36918/11, 36963/11, 36967/11, 36969/11, 36970/11, and 36971/11), and Kuppinger v. Germany (no. 62198/11)*

-one decision below; one in a separate press release (*Dzhugashvili v. Russia*, no. 41123/10)

-all remaining judgments and decisions[2] (some concerning issues which have already been submitted to the Court, including excessive length of proceedings) can be consulted on Hudoc and do not appear in a press release.

The judgments/decisions in French below are indicated with an asterisk (*).

M.A. v. Austria (application no. 4097/13)

The applicant, Mr M.A., is an Italian national who was born in 1968 and lives in Vittorio Veneto (Italy). The case concerned his complaint about the Austrian courts' failure to enforce two judgments by Italian courts ordering the return of his daughter to Italy.

Mr M.A. had a relationship with an Austrian woman, D.P., with whom he lived in Italy until she left for Austria in January 2008 with their young daughter, who was born in December 2006. After having granted preliminary joint custody to the parents in May 2008, the Venice Youth Court ordered the child's return to Italy in July 2009. The child was either to reside there with her mother in accommodation to be provided by the local social services or – should the mother not wish to return to Italy – to take up residence with Mr M.A. The Austrian courts eventually granted Mr M.A.'s request for the enforcement of the order in a decision upheld by the Supreme Court in July 2010, but subsequently asked him to provide evidence that appropriate accommodation would be made available to his daughter and her mother by the social services in Italy. The decision remained unenforced, as the Austrian authorities found that Mr M.A. had not provided the required proof of appropriate accommodation.

In November 2011 the Venice Youth Court withdrew D.P.'s custody rights and awarded Mr M.A. sole custody of the child. It ordered the child's return to Italy to reside with him, while the local social services were to ensure that contact between the child and her mother was maintained and to give the child linguistic and educational support to facilitate her integration into the new environment. D.P. did not comply with the order. Her applications before the European Court of Human Rights and the Austrian courts, seeking a stay of the return order, were unsuccessful, but proceedings before the Venice Youth Court brought by her in August 2013 concerning requests to stay the return order and to award sole custody to her are still pending.

[1] Under Articles 43 and 44 of the Convention, Chamber judgments are not final. During the three-month period following a Chamber 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] Committee judgments, as well as inadmissibility and strike-out decisions are final.

Relying on Article 8 (right to respect for private and family life) of the European Convention on Human Rights, Mr M.A. complained that the Austrian courts had failed to enforce the orders for his daughter's return to Italy.

Violation of Article 8

Just satisfaction: 20,000 euros (EUR) (non-pecuniary damage) and EUR 5,000 (costs and expenses)

Igbal Hasanov v. Azerbaijan (no. 46505/08)

The applicant, Igbal Bahman oglu Hasanov, is an Azerbaijani national who was born in 1974 and is currently serving a nine-year prison sentence for drug dealing. Prior to his arrest he lived in Jalilabad (Azerbaijan). The case concerned his allegation of ill-treatment in police custody.

Mr Igbal Hasanov was convicted in November 2008 for illegal sale of large quantities of heroin, committed by an organised group. His conviction was later upheld on appeal and by the Supreme Court. His complaint concerns his allegation that he was ill-treated following his arrest on 9 June 2008 on those charges. He alleges that during the night of 10 to 11 June he was beaten on the soles of his feet for an hour (*falaka*) and threatened with electric shocks in order to make him confess. He complained about this ill-treatment when first questioned by the investigator on 11 June, then again on 29 July; he also complained to the prosecuting authorities. No criminal inquiry was, however, launched. He also lodged separate proceedings before the domestic courts, which were ultimately dismissed in July 2008 as unsubstantiated.

Relying in particular on Article 3 (prohibition of torture and of inhuman or degrading treatment) of the European Convention, Mr Igbal Hasanov alleged that he had been ill-treated while in police custody and that the authorities had failed to investigate his allegations.

Violation of Article 3 (investigation)
Violation of Article 3 (ill-treatment)

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

Rummi v. Estonia (no. 63362/09)

The applicant, Karol Rummi, is an Estonian national who was born in 1962 and lives in Harju County (Estonia). The case concerned the confiscation of her late husband's property in the course of criminal proceedings.

Ms Rummi's husband, R., an expert in geology, was asked by the Estonian investigating authorities to give an opinion as regards the content of precious metals in 105 kilograms of waste which two men, M. and J., had attempted to smuggle into the country. After R. had given two different opinions – the second one stating that the precious metals had a lower value than according to his initial assessment, which would have made the attempt to smuggle them a misdemeanour rather than a crime – he was arrested in March 2001. His home and workplace were searched and a large amount of various substances containing precious metals, as well as pure gold, silver and a number of diamonds were seized. R. subsequently committed suicide in detention. After the criminal proceedings against M. and J. had been discontinued in March 2009, the courts ordered the confiscation of the property which had been seized. Ms Rummi – who, together with her two sons, was her late husband's heir – appealed against that decision. Her appeal was eventually dismissed in May 2009, the courts noting in particular that she had not been a party to the proceedings in question.

Relying in particular on Article 6 § 1 (right to a fair trial within a reasonable time), Ms Rummi complained that her right to access to court had been violated. She also complained of a violation of

her rights under Article 1 of Protocol No. 1 (protection of property) and Article 13 (right to an effective remedy).

Violation of Article 6 § 1 – on account of the lack of reasoning in the confiscation proceedings
Violation of Article 1 of Protocol No. 1
Violation of Article 6 § 1 – on account of the excessive length of the proceedings)
Violation of Article 13

Just satisfaction: EUR 64,456.96 (pecuniary damage), EUR 8,500 (non-pecuniary damage) and EUR 4,000 (costs and expenses)

Veits v. Estonia (no. 12951/11)

The applicant, Anneli Veits, is an Estonian national who was born in 1990 and lives in Tallinn. The case concerned her complaint about the confiscation of her property by the Estonian courts in criminal proceedings against her mother and grandmother.

Ms Veits' grandmother, N., and mother, V., were convicted of a number of offences, including murder and attempted murder, respectively, in January 2010. They were sentenced to 15 and eight years' imprisonment, respectively. The sentencing court found in particular that they had obtained an apartment in Tallinn by fraud from a person suffering from a mental illness, whom N. had subsequently killed. At the same time the court ordered the confiscation of the apartment, which had been registered in the name of Ms Veits in 2003, a minor at the time. N.'s and V.'s conviction and the confiscation were upheld on appeal and the judgments became final in August 2010.

Relying in particular on Article 6 § 1 (right to a fair trial), Ms Veits complained that she had not been invited to take part in the court proceedings concerning her rights and obligations. She further complained that she had been deprived of her apartment, in breach of Article 1 of Protocol No. 1 (protection of property).

No violation of Article 6 § 1
No violation of Article 1 of Protocol No. 1

Cleve v. Germany (no. 48144/09)

The applicant, Ludger Cleve, is a German national who was born in 1963 and lives in Xanten (Germany). The case concerned his complaint that his right to be presumed innocent had been breached by the wording of a judgment acquitting him of charges of sexual abuse.

In January 2008, Mr Cleve was charged with several counts of sexual abuse of his daughter, born in 1994, committed between 2002 and 2004. In September 2008, the Münster Regional Court acquitted him of the charges for insufficient evidence. It stated in particular that the actions described by the witness – his daughter – had "a factual basis" namely that he had "actually carried out sexual assaults on his daughter". However, it found that there were marked inconsistencies in her testimony, making it impossible to secure a conviction. Mr Cleve's complaint with the Federal Constitutional Court, alleging in particular that his right to a fair trial had been breached by the regional court's statements, was not accepted for adjudication.

Relying in particular on Article 6 § 2 (presumption of innocence), Mr Cleve complained that the regional court's statements in its judgment acquitting him had amounted to a finding of guilt.

Violation of Article 6 § 2

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

Decision

Kieser and Tralau-Kleinert v. Germany (no. 18748/10)

The applicants, Albrecht Kieser and Peter Tralau-Kleinert, are German nationals, who were born in 1949 and 1937 respectively and live in Cologne (Germany). They work as journalists for the online magazine *Neue Rheinische Zeitung*. The case concerned their complaint about being ordered to refrain from publishing statements alleging that a well-known publisher's family had unduly benefited from "aryanisation" of Jewish property during the Nazi era.

In an article published in February 2006, the applicants alleged in particular that the publisher's family Neven DuMont had benefited from the expropriation of Jewish property in three real-estate purchases in Cologne in 1938 and 1941. In proceedings brought by the chairman of the supervisory board of the publishing company – the son of the couple who had made the purchases in question – the Cologne Regional Court, in September 2007, prohibited any further publication of the relevant statements. It found in particular that the allegations amounted to a serious interference with the plaintiff's personality rights. The allegations had been presented as statements of fact, the veracity of which had not been proven by the applicants. The judgment was upheld on appeal, and the Federal Constitutional Court declined to consider the applicants' constitutional complaint in September 2009.

Relying on Article 10 (freedom of expression), the applicants complained that the German courts' decisions had violated their freedom of expression.

The Court declared the application **inadmissible as being manifestly ill-founded** (the interference with the applicants' right to freedom of expression was "necessary in a democratic society").

Korkolis v. Greece (no. 63300/09)*

The applicant, Konstantinos Korkolis, is a Greek national who was born in 1954 and lives in Athens.

The case concerned Mr Korkolis's right of access to a court and the length of criminal proceedings.

On 16 August 2004 Mr Korkolis lodged a criminal complaint and application to join the proceedings as a civil party against M.K. and I.K. for attempted blackmail and incitement to attempted blackmail respectively, in respect of events which allegedly occurred on 12 November 2001 and 12 May 2004. On 12 March 2007 the indictment division of the criminal court decided not to bring criminal proceedings against I.K. and to commit M.K. for trial before the Athens Assize Court. M.K. lodged an appeal, then, his appeal having been dismissed, he appealed on points of law. The Court of Cassation held a hearing on 14 October 2008, quashed the order appealed against and reclassified the impugned act as an offence. The Court of Cassation subsequently closed the criminal proceedings relating to the events of 2001 as time-barred. It committed M.K. for trial before the criminal court, and on 12 January 2010 that court terminated the criminal proceedings against M.K. on the ground that the offence had become time-barred.

Relying on Article 6 § 1 (right to a fair trial within a reasonable time), Mr Korkolis alleged in particular that the fact that the offences in question had become time-barred, which had been imputable to the judicial authorities, had resulted in a violation of his right of access to a court.

Violation of Article 6 § 1 (access to court)

Just satisfaction: EUR 3,500 (non-pecuniary damage) and EUR 1,000 (costs and expenses)

Mahammad and Others v. Greece (no. 48352/12)*

The fourteen applicants are nationals of Iran, the Ivory Coast, Egypt, Nigeria and China, who were born between 1972 and 1989 and who, on different dates, entered Greek territory illegally in the Evros region.

The case concerned the conditions of the applicants' detention, and the lawfulness of that detention, in the Fylakio administrative detention centre in Greece.

The applicants, none of whom had travel documents, were temporarily held in various border posts pending the adoption of decisions ordering their expulsion. The director of the Orestiada police directorate ordered that the applicants be deported, and also that they be held in administrative detention in the Fylakio administrative detention centre, on the ground that they were likely to abscond. On various dates the applicants lodged asylum claims, all of which were refused. On 22 February 2012 they lodged complaints about their continued administrative detention with the Alexandroupoli Administrative Court. On 2 March 2012 the president of the administrative court dismissed those complaints. The first six applicants had been released on 24 February 2012 and received certificates attesting to their status as asylum seekers, and the others were released between 6 and 9 March 2012, with the exception of one person, who was handed over to the Turkish authorities.

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment), the applicants complained of the conditions of detention in which they had allegedly been held for more than three months in the Fylakio administrative detention centre. Relying on Article 5 § 4 (right to speedy review of the lawfulness of detention), they complained that Greek law had not corrected the shortcomings in the procedure for reviewing the lawfulness of administrative detention, previously noted by the European Court of Human Rights.

Violation of Article 3 (inhuman and degrading treatment)
Violation of Article 5 § 4

Just satisfaction:, EUR 8,000 each to Mr Mahammad, Mr Abdalah, Mr Ahammed, Mr Yacob Arab, Mr Nematullah Arab, Mr Hassan, Mr James, Mr Lobsang Tsgring, Mr Mohamedi, Mr Rezai, Mr Sondey, Mr Sultani et Mr Ugoh and EUR 5,000 to Mr Ukurie (non-pecuniary damage) and EUR 2,000 to the 14 applicants jointly (costs and expenses)

Albakova v. Russia (no. 69842/10)

The applicant, Petimat Albakova, is a Russian national who was born in 1956 and lives in Ordzhonikidzevskoye, Ingushetiya Republic (Russia). The case concerned the alleged abduction, torture and killing of Ms Albakova's son, Batyr Albakov, in the Ingushetiya Republic.

On 10 July 2009 Ms Albakova's son was allegedly taken from the family home by a group of armed men, speaking Russian, Chechen and Ingush following a passport check of all the family members present. Eleven days later Ms Albakova discovered on the internet that her son had been shot dead by Russian servicemen during a counter-terrorist operation in a forest close to Arshty, a village in the Ingushetiya Republic. Her son's body was subsequently returned to her with multiple injuries, including gunshot and stab wounds, fractured bones, burns, bruises and a partially severed arm. An initial inquiry was conducted and then, in August 2009, an official criminal investigation was officially opened, which eventually concluded in May 2012 that Batyr Albakov, a member of an illegal armed group, had died in an exchange of gunfire with a Russian military unit.

Relying in particular on Article 2 (right to life), Ms Albakova alleged that her son had been killed by Russian servicemen and that the authorities' investigation into her allegations had been inadequate.

Violation of Article 2 (right to life)

Violation of Article 2 (investigation)

Just satisfaction: EUR 60,000 (non-pecuniary damage) and EUR 3,300 (costs and expenses)

Eshonkulov v. Russia (no. 68900/13)

The applicant, Javokhir Eshonkulov, is an Uzbek national who was born in 1983. The case concerned his complaint about extradition and expulsion proceedings against him in Russia.

In April 2013 Mr Eshonkulov was arrested in Moscow, where he had been living since May 2012, as he was wanted in Uzbekistan on charges of alleged membership of a Muslim extremist movement. He was subsequently placed in detention pending extradition to Uzbekistan. In October 2013 he was released, as the six-month maximum detention period had expired. Immediately following his release, he was rearrested for breaching migration rules. One day after his new arrest, a district court found him guilty of unlawful residence in Russia and ordered his administrative expulsion from Russia. His removal was, however, suspended in November 2013 following an interim measure granted by the European Court of Human rights under Rule 39 of its Rules of Court, which indicated to the Russian Government that Mr Eshonkulov should not be expelled to Uzbekistan pending the proceedings before the Court. Both the extradition and expulsion orders were upheld by the national courts in February 2014. In parallel, Mr Eshonkulov applied for refugee status in Russia. The migration service rejected his application in a decision which was upheld by the Moscow City Court in June 2014. In the extradition, expulsion and refugee-status proceedings he consistently argued that he was at risk of persecution and ill-treatment in Uzbekistan on account of the accusations against him of religious extremism.

Relying in particular on Article 3 (prohibition of torture and inhuman or degrading treatment), Mr Eshonkulov alleged that, if returned to Uzbekistan, he would run a real risk of being subjected to torture and ill-treatment given the nature of the accusations against him. Also relying on Article 5 §§ 1 (f) and 4 (right to liberty and security / right to have lawfulness of detention decided speedily by a court), he complained that his detention pending expulsion had been unlawful, alleging in particular that the real purpose of the expulsion proceedings had been to circumvent the maximum time-limit in domestic law for detention pending extradition, and that he had been unable to obtain judicial review of his detention. Lastly, relying on Article 6 § 2 (presumption of innocence), he alleged that the wording of the extradition decision against him, stating that he had "committed crimes ... in the Russian Federation", had amounted to a declaration of his guilt which had prejudged the assessment of his case by the Uzbek courts.

Violation of Article 3 – in the event of Mr Eshonkulov's forced return to Uzbekistan
Violation of Article 5 § 4
Violation of Article 5 § 1 (f) – in respect of Mr Eshonkulov's detention in the framework of the expulsion proceedings)
Violation of Article 6 § 2

Interim measure (Rule 39 of the Rules of Court) – not to expel Mr Eshonkulov's from Russia – still in force until judgment becomes final or until further order.

Just satisfaction: EUR 8,500 (non-pecuniary damage) and EUR 5,000 (costs and expenses)

Lolayev v. Russia (no. 58040/08)

The case concerned an allegation of torture by the police.

The applicant, Alan Khadzhi-Muratovich Lolayev, is a Russian national who was born in 1978 and lives in Vladikavkaz (Russia).

Mr Lolayev was a police officer until 2005 and alleged that he had been ill-treated after he was suspected of taking a sub-machine gun from his police station between 25 and 27 February 2008. In particular, he alleged that he had been taken to the police station on 28 February 2008 and had been beaten on the back and head after being handcuffed to a chair. He also alleged that police officers at the station had pressed electrical wires to his ears in order to force a confession from him. On 3 March 2008 he underwent a medical examination, and the ensuing report concluded that Mr Lolayev was suffering from concussion, abrasions on his head and that the injuries could have been inflicted during the time and in the circumstances he had described. The same day, Mr Lolayev complained about his ill-treatment to the prosecuting authorities and a criminal investigation into his allegations was eventually instituted on 16 May 2011. Before that, between April 2008 and June 2010 the investigation authorities refused, on five separate occasions, to open a criminal investigation into Mr Lolayev's allegations. The criminal proceedings were discontinued on 19 February 2012 on the grounds that the actions of the officers disclosed no evidence of a criminal offence.

Relying in particular on Article 3 (prohibition of torture and inhuman or degrading treatment) and Article 5 (right to liberty and security), Mr Lolayev complained that he had been ill-treated by the police and that the investigation into his allegations had been ineffective and he alleged that his detention at the police station had been unlawful.

Violation of Article 3 (torture)
Violation of Article 3 (investigation)
Violation of Article 5

Just satisfaction: EUR 26,000 (non-pecuniary damage)

Malika Yusupova and Others v. Russia (nos. 14705/09, 4386/10, 67305/10, 68860/10, and 70695/10)

The applicants are 14 Russian nationals from five families, who at the time of the events lived in various districts of the Chechen Republic (Russia). The case concerned the disappearance of six men – close relatives of the applicants – who were born between 1959 and 1977, allegedly after having been unlawfully detained by Russian military servicemen during special operations in Chechnya.

In each case, the applicants' relatives were abducted by groups of armed men, most of them wearing camouflage uniforms, in areas under the full control of the Russian federal forces. The applicants have had no news of their missing relatives since the alleged arrests. They complained of the abductions to law-enforcement bodies, and official investigations were opened. Subsequently the proceedings were repeatedly suspended and resumed, and have remained pending for several years without having established who was responsible for the abductions. The Russian Government, in their submissions to the Court, have not challenged the accounts of the events as presented by the applicants, but they have stated that there is no evidence to prove that Russian State officials were involved in the incidents.

Relying on Article 2 (right to life), the applicants complained that their relatives had disappeared after having been detained by State officials and that the Russian authorities had failed to carry out effective investigations into the matter. They further complained of violations of Article 3 (prohibition of inhuman or degrading treatment) and Article 5 (right to liberty and security) on account of the mental suffering caused to them by the disappearance of their relatives and the unlawfulness of their relatives' detention. They also submitted that, in breach of Article 13 (right to an effective remedy), they had had no legal remedies available at national level in respect of those complaints.

Violation of Article 2 (right to life) – in respect of the applicants' relatives
Violation of Article 2 (investigation)
Violation of Article 3 – in respect of the applicants
Violation of Article 5 – in respect of the applicants' relatives
Violation of Article 13 in conjunction with Articles 2 and 3

Just satisfaction:

- application no. 14705/09: EUR 10,000 (pecuniary damage) to Malika Yusupova, EUR 60,000 (non-pecuniary damage) to the applicants jointly, and EUR 3,000 jointly (costs and expenses);

- application no. 4386/10: EUR 60,000 (non-pecuniary damage) to the applicants jointly and EUR 3,000 jointly (costs and expenses);

- application no. 67305/10: EUR 120,000 to the applicant (non-pecuniary damage);

- application no. 68860/10: EUR 60,000 (non-pecuniary damage) to the applicants jointly and EUR 1,000 jointly (costs and expenses);

- application no. 70695/10: EUR 60,000 (non-pecuniary damage) to the applicants jointly and EUR 3,000 jointly (costs and expenses).

Malmberg and Others v. Russia (nos. 23045/05, 21236/09, 17759/10, and 48402/10)

The applicants, Mariya Shelkova, Mikhaydar Tazikov, Olga Shevchenok and Marina Surkova, are Russian nationals who were born in 1957, 1957, 1958, and 1946 respectively and live in St Petersburg, Ulyanovsk, Tyumen, and Moscow (all in Russia).

The case concerned civil proceedings to which the four applicants had been parties. In those proceedings, the appeal courts (the St Petersburg City Court, the Ulyanovsk Regional Court and the Moscow City Court) read out the operative part of the judgment at the end of a public hearing. Full texts of the judgments were prepared at a later time, and the reading out of the first-instance courts' judgments was also limited to their operative parts.

Relying on Article 6 § 1 (right to a fair trial), the applicants complained about a lack of public access to the reasoned judgments in their cases, since only the operative part of the judgments in their cases had been read out in open court and the full texts, which had been prepared later, had remained inaccessible to the public.

Violation of Article 6 § 1 – concerning the lack of the public pronouncement of the judgments

Just satisfaction: The Court held that the finding of a violation constituted in itself sufficient just satisfaction for any non-pecuniary damage sustained by the applicants. It further awarded EUR 13 to Ms Malmberg and EUR 358 to Ms Surkova in respect of costs and expenses.

Nogin v. Russia (no. 58530/08)

The applicant, Vladimir Nogin, is a Russian national who was born in 1981 and lives in Syktyvkar (Komi Republic, Russia). The case concerned his complaint of not having been provided with appropriate medical care in detention.

Mr Nogin was convicted of aggravated rape and sentenced to two years and six months' imprisonment in December 2006. Suffering from an insulin-dependent form of diabetes since the age of four, he maintained in particular that he had not received appropriate medical treatment for his condition in two detention facilities, both while in pre-trial detention from early August to early November 2006 and in detention following his conviction, from December 2006 until March 2009. In

particular, he alleged that he had not been provided with eye surgery in due time. He relied on Article 3 (prohibition of inhuman or degrading treatment).

Violation of Article 3 (inhuman and degrading treatment) – concerning the authorities' failure to provide Mr Nogin with the timely medical care during his detention in the IK-31 detention facility

Just satisfaction: EUR 30,000 (non-pecuniary damage) and EUR 2,600 (costs and expenses)

Revision

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.

Relying in particular 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.

In its judgment of 20 February 2014 the Court found violations of the above two provisions and awarded EUR 2,000 to each applicant in respect of non-pecuniary damage and EUR 350 to one of the applicants, Aleksandr Nosov, in respect of costs and expenses.

On 1 July 2014 the widow of one of the applicants informed the Court that her husband, Mairan Ramonov, had died on 24 October 2013, before the judgment was delivered, and that she was his sole heir. She accordingly requested the Court to revise its judgment in what concerns the just satisfaction, so that she could receive the compensation awarded to her husband.

The Court decided to revise its judgment of 20 February 2014 in so far as it concerned the claims made by the deceased applicant Mr Mairan Ramonov under Article 41 (just satisfaction) of the Convention.

Shkarupa v. Russia (no. 36461/05)

The applicant, Igor Shkarupa, is a Kazakhstani national who was born in 1965 and lives in Novosibirsk (Russia). The case concerned his complaint about the unlawfulness and conditions of his pre-trial detention on murder charges of which he had been ultimately acquitted.

On 8 April 2003 Mr Shkarupa was arrested on suspicion of murder and placed in pre-trial detention. His detention was then extended pending trial on several occasions on the grounds that the offences with which he was charged were serious in nature. On 11 August 2004 he was convicted as charged and sentenced to imprisonment. He continued to be held on remand until his conviction became final. On 15 December 2004, his conviction was quashed. However, he remained in pre-trial detention as the courts decided that the preventive measure should continue to apply to him. Subsequently, Mr Shkarupa's detention was extended repeatedly until 15 March 2006, when he was released on bail.

Having subsequently been acquitted – in May 2006 – Mr Shkarupa instituted civil proceedings against the authorities, claiming compensation for his unlawful prosecution and deprivation of

liberty. In January 2008 he was awarded 500,000 roubles (approximately 12,500 euros) for having been unlawfully prosecuted and detained from 8 April 2003 to 15 March 2006.

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment) and Article 13 (right to an effective remedy), Mr Shkarupa notably complained about the poor conditions of his detention in a temporary detention facility in Berdsk, where he had been taken on several occasions between 2003 and 2006 to participate in the court hearings on his case. He alleged in particular that he had been kept in cells that had been inadequately equipped and had been too small to house the number of inmates within them. He further complained that he had had no effective remedies in respect of his complaint about the conditions of detention. Also relying on Article 5 § 3 (right to liberty and security), he alleged that, following the quashing of his conviction in December 20004, his detention had been unlawful and unfounded.

Violation of Article 3 (inhuman and degrading treatment)
Violation of Article 13
Violation of Article 5 § 3

Just satisfaction: EUR 6,500 (non-pecuniary damage) and EUR 3,400 (costs and expenses)

Yuriy Rudakov v. Russia (no. 48982/08)

The applicant, Yuriy Rudakov, is a Russian national who was born in 1956 and lives in Chernyanka, a village in Belgorod Region. The case concerned his detention pending trial for fraud offences.

Mr Rudakov was arrested in November 2007 and, remanded in custody, was charged with loan fraud, and later with loan fraud and large-scale tax evasion. His detention was subsequently extended on numerous occasions on the ground that there was a risk of him absconding or interfering with the investigation given the seriousness of the charges against him, and to enable him to read the entire case file, which comprised several hundred volumes and thousands of pages of additional material. Because of the complexity of the case, the court extended his detention beyond the maximum 12-month period permitted for detention under national law, initially from November 2008 until January 2009, and then from December 2008 for an unlimited period of time. Mr Rudakov and his defence counsel had read the case file in full by March 2009 and Mr Rudakov was eventually convicted in September 2009 of setting up fraudulent loans and of tax evasion, and sentenced to three years and six month's imprisonment.

Relying on Article 5 § 1 (right to liberty and security), Mr Rudakov complained that his detention pending the study of the case file had been unlawful because it had exceeded the maximum detention period provided for by domestic law. Relying also on Article 5 § 3 (entitlement to trial within a reasonable time or to release pending trial), he complained that his detention had not been based on relevant and sufficient grounds, and that the domestic courts had failed to consider a more lenient preventive measure in view of the non-violent nature of the criminal offences with which he had been charged.

Violation of Article 5 § 1
Violation of Article 5 § 3

Just satisfaction: EUR 20,000 (non-pecuniary damage) and EUR 2,100 (costs and expenses)

Zelenin v. Russia (no. 21120/07)

The applicant, Ivan Zelenin, is a Russian national who was born in 1975 and lives in Krasnoyarsk (Russia).

The case concerned his allegation that, suspected of selling heroin, he had been ill-treated when arrested during a covert operation by a police drug squad. In particular, Mr Zelenin alleged that, on

6 February 2006, three officers from the drug squad had forcibly dragged him out of his flat and beaten him. He also alleged that he had sustained injuries when, un-handcuffed to sign the police report on the inspection of his flat, he had ran head-first at a cupboard, which then collapsed on top of him. He was taken to hospital the next day where he was diagnosed with a cerebral injury, before eventually being transferred to a remand prison.

Within the following days Mr Zelenin complained to the prosecuting authorities about the alleged ill-treatment and a pre-investigation inquiry was carried out. Notably, in February 2007 the district prosecutor's office ordered a forensic expert examination in order to establish the origin of his injuries. That report was however inconclusive, and the prosecuting authorities went on to repeatedly refuse to open a criminal investigation, finding that the witnesses who had corroborated Mr Zelenin's version of events were unreliable and accepting that the drug squad officers had been obliged to use force against him as he had resisted arrest. Those decisions by the prosecuting authorities were ultimately upheld on judicial review in January 2008.

In the meantime, Mr Zelenin was convicted in November 2006 of drug related offences and sentenced to six years' imprisonment. He has since been released on probation.

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment), Mr Zelenin complained that he had been ill-treated by the police and that there had been no effective official investigation into his allegations.

Violation of Article 3 (inhuman and degrading treatment)
Violation of Article 3 (investigation)

Just satisfaction: EUR 19,500 (non-pecuniary damage)

M.A. v. Slovenia (no. 3400/07)
N.D. v. Slovenia (no. 16605/09)

The applicants, Ms M.A. and Ms N.D., are Slovenian nationals who were born in 1962 and 1986, respectively. Ms M.A. lives in Maribor (Slovenia) and Ms N.D. in Loka pri Žusmu (Slovenia). Both cases concerned their complaints about the excessive length of criminal proceedings brought against the men whom they had accused of rape.

On 3 November 1983 Ms M.A., who was eight months pregnant, was attacked by three men on her way home from work. They pulled her into a car, drove to a remote location and raped her one after the other. Ms M.A. immediately went to the police and the three men were arrested and placed in custody. They were released on 24 November 1983. They were subsequently charged with aggravated rape in March 1984. One of the men, who had fled the country, could not be traced and the charges against him were eventually dropped in October 2008. The main hearing against the other two men commenced in November 1996; one of them died in 2003 and the remaining suspect was convicted of aggravated rape in November 2004. That judgment was quashed on appeal, but the remaining suspect was convicted again on retrial. His subsequent appeal was allowed with regard to the sentence, and the higher court's judgment was eventually confirmed by the Supreme Court in September 2009.

Ms N.D. first complained to the police in December 2000 of having been raped by her uncle in 1992, when she was six years old, alleging that the assaults continued until 1994. A number of investigative steps were undertaken to examine her allegations, including the police questioning the applicant, her family and her doctor. Her uncle was indicted in May 2002 for sexual assault of a minor. The trial began six years after that, in April 2008, and led to the uncle being found guilty in April 2009 of continuous sexual assault of a person younger than 14 years' old and to him being sentenced to three years and four months' imprisonment. The uncle's appeal was dismissed in March 2010 and his conviction and sentence upheld. Ms N.D. brought a claim against the State seeking compensation

for the delays in the criminal proceedings against her uncle and, in May 2011, the national courts awarded her 4,000 euros in damages.

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment), the applicants complained that the State had failed to provide an effective system of prosecution and trial against their rapists, the related criminal proceedings having lasted some 26 years in the first case and over nine years in the second case.

Violation of Article 3 (procedure) – in both cases

Just satisfaction: EUR 16,000 to M.A. and EUR 4,000 EUR to N.D (non-pecuniary damage) and EUR 1,011.31 to M.A. and 3,300 to N.D. (costs and expenses)

Mihelj v. Slovenia (no. 14204/07)

The applicant, Zdravko Mihelj, is a Slovenian national who was born in 1965 and lives in Ljubljana. The case concerned criminal proceedings against him on charges of fraud.

Questioned by an investigating judge in September 1999 in the course of a criminal investigation against him on the charge of aggravated fraud, Mr Mihelj denied the charge. After he had formally been indicted, the charge was reclassified in July 2000 by a pre-trial panel as attempted fraud. In a hearing in his absence, the Ljubljana Local Court found him guilty as charged and sentenced him to seven months' imprisonment in March 2002. The court noted that, although he had been duly notified, Mr Mihelj had provided no justification for his absence, and that his presence at the hearing – during which three witnesses were heard – was not necessary to establish the facts of the case. The judgment was eventually upheld on appeal by the Supreme Court in November 2003.

Relying on Article 6 §§ 1 and 3 (right to a fair trial), Mr Mihelj complained that the criminal trial against him had been unfair, on account of his conviction in his absence following the modification of the indictment, of which he had had no knowledge, and of his inability to cross-examine witnesses for the prosecution.

No violation of Article 6 § 1 taken in conjunction with Article 6 § 3 (a), (b), (c) and (d)

Chopenko v. Ukraine (no. 17735/06)

The applicant, Valeriy Chopenko, is a Ukrainian national who was born in 1970. He is currently serving a life sentence in Dnipropetrovsk (Ukraine) for rape, theft, robbery and aggravated murder. The case concerned Mr Chopenko's complaint that certain aspects of his trial and appeal proceedings had been unfair.

Mr Chopenko was arrested on 27 June 2005 for questioning about the murder of a young woman who had been found a few days earlier hung from a tree. The same day he signed a statement in which he confessed to the crime and then, when formally questioned in the presence of a lawyer on 28 June 2005, gave further details as to his involvement. Criminal proceedings were later started against Mr Chopenko on the grounds that he had committed a non-aggravated murder, and he was informed that he had the right to legal assistance. Following investigation of the incident, the charges against him were reclassified as aggravated murder, rape and robbery. During the course of the investigation, and up until the reclassification of the offences, Mr Chopenko stated that his confessions had been made voluntarily. Following the reclassification, a new lawyer was hired on his behalf; and in the autumn of 2005, when committed for trial, he pleaded not-guilty, maintaining that he had confessed to the murder of the victim as a result of psychological and physical ill-treatment. He was found guilty as charged in December 2005. Subsequently, in January 2006 he filed cassation proceedings where he maintained his innocence and his claim that his confession had been extracted under duress. On 18 April 2006 the Supreme Court held a hearing in the case, which was

not attended by Mr Chopenko or by a lawyer on his behalf, their request to attend having been rejected as out of time. On the same date the Supreme Court dismissed the cassation appeal on the basis that the case file contained sufficient evidence of guilt.

Relying on Article 6 §§ 1 and 3 (c) (right to a fair trial and right to legal assistance of own choosing) Mr Chopenko complained that he had not been provided with legal assistance during the initial question sessions between 27 and 28 June, and that he had been unfairly deprived of an opportunity to take part in the cassation hearing on his case.

Violation of Article 6 § 1 taken together with Article 6 § 3 (c) – on account of lack of access to a lawyer at the beginning of the investigation
Violation of Article 6 § 1 taken together with Article 6 § 3 (c) – on account of Mr Chopenko's inability to take part in the cassation hearing

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

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