



Judgments of 10 February 2015

The European Court of Human Rights has today notified in writing 13 judgments¹:

- ten Chamber judgments are summarised below; and for one Committee judgment, *McHugh and Others v. the United Kingdom* (no. 51987/08 and 1,014 other applications), a separate press release has been issued;

- two Committee judgments, which concern issues which have already been submitted to the Court, can be consulted on [Hudoc](#) and do not appear in this press release.

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

Dimitrova v. Bulgaria (application no. 15452/07)

The applicant, Petya Dimitrova, is a Bulgarian national who was born in 1967 and lives in Sofia. The case concerned measures taken by the police against Ms Dimitrova on account of her activities in a religious organisation, and the civil proceedings for damages she had brought as a consequence.

Ms Dimitrova was a member of an international religious organisation, Word of Life, whose previous status as a non-profit organisation in Bulgaria was revoked in 1994. Following a complaint that the organisation had a negative psychological influence on its followers, the prosecuting authorities ordered the restriction of the right of members to assemble and promote their belief. After that decision, members organised meetings in private homes, including Ms Dimitrova's flat. In September 1995 the police questioned her, then searched her flat and seized a number of items, including audio tapes, notebooks and books with religious content. In civil proceedings brought by her in December 1995, she was initially awarded compensation for damages and an order was issued for the items seized to be returned. On appeal, only the order for the return of the items was upheld, but her claim for damages was dismissed in a decision eventually upheld in October 2006.

Ms Dimitrova complained in particular of a breach of her rights under Article 9 (freedom of thought, conscience, and religion) of the European Convention on Human Rights. She further maintained that she had not had effective remedies at national level in respect of that complaint, in breach of Article 13 (right to an effective remedy) of the Convention in conjunction with Article 9.

Violation of Article 9

Violation of Article 13 taken together with Article 9

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

Penchevi v. Bulgaria (no. 77818/12)

The applicants, Irena Pencheva and her son Vladimir Penchev, are Bulgarian nationals who were born in 1979 and 2006 respectively and live in Würzburg (Germany). The case concerned their complaint that for more than two and a half years Ms Pencheva's son had been unable to join her in

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

Germany, where she was pursuing academic studies, due to the Bulgarian courts' refusal to allow the child to travel without the father's agreement and to the length of the related proceedings.

Ms Pencheva filed for divorce from her son's father in April 2010 and in parallel brought proceedings seeking to obtain a court decision dispensing with the father's consent to the child's travel outside Bulgaria, where the father lived, as she had started a traineeship in Germany and had been granted a scholarship for a master's programme there. After her request had initially been granted in August 2010, the Supreme Court of Cassation, on appeal by the father, refused her request in June 2012. Ms Pencheva subsequently brought new proceedings and, in December 2012, was eventually granted permission to take her son to other countries within the EU. While the proceedings were pending, her son lived with his maternal grandparents in Bulgaria.

Relying in particular on Article 8 (right to respect for private and family life), the applicants complained of their inability to live together for more than two and a half years.

Violation of Article 8

Just satisfaction: EUR 1,101 (pecuniary damage), EUR 7,500 (non-pecuniary damage), and EUR 2,495 (costs and expenses) jointly to Ms Pencheva and her son

Kiiveri v. Finland (no. 53753/12)

Österlund v. Finland (no. 53197/13)

The applicant in the first case, Timo Veikko Kiiveri, is a Finnish national who was born in 1960 and lives in Tampere (Finland). He is the managing director and board member of a construction and decoration business in which he also holds the majority of the company's shares.

The applicant in the second case, Rabbe Roley Ragnar Österlund, is a Finnish national who was born in 1962 and lives in Karjaa (Finland). He is the owner of two companies.

In both cases the Finnish tax authorities carried out inspections of the applicants' companies, respectively, and found irregularities in the companies' tax returns. In both cases the tax authorities imposed additional taxes and surcharges against Mr Kiiveri and Mr Österlund. In parallel, the Finnish police launched criminal investigations into Mr Kiiveri and Mr Österlund's financial activities, respectively. Mr Kiiveri was convicted in 2009 of accounting offences and aggravated tax fraud. Mr Österlund was convicted in 2008 of aggravated tax fraud. Both were given custodial sentences and fines.

Relying on Article 4 of Protocol No. 7 (right not to be tried or punished twice) to the Convention, both Mr Kiiveri and Mr Österlund complained that they had been tried and punished twice, once through taxation proceedings and once through criminal proceedings, on the basis of the same facts.

Violation of Article 4 of Protocol No. 7 – in both cases

Just satisfaction: EUR 3,000 (non-pecuniary damage) each to Mr Kiiveri and Mr Österlund, and EUR 2,000 (costs and expenses) to Mr Kiiveri

Bélané Nagy v. Hungary (no. 53080/13)

The applicant, Bélané Nagy, is a Hungarian national who was born in 1959 and lives in Baktalórántháza (Hungary). The case concerned her complaint of having lost her entitlement to a disability pension.

Ms Nagy's loss of capacity to work was assessed to be 67 per cent in April 2001, and she was granted a disability pension. In 2010 she lost her entitlement, since the applicable medical criteria had changed and she no longer met them. After the enactment of a new law on disability allowances, which entered into force in January 2012 and introduced a number of additional criteria for

eligibility, she was denied a disability pension in June 2012, having submitted a new request for such allowance. Although the degree of her disability was reassessed and was found to warrant a disability pension, her request was nevertheless rejected, because under the new law, the volume of her past contributions to the social security scheme was no longer sufficient.

Relying in substance on Article 1 of Protocol No. 1 (protection of property) to the Convention, Ms Nagy complained that she had lost her livelihood, previously secured by the disability pension, although she maintained that her health was as poor as at the time she had first been diagnosed with her disability.

Violation of Article 1 of Protocol No. 1

Just satisfaction: EUR 5,000 (pecuniary damage), EUR 5,000 (non-pecuniary damage) and EUR 4,150 (costs and expenses)

Cojocaru v. Romania (no. 32104/06)

The applicant, Cătălin Petrică Cojocaru, is a Romanian national who was born in 1971 and lives in Pașcani (Romania).

Mr Cojocaru is a journalist. In February 2005 he wrote an article criticising the local mayor in which he questioned the mayor's professional activities and called for his resignation. The mayor lodged a criminal complaint against Mr Cojocaru. The District Court acknowledged that, although Mr Cojocaru presented official documents to prove there had been irregularities in the local administration, these documents alone did not justify the statements made in his article. The court convicted him for defamation in December 2005.

Relying on Article 10 (freedom of expression), Mr Cojocaru complained that the criminal sentence imposed on him amounted to a breach of his freedom of expression.

Violation of Article 10

Just satisfaction: The applicant did not submit a claim for just satisfaction within the time-limit fixed by the Court.

Colac v. Romania (no. 26504/06)

The applicant, Doru Colac, is a Romanian national who was born in 1969 and lives in Iași (Romania). The case concerned his complaint that criminal proceedings against him had been unfair as he had been unable to examine relevant witnesses against him

Mr Colac was indicted in February 2003 for procurement, among other offences, on suspicion that he and his co-accused had forced five underage girls into prostitution. He was convicted in June 2004 for having forced the girls into prostitution. On appeal, his sentence of nine years' imprisonment was reduced to seven years' imprisonment in December 2010. The courts relied on the statements of several witnesses, including the statements of the five girls at the pre-trial stage of the proceedings. However, the girls could not be heard as witnesses during the proceedings, as they had either left the country or could not be located.

Relying on Article 6 §§ 1 and 3 (d) (right to a fair trial and right to obtain attendance and examination of witnesses), Mr Colac complained that his trial had been unfair as he had been unable to cross-examine all the witnesses whose statements had served as the main basis for his conviction.

Violation of Article 6 § 1, taken together with Article 6 § 3 (d)

Just satisfaction: EUR 2,400 (non-pecuniary damage)

N.M. v. Romania (no. 75325/11)*

The applicant is an Afghan national who was born in 1990 and lives in Kabul (Afghanistan). The case concerned an exclusion order from Romanian territory issued against him, and his conditions of detention in an aliens' placement centre.

On 31 March 2010 N.M. lodged an asylum application with the Romanian Immigration Office (RIO). He alleged that, were he to be returned to Afghanistan, he would be exposed to persecution by the Taliban, and claimed that they had already killed his father and mother. On 9 August 2010 the RIO refused his application, holding that his allegations were unreliable. His requests for judicial review were also dismissed. In parallel, on 16 December 2010 the public prosecutor applied to the Bucharest Court of Appeal for a declaration that the applicant was an undesirable person and ordering his placement in a centre for aliens, for national security reasons which were based on documents submitted by the Romanian intelligence service. According to those documents, the applicant had been engaged in activities aimed at facilitating terrorist acts. On 17 December 2010 the court of appeal granted the public prosecutor's request. The applicant then appealed on points of law to the High Court of Cassation and Justice against that decision, but his appeal was rejected as being out of time on 16 September 2011.

Relying in particular on Articles 5 § 1 (right to liberty and security) and 5 § 4 (right to speedy review of the lawfulness of detention), N.M. complained that he had been unlawfully detained for more than a year and that no domestic remedies had been available to him for review of the necessity of that detention, on account, he alleged, of his status as an alien who had been declared undesirable.

No violation of Article 5 § 1 (f)

Violation of Article 5 § 4

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

S.C. v. Romania (no. 9356/11)*

The applicant is a Turkish national who was born in 1982 and lives in Manisa (Turkey). The case concerned an exclusion order from Romanian territory issued against him and his placement in an administrative detention centre.

S.C., a supporter of the Kurdish nationalist movements in Turkey in the years following 2000, lodged an asylum application with the Romanian Immigration Office (RIO) on 1 July 2009, alleging that he had been convicted in Turkey of supporting the Kurdish guerrilla warfare. On 31 July 2009 the RIO refused the applicant's request, holding that his allegations were unreliable. That decision was upheld on 28 May 2010 and then on 14 February 2011 by the Bucharest court of first instance and subsequently by the appeal court. On 24 August 2010 the public prosecutor applied to the Bucharest Court of Appeal for a declaration that S.C. was an undesirable person and ordering his placement in a centre for aliens, for national security reasons which were based on documents submitted by the Romanian intelligence service. On 25 August 2010 the Court of Appeal granted the public prosecutor's request. S.C. then appealed on points of law to the High Court of Cassation and Justice against that decision, and requesting that its execution be stayed. On 11 November 2010 the High Court of Cassation and Justice dismissed his requests.

Relying in particular on Articles 5 § 1 (right to liberty and security) and 5 § 4 (right to speedy review of the lawfulness of detention), S.C. alleged that his placement in an administrative detention centre had amounted to an unlawful deprivation of liberty and that he had not had an effective remedy at domestic level to challenge it.

Violation of Article 5 § 1 (f)

No violation of Article 5 § 4

Just satisfaction: EUR 4,500 (non-pecuniary damage)

Yoslun v. Turkey (no. 2336/05)*

The applicant, Ferhat Tunç Yoslun, is a Turkish national who was born in 1964 and lives in Istanbul. The case concerned a fine imposed on him, being accused of having made comments during his performance at an authorised concert.

On 4 August 2003 Mr Yoslun took part, as a singer, in a concert organised by the People's Democratic Party (DEHAP) with authorisation from the prefecture. During this concert Mr Yoslun took the floor and gave a speech that was critical of the Turkish government, stating in particular that modern Turkey was neither free nor democratic. He also made comments in support of the Kurdish nationalist movements. Police reports were subsequently drawn up, as a result of which the prosecutor's office brought charges against Mr Yoslun on 6 October 2003 for failing to obey orders, on the ground that the prefectural authorisation for the event was valid only for a concert and did not authorise speeches. Mr Yoslun was ordered to pay a fine. On 8 December 2003 he appealed against the decision and requested a hearing. On 30 March 2004 the criminal court dismissed his appeal and his request for a hearing.

Relying in particular on Article 6 (right to a fair trial), Mr Yoslun complained about the fact that no hearing had been held and alleged that this had had an impact on the rights of the defence. Relying on Article 10 (freedom of expression), he complained that he had been convicted for having addressed the public during his performance at an authorised concert.

Violation of Article 6

Violation of Article 10

Just satisfaction: EUR 3,250 (non-pecuniary damage) and EUR 1,000 (costs and expenses)

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.