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

Press Release
issued by the Registrar of the Court

ECHR 101 (2015)
31.03.2015

Judgments of 31 March 2015

The European Court of Human Rights has today notified in writing five judgments[1]:

four Chamber judgments are summarised below;

for one other, *S.C. Uzinexport S.A. v. Romania (application no. 43807/06)*, a separate press release has been issued.

The judgments below are available only in English.

Davtyan v. Armenia (application no. 29736/06)

The applicant, Artashes Davtyan, is an Armenian national who was born in 1962 and lives in Yerevan.

The case principally concerned Mr Davtyan's complaint about inadequate medical care in detention over a prolonged period of time.

Mr Davtyan was arrested in March 2003 and charged with large-scale embezzlement through preparing and using false accounting documents when he was the executive director of a bank from 1997 to 1999. He was found guilty in November 2005 and sentenced to six years' imprisonment. This judgment was later upheld on appeal, and Mr Davtyan's appeal on points of law was ultimately dismissed by the Court of Cassation in June 2006. He was released on parole in June 2006.

Less than a month after Mr Davtyan was placed in detention, doctors recommended that he have a biopsy of a tumour on his vocal chords as well as further examinations and treatment. Similar recommendations were made in January and April 2005. None of these recommendations were apparently followed up and, in March 2006 following a drastic deterioration in his health (which included him coughing blood, having asphyxia attacks and losing consciousness), Mr Davtyan was transferred to an outside hospital for urgent surgery. He thus had two operations in March and April 2006 which improved his condition.

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights, Mr Davtyan alleged that his continued detention, despite his poor health and without the requisite medical care, had caused him severe physical and mental pain and had put his life in danger. He complained in particular that he had only received symptomatic instead of specialised treatment for about three years, alleging that such a long delay in carrying out the biopsy test and surgery had not been justified.

Violation of Article 3 (inhuman and degrading treatment)

Just satisfaction: 9,000 euros (EUR) (non-pecuniary damage), and EUR 60 (costs and expenses)

[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

Helsinki Committee of Armenia v. Armenia (no. 59109/08)

The applicant organisation, the Helsinki Committee of Armenia, is a non-governmental human rights organisation based in Yerevan. The case concerned a ban on the organisation holding a march in mourning of the death of a man, who was a witness in a murder investigation, in police custody. The incident, involving the witness jumping out of a police station window on 12 May 2007, had provoked an outcry among Armenian human rights groups and civil society.

On 6 May 2008 the applicant NGO notified the Mayor of Yerevan of its intention to hold a commemoration march. The Mayor banned the march for national security and public order reasons following post-election clashes which had caused casualties and had resulted in the President of Armenia declaring a state of emergency in March 2008 for 20 days. The applicant NGO, which had not received the letter informing them of the Mayor's decision, tried to hold the march on 12 May 2008 as planned but was prevented from doing so by the police. The NGO received the letter informing them of the ban on 13 May 2008.

Relying on Article 11 (freedom of assembly and association) of the Convention, the applicant NGO complained about the ban on them holding their mourning march. Further relying on Article 13 (right to an effective remedy), the NGO also complained that any appeal against the decision banning their march, received after the date of the planned event, had not only been ineffective but meaningless.

Violation of Article 11
Violation of Article 13

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

Nalbandyan v. Armenia (nos. 9935/06 and 23339/06)

The applicants, Bagrat and Narine Nalbandyan, husband and wife, and their daughter, Arevik Nalbandyan, are Armenian nationals who were born in 1961, 1964, and 1988 respectively. Bagrat and Narine Nalbandyan were apparently serving prison sentences in Kosh and Abovyan penitentiary institutions (Armenia) at the time of the submission of their application. Arevik Nalbandyan lives in the town of Vardenis (Armenia).

The case concerned the family's allegations of their ill-treatment in police custody on suspicion of murdering one of Arevik Nalbandyan's classmates in Vardenis and of the unfairness of the ensuing criminal proceedings against them.

Mr Nalbandyan alleged that he had first been taken into custody on 8 June 2004 and, held without his arrest being formally recorded, had been subjected to continual beatings by the police in order to make him confess to the schoolgirl's murder. His wife alleged that she had also subsequently been questioned by the police in July 2004 and, on refusing to testify against her husband, had been beaten on the soles of her fee with a baton. On the same occasion the police threatened to rape her daughter, who had been brought to the police station and locked up in a nearby, dark room infested with rats, if she did not confess. As a result, Ms Nalbandyan confessed to the murder and her husband confessed to having assisted her. Their daughter alleges that she was taken to the police station on numerous occasions, frequently at late hours, and threatened with rape if she did not admit that her mother had committed the murder. Bagrat and Narine Nalbandyan were formally arrested on 9 July 2004 and charged with murder on 12 July 2004. On 14 July 2004 Ms Nalbandyan was transferred from the police station to a detention facility where she was medically examined and found to have bruised and swollen feet. Arevik was taken to hospital by her uncle on 16 July 2004 and found to have concussion and bruising to her head, back and left arm.

In February 2005 Bagrat and Narine Nalbandyan were found guilty of murder and sentenced to nine and 14 years' imprisonment, respectively. Their conviction was upheld by the Court of Appeal in July

2005. Narine Nalbandyan lodged an appeal on points of law which was dismissed by the Court of Cassation in August 2005. Their lawyer also lodged an appeal on points of law on behalf of Bagrat Nalbandyan, which was dismissed on the ground that the lawyer was no longer authorised to represent him as the couple had allegedly dispensed with her services during a court hearing held on 1 July 2005. The criminal proceedings against Arevik Nalbandyan were dropped due to lack of evidence in August 2004.

During the criminal proceedings against them Bagrat and Narine Nalbandyan consistently denied their guilt and stated that they had only confessed to the murder under duress. They also complained about the atmosphere of constant intimidation in the courtroom, including threats, verbal and physical abuse directed at both the applicants and their lawyers by the relatives and friends of the murder victim. The Court of Cassation ultimately dismissed their allegations of ill-treatment, finding that they were unsubstantiated as there were no records of any ill-treatment, and did not examine their complaint of courtroom disorder during the proceedings. The applicants also made repeated requests with the prosecuting authorities to have their complaints of ill-treatment investigated and the accused prosecuted and punished. In August 2004 the investigating authorities issued a decision refusing to bring criminal proceedings as they considered credible the police officers' testimonies denying any ill-treatment and found the applicants' allegations unreliable.

Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment), the applicants alleged that they had been ill-treated in police custody in June and July 2004 and that the authorities' ensuing investigation into their allegations had been ineffective. Further relying on Article 6 §§ 1 and 3 (c) (right to a fair trial / right to legal assistance of own choosing / right of access to court), the applicants also alleged in particular that the atmosphere of constant disorder in the courtroom during the hearings on their case had prevented their lawyers from performing their functions correctly. Lastly, relying on Article 6 § 1 (right of access to court), Mr Nalbandyan complained about the Court of Cassation's refusal to examine on the merits his lawyer's appeal on points of law for purely formal reasons.

Violation of Article 3 (torture) – in respect of Narine and Arevik Nalbandyan
No violation of Article 3 (treatment) – in respect of Bagrat Nalbandyan
Violation of Article 3 (investigation) – in respect of all three applicants
Violation of Article 6 § 1 taken together with Article 6 § 3 (c) – in respect of Bagrat and Narine Nalbandyan
Violation of Article 6 § 1 (access to court) – in respect of Bagrat Nalbandyan

Just satisfaction: EUR 10,000 to Bagrat Nalbandyan, EUR 27,000 to Narine Nalbandyan and EUR 25,000 to Arevik Nalbandyan (non-pecuniary damage), and EUR 100 to the three applicants jointly (costs and expenses)

Öner and Türk v. Turkey (no. 51962/12)

The applicants, Senanik Öner and Ferhan Türk, are Turkish nationals who were born in 1952 and 1951 respectively and live in Diyarbakır (Turkey). The case concerned criminal proceedings brought against the applicants following speeches they had made in public during the Newroz celebrations about the problems of Kurdish people.

After making these speeches, the applicants were convicted of disseminating terrorist propaganda on behalf of an illegal organisation, the PKK (Kurdish Workers' Party), in April 2008 and sentenced to one year and eight months' imprisonment. This judgment was upheld by the Court of Cassation in December 2011. The execution of the applicants' sentences was, however, suspended in October 2012 following an amendment to the law and revision of the first-instance judgment against the applicants.

Relying on Article 10 (freedom of expression), the applicants complained about their conviction for making a speech, which had called for a peaceful resolution of the problems of the Kurdish people and had in no way advocated violence or any illegal activities.

Violation of Article 10

Just satisfaction: EUR 2,500 each to Senanik Öner and Ferhan Türk (non-pecuniary damage)

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