



Judgments of 5 May 2015

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

three Chamber judgments are summarised below;

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 ().*

Doiciu v. Romania (application no. 1454/09)*

The applicant, Anca Cătălina Doiciu, is a Romanian national who was born in 1981 and lives in Bucharest.

The case concerned ill-treatment allegedly inflicted by the police and the authorities' failure to meet their obligation to conduct an effective investigation following the lodging of a criminal complaint.

On the evening of 3 January 2001, H.R.A., who was Ms Doiciu's fiancé at the relevant time, and U.N., his cousin, were taken to a police station. H.R.A. had been arrested by the police following an incident involving a taxi driver; Ms Doiciu was summoned to the police station in order to provide a witness statement.

Ms Doiciu was struck by one of the four police officers present in the room.

On the following day she was examined by a doctor, who noted traumatic lesions requiring twelve to fourteen days of medical treatment. On the same date she also lodged a criminal complaint for wrongful conduct and asked to join the proceedings as a civil party.

Her complaint was transmitted to the Brasov military prosecutor's office, which in turn asked the police station in question to complete the investigation. Five police officers were questioned; they denied any act of aggression against Ms Doiciu.

On 19 February 2002 charges of wrongful conduct were brought against one of the police officers suspected of having struck Ms Doiciu. The police officer told the prosecutor that Ms Doiciu had attacked him, and that he had merely defended himself. He admitted to having struck her. On 19 April 2002 the military prosecutor dropped the charges, on the ground that the facts were not serious. He ordered the police officer in question to pay an administrative fine and acquitted the other policemen. The case was sent back to the prosecutor's office by a prosecutor at the High Court of Cassation and Justice. On 14 November 2007 the prosecutor's office ordered that the criminal prosecution of the accused police officer be discontinued on the ground that the facts did not attain the level of severity required for application of the criminal law, and ordered him to pay an administrative fine. The fine was subsequently cancelled. On 30 June 2008 an appeal on points of law by Ms Doiciu was dismissed.

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

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights, the applicant alleged that she had been subjected to ill-treatment in the police premises on the evening of 3 January 2001. She further submitted that the judicial authorities had failed in their obligation to conduct an effective investigation following her criminal complaint.

Violation of Article 3 (ill-treatment)

Violation of Article 3 (investigation)

Just satisfaction: 11,000 euros (EUR) (non-pecuniary damage), and EUR 2,573.76 (costs and expenses)

Melnichuk and Others v. Romania (nos. 35279/10 and 34782/10)

The applicants, Rostislav Ivanovich Melnichuk, Alla Rotislavovna Lyana, Sofiya Filipovna Demchuk, and Valeriy Valentinovich Shpartak, are Ukrainian nationals who were born in 1939, 1964, 1951, and 1946 respectively and live in Rivne (Ukraine). Rostislav Melnichuk and Alla Lyana are father and daughter. Valeriy Shpartak and Sofiya Demchuk are husband and wife. Their case concerned the lack of an effective investigation into an army operation in Romania in 1989 which resulted in the death of Mr Melnichuk's wife and left Sofiya Demchuk and Valeriy Shpartak severely injured.

In December 1989 Mr Melnichuk and his wife Nadejda Melnichuk were driving through Romania on their way home to the Union of Soviet Socialist Republics (USSR) after a tourist trip to Yugoslavia. At the time Romania was experiencing a period of unrest. The former President Ceaușescu had just been toppled and rumours were circulating of terrorists attempting to reinstate his regime. Mr Melnichuk and his wife were driving in a convoy of five cars; Ms Demchuk and Mr Shpartak were travelling with them. The border police notified a Romanian army unit in Craiova that a convoy of foreign cars was heading towards the town. Suspecting that they might be terrorists, the commander of the army unit dispatched a team of soldiers to block the road and stop the convoy. The cars reached the blockade at the village of Brădești and the soldiers told the passengers, in Romanian, to get out and surrender. The passengers did not understand what the soldiers said and stayed in their vehicles. The soldiers opened fire on the cars, also hitting a local bus which was behind the convoy. Mr Melnichuk's wife was killed and Ms Demchuk and Mr Shpartak were both injured. Four days later the USSR citizens lodged a complaint with the USSR Embassy in Yugoslavia. The military prosecutor in Craiova also opened a criminal investigation into the incident. Over the years the case was transferred from one prosecutor to another, and opened and closed on several occasions. In 2007 the cases were added to a larger investigation case file which covered several hundred victims of events between 21 and 30 December 1989. In 2010 the military prosecutor decided to discontinue proceedings in respect of the incident at Brădești, but this decision was quashed and a new case was registered in 2011 with the High Court of Cassation and Justice, investigations are still pending.

Relying in particular on Article 2 (right to life), Mr Melnichuk and his daughter Ms Lyana, and Ms Demchuk and Mr Shpartak complained that the Romanian authorities had failed to conduct an effective, impartial and thorough investigation to identify and punish those responsible for the army operation in 1989 in which Ms Melnichuk had been killed and Ms Demchuk and Mr Shpartak had been severely injured.

Violation of Article 2 (investigation) – in respect of all four applicants

Just satisfaction: EUR 15,000 to each applicant (non-pecuniary damage)

Arratibel Garciandia v. Spain (no. 58488/13)*

The applicant, Jon Patxi Arratibel Garciandia, is a Spanish national who was born in 1975 and lives in Etxarri Aranatz (Navarre province).

The case concerned his claims that no effective investigation had been carried out into allegations of ill-treatment sustained while he was held incommunicado in police custody in the headquarters of the Civil Guard (Guardia Civil).

On 18 January 2011 Mr Arratibel Garciandia was arrested at his home by Civil Guard officers in connection with the suspected offence of membership of the organisation EKIN, part of the terrorist group ETA. Mr Arratibel Garciandia was transferred to the Pamplona Audiencia Provincial, and then driven by car on the same day to Madrid, where he was taken to the Civil Guard headquarters: there he was placed incommunicado in police custody. While held incommunicado in police custody, he was questioned on several occasions, and claims that he was threatened and insulted.

On 22 January 2011 Mr Arratibel Garciandia was brought before the central investigating judge, who ordered that he be remanded in custody. On 11 March 2011 Mr Arratibel Garciandia lodged a complaint, alleging ill-treatment while held incommunicado in police custody.

By an order finding that there was no case to answer issued on 27 February 2012, the Pamplona investigating judge held, in the light of reports by the forensic doctors and the statement made by Mr Arratibel Garciandia, that there was no evidence proving that the ill-treatment complained of had genuinely been inflicted. On 6 March 2012 Mr Arratibel Garciandia appealed. The order finding that there was no case to answer was upheld. An *amparo* appeal before the Constitutional Court was declared inadmissible. Mr Arratibel Garciandia was released on bail on 26 July 2012.

Relying on Article 3 (prohibition of inhuman or degrading treatment), the applicant considered that the domestic courts had not conducted an effective investigation into his complaint about the ill-treatment to which he claimed to have been subjected while held incommunicado in police custody.

Violation of Article 3 (investigation)

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

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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.