



Judgments and decisions of 18 June 2015

The European Court of Human Rights has today notified in writing seven judgments¹ and 13 decisions²:

Five Chamber judgments are summarised below;

two Committee judgments, which concern issues which have already been submitted to the Court, as well as the 13 decisions³ can be consulted on [Hudoc](#) and do not appear in this press release.

The judgments below are available only in English.

Mehdiyev v. Azerbaijan (application no. 59075/09)

The applicant, Hakimeldostu Bayram oglu Mehdiyev, is an Azerbaijani national who was born in 1961 and lived in Nakhchivan at the time of the events.

The case mainly concerned his complaint of having been ill-treated and deprived of his liberty by officials of the Ministry of National Security (“the MNS”) because of his journalistic activity.

Working as an independent journalist, Mr Mehdiyev published two critical articles about the economic and political situation in the Nakhchivan Autonomous Republic in a newspaper in August and September 2007. According to his submissions, he was approached by the head of the district department of the MNS, on 22 September 2007, who accused him of publishing defamatory articles and then ordered four men in uniform to arrest him. Mr Mehdiyev was taken to the premises of the MNS, where the head of the district department ordered several officials to explain to Mr Mehdiyev “the meaning of his activity as a reporter”. He submits that he was then repeatedly tortured; in particular, he was hit with truncheons and punched in the head. Subsequently the head of the district department demanded that Mr Mehdiyev become a member of the ruling political party and to write defamatory articles, which he refused.

Mr Mehdiyev was released after 12 hours, but re-arrested the following morning and taken to a police office, where the head of that office demanded to know why he had informed the press of his arrest. On the same day, 23 September 2007, Mr Mehdiyev was taken to a district court and sentenced to 15 days’ administrative detention for obstructing the police. According to his submissions, during his detention he was deprived of food and water, he was forced to spend nights outside on a concrete walkway, handcuffed and exposed to mosquitos, and he was insulted and beaten by officials of the MNS. Eventually he was released early, after four days in administrative detention, without an official explanation.

The Government of Azerbaijan denied that Mr Mehdiyev had been arrested, detained or ill-treated on 22 September 2007. They maintained that on 23 September 2007 he had been taken to a police station after having used loud and abusive language in public; he was then sentenced by the district

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 Inadmissibility and strike-out decisions are final.

³ Committee judgments, as well as inadmissibility and strike-out decisions, are final.

court to 15 days' administrative detention. The Government submitted that he had been detained in a temporary detention facility, alone in a sufficiently large cell furnished with a bed and other necessities.

Following his release from detention, Mr Mehdiyev repeatedly lodged criminal complaints about his ill-treatment with the prosecutor at district and national level and also complained to several other official bodies, without concrete results.

Relying on Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights, Mr Mehdiyev complained in particular that he had been ill-treated by officials of the MNS and that the national authorities had failed to investigate his allegation of ill-treatment. Mr Mehdiyev further complained, relying on Article 5 (right to liberty and security) and Article 10 (freedom of expression) of the European Convention, that he had been unlawfully deprived of his liberty by officials of the MNS and that his ill-treatment and arrest by those officials on account of his journalistic activity had constituted an unlawful interference with his right of freedom of expression.

Violation of Article 3 (investigation)

No violation of Article 3 (treatment)

No violation of Article 5

No violation of Article 10

Just satisfaction: 10,000 euros (EUR) (non-pecuniary damage) and EUR 4,000 (costs and expenses)

B. and Others v. Croatia (no. 71593/11)

The applicants are three Croatian nationals who were born in 1960, 1979, and 1987 respectively and live in Petrinja (Croatia).

The case concerned the killing of their husband and father in 1991, in the context of targeted disappearances and killings of civilians of Serbian origin by the Croatian police and army in the Sisak area (Croatia) during the Homeland war in Croatia.

The applicants' relative, driving a coach, was apprehended by Croatian soldiers on 4 August 1991 at a checkpoint in Odra. Allegedly not having complied with orders, he was beaten and taken to hospital where he died of his injuries shortly afterwards. An investigation was launched on 9 August 1991 and various witnesses were interviewed by the police. Notably, two Croatian soldiers stationed in Odra at the time made statements identifying two other Croatian soldiers, M.S. and V.H., as being directly responsible for arresting and beating the applicants' relative. A third Croatian soldier, who had not personally witnessed the incident, later stated that he had heard some members of his unit confirming that M.S. and V.H. had taken the applicants' relative off the coach and beaten him. M.S. was interviewed in February 2003, but denied any involvement in the killing; V.H. died in 1997.

As the investigation failed to identify those directly responsible for the death of the applicants' relative, the law-enforcement authorities concentrated their efforts on identifying those at a higher level of command in the police. A criminal complaint was thus lodged in June 2011 against the Head of the Sisak Police Department, his Deputy, V.M., and a member of the Croatian Army on charges of war crimes against the civilian population. In December 2013 V.M. was found guilty of war crimes against the civilian population in that he had been in charge of the police forces in the area of Sisak and Banovina and had allowed the killings of persons of Serbian origin, including the brutal beating and killing of a coach driver, the applicants' relative. V.M.'s conviction was upheld by the Supreme Court in June 2014 and he was sentenced to ten years' imprisonment. The Sisak Head of Police was acquitted of all charges; the other accused died in 2011.

In the meantime, the applicants had brought civil proceedings in 2005 seeking compensation for the death of their relative – including a constitutional complaint – which were dismissed. Following

V.M.'s criminal conviction the applicants sought the reopening of these proceedings and their request is currently pending.

The applicants essentially complained about the inadequacy of the investigation into their relative's death, alleging that none of those directly responsible for the beating of their relative had so far been indicted, despite a number of witnesses to the incident. They alleged that this showed that the authorities had not been genuinely willing to identify the direct perpetrators and bring them to justice. They relied in particular on Article 2 (right to life).

Violation of Article 2 (investigation)

Just satisfaction: EUR 20,000 (non-pecuniary damage) and EUR 1,000 (costs and expenses) to the applicants jointly

Fanziyeva v. Russia (no. 41675/08)

The applicant, Mariya Fanziyeva, is a Russian national who was born in 1942 and lives in Nalchik (Kabardino-Balkar Republic, Russia).

The case concerned Ms Fanziyeva's allegation that her 35-year-old daughter, Madina Eneyeva, had been thrown from the window of a police station.

On 26 May 2007 Ms Fanziyeva's daughter, accused of stealing a skirt by a stall-holder at the local market, was arrested by the police on suspicion of theft and taken for questioning to the local police station. Ms Fanziyeva alleges that her daughter was beaten and, while still unconscious, thrown out of the police station window by police officers. According to the authorities, Ms Eneyeva, seizing an opportunity when she went to the lavatory and was unguarded, attempted to escape by jumping from the lavatory window. Ms Eneyeva was taken to hospital where she died from her injuries. A pre-investigative inquiry into the death was subsequently opened. The authorities have so far repeatedly refused to look into the circumstances of Ms Eneyeva's death and no criminal investigation has ever been instituted. Criminal proceedings were, however, opened in July 2007 into alleged abuse of power by an unidentified police officer, on the basis of the post-mortem report which stated that Ms Eneyeva had bruises and scratches on her legs unrelated to her fall from the window. Those proceedings, stayed and resumed on a number of occasions, are apparently still pending.

Relying on Article 2 (right to life) and Article 3 (prohibition of inhuman or degrading treatment), Ms Fanziyeva alleged that her daughter, a mother of three children, had had no reason to commit suicide and that she must have been badly beaten by the police and then thrown from the police station window. Ms Fanziyeva also alleged that no meaningful investigations had ever been carried out into the circumstances of her daughter's ill-treatment or death.

Violation of Article 2 (investigation)

Violation of Article 2 (right to life)

Violation of Article 3 (inhuman and degrading treatment)

Violation of Article 3 (investigation)

Just satisfaction: EUR 26,000 (non-pecuniary damage) and EUR 4,000 (costs and expenses)

Yaikov v. Russia (no. 39317/05)

The applicant, Vyacheslav Yaikov, is a Russian national who was born in 1974 and lives in Miass, Chelyabinsk Region (Russia).

Mr Yaikov, who is mentally disabled, complained about his involuntary placement in a psychiatric hospital at the pre-trial stage of criminal proceedings against him for murder.

On 19 September 2003 Mr Yaikov was arrested on suspicion of murder. During questioning he confessed to having murdered five other people. A first set of criminal proceedings was brought against him and his detention on remand was repeatedly extended until 25 October 2005 when the investigation was suspended, the courts having ordered Mr Yaikov's transfer to a psychiatric institution until such time as his condition improved. The court order was based on a medical recommendation of 16 July 2004 which found that Mr Yaikov posed a danger to society and needed compulsory treatment at a psychiatric institution under strict supervision. The order was executed on 13 January 2006. Mr Yaikov was released from the psychiatric hospital and returned to ordinary detention on 17 November 2006. The investigation was then resumed and, in a second set of proceedings against Mr Yaikov, he was found guilty on 11 September 2008 of sexually assaulting and murdering six women. He was relieved of criminal responsibility as he had committed the crimes in a state of insanity and his compulsory treatment in a psychiatric institution was further ordered. That decision was upheld by the Supreme Court of Russia in December 2008.

Relying in particular on Article 5 § 1 (e) (right to liberty and security), Mr Yaikov alleged that the court order of 25 October 2005 ordering his placement in a psychiatric hospital, based on a medical recommendation dating back to 2004, had been unlawful. Further relying on Article 6 § 1 (right to a fair trial within a reasonable time), he also complained about the excessive length – more than five years – of the criminal proceedings brought against him.

Violation of Article 5 § 1 (e)

No violation of Article 6 § 1

Just satisfaction: EUR 10,000 (non-pecuniary damage)

Ushakov and Ushakova v. Ukraine (no. 10705/12)

The applicants, Sergey Ushakov and Anna Ushakova, husband and wife, are Ukrainian nationals who were born in 1976 and 1988 respectively. Sergey Ushakov is currently serving a sentence of imprisonment in Kholodnogirska penitentiary no. 18. Anna Ushakova lives in Kharkiv (both in Ukraine).

The case concerned the couple's allegation that they had been ill-treated by the police in order to force them into making incriminating statements about a murder.

On 27 June 2008 a man with whom Ms Ushakova's mother was in a judicial dispute over the inheritance of a house was found dead, with multiple stab wounds and his throat cut. The next day the applicants were taken for questioning to the local police station and allege that they were ill-treated. Mr Ushakov alleges that he was tortured – he claims that he was repeatedly beaten, had his genitals twisted, had a gas mask placed over his face and the ventilation blocked – into signing a confession to the murder. His wife alleges that she was also forced into making a statement incriminating her husband, following threats, being hit on the head and having her hair pulled. On 30 June 2008 the couple retracted their statements and complained to the prosecuting authorities that they had been ill-treated. The ensuing investigation into their complaints, dropped and re-opened about eight times, lasted from July 2008 to October 2012 and resulted in the prosecution authorities refusing to institute criminal proceedings against the police officers. Mr Ushakov was ultimately found guilty in January 2013 of murder for profit and sentenced to 14 years' imprisonment with confiscation of all his personal property. The courts based their finding, among other things, on Mr Ushakov's confessions.

Relying on Article 3 (prohibition of inhuman or degrading treatment), the applicants complained that they had been ill-treated by the police and that the ensuing investigation had been superficial and had lacked independence. Further relying on Article 6 §§ 1 and 3 (c) (right to a fair trial and right to legal assistance of own choosing), Mr Ushakov complained that his conviction had been based on his

self-incriminating statements obtained under duress and without the presence of a lawyer during his initial questioning.

Violation of Article 3 (ill treatment) – in respect of both applicants

Violation of Article 3 (investigation) – in respect of both applicants

Violation of Article 6 §§ 1 and 3 (c) – in respect of Mr Ushakov

Just satisfaction: EUR 9,000 to Mr Ushakov and EUR 4,500 to Ms Ushakova in respect of non-pecuniary damage, and EUR 5,000 to Mr Ushakov in respect of 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.