



## Judgments<sup>1</sup> concerning Bulgaria, France, Russia, Switzerland and Ukraine

The European Court of Human Rights has today notified in writing the following 13 judgments.

One repetitive case<sup>2</sup> and one length-of-proceedings case, with the Court's main finding indicated, can be found at the end of the press release. The judgments available only in French are indicated with an asterisk (\*).

### Ivan Atanasov v. Bulgaria (application no. 12853/03)

The applicant, Ivan Atanasov, is a Bulgarian national who was born in 1959 and lives in Elshitsa, a village in Bulgaria. The case concerned Mr Atanasov's complaint about the pollution caused by a reclamation scheme for a tailings (residue from copper mining) pond of a former copper mine, situated 1 km from his house, and the impact that that had on his and his family's health and home. He also complained about the proceedings in which he had tried to challenge the licence granted to the scheme's contractor. He relied on Article 8 (right to respect for private and family life and home), Article 1 of Protocol No. 1 (protection of property), Article 6 § 1 (right to a fair hearing) and Article 13 (right to an effective remedy) of the European Convention on Human Rights.

**No violation of Articles 8**

**No violation of Article 1 of Protocol No. 1**

**No violation of Article 6 § 1**

**No violation of Article 13**

### Putter v. Bulgaria (no. 38780/02)

The applicants, Paul, Victor and Johannes Putter, three Bulgarian nationals, are successors to shareholders of a brewery in Plovdiv (Bulgaria) which was nationalised in 1947. The case concerned a dispute about the determination of the applicants' entitlement to shares in the brewery following restitution and privatisation legislation introduced in 1992. Relying on Article 6 § 1 (right of access to court) of the Convention, the applicants complained in particular that the domestic courts had dismissed their claims without undertaking an independent review of the Government's valuation of their properties.

**Violation of Article 6 § 1**

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1 Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its 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](http://www.coe.int/t/dghl/monitoring/execution)

2 In which the Court has reached the same findings as in similar cases raising the same issues under the Convention.

**Just satisfaction:**

- non-pecuniary damage: 4,000 euros (EUR) to the heirs of the first applicant, and EUR 2,000, each to the second and third applicants
- costs and expenses: EUR 1,460, jointly

**Zashevi v. Bulgaria (no. 19406/05)**

The applicants, Genka Zasheva and Metodi Zashev, are two Bulgarian nationals who were born, respectively, in 1939 and 1933. They live in Sofia. They complained about the ineffectiveness of the authorities' investigation into the death of their son, Ivaylov Zashev, who was shot and killed by armed robbers at his aunt's house in Stavertsi. They relied in particular on Article 2 (right to life).

**Violation of Article 2** (investigation)

**Just satisfaction:** jointly, EUR 20,000 (non-pecuniary damage) and EUR 4,000 (costs and expenses)

**B.A. v. France (no. 14951/09)\***

The applicant, B.A., is a Chadian national who was born in 1968 and lives in Toulouse (France). As a sergeant-major in the Chadian army, he was posted to the N'Djamena military base. He alleged that he had been discriminated against because he came from south-eastern Chad, a region known to house anti-Government rebel factions. At the end of a military training course in 2004 he remained unlawfully on French territory. In 2008 an order was issued for his removal to Chad. On 20 March 2009 the European Court of Human Rights granted the applicant's request for application of Rule 39 of its Rules of Court (interim measures) with a view to staying execution of the removal order for the duration of the proceedings before it. Relying in particular on Article 2 (right to life) and Article 3 (prohibition of inhuman or degrading treatment), the applicant alleged that if he were to be removed to Chad he would be regarded as a deserter and subjected to torture or even sentenced to death.

**No violations of Articles 2 and 3** (if applicant expelled)

The Court decided, in the interest of proper administration of justice, to keep up the interim measure indicated to the Government until the judgment of 2 December 2010 becomes final or until the Court adopts another decision in this respect.

**Sud Est Réalisations v. France (no. 6722/05)\***

The applicant, Sud Est Réalisations, is a limited liability French property company based in Pertuis (France). Relying in particular on Article 1 of Protocol No. 1 (protection of property), the applicant company complained of the refusal, over a period of more than 16 years, to provide police assistance for the eviction from its property of the former owner, a farmer, who was armed and violent and whose wife was seriously ill.

**Violation of Article 1 of Protocol No. 1**

**Just satisfaction:** EUR 3,000 (non-pecuniary damage) and EUR 8,588 (costs and expenses)

**Kovaleva v. Russia (no. 7782/04)**

**Svetlana Kazmina v. Russia (no. 8609/04)**

The applicants, Irina Kovaleva and Svetlana Kazmina, are Russian nationals who were born in 1967 and 1971, respectively. Ms Kovaleva lives in Taganrog, in the Rostov Region of Russia, and Ms Kazmina in the Krasnodar Region. In May 2004 both applicants were found guilty of fraud, kidnapping, extortion, theft and robbery and sentenced to five years' imprisonment. Both cases concerned their complaint about the appalling

conditions of their pre-trial detention in Rostov-on-Don (notably overcrowding) as well as when held at the courthouse during their trials (cold, cramped, damp cells with no lavatory and no provision of food). They relied on Article 3 (prohibition of inhuman or degrading treatment). Further relying on Article 5 §§ 3 and 4 (right to liberty and security), they also complained about the excessive length of their pre-trial detention as well as of the deficiencies in its judicial review. Lastly, they alleged that the length of the criminal proceedings against them had been excessive, in breach of Article 6 § 1 (right to a fair trial within a reasonable time).

**(Both cases) Two violations of Article 3** (prohibition of inhuman or degrading treatment)

**(Both cases) Violation of Article 5 §§ 3 and 4**

**(Both cases) Violation of Article 6 § 1** (length)

**Just satisfaction:**

- non-pecuniary damage: to Ms Kovaleva EUR 26,000 and to Ms Kazmina EUR 22,500
- costs and expenses: to Ms Kovaleva EUR 800 and to Ms Kazmina EUR 1,000

Yuriy Lobanov v. Russia (no. 15578/03)

The applicant, Yuriy Lobanov, is a Russian national who was born in 1938 and lives in Shuya in the Ivanovo Region (Russia). The case concerned Mr Lobanov's complaint about the authorities' failure to legislate on the procedure for payments under the 1982 State premium loan bond scheme, recognised and guaranteed as part of the national debt. He relied on Article 1 of Protocol No. 1 (protection of property).

**Violation of Article 1 of Protocol No. 1**

**Just satisfaction:** question reserved for decision at a later date concerning pecuniary damage; EUR 1,800 (non-pecuniary damage)

Jusic v. Switzerland (no. 4691/06)\*

The applicant, Sead Jusic, is a national of Bosnia and Herzegovina who was born in 1971 and lives in Lausanne, Switzerland. His application for asylum in Switzerland was turned down. Relying in particular on Article 5 §§ 1 and 5 (right to liberty and security), he alleged that his detention for 22 days with a view to his deportation had been unlawful.

**Violation of Article 5 § 1**

**No violation of Article 5 § 5**

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

Kryvitska and Kryvitskyy v. Ukraine (no. 30856/03)

The applicants, Ganna and Yan Kryvitskyy, mother and son, are two Ukrainian nationals who were born in 1945 and 1975, respectively. They live in Kyiv. The case concerned their complaint that they had been evicted in 2002 from a flat after ten years' lawful tenancy. They relied in particular on Article 8 (right to respect for home).

**Violation of Article 8**

**Just satisfaction:** EUR 6,000, each (non-pecuniary damage)

Ratushna v. Ukraine (no. 17318/06)

The applicant, Motrona Ratushna, is a Ukrainian national who was born in 1922 and lives in Nova Obodivka. The case concerned her complaint about a search of her house in March 2002 by the police who were investigating a theft from the local grocery store, of which her son had been a suspect. She relied on Articles 8 (right to respect for home) and 13 (right to an effective remedy).

**No violation of Article 8  
Violation of Article 13**

**Just satisfaction:** no claim made by the applicant within time-limit

Repetitive case

The following case raises issues which have already been submitted to the Court.

**Shulga v. Ukraine** (no. 16652/04)

In this case the applicant complained of the belated non-enforcement of a final judgment given in favour of her husband awarding him compensation for an accident at work. She also complained of the length of the proceedings. She relied on Article 1 of Protocol No. 1 (protection of property) and Article 6 § 1 (right to a fair hearing within a reasonable time).

**Violation of Article 6 § 1** (length)

**Violation of Article 1 of Protocol No. 1**

Length-of-proceedings case

**Demidova v. Ukraine** (no. 29843/04)

In this case, the applicant complained in particular under Article 6 § 1 (right to a fair hearing within a reasonable time) about the excessive length of (non-criminal) proceedings

**Violation of Article 6 § 1**

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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.