



Judgments¹ concerning Bulgaria, France, Germany, Hungary, Italy, Moldova, Poland, Romania, Russia, Slovakia, Turkey and Ukraine

The European Court of Human Rights has today notified in writing the following 42 judgments.

Length-of-proceedings cases, 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 (*).

Hovanesian v. Bulgaria (application no. 31814/03)*

The applicant, Davit Hovanesian, is an Armenian national who was born in 1968. He is currently serving a prison sentence in Sofia Prison. On his arrival in Bulgaria in 1997 he spoke a little Bulgarian. In 2002 he was sentenced to 16 years' imprisonment for attempted murder. He relied on Article 6 §§ 1 and 3 (c) and (e) (right to a fair trial) of the European Convention on Human Rights, complaining that he had not had the assistance of a lawyer or an interpreter when first questioned during the preliminary investigation, and that he had been required to pay the interpreter's fees incurred during the criminal proceedings against him.

No violation of Article 6 §§ 1 and 3 (c) and (e) (concerning absence of lawyer and interpreter)

Violation of Article 6 § 3 (e) (concerning interpreter's fees)

Just satisfaction:

- non-pecuniary damage: the finding of a violation sufficient just satisfaction
- pecuniary damage : 194 euros (EUR)
- costs and expenses : EUR 600

Stoychev v. Bulgaria (no. 29381/04)*

The applicant, Stilian Stoychev, was born in 1963 and lives in Drinovo. Relying in particular on Article 5 §§ 1 (e), 4 and 5 (right to liberty and security) of the Convention, he complained of his detention in a psychiatric institution on the orders of a prosecutor with a view to a psychiatric examination to determine whether he should undergo compulsory treatment. He also complained of the lack of a judicial remedy by which to contest the lawfulness of his detention and of the impossibility of claiming compensation.

Violation of Article 5 §§ 1 (e), 4 and 5

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

Just satisfaction: EUR 4,000 (non-pecuniary damage) and EUR 600 (costs and expenses)

Blondeau v. France (no. 48000/07)*

The applicants, Serge and Françoise Blondeau, are a married couple. They are French nationals who were born in 1937 and 1942 respectively and live in Pithiviers-le-Vieil (France), where they run a farm. As part of a land consolidation operation – aimed at redistributing parcels of land within a defined area with a view to upgrading the farmland concerned – they were obliged to exchange their parcel of land. Relying in particular on Article 6 § 1 (right of access to court), they complained of their inability to challenge the prefectoral decrees concerning the consolidation operation once it had been completed.

No violation of Article 6 § 1

Compagnie des gaz de pétrole Primagaz v. France (no. 29613/08)* Société Canal Plus and Others v. France (no. 29408/08)*

The applicant in the first case is the Compagnie des gaz de Pétrole Primagaz, a legal entity under French law with its registered office in Paris. In the second case the applicants are CANAL PLUS SA, GROUPE CANAL PLUS and SPORT PLUS SA, legal entities under French law based in Issy-les-Moulineaux (France). In the context of proceedings brought by the authorities responsible for competition, consumer affairs and fraud prevention, in which the applicants were suspected of anti-competitive practices, their premises were searched on the orders of the liberties and detention judge. Various documents and data media were seized. The applicants relied in particular on Article 6 § 1 (right to a fair trial), complaining that there had been no effective judicial review of the lawfulness and well-foundedness of the search and seizure orders.

(Both cases) Violation of Article 6 § 1

Just satisfaction:

- non-pecuniary damage: in both cases, the finding of a violation sufficient just satisfaction;
- costs and expenses: EUR 14,500 to the applicant in the first case, EUR 15,000 to the applicants in the second case

Wienholtz v. Germany (no. 974/07)*

The applicant, Herbert Wienholtz, is a German national who was born in 1936 and lives in Aurich (Germany). Relying on Article 6 § 1 (right to a fair trial within a reasonable time), he complained of the length of the proceedings brought against him in 1991 on suspicion of tax offences. The proceedings for tax fraud before the district court were stayed at the applicant's request pending the outcome of proceedings before the tax court, and were eventually discontinued in April 2008 by decision of the district court.

Violation of Article 6 § 1

Just satisfaction: EUR 17,000 (non-pecuniary damage) and EUR 943.91 (costs and expenses)

Szepesi v. Hungary (no. 7983/06)

The applicant, Tibor Szepesi, is a Hungarian national who was born in 1966 and lives in Budapest. Relying on Article 5 § 3 (right to liberty and security) he complained that he had been kept in detention on remand for three years on drug-trafficking charges. He was found guilty in September 2008 and sentenced to six years' imprisonment; the proceedings are currently pending on appeal.

Violation of Article 5 § 3

Just satisfaction: EUR 4,800 (non-pecuniary damage)

Oprea v. Moldova (no. 38055/06)

The applicant, Daria Oprea, is a Moldovan national who was born in 1957 and lives in Hîrbovăț. She was arrested in July 2006 on suspicion of misappropriation of a donation to her non-governmental organisation, *Dumitrița*, which provides assistance to people in need. Suffering from epilepsy, she complained about inadequate medical care during her ensuing detention pending trial. She relied on Article 3 (prohibition of inhuman or degrading treatment). Further relying on Article 5 § 3 (right to liberty and security) she also complained that the Moldovan courts had failed to give relevant and sufficient reasons for her pre-trial detention.

Violation of Article 3 (prohibition of inhuman or degrading treatment)

Violation of Article 5 § 3

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

Sofranschi v. Moldova (no. 34690/05)

The applicant, Eugen Sofranschi, is a Moldovan national who was born in 1946 and lives in Briceni (Moldova). Relying on Article 10 (freedom of expression), Mr Sofranschi complained about civil proceedings brought against him for defamation in which he had been ordered to pay compensation to the leader of a collective farm and candidate in local elections for mayor, who he had criticised in May 2003 in a letter to the President of Moldova and other authorities.

Violation of Article 10

Just satisfaction: EUR 65 (pecuniary damage), EUR 3,000 (non-pecuniary damage) and EUR 150 (costs and expenses)

Gajewski v. Poland (no. 27225/05)

The applicant, Władysław Gajewski, is a Polish national who was born in 1958 and lives in Rudnik (Poland). A lawyer, Mr Gajewski complained about the unfairness of insolvency proceedings in which he had been appointed a trustee, in particular as concerned payment of his expenses. He notably claimed that one of the judges on the bench had not been impartial as she had been both a claimant and a member of the court in the case. He relied on Article 6 § 1 (right to a fair hearing).

Violation of Article 6 § 1 (fairness)

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

Revision

Kulikowski v. Poland (no. 18353/03)

The applicant, Adam Kulikowski, was a Polish national who was born in 1964. He died in March 2009. He was convicted of murdering his mother in August 2002 and sentenced to 12 years' imprisonment. In a judgment of 19 May 2009, the Court held that there had been a violation of Article 5 § 3 on account of the excessive length of Mr Kulikowski's pre-trial detention and of Article 6 § 1 in conjunction with Article 6 § 3 (c) (right of access to court) on account of the failure to inform Mr Kulikowski of how much time he had available to lodge a cassation appeal in his case. The Government requested revision of this judgment which they had been unable to execute, as the applicant had died before it could be adopted. In its judgment today, the Court decided to revise its judgment of 19 May 2009 and awarded Mr Kulikowski's heirs EUR 3,000, jointly, in respect of non-pecuniary damage and EUR 1,150 for costs and expenses.

Nurzyński v. Poland (no. 46859/06)

The applicant, Krzysztof Nurzyński, is a Polish national who was born in 1973 and lives in Łódź (Poland). Arrested in October 2005 on charges of aggravated assault and theft, he complained that he had been refused visits from his wife and mother during his ensuing pre-trial detention. He relied on Article 8 (right to respect for private and family life and home).

Violation of Article 8

Just satisfaction: EUR 1,500 (non-pecuniary damage)

Witek v. Poland (no. 13453/07)

The applicant, Magdalena Witek, is a Polish national who was born in 1963 and lives in Katowice (Poland). Relying on Article 5 §§ 1 and 4 (right to liberty and security), Ms Witek complained about her detention in a psychiatric hospital from June 2006 to November 2007 following charges brought against her in October 1999 for assaulting her mother.

Violation of Article 5 § 1 (e) (first period in detention: June 2006 to January 2007)

No violation of Article 5 § 1 (e) (second period in detention: January to November 2007)

Violation of Article 5 § 4 (concerning delay in the proceedings by which Ms Witek sought to challenge the lawfulness of her detention)

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

Colesnicov v. Romania (no. 36479/03)*

The applicant, Valentin Colesnicov, is a Romanian national who was born in 1967 and lives in Galați (Romania). He was arrested in 2002 and was subsequently sentenced to a prison term for corruption and aiding and abetting smuggling. Relying on Article 3 (prohibition of inhuman or degrading treatment), he complained in particular of his conditions of detention at the time of his arrest and in Galați prison, alleging notably overcrowding and poor hygiene conditions.

(Conditions in Prison) Violation of Article 3 (prohibition of inhuman or degrading treatment)

Just satisfaction: EUR 8,000 (non-pecuniary damage) and EUR 130 (costs and expenses)

Gladkiy v. Russia (no. 3242/03)

The applicant, Nikolay Gladkiy, is a Russian national who was born in 1966 and lived before his arrest in Kaliningrad (Russia). Arrested in December 1999 on a murder charge, he alleged that he had been detained in appalling conditions – notably due to overcrowding – in a Kaliningrad facility, that he had contracted tuberculosis there and had subsequently been denied adequate medical care. He relied on Article 3 (prohibition of inhuman or degrading treatment). Further relying on Article 6 § 1 (right to a fair hearing), he also complained that the domestic courts had failed to ensure his presence at an appeal hearing concerning the proceedings he had brought seeking compensation for the damage caused to his health by tuberculosis.

(Conditions of detention and inadequate medical care) Two violations of Article 3 (prohibition of inhuman or degrading treatment)

No violation of Article 6 § 1

Just satisfaction: EUR 27,000 (non-pecuniary damage)

Kuzmenko v. Russia (no. 18541/04)

The applicant, Tatyana Kuzmenko, is a Russian national who was born in 1975 and lives in Orsk (Orenburg Region, Russia). The case concerned her complaint that she had been beaten and handcuffed to a radiator in September 2001 on accompanying her husband to the local police station following his arrest on suspicion of indecent behaviour in public. She alleged in particular that a police officer had grabbed her hair, hit her head against a wall three times and had then left her handcuffed to a radiator in a corridor. Released a few hours later, she was diagnosed with concussion in hospital. The police claimed that Ms Kuzmenko had been drunk and abusive and force had had to be used to calm her down. She also complained that the domestic authorities had failed to effectively investigate her allegations into the incident. She relied on Article 3 (prohibition of inhuman or degrading treatment).

(Concerning the beatings) Violation of Article 3 (prohibition of inhuman or degrading treatment)

(Concerning the handcuffing) No violation of Article 3

(Concerning the lack of an effective investigation) **Violation of Article 3**

Just satisfaction: EUR 12,000 (non-pecuniary damage)

Loveček and Others v. Slovakia (no. 11301/03)

The applicants are 33 Slovak nationals. They were clients of a private non-banking investment company. In August 2000, criminal proceedings against the company's management were opened on suspicion of embezzlement, which the applicants joined as aggrieved parties claiming damages. They complained that the length of the criminal proceedings had been incompatible with Article 6 § 1 (right to a fair trial within a reasonable time).

Violation of Article 6 § 1

Just satisfaction: EUR 56,150, jointly (sums ranging from EUR 1,900 to EUR 3,200 per applicant) (non-pecuniary damage) and EUR 63.50, jointly (costs and expenses)

Michalko v. Slovakia (no. 35377/05)

The applicant, Tibor Michalko, is a Slovak national who was born in 1969 and lives in Bratislava. Detained as a suspect in March 2004 on charges of conspiracy and attempted fraud, he complained in particular that he had not been brought before a judge within 24 hours of his arrest as required by national law and that his detention after that had been arbitrary. He further complained about the proceedings concerning the extension of his detention and his requests for release and about the lack of enforceable right to compensation. He relied on Article 5 §§ 3, 4 and 5 (right to liberty and security).

Violation of Article 5 § 3

Two violations of Article 5 § 4

Violation of Article 5 § 5

Just satisfaction: EUR 7,000 (non-pecuniary damage) and EUR 2,000 (costs and expenses)

Osváthová v. Slovakia (no. 15684/05)

The applicant, Klára Osváthová, is a Slovak national who was born in 1949 and lives in Bratislava. Arrested by the police in February 2006 and taken into custody on charges of fraud, which were later dropped, she complained that her arrest and detention pending trial had been unlawful and that the proceedings by which the lawfulness of her detention had been decided had not been speedy and had fallen short of other applicable

requirements. She further complained that she had had no enforceable right to compensation and no effective remedy for those shortcomings. She relied in particular on Article 5 §§ 4 and 5 (right to liberty and security).

Violation of Article 5 §§ 4 and 5

Just satisfaction: EUR 1,200 (non-pecuniary damage) and EUR 700 (costs and expenses)

Doğan and Kalın v. Turkey (no. 1651/05)

The applicants, Metin Doğan and Talip Kalın, are Turkish nationals who were taken into police custody in Istanbul on suspicion of membership of an illegal organisation in February 1994. Released pending trial in 2004, they complained under Articles 5 § 3 (right to liberty and security) and 6 § 1 (right to a fair trial within a reasonable time) about the length of their pre-trial detention and of the criminal proceedings brought against them. They further alleged that they had had no domestic remedies available in respect of those complaints, relying on Article 13 (right to an effective remedy).

Violation of Article 5 §§ 3 and 4

Violation of Article 6 § 1

Violation of Article 13

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

Feti Ateş and Others v. Turkey (nos. 34759/04, 28588/05, 1016/06 and 19280/06)

The applicants, Feti Ateş, Nursel Demirdöğücü, Hakkı Alçın, and Metin Durmaz, are four Turkish nationals who were arrested on different dates between 1992 and 2002, and subsequently spent between two and 13 years in pre-trial detention. Relying on Articles 5 § 3 (right to liberty and security) and 6 §§ 1 and 3 (right to a fair trial within a reasonable time), they complained that the length of their pre-trial detention and the criminal proceedings against them had been excessive.

(First three cases) Violation of Article 5 § 3

(All four cases) Violation of Article 6 § 1 (length)

(Third case – concerning lack of legal assistance in police custody) Violation of Article 6 § 3 (c) in conjunction with Article 6 § 1 (fairness)

Just satisfaction: no claim made by Feti Ateş;

- non-pecuniary damage: to Nursel Demirdöğücü EUR 20,900, to Hakkı Alçın EUR 6,900 and to Metin Durmaz EUR 3,600
- costs and expenses: EUR 500 to each of the three applicants

Peretyaka and Sheremetyev v. Ukraine (nos. 17160/06 and 35548/06)

The applicants are two Ukrainian nationals: Oleg Peretyaka who was born in 1958 and lives in Lugansk; and, Vladimir Sheremetyev who was born in 1954 and lives in Slatino. In 2004 and 2005, respectively, they both brought court proceedings seeking recalculation of their pensions; in both cases the claims were rejected as not based on the law. Their appeals were dismissed in 2006 as having been lodged out of time. Relying in particular on Article 6 § 1 (right of access to a court), they complained that they had been unlawfully denied access to a court of cassation.

Violation of Article 6 § 1

Just satisfaction: EUR 2,000, each (non-pecuniary damage) and EUR 226 to the first applicant (costs and expenses)

Rudenko v. Ukraine (no. 35041/05)

The applicant, Andriy Rudenko, is a Ukrainian national who was born in 1941 and lives in Kyiv. Relying on Article 1 of Protocol No. 1 (protection of property), he complained that, following domestic court decisions, he had lost his title to part of a flat he had jointly owned with his former wife and mother-in-law.

Violation of Article 1 of Protocol No. 1

Just satisfaction: dismissed

Length-of-proceedings cases

In the following cases, the applicants complained in particular about the excessive length of legal proceedings.

Criminal

Arabadzhiyev and Alexiev v. Bulgaria (no. 20484/05)

Nachev v. Bulgaria (no. 27402/05)

Orudzhev v. Ukraine (no. 3080/06)

Sizykh v. Ukraine (no. 25914/06)

These cases concerned in particular the applicants' complaints concerning the excessive length of criminal proceedings brought against them for hooliganism (first case), attempted murder (second case), embezzlement (third case) and extortion (fourth case).

Violation of Article 6 § 1 – all cases

Violation of Article 13 – 1st and 2nd cases

Non-criminal

Nikova v. Bulgaria (no. 4434/05)*

Belperio and Ciarmoli v. Italy (no. 7932/04)*

Di Matteo and Others v. Italy (nos. 7603/03, 7610/03, 7614/03 and 7616/03)*

Keszeli v. Slovakia (no. 34200/06)

Sirotňák v. Slovakia (no. 30633/06)

Urík v. Slovakia (no. 7408/05)

Rahmetullah Bingöl v. Turkey (no. 40848/04)*

Gerega v. Ukraine (no. 30713/05)

Kobchenko v. Ukraine (no. 37138/04)

Kovalev v. Ukraine (no. 10636/05)

Krat v. Ukraine (no. 30972/07)

Kryukov v. Ukraine (No. 6) (no. 53249/07)

Ponomarenko v. Ukraine (no. 20930/06)

Subot v. Ukraine (no. 38753/06)

Two violations of Article 6 § 1 – 2nd case

Violation of Article 6 § 1 – all other cases

Violation of Article 13 – 5th case

Revision

Klimkiewicz v. Poland (no. 44537/05)

In a judgment of 28 April 2009, the Court held that there had been a violation of Article 6 § 1 on account of the excessive length of proceedings with regard to Mr Klimkiewicz's civil claim for damages as a result of a fraud. The Government requested revision of this judgment which they had been unable to execute because the applicant had died before it could be adopted. In its judgment today, the Court decided to revise its judgment of 28 April 2009 and awarded EUR 2,770 to each of Mr Klimkiewicz's two heirs in respect of non-pecuniary damage.

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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.