



Judgments concerning Croatia, Italy, Moldova, Poland, Romania, Russia, Spain and Turkey

The European Court of Human Rights has today notified in writing the following 15 judgments, three of which (in italics) are Committee judgments and are final. The others are Chamber judgments and are not final¹.

Repetitive cases² and 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 (*).

Hrdalo v. Croatia (application no. 23272/07)

The applicant, Nikša Hrdalo, is a Croatian national who was born in 1958 and lives in Dubrovnik (Croatia). Formerly a high-ranking civil servant in the Dubrovnik-Neretva Administrative Office, Mr Hrdalo alleged that, in the course of proceedings concerning his removal from office, the domestic authorities had breached the principle of equality of arms, had violated his right to be presumed innocent and had harmed his reputation. He relied in particular on Article 6 §§ 1 and 2 (right to a fair trial) of the European Convention on Human Rights.

Violation of Article 6 § 1

A. Menarini Diagnostics S.R.L. v. Italy (no. 43509/08) *

The applicant, A. Menarini Diagnostics S.R.L., is an Italian company based in Florence (Italy). In 2001, the AGCM (Autorità Garante della Concorrenza e del Mercato), the independent regulatory authority in charge of competition, investigated the company for unfair competition. In a decision of 30 April 2003 it fined the company 6 million euros for unfair competition on the diabetes diagnosis test market, stating that the penalty should serve as a deterrent to all pharmaceutical companies. All the company's appeals against that decision were rejected. Relying on Article 6 § 1 (right to a fair trial) of the Convention, the applicant company complained that it had had no access to a court with full jurisdiction or to judicial review of the administrative decision of the AGCM.

No violation of Article 6 § 1

Cristina Boicenco v. Moldova (no. 25688/09)*

The applicant, Cristina Boicenco, is a Moldovan national who was born in 1985 and lives in Vulcanesti (Romania). She was given a job in a restaurant on 31 May 2004, but was arrested and remanded in custody the very next day, on suspicion of having committed

¹ Under Articles 43 and 44 of the Convention, Chamber judgments are not final. During the three-month period following a 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 In which the Court has reached the same findings as in similar cases raising the same issues under the Convention.

a theft in the restaurant. Released in June 2004, she was subsequently acquitted. The case concerns Ms Boicenco's complaint that she was unlawfully detained and that the compensation awarded by the domestic courts was inadequate and insufficient, in breach of Article 5 (right to liberty and security).

Violation of Article 5 §§ 1 and 5

Just satisfaction: 6,000 euros (EUR) (non-pecuniary damage) and EUR 1,000 (costs and expenses)

Karbowniczek v. Poland (no. 22339/08)

The applicant, Jarosław Karbowniczek, is a Polish national who was born in 1979 and lives in Wałbrzych (Poland). Convicted of a number of offences including forgery, battery and robbery and sentenced to seven years' imprisonment in a final judgment in March 2011, he alleged that he had been kicked and beaten by police officers while being transported to court to attend a hearing on his case and then in the court building itself. He relied in particular on Article 3 (prohibition of inhuman or degrading treatment).

Violation of Article 3

Just satisfaction: EUR 5,000 (non-pecuniary damage)

Demian v. Romania (no. 5614/05)*

The applicant, Ioan Tudorel Demian, is a Romanian national who was born in 1967 and lives in Satu Mare (Romania). He had been sentenced to four years and two months' imprisonment for theft. He had been held in Baia Mare prison but transferred several times to Gherla prison. He complained that as a diabetes sufferer he had not been given proper health care and food, and that this and the poor conditions of detention in both prisons had adversely affected his health. He relied on Article 3 (prohibition of inhuman and degrading treatment).

Violation of Article 3

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

Alim v. Russia (no. 39417/07)

The applicant, Mustafa Alim, is a Cameroonian national who was born in 1981. He arrived in Russia in 1995 as a football player. Following his arrest in January 2007 for breaching residence regulations for foreigners, a court fined him and ordered his removal from Russia and his detention pending removal. Released in July 2007 and currently living with his two small children and their mother in the Krasnodar region (Russia), Mr Alim complained about the conditions in which he had been detained pending his removal and that his family life would have suffered if he had been removed from Russia. He relied in particular on Article 5 § 1 (f) (right to liberty and security) and Article 8 (right to respect for private and family life).

No violation of Article 5 § 1 (f)

Violation of Article 8 in case of the applicant's removal from Russia

Just satisfaction: EUR 9,000 (non-pecuniary damage) and EUR 800 (costs and expenses)

Veysel Şahin v. Turkey (no. 4631/05)*

The applicant, Veysel Şahin, is a Turkish national who was born in 1967 and lives in Edirne (Turkey). He was sentenced in 1994 to 20 years' imprisonment for belonging to an illegal armed organisation, and for making, possessing and using explosives, and incarcerated in Edirne prison. In December 2000, the prison was the scene of hunger strikes which culminated in violent clashes between the detainees and the security forces. Mr Şahin was involved and subsequently charged with rebelling against the prison administration. On 2 February 2005 the Canakkale Assize Court forwarded an order for his release to the Edirne Public Prosecutor's Office, subject to the condition that he was not detained or convicted for any other offence. Mr Şahin was not released until three days later. He alleged that his continued detention between 2 and 5 February 2005 was in violation of Article 5 § 1 (right to liberty and security).

Violation of Article 5 § 1

Just satisfaction: EUR 1,000 (non-pecuniary damage) and EUR 3,100 (costs and expenses)

Repetitive cases

The following cases raised issues which had already been submitted to the Court.

Agurdino S.R.L. v. Moldova (no. 7359/06)

The applicant company complained about the quashing of a final judgment in its favour concerning the payment of value-added tax.

Gotcu and Others v. Romania (nos. 35430/03, 21472/04, 44361/05, 472/08, 9421/08 and 18304/08)

These cases concern the applicants' complaints about the failure to enforce, or the delayed enforcement of, final domestic court judgments in their favour.

Lipanescu and Others v. Romania (17139/04, 19852/04, 36487/04, 45197/04, 14391/05, 1359/06 and 50718/06)*

The applicants are Romanian nationals who obtained favourable decisions in various sets of civil proceedings concerning different assets. The cases concerned their complaint that those final decisions had been set aside on appeal for judicial review lodged by the Principal State Prosecutor of Romania.

Violation of Article 6 § 1 (unfairness) in the three cases above

Violation of Article 1 of Protocol No. 1 in the three cases above

Erciyas v. Turkey (no. 10971/05)*

The case concerned the applicant's complaint about his dismissal from a public bank. Relying on Article 6 § 1 (right to a fair hearing), he complained of a lack of adversarial process in the related proceedings before the Supreme Administrative Court.

Two violations of Article 6 § 1 (unfairness and length)

Tongün v. Turkey (no. 8622/05)*

The case concerned the applicants' complaint that they had been deprived of their property in Gebze to the advantage of the State Treasury without any compensation.

Violation of Article 1 of Protocol No. 1

Length-of-proceedings cases

In the following cases, the applicants complained in particular about the excessive length of non-criminal proceedings.

CE.DI.SA Fortore S.N.C. Diagnostica Medica Chirurgica v. Italy (nos. 41107/02 and 22405/03)*

Violation of Article 6 § 1

Tarnowski and Others v. Poland (no. 43939/07)

Two violations of Article 6 § 1

Ortuño Ortuño v. Spain (no. 30350/07)*

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.