



Judgments and decisions of 4 May 2017

The European Court of Human Rights has today notified in writing 26 judgments¹ and 62 decisions²: four Chamber judgments are summarised below; a separate press release has been issued for one other Chamber judgment in the case of *Chap Ltd v. Armenia* (application no. 15485/09);

21 Committee judgments, concerning issues which have already been submitted to the Court, and the 62 decisions, can be consulted on [Hudoc](#) and do not appear in this press release.

The judgments in French below are indicated with an asterisk ().*

Mustafayev v. Azerbaijan (application no. 47095/09)

The applicant, Zeynal Zeynal oglu Mustafayev, is an Azerbaijani national who was born in 1937 and lives in Sumgayit (Azerbaijan). The case concerned the death of his son, Mahir Mustafayev, in prison.

The applicant learnt on 6 December 2006 that his son Mahir Mustafayev, serving a life sentence in Gobustan Prison, had died three days earlier from smoke inhalation and first and second degree burns when a fire broke out in his cell. Although the exact time when the fire began is in dispute, the parties agree that the applicant's son was taken out of his cell by guards at around 7 a.m., was given first aid by a paramedic and at around 11.45 a.m. was sent by car to a hospital in Baku; he arrived at 2.45 p.m. and died shortly after.

A criminal inquiry was launched the next day by the prosecuting authorities. Following a series of domestic proceedings, in May 2008 the Garadagh District Prosecutor's Office refused to institute criminal proceedings into the death, concluding that the applicant's son had died as a result of an accidental fire; this decision was upheld by the domestic courts in February 2009. Throughout this period the domestic prosecutors and courts repeatedly overruled the investigators' decisions, finding that the inquiries were incomplete and suggesting that further investigative steps be taken. The steps suggested included ordering a forensic fire examination, establishing why it had taken so long to transfer the applicant's son to hospital and clarifying discrepancies in two reports, one which stated that the applicant's son had been unable to move as he had been burnt and in shock and the other indicating that he had signed a statement immediately after the incident confirming that the fire had broken out because he had had an epileptic seizure while smoking.

Relying in particular on Article 2 (right to life) of the European Convention on Human Rights, the applicant alleged that his son had either been deliberately killed by prison guards – who had then tried to cover up the murder by setting fire to his cell – or had died as a result of the authorities' failure to provide appropriate medical care, it having taken almost eight hours to transfer him to hospital despite his having serious burns. He also complained that the ensuing investigation into the death of his son had been ineffective, submitting that he had not been kept duly informed of its progress.

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.

Violation of Article 2 (right to life)

Violation of Article 2 (investigation)

Just satisfaction: 20,000 euros (EUR) (non-pecuniary damage) and EUR 3,500 (costs and expenses)

Traustason and Others v. Iceland (no. 44081/13)

At the relevant time, two of the applicants were on the editorial board of DV, and the third applicant was a journalist for the paper. The three applicants complained that their rights to freedom of expression had been violated by judgments making them liable for defamation.

In March 2011 DV published a story (written by the third applicant) about the management of a leading Icelandic packaging company, which had been declared bankrupt in 2010. The article reported the findings of an accountancy firm's investigation into the company, which included suggestions of financial mismanagement by board members. Headlines on the front page of the newspaper and above the article stated that the chairman of the board, A., was being investigated by the police. A. lodged defamation proceedings against the applicants and DV. In March 2012 the District Court held that, though it was true that the police had been "examining" a complaint concerning A., they had not taken the formal decision to "investigate". The suggestion that A. was being investigated by police was therefore wrong, and also defamatory. The statements were declared null and void, and the applicants were ordered to pay 200,000 Icelandic Krónur (approximately 1,600 euros) in damages, plus interest and costs. The applicants appealed, but the Supreme Court upheld the judgment made at first instance.

The applicants complained that the judgments had entailed an interference with their right to freedom of expression that had not been necessary in a democratic society and which had violated their rights under Article 10 (freedom of expression) of the European Convention.

Violation of Article 10

Just satisfaction: The applicants submitted their claims for just satisfaction outside the assigned time-limit. The Court considered that there was no call to award them any sum on that account.

Improta v. Italy (no. 66396/14)

The applicant, Mr Giammarco Improta, is an Italian national who was born in 1969 and lives in Pozzuoli (Italy). The case concerned his inability to exercise his right of contact because of the opposition of his child's mother.

Shortly after his daughter was born on 25 March 2010, Mr Improta separated from the child's mother. She changed the lock at the family home and decided unilaterally that Mr Improta could only see his daughter twice a week for half an hour, with the mother present.

In November 2010 Mr Improta applied to the Naples Youth Court for shared custody of the child and more extensive contact. The Youth Court instructed the revenue police to carry out an inspection to determine the living standards of Mr Improta and the child's mother and ordered an expert report about the quality of their personal relations and their parenting ability. The expert report was also required to indicate the best custody arrangements for the child.

In January 2013 the expert report was filed at the registry. It stated, in particular, that the two parents should be granted joint custody and that the father should be guaranteed the possibility of seeing his daughter without the mother being present.

In a decision of 2 July 2013 the Youth Court awarded custody to both parents jointly, ruled that the child's main place of residence should be with her mother and set out the contact arrangements for the father. Mr Improta appealed, seeking more extensive contact. In a judgment of 19 March 2014

the Naples Court of Appeal upheld the Youth Court's decision. Mr Improta appealed on points of law. The proceedings are still pending before the Court of Cassation.

Relying on Article 8 (right to respect for private and family life), the applicant submitted that the domestic courts had not safeguarded his right of contact, thus irretrievably undermining his relationship with his daughter.

Violation of Article 8

Just satisfaction: EUR 3,000 (non-pecuniary damage) and EUR 12,000 (costs and expenses)

Osipkovs and Others v. Latvia (no. 39210/07)

The applicants in this case are four Latvian nationals and two Latvian companies, who complained that State authorities had deprived them of their property. Their claim concerned an area of forest in Jūrmala. In 1999 a court recognised one of the applicants and two other claimants as the owners of the land, on the grounds that they were the heirs of the individual who had owned the land when it had been nationalised in 1940. The court's judgment became final. The applicant who had been a claimant in the case was also the owner and director of one of the applicant companies. This company purchased the land from the three claimants. In a series of subsequent transactions, parts of the land were then sold on to the remaining four applicants in the case.

However, in the meantime the Senate of the Supreme Court had quashed the judgment recognising the original three claimants as the owners, remitting the case to first instance. Though the claimants' ownership was upheld in a second first-instance judgment by the Regional Court, this finding was largely overturned on appeal. The courts found that the individual from whom the claimants had supposedly inherited the land had not in fact owned it at the time of its nationalisation. All of the applicants were therefore stripped of their ownership rights.

In their application to this Court, the applicants relied on Article 1 of Protocol No. 1 (protection of property) to complain that by quashing a final judgment the State authorities had deprived them of their property without the possibility of receiving any compensation. The four individual applicants are Aleksandrs Osipkovs, Vano Razmadze, Mārtiņš Ādminis, and Egits Kraulis, who were born in 1960, 1970, 1974 and 1968 respectively and live in Rīga (Aleksandrs Osipkovs and Vano Razmadze) and Jūrmala (Latvia) (Mārtiņš Ādminis and Egits Kraulis). The two limited liability applicant companies are Balt Invest Group and Bulduru Muiža.

No violation of Article 1 of Protocol No. 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.