



Judgments and decisions of 4 July 2019

The European Court of Human Rights has today notified in writing seven judgments¹ and 18 decisions²:

two Chamber judgments are summarised below; separate press releases have been issued for two other Chamber judgments in the cases of *Kurt v. Austria* (application no. 62903/15) and *Svitlana Ilchenko v. Ukraine* (no. 47166/09);

a separate press release has also been issued for one decision, in the case of *Alternative für Deutschland (AFD) v. Germany* (no. 57939/18);

three Committee judgments, concerning issues which have already been submitted to the Court, including excessive length of proceedings, and the 17 other decisions, can be consulted on [Hudoc](#) and do not appear in this press release.

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

Zappa S.A.S. v. Italy (application no. 43842/11)*

The applicant, Zappa S.a.s., is a company with its registered office in Padua (Italy).

The case concerned the return to State property of a coastal fishing basin known as “Valle Zappa” in the Venetian Lagoon.

In July 1972 the applicant company became the owner of the Valle Zappa, one of many “fishing valleys” situated in a lagoon in the province of Venice. Made up of small islands and bodies of water which are separated from the sea by dams, these basins were given over to fisheries. In 1989, 1991 and 1994 the companies operating in these fishing basins were instructed by the Padua financial authorities to vacate the bodies of water in question, on the grounds that they were State property.

Relying on Article 1 of Protocol No. 1 (protection of property) to the European Convention on Human Rights, the applicant company complained that it had lost title to its property.

Violation of Article 1 of Protocol No. 1

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

Korban v. Ukraine (no. 26744/16)

The applicant, Gennadiy Korban, is a Ukrainian national who was born in 1970 and lives in Dnipro (Ukraine). He worked as a senior local government official from 2014 until his resignation in March 2015. In July 2015 he became the leader of a new political party, the Ukrainian Union of Patriots (“UKROP”). Shortly after, he ran for the mid-term parliamentary elections in Chernigiv and as mayor of Kyiv and lost.

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.

The case mainly concerned Mr Korban's arrest following several sets of criminal proceedings brought against him.

In the first two sets of proceedings, in August 2014 and February 2015, he was suspected of taking two public officials hostage. In August 2015 a third set of proceedings was brought on suspicion of embezzling a charity's funds. In October 2015 a fourth set of proceedings was instituted over complaints by an electoral officer about receiving threatening telephone calls from Mr Korban.

In the context of the first three sets of proceedings, as well as another charge of creating a criminal organisation, Mr Korban was arrested on 31 October 2015 at his home by a special forces unit, which broke into his flat because he refused to open the door. He was arrested without a judicial warrant, a measure permitted under domestic law for a maximum of three days in specific urgent cases.

When the three-day time-limit expired, on 3 November 2015, Mr Korban was brought before a judge and released in the courtroom. He was, however, immediately re-arrested, the authorities relying on the charge brought in the fourth set of proceedings.

He spent the next seven months alternately in pre-trial detention and under house arrest. He was released on 7 June 2016 subject to an undertaking not to abscond.

In March 2016 he pleaded guilty to the kidnapping in the first set of proceedings, signing a friendly settlement in which he agreed to three years' detention in a semi-open prison, suspended for a probation period of one year and six months. The remaining proceedings were discontinued in September 2017 for lack of evidence.

Mr Korban made several complaints under Article 3 (prohibition of inhuman or degrading treatment) of the European Convention, alleging that the conditions of transportation during a transfer on 2 November had been inadequate; that he had been forced to participate from 26 to 28 December 2015 in lengthy court hearings, including throughout the night, to decide on a request to place him in detention, despite his having just undergone a coronary operation; and that he had been kept in a metal cage during three court hearings on his case in January 2016.

Relying on Article 5 § 1 (right to liberty and security), he also alleged that his arrest on 31 October 2015 and re-arrest on 3 November 2015 had been unlawful and arbitrary, questioning in particular why such measures had been taken more than a year after the institution of the first set of criminal proceedings against him. He also relied in particular on Article 5 §§ 3 and 5 (entitlement to trial within a reasonable time or to release pending trial / right to compensation) to complain that his pre-trial detention and house arrest had not been sufficiently justified and that he had had no enforceable right to compensation for the alleged breach of his rights under Article 5.

He further alleged under Article 18 (limitation on use of restrictions on rights), taken in conjunction with Article 5, that the real reasons for his criminal prosecution and deprivation of liberty had been political, in particular because he had become a rival to the ruling party and his new political party had been sharply critical of those in power.

Lastly, he complained that several high-ranking public officials had made statements to the media labelling him as the leader of a criminal organisation who was guilty of serious criminal offences, thus prejudging the case against him, in breach of Article 6 § 2 (presumption of innocence).

Violation of Article 3 (inhuman and degrading treatment) – in respect of Mr Korban's participation in the court hearings on 26-28 December 2015

Violation of Article 3 (degrading treatment) – on account of Mr Korban's confinement in a metal cage during the court hearings on 13, 22 and 25 January 2016

Violation of Article 5 § 1 – in respect of Mr Korban's arrest on 31 October 2015 and his re-arrest on 3 November 2015

Violation of Article 5 § 3

Violation of Article 5 § 5

**No violation of Article 18 in conjunction with Article 5
Violation of Article 6 § 2**

Just satisfaction: The applicant did not submit a claim for just satisfaction.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court's press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHR_Press](https://twitter.com/ECHR_Press).

Press contacts

echrpess@echr.coe.int | tel: +33 3 90 21 42 08

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Denis Lambert (tel: + 33 3 90 21 41 09)

Inci Ertekin (tel: + 33 3 90 21 55 30)

Patrick Lannin (tel: + 33 3 90 21 44 18)

Somi Nikol (tel: + 33 3 90 21 64 25)

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.