



## Judgments and decisions of 5 November 2020

The European Court of Human Rights has today notified in writing ten judgments<sup>1</sup> and 42 decisions<sup>2</sup>: three Chamber judgments are summarised below;

separate press releases have been issued for two other Chamber judgments in the cases of *Balakas v. Greece* (application no. 73087/17) and *Ćwik v. Poland* (no. 31454/10);

five Committee judgments, concerning issues which have already been submitted to the Court, and the 42 decisions, can be consulted on [Hudoc](#) and do not appear in this press release.

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

### Šekerija v. Croatia (application no. 3021/14)

The applicant, Dubravko Šekerija, is a Croatian national who was born in 1975 and lives in Dubrovnik (Croatia).

The case concerned the applicant's complaint that criminal proceedings against him on drug-related charges had been unfair.

In July 2011 Mr Šekerija was found guilty of purchasing and selling large quantities of cocaine. He was sentenced to eight years' imprisonment. The trial court relied on witness testimony from three individuals who confessed to buying cocaine from the applicant, giving similar descriptions as to his modus operandi. It also relied on one of those witnesses testifying to having seen the applicant use a grey hydraulic press for drugs, which had been seized during a search of the applicant's house.

The first-instance court gave no credibility to the applicant's defence, namely that the witnesses against him were mentally unstable and had made their incriminating statements out of revenge or to retrieve property sold to his family. It also rejected his arguments that the police had put one of the witnesses under protection in order to control him, while another witness had incriminated him under police duress. Lastly, it refused to admit any further statements from witnesses proposed by the defence, finding that the facts were sufficiently established and no further evidence was necessary.

Mr Šekerija appealed against this judgment to the Supreme Court, contesting in particular a statement in the first-instance judgment which, he alleged, showed that judges had read the minutes of police interviews with potential witnesses and the fact that one of the witnesses' statements to the investigating judge had been read out at the trial before he had given testimony in open court. The applicant also complained that the trial court had been biased against him, using emotional and subjective wording when fixing his sentence, and had refused to hear witnesses in his favour.

<sup>1</sup> 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](http://www.coe.int/t/dghl/monitoring/execution).

<sup>2</sup> Inadmissibility and strike-out decisions are final.

The Supreme Court rejected his appeal in February 2012, ruling that there was nothing to support his arguments that witnesses had falsely testified against him and that any procedural irregularities had not influenced the overall validity of the first-instance judgment. In particular, the applicant's lawyer had been able to thoroughly question the witnesses during the trial. At the same time, it held that the trial court should not have assessed certain circumstances as aggravating when handing down his sentence and reduced it.

The applicant made a number of complaints in particular under Article 6 § 1 (right to a fair trial) of the European Convention on Human Rights, alleging that the criminal proceedings taken as a whole had been unfair.

### **No violation of Article 6 § 1**

#### **Panagis v. Greece (no. 72165/13)\***

The applicant, Athanasios Panagis, is a Greek national who was born in 1968. He lives in Corinth (Greece). Between 1999 and 2004 Mr Panagis was a municipal employee at the town hall of Loutraki (Greece).

The case concerned the sentencing of Mr Panagis to six months' imprisonment for forgery and use of forgeries on the ground that he had issued a residence certificate to a Romanian national in return for a sum of money and had forged the latter's signature. The events took place in 2004. The trial culminated in a final conviction in 2013. At the end of the proceedings, Mr Panagis's sentence was not enforced, in accordance with the provisions of a new law (no. 4198/2013) which entered into force in October 2013.

Relying on Article 6 §§ 1 and 3 (d) (right to a fair trial / right to examine witnesses) of the European Convention, Mr Panagis complained in particular that he had never been given the opportunity at any stage of the proceedings to examine the statements of two prosecution witnesses given at the investigation stage. He also complained about a refusal by the Court of Appeal to take into consideration the sworn statement, given before a notary in Romania, of one of those witnesses, who had retracted his initial testimony against him.

### **Violation of Article 6 §§ 1 and 3 (d) concerning the inability to examine witnesses**

**Just satisfaction:** 2,000 euros (EUR) (non-pecuniary damage)

#### **X and Y v. North Macedonia (no. 173/17)**

The applicants, X and Y, are Macedonians/citizens of the Republic of North Macedonia, born in 1997 and 2001 respectively and living in Skopje. They state that they are ethnic Roma.

The case concerned allegations of racially motivated police brutality in respect of the applicants, who were minors at the time, and the related investigation.

On 19 May 2014, X and Y were allegedly intercepted by police officers after a woman had been assaulted and her bag stolen near a Roma neighbourhood in Skopje. X was taken to the police station, but was released the next day. He was subsequently admitted to hospital, where he was diagnosed with bruising to his head, neck and chest. Both X and Y alleged that they had been physically attacked by the police near the scene of the robbery, while X alleged that he was also ill-treated in custody.

An internal inquiry was carried out by the Ministry of the Interior into the applicants' complaint that they had been slapped, punched and kicked by police officers. Their complaint was dismissed in July 2014, the Ministry asserting that the police officers had not overstepped their authority.

In September 2014 the applicants also filed a criminal complaint with the public prosecutor against the police officers concerning the incident. The applicants repeatedly requested that the higher public prosecutor review the work of the first-instance prosecutor, who then, in December 2017, examined Y and the accused police officers. The investigation is however currently ongoing.

In December 2016 the applicants submitted two civil claims regarding ethnic discrimination against the Ministry and the first-instance public prosecutor's office. In November 2017 the court dismissed the claim against the public prosecutor's office, which decision was upheld on appeal in March 2018. There is no further information concerning the claim against the Ministry.

In the meantime, the Ministry had lodged a criminal complaint against X on charges of robbery. Since X's whereabouts were unknown, the court suspended the proceedings in March 2016. In June 2017 the court of first instance ordered an educational measure on X.

Relying in particular on Article 3 (prohibition of torture) of the Convention, the applicants alleged that the police had ill-treated them and that the State had failed to carry out an effective investigation into their allegations.

**Violation of Article 3** (investigation)

**No violation of Article 3** (ill-treatment)

**Just satisfaction:** EUR 7,500 (non-pecuniary damage) to each applicant

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#### **Press contacts**

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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.