EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Press Release
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# Judgments and decisions of 6 September 2018

The European Court of Human Rights has today notified in writing 12 judgments[1] and 41 decisions[2]:

five Chamber judgments are summarised below; separate press releases have been issued for two other Chamber judgments in the cases of *Dadayan v. Armenia* (application no. 14078/12) and *Kontalexis v. Greece (no. 2)* (no. 29321/13);

five Committee judgments, concerning issues which have already been submitted to the Court, and the 41 decisions, can be consulted on *Hudoc* and do not appear in this press release.

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

## Dimitar Yordanov v. Bulgaria (application no. 3401/09)

The applicant, Dimitar Pavlov Yordanov, is a Bulgarian national who was born in 1939 and lives in Sofia. The case concerned his complaint about damage to his property caused by a nearby coalmine.

Mr Yordanov owned a plot of land in the village of Golyamo Buchino. At the end of the 1980s or the beginning of the 1990s, the State decided to create an opencast coalmine near to the village. A number of properties, including Mr Yordanov's, were expropriated. He waited for two years without receiving another plot of land in compensation, promised to him in the expropriation procedure. He therefore cancelled the procedure with the local authorities. He remained in the house, while the mine started operating and gradually expanded.

At its closest, the mine operated within 160-180 metres from his house, with coal being extracted by blasting. Cracks appeared on the walls of the house and his barn and animal pen collapsed. He eventually moved out of his house in 1997, judging it too dangerous to stay. The house has since fallen down and the property remains abandoned.

In 2001 Mr Yordanov brought a tort action against the mining company, seeking compensation for the damage caused to his property. The courts heard witnesses, Mr Yordanov's neighbours, and commissioned expert reports, establishing that serious damage had been caused to his property and that detonations in the nearby mine had been carried out inside the 500 metre buffer area, in breach of domestic law. However, the courts concluded in 2007 that there was no proof of a link between the mining activities and the damage, which could also have been caused by normal wear and tear or shortcomings in the house's construction.

Relying in particular on Article 6 § 1 (right to a fair hearing) of the European Convention on Human Rights and Article 1 of Protocol No. 1 (protection of property) to the Convention, Mr Yordanov alleged that the courts had wrongly dismissed his tort claim and that the State had failed to protect his property from unlawful mining activities.

**No violation of Article 6 § 1**
**Violation of Article 1 of Protocol No. 1**

[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.

**Just satisfaction**: 8,000 euros (EUR) in respect of pecuniary and non-pecuniary damage, and EUR 1,922 in respect of costs and expenses

## Kopankovi v. Bulgaria (no. 48929/12)

The case concerned a Bulgarian family's complaint that property they had owned in Kazanlak had been expropriated without compensation.

The applicants are Lyudmil Kopankov, Miroslav Kopankov, Stanka Kopankova, and Stanislav Kopankov. They are Bulgarian nationals who were born in 1941, 1974, 1941, and 1967, respectively, and live in Kazanlak and Sofia, in Bulgaria.

Stanislav Kopankov, the fourth applicant, co-owned a house in Kazanlak with his grandmother, where he lived with the remaining applicants.

In 1988 the mayor decided to expropriate the property in order to construct a residential building. The decision stipulated that Mr Kopankov and his grandmother would receive two flats in compensation. However, 20 years later they had still not obtained the flats, despite repeatedly petitioning the local authorities.

They therefore turned to the courts to quash the expropriation and restore their property to them. The courts ruled in their favour, but in the meantime the applicants had moved out of the Kazanlak house and the house had been pulled down. They therefore brought a tort action against the local authorities, claiming the part of the property which could not be returned to them, namely the house and other parts of the property, including trees, the pavement and outbuildings. Their claim was however dismissed in 2012 because general tort provisions did not apply.

Relying in particular on Article 1 of Protocol No. 1 (protection of property), the applicants complained that they had been unable to receive compensation for their expropriated property since 1988.

**Violation of Article 1 of Protocol No. 1**

**Just satisfaction**: EUR 20,870 to Lyudmil Kopankov for pecuniary damage, EUR 2,000 to each applicant for non-pecuniary damage, and EUR 4,615 to the applicants for costs and expenses.

Just Satisfaction

## Mottola and Others v. Italy (no. 29932/07)*
## Staibano and Others v. Italy (no. 29907/07)*

These two cases concerned the question of just satisfaction with regard to claims for payment of a retirement pension.

The applicants are Italian nationals and are all doctors who, between 1983 and 1997, worked at the polyclinic of the Federico II University of Naples, initially under fixed-term contracts and subsequently on the basis of permanent contracts. A number of doctors in the same situation applied to the administrative courts to obtain recognition of the existence of a permanent employment relationship between them and the university for the purpose of securing the corresponding social-security entitlements. Their actions proved successful, before both the Regional Administrative Court and the *Consiglio di Stato*. In 2004 the applicants lodged similar applications to those of their colleagues with the Regional Administrative Court. However, the proceedings led to their applications being declared inadmissible. Relying in particular on Article 6 § 1 (right to a fair hearing), the applicants complained that they had not had access to a court in order to obtain recognition of the existence of a public-employment relationship between them and the University of Naples and, consequently, payment of the corresponding pension contributions.

Relying on Article 1 (protection of property) of Protocol No. 1, they further complained that they had been deprived of their pension entitlements for their period of employment as auxiliary doctors, as their administrative application had failed to satisfy the conditions of admissibility.

In two principal judgments delivered on 4 February 2014 the Court found that the rejection of the applicants' request for the University of Naples to pay pension contributions on their behalf had been in breach of Article 6 § 1 and Article 1 of Protocol No. 1.

Today judgments concerned the question of the application of Article 41 (just satisfaction) of the Convention.

**Just satisfaction**:

- case of ***Mottola and Others***: EUR 34,000 to each applicant in respect of pecuniary damage, and EUR 8,000 to each applicant in respect of non-pecuniary damage;

- case of ***Staibano and Others***: in respect of pecuniary damage, EUR 34,000 each to Ms Andrianou, Ms Esposito and M. Marotta, EUR 29,000 to Ms Casa, EUR 24,000 each to Mr Cafiero and Ms Imperatore, EUR 21,500 to Ms Vitullo, and EUR 11,500 each to Ms Staibano, Mr D'Alessio, Ms Palmieri and Mr Toni; and EUR 8,000 to each applicant in respect of non-pecuniary damage.

## Jansen v. Norway (no. 2822/16)

The applicant, Ms B. Jansen, is a Norwegian national who was born in 1992 and lives in Oslo.

The case concerned her complaint about being denied access to her daughter, who has been taken into care and is in a foster family.

Ms Jansen's daughter, A, was born in 2011. She and the child lived for a short time with her parents, who are Norwegian Roma, until they were thrown out by her father. Over several months she moved in and out of a family care centre.

In June 2012 the Child Welfare Service issued an order to place A in an emergency foster home at a secret address. Ms Jansen was given one hour of supervised contact per week on the grounds of a risk that the child might be abducted. A full care order was issued in December under which Ms Jansen and the child's father were allowed supervised contact of one hour, four times a year. Neither parent was entitled to know A's whereabouts.

After a challenge to the contact decision by Ms Jansen and A's father, the first-instance court decided that it was in the child's best interests for them to not have contact rights at all. That decision was upheld on appeal, but the Supreme Court remitted the case in October 2014.

The second set of contact proceedings led the appeal court to uphold its decision on restricting all contact in April 2015 and in July 2015 Ms Jansen was refused leave to appeal again to the Supreme Court.

The main reason for the courts' restrictions on contact was the danger of A being abducted by Ms Jansen's family, which would be harmful to the child, and the possibility that the secret address of the foster family would be revealed. They also assessed Ms Jansen's parenting skills and her ability to withstand her violent and controlling father. They took account of the family's Roma background, without finding that to be an impediment to restricting contact.

Relying on Article 8 (right to respect for private and family life), Ms Jansen complained about the courts' refusal to grant her legal rights to have contact with A.

**Violation of Article 8**

**Just satisfaction**: EUR 25,000 (non-pecuniary damage)

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