



Judgments and decisions of 9 March 2017

The European Court of Human Rights has today notified in writing two Chamber judgments¹ and 15 decisions²:

the two Chamber judgments are summarised below;

separate press releases have been issued for two decisions, in the cases of *Pihl v. Sweden* (no. 74742/14) and *K2 v. the United Kingdom* (no. 42387/13);

the 13 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 ().*

Athanasios Makris v. Greece (application no. 55135/10)*

The applicant, Athanasios Makris, is a Greek national who was born in 1946 and lives on the Island of Salamina (Greece). Mr Makris was the mayor of Salamina for 12 years and, at the relevant time, he was a town councillor and leader of the opposition party "Unity".

The case concerned Mr Makris' criminal conviction for malicious accusations on account of his having distributed, during a town council meeting, a text criticising the outgoing mayor in connection with a public procurement contract.

In January 2007 Mr Makris distributed a document to town councillors criticising the outgoing mayor (V.A.) in connection with his handling of a public procurement contract; his criticisms were later published in the press.

In December 2008, in proceedings brought by V.A. as a civil party, the Piraeus Criminal Court found Mr Makris guilty of defamation, sentencing him to a suspended term of one year for having reported untrue allegations which impugned the honour and reputation of V.A. The judgment was upheld by the Piraeus Court of Appeal, which reduced the prison sentence to six months suspended. Under Article 10 (freedom of expression) of the European Convention on Human Rights, Mr Makris appealed on points of law, but his appeal was dismissed in July 2010.

Relying on Article 10 of the European Convention, Mr Makris complained about his defamation conviction.

Violation of Article 10

Just satisfaction: 3,000 euros (EUR) (non-pecuniary damage) and EUR 1,500 (costs and expenses)

Kuzmenko v. Ukraine (no. 49526/07)

The applicant, Anatoliy Kuzmenko, is a Ukrainian national who was born in 1974 and lives in Chernigiv (Ukraine). The case concerned the search of his flat by police.

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.

In 2007 the Desnyanskiy District Court in Chernigiv issued a warrant to search Mr Kuzmenko's flat for a mobile telephone, which had been reported stolen. The police searched the flat in Mr Kuzmenko's presence, and seized three mobile telephones. According to Mr Kuzmenko the phones belonged to him and his family members, and the authorities eventually returned them to him. He maintains that neither he nor any of his family members were ever indicted or involved in any other way in the criminal proceedings giving rise to the search warrant.

Mr Kuzmenko lodged an administrative complaint with the District Court, alleging that his home had been searched arbitrarily and seeking moral damages for a breach to the inviolability of his home. However, the District Court refused to examine the case, explaining that under the Code of Criminal Procedure of Ukraine then in force, complaints concerning actions by law-enforcement authorities taken in connection with a criminal investigation had to be lodged within the relevant criminal proceedings.

Mr Kuzmenko appealed the decision. He argued that he had no status in any criminal proceedings and had not been informed about their progress. He had therefore had no meaningful opportunity to obtain redress on the basis of the criminal code, since a criminal court could only examine complaints concerning the actions of investigation authorities in the context of its examination of a criminal case. However, the Kyiv Administrative Court of Appeal rejected the appeal. Mr Kuzmenko submitted a further appeal in cassation, but this was rejected by the Higher Administrative Court of Ukraine in May 2009.

Relying in particular on Article 6 § 1 (access to court), Mr Kuzmenko complained that he had had no access to a court for the purpose of determining his claim concerning the alleged unlawfulness of the search of his flat.

Violation of Article 6 § 1

Just satisfaction: EUR 1,500 (non-pecuniary damage)

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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.