



Judgments and decisions of 17 December 2020

The European Court of Human Rights has today notified in writing 12 judgments¹ and seven decisions²:

three Chamber judgments are summarised below;

separate press releases have been issued for three other Chamber judgments in the cases of *Mile Novaković v. Croatia* (application no. 73544/14), *Sellami v. France* (no. 61470/15), and *Béla Németh v. Hungary* (no. 73303/14);

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

The judgments summarised below are available only in English.

Croatian Golf Federation v. Croatia (application no. 66994/14)

The applicant, the Croatian Golf Federation, is an association which was established in 1992 and which was previously registered in Zagreb.

The case concerned the dissolution of the applicant association by the authorities despite it having been decided in bankruptcy proceedings that it should continue its activities, and the subsequent court proceedings.

In 2009 bankruptcy proceedings were opened against the applicant association owing to non-payment of debts and insolvency. Its creditors decided that the association should continue to operate rather than its assets being sold. On 26 January 2010 the bankruptcy administrator was instructed to prepare a bankruptcy plan, which was approved and then confirmed by the bankruptcy court. The bankruptcy proceedings were closed. The General Administration Office of the City of Zagreb ("the Zagreb City Office"), which was responsible for registration of associations, was kept informed of developments in the proceedings, as were the member golf clubs and the Croatian Olympic Committee.

In a decision of 26 February 2009, the Zagreb City Office established that the association had ceased activities, which was grounds for dissolution. That decision was unsuccessfully appealed against by the applicant association. A subsequent constitutional complaint by the applicant association was declared inadmissible on 20 March 2014.

On 27 January 2014 the Zagreb City Office struck the applicant association off its register of associations. That decision was confirmed by the Ministry of Administration. The Zagreb Administrative Court then dismissed an action for judicial review of the decision, the judgment thus becoming final on 9 August 2018.

¹ 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.

² Inadmissibility and strike-out decisions are final.

Between 2010 and 2012 the applicant association was removed as a member association of the Croatian Olympic Committee, and then replaced with another golf association. In 2010 the applicant association was expelled from the European Golf Association.

The applicant association submits that it maintained its activities throughout the period, specifically organising the team and individual Croatian golf championships and participating in the World Team Championship, taking part in international meetings, and maintaining its membership.

The applicant association also submits that it commenced enforcement proceedings in April 2011 against a golf club whose president was the husband of a judge who had been on the bench that would decide his constitutional complaint.

Relying on Article 11 (freedom of assembly and association) and Article 6 § 1 (right to a tribunal established by law) of the European Convention on Human Rights, the applicant association complained of its dissolution and alleged that the Constitutional Court's bench had lacked impartiality.

Violation of Article 11

Violation of Article 6 § 1

Just satisfaction: 10,000 euros (EUR) (non-pecuniary damage) and EUR 2,800 (costs and expenses)

Saber v. Norway (no. 459/18)

The applicant, Mohammed Imran Saber, is a Norwegian national who was born in 1978 and lives in Oslo.

The case concerned lawyer-client privilege and a legal dispute over the applicant's smart phone being searched by the police.

The applicant's smart phone was seized by the police on 23 November 2015 in the context of a criminal investigation against two people for conspiracy to murder him. The police wished to search the phone in order to shed light on possible conflicts between the suspects and the applicant.

The applicant stated that his phone contained email and SMS correspondence with two lawyers defending him in another criminal case, in which he was a suspect (proceedings which ended with his acquittal in 2019). The police and the applicant agreed that the data copied from his phone first had to be sifted out by the courts and any data protected by legal professional privilege removed before the police could carry out their search.

The Oslo City Court proceeded to have the filtering carried out, amid disagreement as to how the court could go about it in practical terms, including whether it could seek assistance from the police.

However, the City Court then abandoned the filtering procedure because the Supreme Court had in the meantime given a decision – unrelated to the applicant's case – indicating that it should in fact be the police which filtered such data.

All his subsequent appeals, ultimately before the Supreme Court in June 2017, were in vain.

The copy of the applicant's phone data was returned to the police for the search and the police issued in that context a report on 9 November 2017.

The applicant complained that the proceedings in respect of search and seizure of data from his smart phone, facilitating access to correspondence between him and his lawyers, had breached his rights in particular under Article 8 (right to respect for correspondence) of the European Convention.

Violation of Article 8

Just satisfaction: EUR 7,000 (costs and expenses)

Yukhymovych v. Ukraine (no. 11464/12)

The applicant, Leontiy Ivanovych Yukhymovych, is a Ukrainian national who was born in 1949 and lives in Lviv (Ukraine).

The case concerned the death of the applicant's son during an attempt to arrest him.

The applicant's son Ruslan Yukhymovych was shot on 4 March 1999 when the police attempted to arrest him in the context of a criminal investigation into extortion. He died from his injuries, caused by two gunshots to his back.

In the first month after the fatal shooting the prosecuting authorities carried out a pre-investigation inquiry, which resulted in a refusal to institute criminal proceedings. This decision was, however, set aside and on 31 March 1999 and criminal proceedings were opened into alleged abuse of power by the police causing serious harm.

According to the most recent information provided, dated from March 2018, the investigation is still ongoing. Over the intervening years, it has been repeatedly discontinued and reopened, with instructions from the domestic courts to the investigators to address shortcomings and take further measures. In their decisions the domestic courts notably found that the investigating authorities had failed to secure the crime scene and to establish whether the applicant's son had been armed. The courts also pointed out contradictions between the results of the forensic examinations concerning the way and order in which the injuries had been inflicted on the applicant's son.

In the case before the European Court, the applicant alleges that excessive force was used against his son, while the Government submit that he died as a result of an armed clash which took place between him and the police, following his attempt to evade arrest.

Relying on Article 2 (right to life/investigation), the applicant complained that his son had been killed by the police and that the authorities had failed to carry out a prompt and effective investigation into his death.

Violation of Article 2 (right to life and investigation)

Just satisfaction: EUR 39,000 (non-pecuniary damage) and EUR 70 (costs and expenses)

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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.

