



Judgments and decisions of 23 July 2015

The European Court of Human Rights has today notified in writing nine judgments and 42 decisions:

Six Chamber judgments¹ are summarised below;

The remaining three Committee judgments, which concern issues which have already been submitted to the Court, as well as the 42 decisions², can be consulted on [Hudoc](#) and do not appear in this press release.

The judgments below are available only in English.

Novaković v. Croatia (application no. 32096/12)

The applicant, Dragan Novaković, is a Croatian national who was born in 1956 and lives in Sisak (Croatia).

The case concerned his complaint that he had not been able to bring a claim for damages within the statutory time-limit because he had had to flee Croatia during the 1991-1995 war for independence ("The Homeland War").

Mr Novaković lodged civil proceedings in September 1999 for payment of money from property investments, stating that he had not been able to lodge the claim within the five-year statutory time-limit as, fearing for his safety on account of his Serbian ethnic origin, he had left Sisak in 1991 only to return in 1996. The lower courts subsequently dismissed his claim as time-barred, finding that Mr Novaković had left Sisak of his own free will, that the town had never been occupied and that the courts there had remained operational. The Supreme Court and the Constitutional Court upheld the lower courts' judgments in May 2009 and October 2011, respectively.

Relying on Article 6 § 1 (right to a fair hearing / access to court) and Article 13 (right to an effective remedy) of the European Convention on Human Rights, Mr Novaković complained about the refusal of the national courts to examine his claim for damages on the merits.

No violation of Article 6 § 1

Andonovski v. "The former Yugoslav Republic of Macedonia" (no. 24312/10)

The applicant, Vladimir Andonovski, is a Macedonian national who was born in 1948 and lives in Kumanovo ("The former Yugoslav Republic of Macedonia").

The case concerned his allegation of police brutality.

According to Mr Andonovski, the incident occurred on 17 September 2004, when he approached a police car to discuss a parking ticket he had been given and two police officers (one of whom was a

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.

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 Committee judgments, as well as inadmissibility and strike-out decisions, are final.

neighbour and with whom he was not on good terms) insulted him, then punched and kicked him and took him to the local police station where the beating continued until he lost consciousness. An ambulance was subsequently called and he was taken to hospital where he remained for the next 11 days. He underwent extensive medical examinations during his stay in hospital and upon his release, the ensuing reports attesting to a spinal fracture, concussion, head trauma and bruising all over his body.

Two sets of criminal proceedings ensued: the first against Mr Andonovski for assaulting police officers and resisting arrest; and the second brought by Mr Andonovski against the police officers for – among other offences – serious bodily harm, abuse of office and false testimony. Mr Andonovski was found guilty as charged in the first set of proceedings in October 2005 and sentenced to five months' imprisonment, suspended for two years. The courts accepted the police officers' statements that they had had to use force against Mr Andonovski who had assaulted them, biting one of the officers on the thumb, and resisted arrest. The other set of proceedings were never heard on the merits, as they were stayed and finally concluded in October 2009, Mr Andonovski having withdrawn the charges against the police officers (which he subsequently contested).

Mr Andonovski alleged that he had been ill-treated by the police and that the investigation into his allegations of police brutality had been ineffective. He complained in particular that, unlike the criminal proceedings against him, the proceedings against the police officers had been protracted, alleging that this had shown bias on the part of the judges. He relied in particular on Article 3 (prohibition of inhuman or degrading treatment).

Violation of Article 3 - investigation

Violation of Article 3 - ill-treatment

Just satisfaction: EUR 15,000 (non-pecuniary damage)

Aleksandr Shevchenko v. Russia (no. 48243/11)

The applicant, Aleksandr Shevchenko, is a Russian national who was born in 1979 and lives in Volzhskiy, Volgograd region (Russia).

The case concerned his pre-trial detention on suspicion of drug offences.

Mr Shevchenko was arrested in October 2010 on charges of attempted drug trafficking and, the charges subsequently being reclassified to purchase and storage of drugs, was convicted in April 2012 and sentenced to three years' imprisonment. Before the referral of his criminal case for trial, he was detained on the basis of individual detention orders; after referral, he was detained on the basis of a collective detention order, which included his co-defendants. Mr Shevchenko's appeals against his continued detention during the whole period of that detention were rejected, the judicial authorities referring to the gravity of the charges against him (and later also against his co-defendants) and the risk that he/his co-defendants might abscond or reoffend. He was ultimately granted early release in February 2013.

Relying mainly on Article 5 §§ 3 and 4 (right to liberty and security) of the Convention, Mr Shevchenko alleged that his pre-trial detention for one year and six months had not been justified and that his appeals against certain detention orders (made in January and September 2011 and February 2012) had not been examined speedily.

Violation of Article 5 § 3

Violation of Article 5 § 4

Just satisfaction: 6,500 euros (EUR) (non-pecuniary damage)

Bataliny v. Russia (no. 10060/07)

The applicants, Vladislav Batalin, born in 1977, and his parents, Igor Batalin and Lyudmila Batalina, born in 1937 and 1938 respectively, are Russian nationals who live in Moscow.

The case concerned Vladislav Batalin's involuntary confinement and treatment in a psychiatric hospital between 26 May and 9 June 2005. Having suffered from a number of health issues, including neurological problems, for several months, he was admitted to a psychiatric hospital on 25 May 2005 after he had received emergency aid for having cut the veins on his forearm. He was diagnosed with a number of diseases, including a chronic pain disorder and a personality disorder. When his parents arrived at the hospital on the following day to take him home, as he had requested, they were not allowed to do so and were asked to leave. According to Vladislav Batalin's submissions, during the following night he was beaten by the hospital nurses and then strapped to a bed. He also alleges that he was subjected to scientific research by being treated with a new antipsychotic drug and forbidden all contact with the outside world. After his release on 9 June 2005, an ambulance doctor noted a haematoma under his eye and bruises and contusions on his body.

In October 2005, the applicants complained of Vladislav Batalin's involuntary confinement in the hospital and his alleged ill-treatment to the Ombudsman of the Russian Federation. After the district department of the interior had twice refused to open proceedings, criminal proceedings were eventually opened in November 2006. The proceedings concerning the alleged beatings were subsequently suspended and reopened on several occasions and they remain pending. The complaint concerning Vladislav Batalin's involuntary confinement was later removed from the case and separate proceedings were opened in October 2007; they were eventually discontinued in November 2010.

Vladislav Batalin and his parents complained that his involuntary confinement in the hospital had been in violation of Article 5 § 1 (right to liberty and security) and that he had had no effective procedure at his disposal by which to challenge the lawfulness of his detention, in breach of Article 5 § 4 (right to have lawfulness of detention decided speedily by a court). They further alleged violations, in particular, of Article 3 (prohibition of inhuman or degrading treatment) on account of: his forced psychiatric treatment in the absence of an established medical need and in the framework of scientific research; and on account of his beatings during his confinement and the lack of an effective investigation by the authorities in that respect.

Violation of Article 5 § 1 (in respect of Vladislav Batalin)

Violation of Article 5 § 4 (in respect of Vladislav Batalin)

Violation of Article 3 (ill-treatment) - on account of Vladislav Batalin's forced psychiatric treatment

Violation of Article 3 (ill-treatment and investigation) - on account of Vladislav Batalin's ill-treatment in the psychiatric hospital and failure of the domestic authorities to carry out an effective investigation

Just satisfaction: EUR 26,000 (non-pecuniary damage) and EUR 2,000 (costs and expenses) to Vladislav Batalin

Patranin v. Russia (no. 12983/14)

The applicant, Artem Patranin, is a Russian national who was born in 1976 and is currently detained in the correctional colony no. 2 in the Tatarstan Republic (Russia).

The case concerned his complaint about receiving inadequate medical care in detention.

By a judgment upheld on appeal in September 2013, Mr Patranin was convicted of a number of offences, including membership of an organised criminal group and murder, and sentenced to ten years' imprisonment in a correctional facility under a strict regime. He had been suffering from

progressive multiple sclerosis for years and, while in pre-trial detention, from February 2012 onwards, Mr Patranin's health deteriorated significantly as the detention facility where he was placed did not have any medical specialists. In September 2012 he suffered an epileptic seizure which resulted in paralysis of one side of his body. A medical report subsequently found that his serious condition prevented his detention and he was released. Following his conviction, however, he was taken into custody again and placed in a prison hospital in a correctional colony. In January 2014 he was served with a medical opinion which concluded that he did not suffer from a condition serious enough to warrant his release. According to his submissions, he spent the entire day in bed, he could not eat or drink unaided and could not go to the toilet, receiving an enema only once every two weeks.

Having received no reply to his complaints to various Russian State authorities that he required constant assistance and medical treatment which the Russian penal system was unable to provide, or to his request to be examined by an independent doctor, Mr Patranin made a request to the European Court of Human Rights for an interim measure, under Rule 39 of its Rules of Court. In February 2014 the ECtHR thus indicated to the Russian Government that Mr Patranin should be examined immediately by independent medical experts, including a neurologist and an epileptologist. The experts were to answer: whether the care and treatment he received was adequate to his condition; whether his current state of health was compatible with detention in the conditions of a correctional colony or prison hospital; and whether his condition required his admission to a specialised hospital or his release.

Relying on Article 34 (right to individual petition), Mr Patranin complained that the Russian Government had failed to comply with the interim measure indicated by the Court, in that they had not had him examined by medical experts independent of the penal system. He further complained, relying in particular on Article 3 (prohibition of inhuman or degrading treatment), that he had been unable to receive appropriate treatment in detention, which had led to a serious deterioration of his condition, had placed him in a life-threatening situation and had subjected him to severe physical and mental suffering. Finally he complained that he had not had an effective remedy at his disposal as regards his complaint under Article 3, in breach of Article 13 (right to an effective remedy).

Violation of Article 34

Violation of Article 3

Violation of Article 13

Just satisfaction: EUR 15,000 (non-pecuniary damage) and EUR 900 (costs and expenses)

Serikov v. Ukraine (no. 42164/09)

The applicant, Sergey Serikov, is a Ukrainian national who was born in 1991 and lives in Kharkiv (Ukraine).

The case concerned his complaint of having been ill-treated by the police.

Mr Serikov was arrested and taken to a police station in Kharkiv in the evening of 16 May 2008. A report set up by the police stated that a package of marijuana was found on him. According to Mr Serikov's submissions, he was ill-treated by the police to make him confess. In particular, he alleges that he was threatened with rape, kicked and hit on the head, and dropped face down on the floor, causing him to lose consciousness several times. According to the Ukrainian Government, the only violence applied to him was his handcuffing during his arrest, when he attempted to escape. A medical report by a forensic expert, who examined Mr Serikov during the same night, recorded that he had several haematomas and bruises. At a hospital, where he sought medical aid the following day, he was diagnosed, in particular, with concussion.

On the day following his arrest, Mr Serikov's mother lodged a criminal complaint against the police officers alleging that they had ill-treated her son. In June 2008 the prosecutor refused to open criminal proceedings, finding that no unlawful force had been used by the officers. The decision was later set aside and the investigation was subsequently reopened and closed on several occasions. It has not led to any prosecution.

Relying in particular on Article 3 (prohibition of torture and inhuman or degrading treatment), Mr Serikov complained that he had been ill-treated by the police and that the domestic authorities had not effectively investigated his allegations.

Violation of Article 3 - ill-treatment

Violation of Article 3 - investigation

Just satisfaction: EUR 8,000 (non-pecuniary damage) and EUR 5,200 (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.