



Judgments of 3 December 2019

The European Court of Human Rights has today notified in writing 25 judgments¹:

three Chamber judgments are summarised below; separate press releases have been issued for three other Chamber judgments in the cases of *Petrescu v. Portugal* (application no. 23190/17), *I.L. v. Switzerland* (no. 72939/16), and *Kırdök and Others v. Turkey* (no. 14704/12)

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

The judgments below are available only in English.

Jevtović v. Serbia (application no. 29896/14)

The applicant, Mališa Jevtović, is a Serbian national who was born in 1974 and lived in Belgrade. He is currently serving a prison sentence.

The case concerned his alleged ill-treatment by prison guards, which he argued had amounted to torture.

Mr Jevtović was arrested in 2005 on charges of committing sexual acts against a three-year-old girl which led to her death. He was convicted in 2009 and sentenced to 40 years' imprisonment, which was upheld on appeal in 2011.

During his pre-trial detention in Belgrade District Prison from 2005 to 2011 and in Požarevac-Zabela Correctional Institution between 2011 and 2013 there were four incidents in particular – on 11 June 2007, 18 December 2009, 22 December 2011 and 24 December 2011 – when he alleged he had suffered injuries.

In each case prison guards used force, including rubber truncheons, on the applicant. The prison authorities found in relation to the first three incidents that the guards had used justified and lawful force to subdue the applicant, either after an argument with another prisoner or because he had refused to obey prison regulations.

The fourth incident was not registered in any official records but was recorded by the Ombudsman after visiting the applicant and hearing his complaints. The prison was not able to identify with certainty how the applicant had been injured in that incident.

The applicant lodged a constitutional appeal in September 2011. The Constitutional Court found in July 2013 that the applicant had suffered a violation of his right to his physical and mental integrity, both because of actual harm and the lack of a proper investigation, in all four incidents. It awarded him 1,000 euros (EUR) in respect of non-pecuniary damage and ordered that the official investigation into the incident of 24 December 2011 be expedited.

Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment) of the European Convention on Human Rights, the applicant complained of being ill-treated by prison guards and in

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

particular that he had been tortured in the four incidents. He also complained under the same Article of the lack of an effective official investigation.

Violation of Article 3 (inhuman treatment)

Violation of Article 3 (investigation)

Just satisfaction: 4,000 euros (EUR) (non-pecuniary damage) and EUR 2,355 (costs and expenses)

Paunović v. Serbia (no. 54574/07)

The applicant, Dragoslav Paunović, is a Serbian national who was born in 1956 and lives in Soko Banja (Serbia).

The case concerned his complaint about a former deputy public prosecutor being on the appeal court bench which had upheld a conviction against him.

In December 2006 the applicant was sentenced to six months' imprisonment for causing bodily harm and death by dangerous driving after an indictment was issued by the Aleksinac Municipal Public Prosecutor's Office. The conviction was upheld on appeal.

The applicant subsequently lodged an appeal on points of law, alleging that the appeal court had not been impartial as it had included Judge B.K., a former deputy prosecutor who had worked at the Aleksinac Municipal Public Prosecutor's Office immediately before joining the judiciary in August 2006. The Supreme Court of Serbia dismissed the appeal on points of law, finding in particular that Judge B.K. had not taken part in the applicant's prosecution when he was a deputy prosecutor.

Relying on Article 6 § 1 (right to a fair trial/access to court) of the European Convention, the applicant complained that his appeal had not been examined fairly because of the presence of Judge B.K. on the panel. He also raised a complaint about the judge lacking impartiality as he was the brother of a man whom the applicant, who had worked as a tax inspector, had sought to have indicted under misdemeanour proceedings.

No violation of Article 6 § 1

Parmak and Bakir v. Turkey (nos. 22429/07 and 25195/07)

The applicants, Şerafettin Parmak and Mehmet Bakır, are Turkish nationals who were born in 1955 and 1963 respectively and live in Denizli (Turkey) and Berlin (Germany).

The case essentially concerned domestic legislation on terrorism and its interpretation by the domestic courts.

The applicants were taken into police custody in 2002 following an investigation into flyers distributed in Izmir by the Bolshevik Party of North Kurdistan/Turkey ("the BPKK/T"), a pro-Kurdish organisation which was subsequently designated as a terrorist organisation in proceedings against the applicants.

During the proceedings the applicants denied any involvement in the BPKK/T, and stated that in any event there was nothing in the case file to suggest that the organisation was involved in violence and was therefore terrorist. They submitted that the flyers had not made any incriminating statements, and had been nothing more than the legitimate exercise of freedom of thought and expression.

The domestic courts ultimately convicted the applicants of membership of an illegal organisation in 2006 and sentenced them to two years and six months' imprisonment. They based their findings on a note by the General Security Directorate which classified the BPKK/T as a terrorist organisation whose ultimate aim was to bring about an armed revolution in Turkey. They also relied on an

identification parade, BPKK/T flyers and periodicals seized during a search of Mr Parmak's apartment and the organisation's manifesto discovered in a co-accused's apartment.

In convicting the applicants, the courts relied on the relevant domestic legislation as amended in 2003 to define terrorism as acts that were "committed using violence and coercion". In the applicants' case, the court found that even though the members of the organisation had not resorted to physical violence, they had used "moral coercion" or intimidation in their confiscated documents which constituted a form of violence.

The applicants had in the meantime – in January 2003 – been released and had had a travel ban imposed on them. Mr Bakır made seven applications to the courts for the ban to be lifted, explaining each time that he resided in Germany and that the ban had a profound impact on both his professional and private life. The courts either rejected his requests, referring to the ongoing proceedings, or did not reply at all. The ban was eventually lifted in June 2009 when he had served his sentence.

Relying in particular on Article 7 (no punishment without law), the applicants complained that their conviction had been based on too broad an interpretation of the definition of terrorism, notably that violence, which is a component of a terrorist offence, could be taken to include moral coercion. Mr Bakır also complained that the ban on him travelling while the criminal proceedings had been ongoing had not been justified, in breach of Article 8 (right to respect for private life).

Violation of Article 7 – as concerns Mr Parmak and Mr Bakır

Violation of Article 8 – as concerns Bakır

Just satisfaction: 760 euros (EUR) to Mr Bakır for pecuniary damage, EUR 7,500 to Mr Parmak and EUR 9,750 to Mr Bakır for non-pecuniary damage, and EUR 831 to Mr Parmak for 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.