



Judgments of 4 June 2019

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

three Chamber judgments are summarised below; separate press releases have been issued for four other Chamber judgments in the cases of *Einarsson and Others v. Iceland* (application no. 39757/15), *Kosaitė-Čypienė and Others v. Lithuania* (no. 69489/12), *Rola v. Slovenia* (nos. 12096/14 and 39335/16), and *Yilmaz v. Turkey* (no. 36607/06);

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

Farrugia v. Malta (application no. 63041/13)

The applicant, Carmel Joseph Farrugia, is a Maltese national who was born in 1951 and lives in Paola (Malta).

The case concerned Mr Farrugia's complaint about his police questioning after an alleged robbery at his business premises in 2002.

The police suspected that the crime had been fabricated and questioned Mr Farrugia, confronting him in particular with allegations by one of his employee's that he had forced him to tie him up and simulate a robbery. Mr Farrugia denied the allegations, explaining that four individuals had tied him up in his showroom and stolen money.

He gave several statements over two days in the absence of a lawyer as domestic law at the time did not provide for legal assistance at the pre-trial stage. He was, however, informed of his right to remain silent and to not incriminate himself.

Criminal proceedings were brought against the applicant and, in 2007, the Court of Appeal found that his colleague's testimony was enough to conclude that the applicant was guilty of simulating an offence. He was given a one-year suspended prison sentence.

The court also found that the colleague's testimony was corroborated by the applicant's statements, which were inconsistent and lacked credibility. In particular, he had replied in an evasive and hesitant way to police questions concerning his business and profits and had not adequately explained why CCTV on his premises had not recorded anything on the day of the alleged crime.

Mr Farrugia brought constitutional redress proceedings to complain that his conviction had been based on statements he had given to the police without the assistance of a lawyer. His claim was dismissed in 2012, and his appeal rejected in 2013.

Relying on Article 6 §§ 1 and 3 (c) (right to a fair trial and right to legal assistance of own choosing) of the European Convention on Human Rights, Mr Farrugia complained that he had not been provided with a lawyer during police questioning.

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

No violation of Article 6 §§ 1 and 3 (c)**Just Satisfaction****Moreno Diaz Peña and Others v. Portugal (no. 44262/10) ***

The applicants, Pilar Moreno Diaz Peña, Joaquin Peña Moreno, Marta Pilar Peña Moreno, Paloma de la Ascensión Francisca Peña Moreno, Francisco Javier Peña Moreno and Maria de las Mercedes Peña y Moreno are six Spanish nationals. They were born in 1951, 1953, 1957, 1958 and 1961 respectively. They inherited land (covering a total area of 24,375 sq. m) in the municipality of Oeiras.

The case concerned the amount of compensation awarded after proceedings relating to the expropriation of the land in question, the length of the proceedings and the lack of an effective domestic remedy. The applicants relied on Articles 6 § 1 (right to a fair hearing within a reasonable time) and 13 (right to an effective remedy) of the European Convention, together with Article 1 of Protocol No. 1 (protection of property) to the Convention.

In its judgment on the merits of 4 June 2015, the Court found that the time taken by the Portuguese courts to settle the applicants' dispute concerning the amount of the expropriation compensation, and the lack of a remedy by which to obtain redress on account of the length of the proceedings before the said courts, had entailed a violation of Articles 6 and 13 of the Convention. The Court, moreover, took the view that the applicants had sustained an interference with their right to the peaceful enjoyment of their possessions under Article 1 of Protocol No. 1 to the Convention.

Lastly, the Court found that the question of the application of Article 41 (just satisfaction) was not ready for judgment and reserved it for examination at a later date.

Just satisfaction: In its judgment today the Court held that Portugal was to pay the applicants jointly 4,000,000 euros (EUR) for pecuniary damage, EUR 21,000 for non-pecuniary damage, and EUR 400,000 for costs and expenses

Ayhan and Others v. Turkey (no. 2) (nos. 4536/06 and 53282/07)

The applicants, Mehmet Ali Ayhan, Mehmet Aytunç Altay, Cengiz Kumanlı, Mehmet Çiftçi, and Zeki Şahin, are Turkish nationals who were born in 1961, 1951, 1959, 1952, and 1963. At the time of the events of the case the applicants were serving sentences in the Edirne F-type Prison (Turkey).

The case concerned the applicants' complaint that they had been hindered in applying to the Court.

In September 2005 the applicants' lawyer, Mr. Tamer, sent a letter to them containing authorisation forms needed to lodge a complaint with the Strasbourg Court concerning an earlier decision taken by the prison authorities to intercept a letter sent to them by an association. The prison authorities, suspicious about Mr. Tamer's letter, sent it to the Edirne Enforcement Court to be examined. The court decided that the request to fill in the forms did not fall within the permitted professional activity of a lawyer and instead was an incitement to begin proceedings. The letter was never handed over to the applicants.

Three of the applicants filed an objection that was rejected by the Edirne Assize Court.

Mr. Tamer sent a letter to the Committee of Ministers of the Council of Europe complaining about the authorities' refusal to give the letter to his clients as a hindrance to applying to the Court. The Registry of the Court responded to Mr. Tamer, stating that it saw his letter as an indication of the applicants' wish to lodge an application and that he should submit a completed form, which he provided on 19 October 2006.

On 18 April 2007, Mr. Tamer sent a copy to the applicants of the Court's acknowledgement of its receipt of their application, as well as forms of authority that needed to be completed. The prison

authorities again sent the letter to the Enforcement Court, which, on the same grounds as before, declined to provide it to the applicants.

Mr Altay and Mr Çiftçi filed an objection that was rejected by the Edirne Assize Court. In November 2007 Mr. Tamer lodged another complaint with the Court about these proceedings. The applicants eventually provided forms of authority in 2010.

Relying in particular on Article 34 (right of individual petition), the applicants complained of an interference with their efforts to submit an application to the Court.

Violation of Article 34

Just satisfaction: EUR 4,500 to each applicant for 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.