



Judgments of 6 November 2018

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

three judgments are summarised below; separate press releases have been issued for four other judgments in the cases of *K.G. v. Belgium* (application no. 52548/15), *Otegi Mondragon and Others v. Spain* (nos. 4184/15, 4317/15, 4323/15, 5028/15, and 5053/15), *Vicent Del Campo v. Spain* (no. 25527/13), and *Burlya and Others v. Ukraine* (no. 3289/10);

The judgments below are available only in English.

Milićević v. Montenegro (application no. 27821/16)

The applicant, Zdravko Milićević, is a Montenegrin national who was born in 1966 and lives in Podgorica.

The case concerned his complaint that the State had failed to protect him from an attack by a mentally ill person.

In February 2013 an individual, X, attacked Mr Milićević inside his coffee bar with a hammer. He was taken to hospital with a head injury.

X was arrested, prosecuted for violent behaviour against Mr Milićević and ordered to have mandatory psychiatric treatment in a hospital. At the same time he was found guilty of stabbing another man, causing him light bodily injuries, four months before the attack on Mr Milićević.

Mr Milićević instituted civil proceedings for compensation, submitting that he had reported X to the police for threatening him a few days before the attack and that he had already attacked others. The courts ruled against him in 2015, finding that the police had acted as required and that the State was not liable for any damage.

During both sets of proceedings, it transpired that X suffered from schizophrenia and was a long-term psychiatric patient. The courts noted that he had a history of violent behaviour, which included attacking his neighbours and setting his flat on fire. A policeman also confirmed in court that he “knew that X always carried a knife” and that the police often had complaints about him.

X was allowed to start outpatient treatment in November 2015. Since April 2016 he has been having regular monthly check-ups with a specialist.

The Court examined Mr Milićević’s complaint that the State had failed to prevent the attack on him, despite the police being aware of the risk X posed, under Article 8 (right to respect for private and family life) of the European Convention on Human Rights.

Violation of Article 8

Just satisfaction: 4,500 euros (EUR) (non-pecuniary damage) and EUR 3,000 (costs and expenses)

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

Just satisfaction

Tomina and Others v. Russia (nos. 20578/08, 21159/08, 22903/08, 24519/08, 24728/08, 25084/08, 25558/08, 25559/08, 27555/08, 27568/08, 28031/08, 30511/08, 31038/08, 45120/08, 45124/08, 45131/08, 45133/08, 45141/08, 45167/08, and 45173/08)

The case concerned the question of just satisfaction with regard to the applicants' loss of ownership of rooms that they had purchased, which had originally been the property of the State. The applicants are 21 Russian nationals born between 1949 and 2006.

In its principal judgment of 1 December 2016 the Court held that there had been a violation of Article 1 of Protocol No. 1 (protection of property) to the European Convention. It awarded 5,000 euros in respect of non-pecuniary damage to applicants in 19 applications.

As concerned pecuniary damage, the Court held in respect of 19 of the applications that Russia should ensure, by appropriate means, the full restoration of title to the rooms. However, it held that the question of pecuniary damage as regards the remaining application (no. 45173/08) was not ready for decision and reserved it for examination at a later date.

Today's judgment concerned the question of pecuniary damage as regards application no. 45173/08.

Just satisfaction: The Court held that, as regards application no. 45173/08, Russia was to pay to each of the applicants EUR 8,714 in respect of pecuniary damage.

Hakim Aka v. Turkey (no. 62077/08)

The applicant, Hakim Aka, is a Turkish national who was born in 1970 and lives in Istanbul (Turkey).

The case concerned the applicant's complaint of a lack of an effective investigation into the death of his two sons.

Mr Aka's sons, Aykut and Aykan, born in 1991 and 1992, left their home to go to school on 19 November 2007, leaving their mobile telephones at home. The boys did not return to their house and Mr Aka began a search for them. The following day he informed the police that they were missing, the police informed the Kartal public prosecutor and the authorities began an investigation.

On 23 November Aykan's body was pulled out of the sea. He was in his school uniform and had his rucksack on, which was full of stones. Mr Aka was questioned again on the same day and he gave the police various pieces of information, including that his son had received a text message in Arabic during the Muslim holiday of *bayram* (*eid*) and that he had found a note from Aykan in the boy's room. Among other things, the note stated that Aykan was to "die and become a martyr" on 13 December.

At Mr Aka's request the authorities carried out a search of the sea near where his son's body had been found and Aykut's body was subsequently pulled up, on 30 November. He was also in his school uniform with a rucksack full of stones attached to his body with a rope.

In February 2008 the public prosecutor decided not to prosecute over the deaths, effectively closing the cases. Mr Aka objected to the decisions, alleging that the prosecutor had not carried out an effective investigation and had failed to follow up on various leads, including his allegation that someone had also tried to kidnap his youngest son, Volkan, in February 2008. The assize court dismissed the applicant's objection in June 2008.

Relying in essence on Article 2 (right to life), Mr Aka complained that the investigation into his sons' deaths had not been effective.

Violation of Article 2 (investigation)

Just satisfaction: EUR 40,000 (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.