



## Judgments of 10 April 2018

The European Court of Human Rights has today notified in writing 12 judgments<sup>1</sup>:

four Chamber judgments are summarised below; separate press releases have been issued for four other Chamber judgments in the cases of *Brudan v. Romania* (no. 75717/14), *Leonov v. Russia* (no. 77180/11), *Magomadova v. Russia* (no. 77546/14), and *Rubtsov and Balayan v. Russia* (nos. 33707/14 and 3762/15);

four 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 (\*).*

### Bistieva and Others v. Poland (application no. 75157/14)

The applicants, Zita Bistieva, a Russian national born in 1976, and her three minor children, born in 2006, 2008, and 2013 respectively, live in Herne (Germany).

The case concerned the family's detention in a centre for aliens in Poland.

Ms Bistieva arrived in Poland with her husband and her first two children in 2012. The husband applied for asylum for himself and the family but the authorities rejected the application in March 2013 and ordered their expulsion. The family fled to Germany, where Ms Bistieva had a third child. The German authorities sent her and the children back to Poland in January 2014 and they were placed in the Kętrzyn aliens centre where Ms Bistieva's husband apparently joined them in February 2014. They were released from the centre in June 2014, eventually moving back to Germany.

Ms Bistieva and her children complained about their detention in the centre under, in particular, Article 8 (right to respect for private and family life) of the European Convention on Human Rights.

#### Violation of Article 8

**Just satisfaction:** 12,000 euros (EUR) to the applicants jointly for non-pecuniary damage

### Tsvetkova and Others v. Russia (nos. 54381/08, 10939/11, 13673/13, 69739/14, 70724/14, and 52440/15)

The applicants, Svetlana Tsvetkova, Aleksandr Bgantsev, Pavel Andreyev, Aleksey Dragomirov, Viktor Torlopov, and Kirill Svetlov are Russian nationals who were born in 1972, 1958, 1989, 1980, 1963, and 1990 respectively and live in Russia.

The case concerned deprivation of liberty in relation to administrative offences.

<sup>1</sup> 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](http://www.coe.int/t/dghl/monitoring/execution)

The applicants were all escorted to police stations on various dates between 2008 and 2015 and held in detention there for different periods of time, ranging from five hours for Ms Tsvetkova to 40 hours for Mr Andreyev, before being released or sentenced to administrative detention.

All the applicants relied in particular on Article 5 § 1 (right to liberty and security) of the European Convention, while Mr Andreyev, Mr Dragomirov and Mr Torpolov also complained of violations under Article 5 § 5 (right to compensation). Mr Bgantsev complained in addition under Article 3 (prohibition of inhuman or degrading treatment) in relation to the conditions of his detention and under Article 13 (right to an effective remedy). Mr Svetlov had applied under in particular Article 6 § 2 (right to a fair trial / presumption of innocence) and Article 2 of Protocol No. 7 (right of appeal in criminal matters).

**Violation of Articles 3** – on account of Mr Bgantsev's conditions of detention

**Violation of Article 13** – in respect of Mr Bgantsev

**Violations of Article 5 § 1** – in respect of Ms Tsvetkova, Mr Bgantsev, Mr Andreyev and Mr Torlopov, on account of their administrative escorting and arrests

**Violation of Article 5 § 1** – in respect of Mr Dragomirov's penalty of administrative detention

**Violation of Article 5 § 5** – in respect of Mr Andreyev

**No violation of Article 5 § 5** – in respect of Mr Dragomirov

**No violation of Article 6 § 2** – in respect of Mr Svetlov

**Violation of Article 2 of Protocol No. 7** – in respect of Mr Svetlov

**Just satisfaction:** EUR 3,600 to Mr Bgantsev, EUR 3,300 to Mr Andreyev, EUR 3,000 each to Ms Tsvetkova and Mr Torlopov, EUR 1,500 to Mr Dragomirov and EUR 1,000 to Mr Svetlov in respect of non-pecuniary damage; and EUR 3,000 to Mr Bgantsev, EUR 150 to Mr Svetlov and EUR 50 to Ms Tsvetkova in respect of costs and expenses

## Vladimirova v. Russia (no. 21863/05)

The applicant, Alla Vladimirova, is a Russian national who was born in 1957 and lives in Stavropol (Russia).

The case concerned Ms Vladimirova's grocery retail trade company, Akvilon, and its loss of five tonnes of sugar.

In 2001 Akvilon arranged to sell the batch of sugar to two individuals. However, the transaction went wrong and criminal proceedings were instituted against the individuals on suspicion of misappropriation of Akvilon's property. These proceedings were suspended in 2007 because it could not be established who was responsible. In the meantime in 2005, Akvilon was awarded compensation for pecuniary damage in commercial proceedings. The commercial courts notably found that the investigator in charge of the criminal case had been negligent when leaving the sugar in storage with the individuals accused of the misappropriation. The award was paid in full in 2007.

Relying on Article 1 of Protocol No. 1 (protection of property) and Article 6 § 1 (right to a fair hearing), Ms Vladimirova alleged in particular that the judgment awarding her company damages had remained unenforced for more than two years.

**Violation of Article 6 § 1** – on account of the delayed execution of the judgment in favour of the applicant's company

**Violation of Article 1 of Protocol No. 1** – on account of the delayed execution of the judgment in favour of the applicant's company

**Just satisfaction:** EUR 1,500 (non-pecuniary damage) and EUR 10 (costs and expenses)

## Eryiğit v. Turkey (no. 18356/11)\*

The applicants are seven Turkish nationals who were born between 1956 and 1998 and live in Istanbul.

The case concerned an erroneous prenatal diagnosis.

On 7 November 1997 Hava Eryiğit ("the first applicant"), who was pregnant, was taken to the Süleymaniye Hospital. The medical diagnostic established that she was expecting twins. Ms Eryiğit was transferred to the Şişli Etfal Hospital where, after an ultrasound, doctors reached the same diagnosis. She was ultimately transferred to the Zeynep Kamil Hospital. The following day, on 8 November 1997, Ms Eryiğit gave birth to one baby. The applicants lodged a criminal complaint for the disappearance of a newborn baby.

At the close of a criminal investigation the prosecutor discontinued the proceedings on the grounds that there had been an erroneous diagnosis on account of Ms Eryiğit's excess weight and that there had never been a twin baby. The Istanbul Administrative Court dismissed the applicants' action on the grounds that there had merely been an error in diagnosis and that such errors occurred frequently. The Supreme Administrative Council set aside that judgment and held that Ms Eryiğit should be awarded damages in respect of the suffering caused by the absence of a second child as diagnosed.

Relying in particular on Article 8 (right to respect for private and family life), the applicants considered that they had not been duly compensated, having regard to the damage sustained by their families on account of the disappearance of a second newborn. They also alleged that their case had not been examined promptly and effectively.

### **Violation of Article 8** (procedural limb)

**Just satisfaction:** EUR 3,000 (non-pecuniary damage) and EUR 2,000 (costs and expenses) to the applicants jointly

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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.