



## Judgments of 16 November 2021

The European Court of Human Rights has today notified in writing 22 judgments<sup>1</sup>:

seven Chamber judgments are summarised below;

separate press releases have been issued for two other Chamber judgments in the cases of *N. v. Romania* (no. 2) (application no. 38048/18) and *Văcean v. Romania* (no. 47695/14);

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

*The judgment in French below is indicated with an asterisk (\*).*

### Vasil Vasilev v. Bulgaria (application no. 7610/15)

The applicant, Vasil Tonchev Vasilev, is a Bulgarian national who was born in 1958 and lives in Sofia. He is a lawyer.

The case concerns the interception, recording and transcription of a telephone conversation in 2010 between the applicant and one of his clients, a former Minister of Defence, who was being covertly monitored in connection with a criminal case. Mr Vasilev complained to the prosecuting authorities and brought a claim for damages, arguing that the conversation was covered by lawyer-client privilege and that its recording and transcript should have been destroyed. Both actions were to no avail.

Relying on Article 8 (right to respect for private, family life and the home) of the European Convention on Human Rights, Mr Vasilev complains that the covert recording and transcription of the telephone conversation with his client was unlawful and unnecessary. He argues in particular that Bulgarian law did not have sufficiently clear rules on the destruction of accidentally intercepted lawyer-client communications.

Also relying on Article 6 § 1 (right to a fair trial) of the European Convention, he complains that the proceedings for damages were classified because the evidence admitted had been obtained via secret surveillance. The public was therefore excluded from hearings in the case and the ensuing judgments were not delivered publicly.

#### Violation of Article 8

**Violation of Article 6 § 1** owing to the exclusion of the public from the hearings in proceedings for damages brought by the applicant

**Violation of Article 6 § 1** owing to the absence of publicity of the judgments given in the proceedings for damages brought by the applicant

<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)

**Just satisfaction:**

non-pecuniary damage: 3,000 euros (EUR)

costs and expenses: EUR 3,000

### Särgava v. Estonia (no. 698/19)

The applicant, Viktor Särgava, is an Estonian national who was born in 1982 and lives in Tallinn. He is a lawyer.

The case concerns legislation on lawyer-client confidentiality.

Mr Särgava was suspected of belonging to a criminal organisation and in 2018 the authorities authorised a search of his law firm, home and car. In the context of the criminal proceedings brought against him he unsuccessfully argued that the seizure of his laptop and mobile phone during the searches was unlawful. The proceedings against him are still ongoing.

Relying on Article 8 (right to respect for private, family life and the home) of the Convention, the applicant submits that the information contained on his laptop and telephone was covered by legal professional privilege, and that its seizure was therefore unlawful.

#### Violation of Article 8

**Just satisfaction:** the Court held that it was not necessary to award just satisfaction

### Kikabidze v. Georgia (no. 57642/12)

The applicant, Levan Kikabidze, is a Georgian national who was born in 1974. He is currently detained in Tbilisi.

The case concerns the applicant's complaint that his jury trial was unfair in proceedings brought against him for the aggravated murder of another prisoner while serving a sentence for drugs offences in 2011. He was convicted as charged and his sentence was set at just over 22 years imprisonment, including the unserved part of his previous sentence.

Relying on Article 6 §§ 1 and 3 (b) and (d) (right to a fair trial/right to adequate time and facilities for preparation of defence/right to obtain attendance and examination of witnesses), the applicant complains of belated access to evidence at the pre-trial stage, the decisions regarding inadmissibility of evidence and the unreasoned refusal to grant him leave to appeal on points of law against a jury verdict.

**Violation of Article 6 §§ 1 and 3 (b)** in respect of the alleged delayed access to the case file

**Violation of Article 6 §§ 1 and 3 (d)** on account of the manner in which the presiding judge rejected the list of the defence witnesses in its entirety

**Violation of Article 6 § 1** on account of the lack of sufficient reasoning in the decision of the appellate court

**Just satisfaction:**

non-pecuniary damage: EUR 5,000

costs and expenses: EUR 200

### Mikeladze and Others v. Georgia (no. 54217/16)

The applicants, Teimuraz Mikeladze, Otar Mikeladze, Malkhaz Beridze and Gocha Beridze are Georgian nationals who belong to the Muslim minority in Georgia.

The case concerns the police's alleged excessive use of force and discriminatory language during the applicants' arrest and detention. They were arrested on 22 October 2014 at a gathering by the local

Muslim community against the conversion of an ancient mosque into a library. They were released the next day. The police alleged that the applicants had resisted their lawful orders, and denied making any derogatory comments, while the applicants brought complaints of ill-treatment against the police officers. The investigation into the applicants' allegations has not yet produced any conclusive findings.

Relying on Article 3 (prohibition of inhuman and degrading treatment), both alone and in conjunction with Article 14 (prohibition of discrimination), the applicants complain that they were physically and verbally assaulted during their arrests and/or detention; that the police assaulted them because of their discriminatory attitude towards the Muslim faith; and, that the ongoing criminal investigation into the related complaints was ineffective. They also allege a breach of their rights under Articles 8 (right to respect for private and family life), 11 (freedom of association) and 13 (right to an effective remedy).

**Violation of Article 3 taken alone and in conjunction with Article 14** (investigation) in respect of all applicants

**Violation of Article 3** (ill-treatment) in respect of the first applicant

**No violation of Article 14 of the Convention taken in conjunction Article 3** (ill-treatment) in respect of the first applicant

**No violation of Article 3** (ill-treatment) **either taken alone or in conjunction with Article 14** in respect of the remaining applicants

**Just satisfaction:**

non-pecuniary damage: EUR 3,900 to the first applicant and EUR 1,800 to each of the remaining three applicants

costs and expenses: the Court rejected the applicants' claim for costs and expenses

### Assotsiatsiya NGO Golos and Others v. Russia (no. 41055/12)

The applicants are a non-governmental organisation, whose activities involved monitoring electoral campaigns, and two Russian nationals, Liliya Vasilyevna Shibanova and Tatyana Georgiyevna Troynova, who were born in 1952 and 1942, respectively, and live in Moscow.

The case concerns the ban in Russia on publishing certain information or data five days prior to an election.

Amid the electoral campaign to the State Duma in 2011, the applicant organisation published some election-related information on its website and launched a website with an interactive and constantly updated map of Russia showing reports about alleged violations of the electoral legislation. The applicant organisation was subsequently fined in administrative proceedings for breaching the statutory ban. The organisation was dissolved in March 2020.

Relying on Article 10 (freedom of expression), the applicants complain that the proceedings against the applicant organisation interfered with the election monitoring project they had been running. They point out in particular that the material on the websites should not have been covered by the ban as it only gave information on the ongoing election and was not capable of influencing voters.

**Violation of Article 10** in respect of the first applicant

**Just satisfaction:** the Court dismissed the claim for just satisfaction

### Kovrov and Others v. Russia (nos. 42296/09, 71805/11, 75089/13, 1327/16, and 14206/16)

The case concerns pre-trial detention and house arrest in Russia.

The applicants are five Russian nationals who were arrested on suspicion of various crimes, ranging from fraud to inflicting bodily harm resulting in death. The domestic courts authorised the applicants' detention and house arrest and the extension of these measures on several occasions, based on the gravity of the charges and the possibility of reoffending, influencing witnesses, destroying evidence, or otherwise obstructing the proper course of the proceedings. Their pre-trial detention and/or house arrest lasted for periods from one to four years. They were all subsequently convicted as charged.

Relying on Article 5 § 3 (right to liberty and security), the applicants allege that their pre-trial detention and house arrest was not necessary or properly justified, and was automatically extended without considering alternative measures. Mr Kovrov further relies on Article 5 § 5 (enforceable right to compensation) to complain that it was impossible for him to obtain compensation for the violation of his right to release pending trial.

**Violation of Article 5 § 3** in respect of each of the applicants on account of unjustified pre-trial detention and house arrest

**Violation of Article 5 § 5** in respect of Mr Kovrov on account of his inability to obtain compensation for the violation of his right to trial within a reasonable time or to release pending trial

**Just satisfaction:** details are appended to the judgment.

### Mehmet Çiftçi v. Turkey (no. 53208/19)\*

The applicant, Mehmet Çiftçi, is a Turkish national who was born in 1952. At the relevant time he was serving a sentence of aggravated life imprisonment in Edirne high-security prison, having been convicted in 2002 of attempting to change the constitutional order by force.

The case concerns the prison administration's refusal to hand over to the applicant copies of several editions of the daily newspaper Atılım which had been posted to him. The applicant lodged a number of appeals with the domestic courts, without success.

Relying on Article 10 (freedom of expression), the applicant complains of the prison administration's refusal to pass on the newspapers in question. He also alleges that the Constitutional Court, in rejecting his individual application, contradicted its own case-law as established in the judgment in Recep Bekik and Others.

**Violation of Article 10**

**Just satisfaction:**

non-pecuniary damage: EUR 1,000

costs and expenses: the Court rejected the applicant's claim for costs and expenses since he had not submitted any supporting documents

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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.