



Judgments of 19 March 2019

The European Court of Human Rights has today notified in writing 17 judgments¹:

four Chamber judgments are summarised below; separate press releases have been issued for two other Chamber judgments in the cases of *Høiness v. Norway* (no. 43624/14) and *Mart and Others v. Turkey* (no. 57031/10);

a separate press release has also been issued for a Committee judgment in the case of *E.B. v. Romania* (no. 49089/10);

one Chamber judgment, and nine other 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 ().*

Bigović v. Montenegro (application no. 48343/16)

The applicant, Ljubo Bigović, is a Montenegrin national who was born in 1976. He is currently serving a 30-year prison sentence in Spuž (Montenegro) for, among other things, the aggravated murder of a high-ranking police investigator.

The case concerned his complaints about his detention, including poor conditions and inadequate medical care.

Mr Bigović was arrested in February 2006 and placed in detention because of the risk of him absconding. His detention was extended during the next four years and seven months for the same reason. After that, the courts considered, in addition, that his release would seriously breach public order and peace. He was ultimately convicted in 2012, and this decision was upheld on appeal by the Supreme Court in 2015.

Throughout his detention he has suffered from various illnesses, including ulcerative colitis, cataracts, problems with his knees and depression. He has been examined and treated by both prison doctors and external specialists, has been prescribed medication and a special diet and has had surgery.

He unsuccessfully applied for release on numerous occasions, primarily for health-related reasons, while complaining about the length and lack of review of his pre-trial detention as well as the reasons for it, inadequate medical care and poor conditions in detention. He made the same complaints when appealing against his convictions before the courts and lastly before the Constitutional Court, also without success.

Relying on Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights, he complained about the conditions of his detention. He alleged, in particular, overcrowding, a semi-partitioned toilet in his cell and only one hour's outdoor exercise per day. He

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

further submitted that he had developed his illnesses in detention and that the medical care he had received had been inadequate.

He made a number of other complaints about his detention under in particular Article 5 §§ 1 (c) and 3 (right to liberty and security) of the European Convention. He notably alleged that his detention had not been regularly reviewed and was therefore unlawful, that it was too long and insufficiently justified and that the courts did not decide on his applications for release in good time.

Violation of Article 3 (treatment) – concerning the conditions of detention

No violation of Article 3 – concerning medical care in detention

Violation of Article 5 § 1

Violation of Article 5 § 3

Just satisfaction: 7,500 euros (EUR) for non-pecuniary damage

Prebil v. Slovenia (no. 29278/16)

The applicant, Andrej Prebil, is a Slovenian national who was born in 1974 and lives in Ljubljana.

The case concerned Mr Prebil's complaint about court proceedings dismissing him from his position as a supervisory board member of company A.

In May 2014 the P. company, which held a 91.42% share in the A. company, filed a motion to deprive Mr Prebil and another supervisory board member of their membership. They had allegedly been involved in a scuffle between board members, preventing one of them from leaving a session in order to maintain the required quorum. Company P. argued that their conduct was unacceptable and constituted a well-founded reason for them to be dismissed immediately, without notifying them and without holding a hearing.

In June 2014 the Ljubljana District Court upheld the motion. It found that the conduct of the two supervisory board members had been harmful to the A. company's functioning and that the decision should therefore be effective immediately.

Mr Prebil lodged an appeal, arguing that he had been unlawfully denied the opportunity to participate in the proceedings. Shortly afterwards, company P. informed the court that company A. had appointed two new members to replace Mr Prebil and the other supervisory board member. In January 2015 the Ljubljana Higher Court rejected Mr Prebil's appeal, finding that he could not have had any legal interest in the outcome of the proceedings, because even if he had succeeded in the appeal proceedings he could not have obtained reinstatement in his previous position.

In November 2015 the Constitutional Court decided not to accept Mr Prebil's constitutional complaint.

Relying in particular on Article 6 § 1 (right to a fair hearing), Mr Prebil complained that he had been unable to participate in the proceedings which had deprived him of his supervisory board membership.

Violation of Article 6 § 1

Just satisfaction: EUR 8,000 (non-pecuniary damage) and EUR 2,560 (costs and expenses)

Just Satisfaction

İpseftel v. Turkey (no. 18638/05)*

The applicant, Eftaliya İpseftel, is a Turkish national who was born in 1976 and lives in Athens (Greece).

The case concerned Ms İpseftel's inability to recover a property which she had inherited from her father and which had been entered in the land register as belonging to the State Treasury. In its principal judgment of 26 May 2015 the Court held that the deprivation of property without compensation had been contrary to Article 1 of Protocol No. 1 (protection of property) to the Convention.

Today's judgment concerned the question of the application of Article 41 (just satisfaction).

Just satisfaction: EUR 13,000 for pecuniary damage, EUR 5,000 for non-pecuniary damage, and EUR 275 for costs and expenses

Zülfikari and Pekcan v. Turkey (nos. 6372/05 and 52543/07)

The applicants, Kazım Zülfikari and Gökhan Pekcan, are Turkish nationals who were born in 1948 and 1963 and live in Istanbul and Ankara.

The case concerned the applicants' complaint of being deprived of their property after a bank in which they had owned shares had been taken over by the State.

Both applicants owned shares in a bank called Yaşarbank. In December 1999 the authorities decided to transfer management, control and the shares of the bank to the Savings Deposit Insurance Fund after it was found that the bank's liabilities far outstripped its assets. The main shareholders of the bank, including Yaşar Holding, challenged the transfer of the bank to the Fund, but the courts upheld the authorities' decision.

Mr Zülfikari and Mr Pekcan also began separate proceedings for the annulment of the decision to transfer the bank to the Fund, but their actions were dismissed. The final decision in Mr Zülfikari's case was handed down in April 2004 while that in Mr Pekcan's was delivered in May 2007.

Relying on Article 1 of Protocol No. 1 (protection of property), the applicants complained that they had been deprived of their property as a result of Yaşarbank being transferred to the Fund.

Violation of Article 1 of Protocol No. 1

Just satisfaction: The Court held that the question of the application of Article 41 (just satisfaction) of the Convention was not ready for decision and reserved it for examination at a later date.

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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.