



## Judgments of 19 April 2016

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

four Chamber judgments are summarised below;

four Committee judgments, which concern issues which have already been submitted to the Court, can be consulted on [Hudoc](#); they do not appear in this press release.

*The judgments below are available only in English.*

### Bagdonavičius v. Lithuania (application no. 41252/12)

The applicant, Valdas Bagdonavičius, is a Lithuanian national who was born in 1964. He is currently serving a 14-year prison sentence in the Pravieniškės Correctional Home (Lithuania) for a number of drug-related crimes. The case concerned his complaint about inadequate medical care during his detention for a heart condition.

Mr Bagdonavičius was first held at Lukiškės Remand Prison from March 2009 to June 2010 and, from then on, at Kaunas Remand Prison. His pre-trial detention was prolonged a number of times up until October 2012, on the ground that he was suspected of being the head of a criminal group involved in drug-related crimes, that he had connections abroad and faced a heavy sentence.

Mr Bagdonavičius had two heart attacks while in pre-trial detention, in September and December 2011. On both occasions he was taken for treatment in the cardiology unit at a public hospital, then when his condition had stabilised was transferred to the Prison Department Hospital, with instructions for further treatment, including medication for his condition as well as health and dietary requirements, and a recommendation to stop smoking. When his health improved, he was sent back to Kaunas Remand Prison. In March and June 2012 and February 2013 he underwent follow-up examinations in hospital, where doctors described his health as satisfactory. Those doctors reiterated their recommendations concerning Mr Bagdonavičius' diet, also noting that he continued to smoke.

In the meantime, Mr Bagdonavičius' lawyer appealed against her client's continued detention, requesting a milder remand measure than pre-trial detention in view of the two heart attacks he had suffered. In March 2012 the courts thus ordered an expert medical opinion. The ensuing report, carried out by a medical board made up in particular of a cardiologist and a surgeon, concluded that Mr Bagdonavičius' state of health was serious but not to the extent that he should be exempted from serving a sentence. Relying on the medical report, the courts dismissed the appeal, finding that his state of health had not prevented him from serving a prison sentence. This finding was upheld by the Supreme Court in December 2014 when handing down its final judgment convicting Mr Bagdonavičius of drug-related crimes.

Relying on Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights, Mr Bagdonavičius complained of a lack of proper medical care in detention, alleging

<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)

that his heart condition had been caused and then aggravated by the poor conditions and that, in any case, his state of health was incompatible with imprisonment.

### No violation of Article 3

#### Karwowski v. Poland (no. 29869/13)

The case concerned the regime in Polish prisons for detainees who are classified as dangerous.

The applicant, Dariusz Karwowski, is a Polish national who was born in 1971 and is currently in detention in Warsaw following his conviction for various violent offences, in particular murder.

He was classified as a dangerous detainee and placed under a high-security regime from the moment when he was arrested and detained on remand, in January 2006. There were subsequently over 30 decisions extending the application of the regime to him, all based on the same pattern, notably the fact that the previous reasons for placing him under the regime still existed. The measure was lifted in November 2013.

Relying on Article 3 (prohibition of inhuman or degrading treatment) of the European Convention, Mr Karwowski complained about the special high-security measures to which he had been subjected during his classification as a dangerous detainee, namely his solitary confinement, routine daily strip searches and constant monitoring of his cell via closed-circuit television.

### Violation of Article 3

**Just satisfaction:** 11,000 euros (EUR) (non-pecuniary damage)

#### Gheorghe Dima v. Romania (no. 2770/09)

The applicant, Gheorghe Dima, is a Romanian national who was born in 1980 and lives in Bucharest.

The case concerned Mr Dima's allegations of ill-treatment by prison guards and members of a rapid response unit who intervened in a fight between two inmates in the prison corridor, and the allegedly ineffective nature of the investigation.

On 27 November 2008 Mr Dima was injured when a fight broke out between two inmates in a corridor of Bucharest-Rahova Prison while the applicant and 15 other prisoners were on their way outside for their daily exercise. Mr Dima stated that he had been struck by officers who had found a makeshift knife in his possession, in full view of the officer in charge of the wing and members of the prison management, who had not intervened. In the doctor's surgery, Mr Dima reportedly wrote a statement at the request of the officer in charge of the wing, saying that he had been beaten by other inmates whom he was unable to identify.

On 28 November 2008 Mr Dima was admitted to the emergency department of Bucharest University Hospital and was transferred on the same day to B. public hospital, where he underwent surgery to remove his left kidney. On 30 December 2008 the National Institute for Forensic Medicine issued a certificate stating, among other things, that Mr Dima had presented with life-threatening injuries and was suffering from a post-traumatic disability following the loss of his left kidney. After being classified as suffering from a serious temporary disability, he was transferred on 30 January 2009 to Giurgiu Prison and was released on parole on 18 January 2010.

On 8 December 2008 Mr Dima lodged a complaint against prison officers J.I.D. and M.V., chief prison officer C.R.C. and supervisor L.V.S., and against the members of the rapid response unit. The complaint resulted in a series of decisions to discontinue the proceedings. The public prosecutor's office noted in particular that the only objective evidence, namely the CCTV footage from the day of the incident, had not been kept by the prison authorities. Following an appeal by Mr Dima, the Bucharest County Court referred the case back to the public prosecutor's office with a request to

institute proceedings and continue the investigation. On 28 January 2015, on the basis of witness evidence stating that J.I.D. had attacked Mr Dami and stamped on him on the day of the incident, the public prosecutor brought criminal proceedings against J.I.D. for misconduct. It appears that J.I.D. was informed of the charge against him on 2 March 2015 and that the investigation is still pending before the prosecutor's office.

Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Dima alleged that he had been subjected to ill-treatment by State agents during the fight that took place on 27 November 2008, and that no effective investigation had been carried out in that regard.

**Violation of Article 3** (investigation)

**Just satisfaction:** EUR 7,500 (non-pecuniary damage) and EUR 1,040 (costs and expenses)

**Sergey Denisov and Others v. Russia (nos. 1985/05, 18579/07, 21748/07, 21954/07 and 20922/08)**

The case concerned the criminal proceedings brought against a criminal gang operating in St. Petersburg at the end of the 1990s.

The applicants, Sergey Denisov, Ayrat Gimranov, Dmitriy Filimonov, Aleksey Dodonov and Yuriy Shutov (now deceased), are Russian nationals who were born in 1957, 1961, 1966, 1970, and 1946 respectively and lived until their arrest in St Petersburg (Russia).

All the applicants were arrested in 1999, except for Mr Filimonov who was arrested in 2001, on suspicion of participating in a number of serious crimes as members of a criminal gang allegedly led by one of the applicants, Mr Shutov. They were placed in pre-trial detention on the basis of the seriousness of the charges against them. The domestic authorities then repeatedly extended their detention on the same grounds. In February 2006 the applicants were convicted of multiple counts of organising a criminal group, murder and assault, preparing explosive devices and unlawfully storing and carrying firearms. Mr Denisov, Mr Gimranov and Mr Shutov were sentenced to life imprisonment and Mr Filimonov and Mr Dodonov received sentences of nine and 18 years, respectively. Their conviction was upheld by the Supreme Court of Russia in November 2006.

During the proceedings against them, the applicants challenged – without success – the bench examining their case up to 47 times in total.

Relying on Article 6 § 1 (right to a fair trial within a reasonable time), all five applicants complained in particular about the composition of the court that had examined their cases and the excessive length – approximately seven years and nine months for four of the applicants and five years and eight months for Mr Filimonov – of the proceedings against them.

Mr Denisov further complained, among other things, about the excessive length of his pre-trial detention. He relied on Article 5 § 3 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial).

**Violation of Article 5 § 3** – in respect of Mr Denisov

**No violation of Article 6 § 1** – in respect of all five applicants, on account of the composition of the court

**No violation of Article 6 § 1** – in respect of all five applicants, on account of the length of proceedings

**Just satisfaction:** EUR 7,000 (non-pecuniary damage) and EUR 1,450 (costs and expenses) to Mr Denisov

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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.