



Judgments of 21 November 2017

The European Court of Human Rights has today notified in writing 15 judgments¹:

11 Chamber judgments are summarised below; a separate press release has been issued for one other Chamber judgment in the case of *Scheszták v. Hungary* (application no. 5769/11);

three 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 ().*

Lambin v. Russia (application no. 12668/08)

The applicant, Denis Lambin, is a Russian national who was born in 1984 and is currently serving a sentence of imprisonment for murder in a correctional colony in the village of Torbeyevo (Mordovia Republic, Russia). The case concerned his complaint about a breach of his defence rights during the criminal proceedings against him.

Mr Lambin was convicted in April 2005 at a public hearing, after having been given 35 minutes to study his case file. His conviction was then upheld on appeal. However, in 2010 the appeal judgment was quashed as Mr Lambin's defence rights had been breached. A new round of appeal proceedings started and Mr Lambin and his lawyer were given another possibility to study the case file. After studying the case file of about 1,500 pages for five days, they submitted appeal statements referring extensively to all the main items of evidence, including expert opinions and witness testimony. The Supreme Court of Russia then examined the case over four hearings held in camera, and upheld the judgment of April 2005.

Relying on Article 6 §§ 1 and 3 (b) (right to a fair trial) of the European Convention on Human Rights, Mr Lambin alleged that he had not been given adequate time or facilities to prepare his defence during the criminal proceedings in 2005 or 2010 and complained about being tried and convicted without a public hearing in 2010.

Violation of Article 6 § 1 - concerning the lack of public hearings

No violation of Article 6 §§ 1 and 3 (b) – concerning the allegedly insufficient time and facilities for the preparation of Mr Lambin's defence

Just satisfaction: Mr Lambin did not submit a claim for just satisfaction.

Panyushkiny v. Russia (no. 47056/11)

The applicants, Marina Panyushkina and Vyacheslav Panyushkin, mother and son, are Russian nationals and live in St Petersburg (Russia). The case concerned their eviction from a room they had been living in for more than 14 years under a social tenancy agreement.

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

Ms Panyushkina, a single mother born in 1971, left Uzbekistan in 1995. She was granted “forced migrant” status and settled in St Petersburg. Her son was born in 1997. In 1998 the migration authorities provided her with a room in a flat. In 2009 the authorities ordered Ms Panyushkina to vacate the room as she had not applied in time to extend her status as a forced migrant. Her requests to re-establish her forced migrant status were dismissed by the migration authorities. She went on to challenge this decision before the courts, also without success.

Thus, in 2011 the migration authorities brought eviction proceedings against Ms Panyushkina and her son. In the ensuing proceedings they argued that the room in question was their only home and that they would have difficulties in finding alternative accommodation. However, in May 2012 the domestic courts concluded that they had to be evicted because Ms Panyushkina and her son had been occupying the room unlawfully. In particular, the room was strictly designated for those who were legally acknowledged to be forced migrants, unlike Ms Panyushkina who had lost her forced migrant status and her son who had never had such status.

The mother and son eventually vacated the room in September 2013 and are currently living in rented accommodation. They have been on a waiting list for social housing since 2009.

Relying on Article 8 (right to respect for the home), the applicants complained about their eviction, and in particular that the courts had not carried out a balancing exercise when examining their case.

Violation of Article 8

Just satisfaction: 7,500 euros (EUR) jointly to Ms Panyushkina and Mr Panyushkin for non-pecuniary damage

Redaktsiya Gazety ‘Zemlyaki’ v. Russia (no. 16224/05)

The applicant company, Redaktsiya Gazety ‘Zemlyaki’, is the founder, editor and publisher of a local newspaper, *Zemlyaki*, printed in Kstovo and distributed in the Kstovskiy District (Russia). The case concerned defamation proceedings brought against it.

In 2004 the applicant company published a series of articles criticising the local authority and in particular the managerial abilities of the then head of Kstovo District Administration, Y.L.

Within the same year Y.L. went on to complain about the articles to the domestic courts. The courts found that the articles had damaged Y.L.’s reputation. In particular, they considered that comparing Y.L. to a marmoset (a type of small monkey) and depicting him as Osama bin Laden in a photo collage with a Muslim turban and beard had been defamatory. The company was ordered to pay a symbolic fine and publish a retraction. Shortly after, the courts upheld this decision on appeal, without addressing the applicant company’s argument that their articles had contained value judgments and not statements of fact.

Relying in particular on Article 10 (freedom of expression), the applicant company notably complained about the decision ordering it to offer apologies to Y.L.

Violation of Article 10

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

Mansour v. Slovakia (no. 60399/15)

The applicant, Rafat Mansour, is a Slovak national who was born in 1972 and lives in Dublin (Ireland). The case concerned proceedings before the Slovakian courts to have an order enforced for the return of his children to Ireland as the country of their habitual residence under the Brussels II bis Regulation and the Hague Convention.

Mr Mansour's wife, a Slovak national, with whom he had been living in Ireland, travelled to Slovakia in January 2011 with the couple's two children, born in 2006 and 2008. They have not returned to Ireland since. Less than a month after they had left, Mr Mansour brought proceedings before the Slovakian courts for the return of his children to Ireland. The courts ordered the return and the order became enforceable in July 2011.

Since the mother had not complied with it, Mr Mansour applied for the judicial enforcement of the order in February 2012. The proceedings were stayed pending the outcome of a request which the mother had lodged with the Prosecutor General for an extraordinary appeal against the order, and they were resumed after the Prosecutor General had found that there were no reasons for such an appeal. The district court eventually found that the order was not enforceable, a decision which was confirmed by the regional court in June 2013. Both courts referred to a previous decision of the district court, in May 2011, for provisional measures, namely for the children to be entrusted to the care of the mother and for Mr Mansour to be required to pay maintenance. The courts considered that, given that the return order had not specified that it was directed at the mother and given that Mr Mansour had not been provisionally entrusted with the care of the children, the order could not be enforced.

Mr Mansour lodged a constitutional complaint challenging those decisions. In May 2015, the Constitutional Court found that the challenged decisions had been taken on purely formal grounds and had been arbitrary. Having found that Mr Mansour's rights had been violated, it quashed the lower courts' decision and remitted the case to the regional court, which in turn quashed the district court's decision and remitted the case to that court for examination, noting that the lapse of time made a fresh assessment necessary. In April 2016 the district court again decided that the order could not be enforced, relying in particular on a psychological report and taking into account the children's wish to stay with their mother in Slovakia. The regional court upheld that decision and it became final in August 2016.

In the meantime, Mr Mansour lodged another constitutional complaint which led to the Constitutional Court finding a violation of his rights in December 2016, in particular in connection with the length of the enforcement proceedings, and awarding him compensation in the amount of 4,000 euros. After the enforcement proceedings had been completed by a final judgment, he lodged a third constitutional complaint.

Mr Mansour complained, in particular, that the Slovakian enforcement courts had failed to secure respect for his family life under Article 8 (right to respect for private and family life).

Violation of Article 8

Just satisfaction: EUR 10,000 (non-pecuniary damage) and EUR 5,400 (costs and expenses)

Just Satisfaction

Feryadi Şahin v. Turkey (no. 33279/05)*

The applicant, Feryadi Şahin, is a Turkish national who was born in 1967 and lives in Istanbul. On 9 December 1988 he acquired part of a plot of land in Samandra and a document attesting to his title was issued to him by the Directorate General for Property Deeds and Registration. Relying on Article 1 of Protocol No. 1 (protection of property), he alleged that the annulment of his title in December 2003 and the re-registration of his property in the name of the Public Treasury, without the payment of any compensation, had constituted a disproportionate interference with his right to the peaceful enjoyment of his possessions.

In its principal judgment of 13 September 2011 the Court found a violation of Article 1 of Protocol No. 1.

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

The Court decided to strike out of its list of cases the part of the application relating to the question of the application of Article 41 of the Convention as regards Mr Şahin's claim for pecuniary damage. It further held that Turkey was to pay him EUR 1,500 for costs and expenses.

Just Satisfaction

Kar v. Turkey (no. 25257/05)*

The applicant, Hasan Kar, is a Turkish national who was born in 1946 and lives in Trabzon. He complained of the transfer of ownership of his land to the State Treasury without compensation. He relied on Article 1 of Protocol No. 1 (protection of property).

In its principal judgment of 29 March 2011 the Court found a violation of Article 1 of Protocol No. 1.

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

The Court decided to strike out of its list of cases the part of the application relating to the question of the application of Article 41 of the Convention as regards Mr Kar's claim for pecuniary damage. It further held that Turkey was to pay him EUR 5,000 for non-pecuniary damage.

Just Satisfaction

Kayacı and Others v. Turkey (no. 41485/05)*

The applicants in this case, Ömer Kayacı, Sema Kayacı, Şaban Kayacı, Dursun Kayacı and Melek Erdem, are Turkish nationals. They complained about the decision by the Turkish courts to register the Treasury as the owner of plots of land which had been rightfully theirs, without any compensation being paid to them. They relied on Article 1 of Protocol No. 1 (protection of property) and Article 6 (length of proceedings).

In its principal judgment of 4 October 2011 the Court found a violation of Article 1 of Protocol No. 1 and of Article 6 § 1.

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

The Court decided to strike out of its list of cases the part of the application relating to the question of the application of Article 41 of the Convention as regards the applicants' claim for pecuniary damage. It further held that Turkey was to pay them, jointly, EUR 6,000 for non-pecuniary damage and EUR 3,500 for costs and expenses.

Just Satisfaction

Koper v. Turkey (no. 18538/05)*

The applicant, Ahmet Dünder Koper, is a Turkish national who was born in 1917 and lived in Izmir. He died in January 2014. On 28 April 1966 he acquired farmland in the village of Bulgurca, Menemen (Izmir). Relying on Article 1 of Protocol No. 1 (protection of property), he complained that he had been deprived of his property title in 2002 without receiving any compensation.

In its principal judgment of 13 September 2011 the Court found a violation of Article 1 of Protocol No. 1 and of Article 6 § 1.

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

The Court decided to strike out of its list of cases the part of the application relating to the question of the application of Article 41 of the Convention as regards Mr Koper's claim for pecuniary damage. It further held that Turkey was to pay, jointly to Mr Koper's heirs, EUR 6,000 for non-pecuniary damage and EUR 4,000 for costs and expenses.

Just Satisfaction

Malhas and Others v. Turkey (nos. 35476/06, 28530/06, 43192/06, and 43194/06)*

The applicants, Kevork Ramses Malhas (applications nos. 35476/06, 43192/06 and 43194/06), Selim Metin (application no. 28530/06), Selma Binyıldız (application no. 28530/06) and Emin Balcı, are four Turkish nationals who were born in 1915, 1948, 1966 and 1945 respectively and live(d) in Istanbul. Mr Kevork Ramses Malhas died in July 2009. The domestic courts decided to annul the applicants' title to property and to register their land in the name of the Public Treasury. The Court of Cassation dismissed their applications for rectification of the decisions. Relying on Article 1 of Protocol No. 1 (protection of property) the applicants alleged that the restrictions imposed on their ownership right (applications nos. 35476/06 and 43194/06) and the annulment for the benefit of the Public Treasury, without compensation, of their title (applications nos. 28530/06 and 43192/06) had constituted disproportionate interference with their right to the peaceful enjoyment of their possessions.

In its principal judgment of 13 September 2011 the Court found a violation of Article 1 of Protocol No. 1.

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

The Court decided to strike out of its list of cases the part of the application relating to the question of the application of Article 41 of the Convention as regards the applicants' claim for pecuniary damage. It further held that Turkey was to pay: EUR 12,500 jointly to Lerna Lorjet Malhas and Sarven Leon Malhas (Kevork Ramses Malhas' heirs), EUR 2,500 to Emin Balcı, and EUR 5,000 jointly to Selim Metin and Selma Binyıldız for non-pecuniary damage; and EUR 5,000, to the applicants jointly, for costs and expenses.

Just Satisfaction

Süleyman Baba v. Turkey (no. 2150/05)*

The applicant, Süleyman Baba, is a Turkish national who was born in 1957 and lives in Istanbul. Relying on Article 1 of Protocol No. 1 (protection of property), he complained that more than 37,000 sq. metres of land belonging to him had been designated as public forest in 1988, without any compensation.

In its principal judgment of 23 March 2011 the Court found a violation of Article 1 of Protocol No. 1.

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

The Court decided to strike out of its list of cases the part of the application relating to the question of the application of Article 41 of the Convention as regards Mr Baba's claim for pecuniary damage.

Tarman v. Turkey (no. 63903/10)*

The applicant, Hülya Tarman, is a Turkish national who was born in 1962 and lives in Cologne (Germany). The case concerned two articles which had appeared in the Turkish press, describing Ms Tarman as a suicide bomber who had been preparing an attack.

In June 2007 the two articles were published in the national daily newspapers *Takvim* (“*Search underway for four suicide bombers*”) and *Star* (“*Alarm raised about four suicide bombers*”), indicating that the PKK (Workers’ Party of Kurdistan, an illegal armed organisation) had sent four suicide bombers, trained in special camps, to Turkey. The articles included four photographs, including that of Ms Tarman, and her name was mentioned in the *Takvim* article.

In July 2007 Ms Tarman submitted two claims for damages to the Diyarbakır Civil Court of First Instance (“the Civil Court”), against the companies which published the newspapers concerned, arguing that there had been an interference with her personality rights. The action in respect of the article in *Takvim* was dismissed by the Civil Court, in a judgment that was upheld by the Court of Cassation in February 2010. The claim in respect of the article in *Star* was partly granted by the Civil Court, but that judgment was overturned by the Court of Cassation in September 2008. In June 2010 the Civil Court complied with the Court of Cassation’s judgment and dismissed Ms Tarman’s claim.

Relying in substance Article 8 (right to respect for private life), Ms Tarman criticised in particular the domestic courts for finding that the information contained in the contested articles, which she alleged to be incorrect, had fallen within the scope of press freedom. She also complained about the fact that her identity had been divulged and her photograph had been published; she alleged that this had presented her as a target to the public and stated that she had feared for her life.

Violation of Article 8

Just satisfaction: EUR 1,500 (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.