



Judgments of 22 December 2015

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

two Chamber judgments are summarised below; for one other, in the case of *G.S.B. v. Switzerland* (application no. 28601/11), a separate press release has been issued.

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

Lykova v. Russia (application no. 68736/11)*

The applicant, Irina Lykova, is a Russian national who was born in 1964 and lives in Voronej (Russia).

The case concerned allegations of ill-treatment of Ms Lykova's son and his subsequent death after being taken into custody, which had not been acknowledged as such by the authorities, and the lack of an effective investigation.

Ms Lykova's son, Sergei Lykov, was stopped by the police in the company of a friend who was suspected of theft. They were both taken to the police headquarters for the Voronej region. A few hours later Ms Lykova's son threw himself out of the window of an office on the fifth floor of the building and died in hospital the next day. According to Ms Lykova, her son and his friend had been taken to the police station without being given any reason and had then been subjected to ill-treatment to make them confess to thefts that they had allegedly committed. According to the police, Sergei Lykov had agreed to accompany them to the police station of his own free will, in particular to "provide useful information", and had not been ill-treated; he had suddenly jumped out of the window, however, after making confessions connected with the theft of a mobile phone.

Not having received any news, Sergei Lykov's cousin made some enquiries and ultimately found Sergei Lykov's body at the morgue. Noticing numerous injuries, the cousin applied to the Prosecutor General of Russia seeking an investigation. The investigator in the department for the Leninski district of Voronej refused to open a criminal investigation, finding that the death and injuries had been the result of the act of suicide. Another investigator from the same department also refused to open a criminal investigation against the police officers at issue, finding in particular that the death of Sergei Lykov had been a voluntary act, that his arrest had not been illegal and that the police officers had not ill-treated him. Ms Lykova appealed against that decision. Her claims were rejected by the Leninski District Court of Voronej and then by the Regional Court of Voronej on points of law.

In the meantime, a criminal investigation had been opened concerning Sergei Lykov's friend, leading to his conviction. At a hearing the friend said that he had witnessed the ill-treatment sustained by Sergei Lykov, naming one of the police officers he claimed to have been involved.

An internal investigation was also conducted by the internal security service of the regional department of Voronej and it concluded that Sergei Lykov had committed suicide, describing as unprofessional the fact that one of the police officers had not sufficiently watched over him.

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

Relying on Article 5 § 1 (b) and (c) (right to liberty and security) of the European Convention on Human Rights, Ms Lykova complained that her son had been deprived of his liberty in conditions that had been incompatible with domestic law and that he had been taken into custody without any record being drawn up. Relying in particular on Articles 2 (right to life) and 3 (prohibition of torture and inhuman or degrading treatment), she alleged that her son had been beaten by police officers in the police station to extract confessions and that the ill-treatment had caused his death. She also complained that there had been no effective investigation.

Violation of Article 5 § 1

Violation of Articles 2 and 3 (investigation)

Violation of Article 2 (right to life)

Violation of Article 3 (torture)

Just satisfaction: 8,500 euros (EUR) (pecuniary damage), EUR 45,000 (non-pecuniary damage) and EUR 7,000 (costs and expenses)

Stanković and Trajković v. Serbia (nos. 37194/08 and 37260/08)

The applicants, Slobodanka Stanković and Sonja Trajković, are Serbian nationals who were born in 1948 and 1970 respectively and live in Bujanovac Municipality (Serbia).

The case concerned an allegation of inconsistent domestic case-law for the payment of damages to families whose relatives had disappeared or been kidnapped in the aftermath of the North Atlantic Treaty Organisation's (NATO) intervention in Kosovo² in 1999.

Slobodanka Stanković's and Sonja Trajković's husbands were kidnapped by the *Kosovo Liberation Army* in Suva Reka Municipality on 13 June 1999 and were subsequently declared dead. In May 2005 the two women – along with their families – lodged civil claims against the Republic of Serbia, seeking compensation for the mental anguish they had been caused by the disappearances and deaths of their husbands. The municipal and district courts ultimately held in their cases that Serbia was not liable, since it had been up to KFOR, the international security force to whom the Yugoslav and Serbian Governments had transferred control following NATO's intervention, to provide for the safety of all citizens of Kosovo from 9 June 1999 onwards.

Relying on Article 6 § 1 (right to a fair hearing / access to court) of the European Convention, the applicants complained that their claims for damages had been rejected, whereas the courts had accepted identical claims filed within the same period by other plaintiffs. In those other cases the courts had accepted that the Serbian authorities had indeed been responsible for the lives and safety of all persons residing in Kosovo until the actual transfer of effective control to KFOR in respect of the municipalities, considered separately.

No violation of Article 6 § 1

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Press contacts

echrpess@echr.coe.int | tel: +33 3 90 21 42 08

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

² All reference to Kosovo, whether to the territory, institutions or population, is to be understood in full compliance with the United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

Nina Salomon (tel: + 33 3 90 21 49 79)
Denis Lambert (tel: + 33 3 90 21 41 09)
Inci Ertekin (tel: + 33 3 90 21 55 30)

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.