



Judgments of 30 June 2020

The European Court of Human Rights has today notified in writing 14 judgments¹:

eight Chamber judgments are summarised below;

separate press releases have been issued for three other Chamber judgments in the cases of *Petro Carbo Chem S.E. v. Romania* (application no. 21768/12), *Popović and Others v. Serbia* (nos. 26944/13, 14616/16, 14619/16 and 22233/16), and *Cimperšek v. Slovenia* (no. 58512/16);

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 are indicated with an asterisk ().*

Muhammad Saqawat v. Belgium (application no. 54962/18)*

The applicant, Hossain Muhammad Saqawat, is a Bangladeshi national who was born in 1986 and lives in Liège (Belgium).

The case concerned the detention for several months of an asylum-seeker pending his removal from Belgian territory. The applicant contested the lawfulness of his detention.

Mr Saqawat arrived at Zaventem airport in December 2017 and lodged an initial asylum request. On the same day the Aliens Office decided to refuse him entry and to retain him in a specified location. Mr Saqawat was then placed in detention in a transit centre near the airport. A few weeks later his asylum request was rejected. Subsequently, he submitted further asylum requests, which were also rejected. Meanwhile Mr Saqawat had been the subject of several successive detention orders, which he unsuccessfully contested. He was released in April 2018 following a judgment delivered by the Indictments Division.

Relying on Article 5 (right to liberty and security) of the European Convention on Human Rights, Mr Saqawat alleged that his detention had been incompatible with that Article and complained that he had had no access to an effective remedy to contest that detention.

Violation of Article 5 § 1 – concerning the periods of detention from 20 to 27 February 2018 and from 6 to 14 May 2018

Violation of Article 5 § 4

Just satisfaction: 7,500 euros (EUR) (non-pecuniary damage) and EUR 1,600 (costs and expenses)

Mîțu v. the Republic of Moldova (no. 23524/14)

The applicant, Ana Mîțu, is a Moldovan national who was born in 1983 and lives in Chișinău (Republic of Moldova).

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

The case concerned an allegation of police brutality during a raid.

In May 2013 the police, including a special forces unit, raided the flat occupied by the applicant and her husband as part of an investigation into the husband's alleged theft of electric switches, detergents and alcoholic beverages.

On the same day as the raid the applicant lodged a complaint of excessive use of force by the police. A medical report the following day recorded violet-blue bruises on her back, left forearm, and knee. It concluded that the injuries had probably been caused in circumstances as described by the applicant, which included her arms being twisted behind her back, being handcuffed and being forced to the ground. Her T-shirt with a boot print on the back of it was retained as evidence.

In June 2013 the applicant was acknowledged as a victim but later the same month the Botanica prosecutor's office refused to initiate a criminal investigation. It found that the actions of the officers of the Special Forces unit involved in the raid had been taken while stopping the applicant and her husband from deliberately opposing the lawful orders of the police in the form of a search and preventing them from destroying stolen items.

An appeal by the applicant, relying on Article 3 (prohibition of inhuman or degrading treatment) of the Convention, was rejected by a higher ranking prosecutor in August 2013. The investigating judge of the Botanica District Court dismissed the applicant's further appeal in October 2013.

The applicant complained under Article 3 that the police had used unjustified, excessive force against her and that there had been no effective investigation of her allegation.

Violation of Article 3 (degrading treatment)

Violation of Article 3 (investigation)

Just satisfaction: EUR 4,500 (non-pecuniary damage) and EUR 380 (costs and expenses)

Bocu v. Romania (no. 58240/14)

The applicant, Mr Octaviean Bocu, is a Romanian national who was born in 1947 and lives in Braşov.

The case concerned the lack of a review of a final judgment declaring him the father of B.A.M., even though he had, with the latter's agreement, secured scientific proof that he was not his biological father.

On 2 February 1972 the mother of B.A.M., who had been born on 18 September 1971, instituted court proceedings to establish Mr Bocu's paternity. By a judgment of 6 November 1972, Mr Bocu was declared to be the child's father. That judgment was based on witness statements and forensic blood grouping. This judgment was confirmed by a final judgment on March 23, 1973.

In 2012 Mr Bocu brought a court action to annul the declaration of paternity. He requested the court to order a DNA analysis. The court dismissed his action and Mr Bocu appealed. By a judgment of 3 December 2012 the County Court dismissed the appeal and ruled that an action to annul the declaration of paternity could only be filed by a husband of a woman who had given birth to a child within wedlock.

In 2013 Mr Bocu obtained the consent of B.A.M., who had since come of age, to out-of-court forensic testing on both of them in order to determine whether or not he was the biological father.

Following genetic testing, an expert assessment established that Mr Bocu was not B.A.M.'s biological father.

On 4 June 2013 Mr Bocu applied to the County Court for a review of the 23 March 1973 judgment. The court declared the application for a review inadmissible on the grounds that it did not satisfy the admissibility conditions laid down in Article 322 of the former Code of Civil Procedure.

Relying on Article 8 (right to private and family life), the applicant complained that he had not been able to obtain judicial recognition of the fact that he was not B.A.M.'s father, despite the fact that the expert assessment conducted with the consent of B.A.M., on the latter's majority, had ruled out his paternity.

Violation of Article 8

Just satisfaction: EUR 5,000 (non-pecuniary damage) and EUR 750 (costs and expenses)

Maria Mihalache v. Romania (no. 68851/16)

The applicant, Maria Mihalache, is a Romanian national who was born in 1970 and lives in Straja (Romania).

The case concerned the Romanian authorities' failure to enforce a final judgment in the applicant's favour finding that she was not liable to pay damages for tax evasion when criminal proceedings against her for cigarette smuggling were dropped.

Criminal proceedings were initiated against the applicant and her husband in 2013 after the police raided their property and found 5,450 packets of cigarettes with Ukrainian tax stamps in an outbuilding.

The prosecutor decided to terminate the proceedings in 2014 for lack of evidence.

In the meantime, the tax authorities had issued a decision against the applicant for payment of the damage caused by evasion of customs charges for the smuggled goods, amounting to 61,780 Romanian lei (approximately 13,730 euros). They subsequently requested that a mortgage be placed on three plots of land owned by the applicant as enforcement of that decision.

In 2015 and 2016 courts at two levels partly accepted the applicant's claims challenging the enforcement measures against her, considering that she could not be obliged to cover damage for tax evasion in the absence of any criminal liability.

However, the judgment of 2016 in her favour has still not been enforced and the tax authorities have maintained their position that the applicant has to pay the debt.

Relying on Article 1 of Protocol No. 1 (protection of property), the applicant complained, on the one hand, that the mortgage placed on her property had not been lifted, and, on the other hand, that the tax authorities had completely disregarded the domestic courts' judgments in her favour.

Violation of Article 1 of Protocol No. 1 – on account of the non-enforcement of the outstanding judgment of 29 June 2016

Just satisfaction: The Court held that Romania was to ensure the full enforcement of the outstanding judgment of 29 June 2016, failing which it would have to pay the applicant EUR 14,100 in respect of pecuniary damage. The Court further awarded the applicant EUR 4,000 in respect of non-pecuniary damage and EUR 1,000 in respect of costs and expenses.

Ilya Lyapin v. Russia (no. 70879/11)

The applicant, Ilya Viktorovich Lyapin, is a Russian national who was born in 1980 and lives in Arkhangelsk.

The case concerned the withdrawal of the applicant's parental authority over his son.

In May 2011 a district court deprived the applicant of his parental authority over his son, V., born in 2001. The court found that he had not lived with V. since April 2003, when he had divorced his former wife, Ms A.K.; that he had not participated in his son's upbringing since 2004; and that he had only occasionally provided the boy with financial support.

The court went on to conclude that the family ties between the applicant and V. had been lost, and that the boy perceived a third person, Mr M.K., his former wife's new husband, as his father. In the circumstances the court found that it was in V.'s best interests to deprive the applicant of his parental authority over his son and leave the boy under the full custody of A.K.

The applicant appealed against the court decision, but in June 2011 the Arkhangelsk Regional Court upheld the first-instance judgment. Attempts by the applicant to have the court decisions reviewed in a supervisory review procedure were unsuccessful.

Relying on Article 8 (right to respect for private and family life), the applicant complained of the arbitrary removal of his parental authority over his son.

No violation of Article 8

Satybalova and Others v. Russia (no. 79947/12)

The case concerned a family's complaint that their relative, Marat Satybalov, had died as a result of severe ill-treatment by the police.

The applicants are Madina Satybalova, Luiza Satybalova and Taisa Nartayeva who were born in 1961, 1968 and 1940. They are respectively the sister, wife and mother of Marat Satybalov, who was born in 1974. The first applicant lives in Khasavyurt and the other applicants in Aksay, the Khasavyurt district, Dagestan.

Mr Satybalov and two friends, Mr M.Sh. and Mr M.G., were apprehended by the police on 2 May 2010 after stopping to buy painkillers from a pharmacist. The police dragged the three men out of their car and hit them with the butts of their machine guns. They were then taken to the local district police station where the beatings continued, while they were repeatedly asked why they had long beards.

Four other friends, who had gone to the station looking for Mr Satybalov, Mr M.Sh. and Mr M.G., were also subjected to beatings. They were released when a relative who was a law-enforcement officer intervened on their behalf.

Mr Satybalov, Mr M.Sh. and Mr M.G. were held overnight in the police station, and released the next day after being brought before a judge and fined for an administrative offence, namely failing to obey the lawful orders of the police.

The applicants noticed that all three men had injuries on their release. Mr Satybalov in particular could not stand up, was covered in scratches and bruises and part of his beard had been pulled out. His state of health worsened and his family took him to hospital where he died on 7 May 2010 after suffering extensive internal bleeding.

Mr Satybalov's mother immediately complained to the Dagestan prosecutor's office, requesting the prosecution of those responsible for her son's ill-treatment and death. Mr Satybalov's friends were interviewed, describing in detail the beatings they had all been subjected to. An internal police inquiry confirmed the use of force against Mr Satybalov and recommended that disciplinary measures be taken against certain officers. It also found that the officers implicated in the incident had given false information when questioned about Mr Satybalov's detention.

However, the investigation, suspended five times between 2010 and 2015 for failure to identify those responsible for the ill-treatment, is currently still ongoing. The supervisory bodies have repeatedly ordered that urgent measures be taken, such as examining the crime scene and identifying those officers on duty on the day of the incident, without success.

Relying in particular on Article 2 (right to life) and Article 3 (prohibition of torture and inhuman or degrading treatment), the applicants alleged that their relative had died as a result of severe ill-

treatment by the police and that the domestic authorities had failed to effectively investigate their allegations. Also relying on Article 5 (right to liberty and security), they alleged that his detention at the police station between 2 and 3 May 2010 had been unlawful and arbitrary.

Violation of Article 2 (right to life) – in respect of Marat Satybalov

Violation of Article 2 (investigation)

Violation of Article 3 (torture) – in respect of Marat Satybalov

Violation of Article 5

Just satisfaction: EUR 10,000 to Luiza Satybalova and EUR 8,000 to Taisa Nartayeva (pecuniary damage), EUR 80,000 to the applicants jointly (non-pecuniary damage) and EUR 2,500 jointly (costs and expenses)

Saquetti Iglesias v. Spain (no. 50514/13)*

The applicant, Martin Saquetti Iglesias, is a Spanish national who was born in 1948. He lives alternately in Madrid (Spain) and Buenos Aires (Argentina).

Mr Saquetti Iglesias complained that the higher courts had refused to review an administrative decision penalising him for failing to declare a sum of money while going through customs at Madrid-Barajas airport.

In March 2011 the customs and excise department checked Mr Saquetti Iglesias's luggage before boarding a flight from Spain to Buenos Aires. They discovered a sum of 154,800 euros (EUR), all but EUR 1,000 of which they confiscated.

In August 2011 the Directorate General of Treasury and Financial Policy of the Ministry of the Economy imposed a fine on Mr Saquetti Iglesias equivalent to the total amount confiscated.

In October 2011 Mr Saquetti Iglesias lodged an administrative appeal, which was dismissed by the Madrid Higher Court of Justice. The Higher Court's judgment stated that the case was not open to appeal on points of law because of a recent amendment to the Administrative Court Act, increasing the minimum amount for appeals on points of law from EUR 150,000 to EUR 600,000. Mr Saquetti Iglesias lodged an *amparo* appeal, which was dismissed by the Constitutional Court on the grounds that the applicant had not provided sufficient justification of the "particular constitutional importance" of his appeal.

Relying on Article 2 of Protocol No. 7 (right of appeal in criminal matters) to the Convention, Mr Saquetti Iglesias complained that he had been unable to obtain a review by a higher court of the judgment of the Madrid Higher Court of Justice.

Violation of Article 2 of Protocol No. 7

Just satisfaction: EUR 9,600 (non-pecuniary damage) and EUR 5,000 (costs and expenses)

S.F. v. Switzerland (no. 23405/16)

The applicant, Ms S.F., is a Swiss national who was born in 1956 and lives in Berikon.

The case concerned the alleged failure of the State in its obligation to protect the life of the applicant's son, who had committed suicide in a police cell, as well as in its duty to conduct an effective investigation into the circumstances of the death.

On Sunday 28 September 2014, at around 9 p.m., in Birmensdorf (Zurich Canton), the applicant's son, D.F., aged forty, caused a road accident while driving a car belonging to his employer. He was under the influence of alcohol and medication. He sustained no serious injuries and caused no third-party damage.

In order to draw up their report, the police officers sent to the scene of the accident decided to involve in the proceedings Ms F., who had been called by her son and had meanwhile also arrived on the scene.

It was deemed necessary to obtain blood and urine samples from D.F. for evidentiary purposes. The two police officers took D.F. to a hospital, where they were joined by Ms F., who had followed them in her own car. At the hospital, after he had been informed of the need to conduct further examinations, D.F. began to be much more agitated.

At around 10.50 p.m. a police officer called the Zurich Cantonal Police Traffic Management Centre from the hospital, informing it that a doctor had to be sent to the Urdorf motorway police station because D.F., who was to be taken there, had voiced suicidal intentions.

At about 11.15 p.m. D.F. arrived at the Urdorf motorway police station with the two police officers and the applicant.

At the centre the police officers decided to take D.F. to a cell located in the basement of the police station. D.F. began to protest violently about his placement in the cell and attempted to run away. After D.F. had been taken back to his cell by the police officers by force, the latter finally managed to persuade him to stay there until the doctor arrived.

At around 00.35 a.m. the doctor who had been called out arrived at the motorway police station. He decided to postpone his visit to D.F.'s cell until police reinforcements had arrived.

At 01.05 a.m., when the other police officers had arrived at the police station, the doctor went with them to D.F.'s cell, where they found him hanging from a ventilation grid.

The police officers and the doctors were questioned as part of the preliminary police investigation,

By a decision of 30 April 2015, the Cantonal Supreme Court refused to instigate judicial proceedings in the absence of suspicion of a criminal offence. The court considered that there was no circumstantial evidence to suggest that the officers involved in the events leading to D.F.'s suicide had acted in breach of their official duties.

The applicant appealed to the Federal Court against that decision.

The Federal Court dismissed the appeal. It did not consider that any negligence had been demonstrated with regard to D.F.'s transfer to the motorway police station. It further considered that the decision to place D.F. in the cell had been justifiable in view of his aggressiveness and recalcitrance. The court took the view that the lower court had not been in breach of Federal law in refusing to initiate a criminal investigation against the police officers for manslaughter.

Relying on Article 2 (right to life), the applicant submitted that the authorities had failed in their positive obligation to take preventive measures to protect her son from himself. She considered that the investigations conducted by the authorities had not fulfilled the requirements of Article 2.

Violation of Article 2 (right to life)

Violation of Article 2 (investigation)

Just satisfaction: EUR 5,796 (pecuniary damage), EUR 50,000 (non-pecuniary damage) and EUR 22,307 (costs and expenses)

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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.