



Judgments concerning Bulgaria, Hungary, Italy, Romania, Serbia and Turkey

The European Court of Human Rights has today notified in writing the following 14 judgments, of which three (in italics) are Committee judgments and are final. The others are Chamber judgments¹ and are not final.

Repetitive cases² and one length-of-proceedings case, with the Court's main finding indicated, can be found at the end of the press release. The judgments in French are indicated with an asterisk (*).

The Court has also delivered today its judgment in the case of López Guió v. Slovakia (application no. 10280/12), for which a separate press release has been issued.

Khadzhev v. Bulgaria (application no. 44330/07)

The applicant, Annadurdy Khadzhev, is a Turkmen and Russian national who was born in 1957 and lives in Varna. The case concerned Mr Khadzhev's detention pending extradition to Turkmenistan. In October 2001 Mr Khadzhev moved to Bulgaria with his wife and children. Two sets of extradition proceedings were subsequently brought against him by the Turkmen authorities in 2002 and 2006 on charges of aggravated embezzlement of public funds, allegedly committed when he worked as deputy chair of the Turkmenistan Central Bank. The first extradition request was rejected in May 2003 on the ground that Mr Khadzhev could not have committed the alleged offence as he had not been employed at the bank when the embezzlement had taken place and that the criminal proceedings against him in Turkmenistan had been brought with a view to persecuting him for his involvement in activities which criticised the Turkmen political regime. He was detained from 4 to 17 December 2002 pending this first extradition request. He was detained again on 19 February 2007 pending the second extradition request and was released on 12 April 2007 when extradition was refused once more. In the meantime, criminal proceedings regarding the embezzlement charges were brought against him in Bulgaria; they were discontinued in February 2004 due to a lack of evidence. Relying on Article 5 § 1 (f) (right to liberty and security) of the European Convention on Human Rights, Mr Khadzhev alleged in particular that his second period of detention – from 19 February 2007 to 12 April 2007 – had been unlawful and arbitrary as the Bulgarian authorities had not taken into account either the fact that both extradition requests had been identical or the outcome of the criminal proceedings against him.

Violation of Article 5 § 1

Just satisfaction: 2,650 euros (EUR) (non-pecuniary damage) and EUR 1,000 (costs and expenses)

Harrison McKee v. Hungary (no. 22840/07)

The applicant, Lee Sydney Harrison McKee, is an Australian national who was born in 1948 and lives in Surfers Paradise (Australia). The case concerned an allegation of excessive court fees in respect of a compensation claim. In 2003 Mr Harrison McKee brought civil proceedings against a Hungarian

¹ Under Articles 43 and 44 of the Convention, Chamber judgments are not final. During the three-month period following a 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

² In which the Court has reached the same findings as in similar cases raising the same issues under the Convention.

public prosecutor alleging that she had violated his personality rights in criminal proceedings brought against him in Hungary. The Hungarian courts ultimately dismissed his claim in July 2007, finding that the prosecutor expressing her opinion in the context of criminal proceedings had been a legitimate exercise of her powers, and ordered him to pay 1,836,000 Hungarian forints (approximately 6,000 euros) in court fees. Relying in particular on Article 6 § 1 (right to a fair trial) of the Convention, Mr Harrison McKee alleged that he had been required to pay excessive court fees following the dismissal of his civil claim.

No violation of Article 6 § 1

Just Satisfaction

Dumitru v. Romania (no. 4710/04)*

The applicant, Gheorghe Ioan Dumitru, is a Romanian national who lodged an application with the Court on 31 October 2003 to complain about his conviction for defamation and about the non-enforcement of a court decision in his favour restoring ownership of a lake to him. In its principal [judgment of 1 June 2010](#), the Court found that there had been a violation of Articles 6 § 1 (right to a fair hearing) and 10 (freedom of expression) on account of the unfairness of the defamation proceedings against him and the disproportionate interference with his right to freedom of expression. The Court also found that there had been a violation of Article 1 of Protocol No. 1 (protection of property) on account of the failure by the national authorities to enforce a final judicial decision in his favour. Today's judgment concerned the question of just satisfaction (Article 41).

Just satisfaction: EUR 10,000 (non-pecuniary damage) and EUR 1,500 (costs and expenses) to the applicant's heirs, jointly.

Habimi and Others v. Serbia (no. 19072/08)

The case concerned allegations of ill-treatment in the Niš Penitentiary (Serbia) in November 2006 during a special police operation to bring an end to a prisoner revolt. The 37 applicants in the case are 36 Serbian nationals and one national of Kosovo^[1], born between 1953 and 1984, who were all detained in the Niš Penitentiary at the time of the revolt. Protests had broken out in a number of prisons throughout Serbia regarding demands for the Serbian Parliament to enact amnesty-related legislation. In the Niš Penitentiary, violent clashes had been triggered between prisoners and on 23 November 2006 all prison staff had abandoned the establishment, thus leaving 600 prisoners without any official supervision. It was therefore decided to launch a large-scale police intervention and on 24 November 2006 the protests were brought under control. The applicants alleged that the police officers and/or prison guards involved in the intervention had beaten them with baseball bats and truncheons and had forced them to run between two rows of men, who had kicked them as they passed by and that, as a result, they had sustained various injuries, including fractured bones, bruises and concussions. They also alleged that the ensuing official investigation into their allegations had been ineffective. They relied on Article 3 (prohibition of inhuman or degrading treatment).

Violation of Article 3 (investigation)

No violation of Article 3 (treatment)

Just satisfaction: EUR 3,500 to each applicant (non-pecuniary damage) and EUR 5,000 to the applicants jointly (costs and expenses)

^[1] All reference to Kosovo, whether to the territory, institutions or population, shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

Ahmet Eryılmaz v. Turkey (no. 23501/07)*

The applicant, Ahmet Eryılmaz, is a Turkish national who was born in 1979 and lives in Bursa. The case concerned the absence of a lawyer during his police custody and a refusal to examine a prosecution witness. Mr Eryılmaz, a medical student, used to obtain drugs for his personal use from an individual named Efe ("Agent X"). The latter, who was an informer recently recruited by the police, helped the police to set up an operation to secure Mr Eryılmaz's arrest for drug trafficking. Following the operation, the applicant was arrested and taken into police custody without the assistance of a lawyer. He was later remanded in custody by a judge. During the pre-trial proceedings, the lawyer's requests for evidence to be taken from Agent X were rejected. Mr Eryılmaz was sentenced to two years and one month in prison and was also fined. Relying in particular on Article 6 §§ 1 and 3, he notably complained that he had been questioned without the assistance of a lawyer while in police custody.

Violation of Article 6 § 3 (c) in conjunction with Article 6 § 1 – on account of the lack of legal assistance afforded to the applicant while in police custody

Just satisfaction: EUR 1,500 (non-pecuniary damage) and EUR 1,000 (costs and expenses)

Aktepe and Kahrıman v. Turkey (no. 18524/07)*

The six applicants are Turkish nationals who are the relatives of a military service conscript, Ferit Aktepe, who committed suicide on 1 March 2005 during his compulsory military service. Having been found fit for service by the doctors, Ferit Aktepe had not informed the authorities of any particular problem. But during his military service he showed signs of anxiety and took drugs. His weapon was taken from him as a safety measure. On 1 March 2005 he was found to have been lethally wounded by a weapon belonging to one of the other conscripts. Relying in substance on Article 2 (right to life), the applicants complained about their relative's death. In their submission, the military authorities should have taken appropriate measures in order to protect him from physical and mental injury. They further complained that the related investigation had been insufficient.

Violation of Article 2

Just satisfaction: EUR 1,365 to the six applicants jointly (pecuniary damage); EUR 9,000 to Ferit Aktepe's father and mother jointly, EUR 6,500 to his two brothers jointly, and 4,500 to his grandfather and grandmother jointly (non-pecuniary damage); and EUR 2,000 to the six applicants jointly (costs and expenses)

Buldu and Others v. Turkey (no. 14017/08)*

The four applicants, Çağlar Buldu, Barış Görmez, Ersin Ölgün and Nevzat Umdu are Turkish nationals, who were born between 1972 and 1983 and live in Istanbul and İzmir, except for Mr Görmez, who was being held at the Isparta military prison when he lodged his application. They are Jehovah's Witnesses who refuse to carry out their military service for reasons of conscience. Relying in particular on Article 3 (prohibition of inhuman or degrading treatment), all the applicants alleged that they had been prosecuted and convicted on account of their refusal to serve in the army and complained about treatment that they had allegedly sustained during the proceedings in question. They further argued that their criminal convictions had entailed a violation of Article 9 (freedom of thought, conscience and religion). Lastly relying on Article 6 (right to a fair hearing), Mr Görmez also complained that he had had to appear, as a civilian, before a court made up exclusively of military personnel.

Violation of Article 3 (inhuman and degrading treatment)

Violation of Article 9

Violation of Article 6 § 1 – in respect of Mr Görmez, on account of the lack of independence and impartiality of the military court

Just satisfaction: EUR 12,000 to Mr Buldu, EUR 15,000 to Mr Görmez, EUR 7,000 to Mr Ölgün, and EUR 5,000 to Mr Umdü (non-pecuniary damage); and EUR 5,000 each to Mr Buldu, Mr Görmez and Mr Ölgün, and EUR 3,650 to Mr Umdü (costs and expenses)

Yiğitdoğan v. Turkey (no. 72174/10)

The applicant, Yüksel Yiğitdoğan, is a Turkish national who was born in 1968 and is currently serving a sentence of life imprisonment in Kocaeli (Turkey) for membership of an illegal organisation and involvement in several armed acts of that organisation, including murder. He was arrested in July 1999 and ultimately convicted as charged in September 2008. Mr Yiğitdoğan alleged that he had been severely beaten during his arrest and then, when transferred to Istanbul Security Headquarters for seven days, had been subjected to electric shocks, hung by the arms, hosed with cold water and sexually assaulted. Relying in particular on Article 3 (prohibition of inhuman or degrading treatment), he argued notably that the national courts had failed to obtain medical reports which would have proved his allegations and would have refuted the statement by the police that his injuries had been caused when they had had to resort to force during his arrest, alleging also that the authorities' ensuing investigation into his allegations of ill-treatment had been ineffective. Further relying in particular on Article 6 §§ 1 and 3 (c) (right to a fair trial), he also complained that the criminal proceedings against him had been unfair, notably because he had not been provided with the assistance of a lawyer while in police custody.

No violation of Article 3 (ill-treatment)

Violation of Article 3 (investigation)

Violation of Article 6 § 3 (c) in conjunction with Article 6 § 1 – on account of the lack of legal assistance afforded to the applicant while in police custody

Just satisfaction: EUR 16,000 (non-pecuniary damage) and EUR 2,000 (costs and expenses)

Repetitive cases

The following cases raised issues which had already been submitted to the Court.

Rossi and Variale v. Italy (no. 2911/05)

This case concerned the applicants' complaint that the local authorities had taken possession of land they owned in Crispano to begin the construction of a road without using a formal expropriation procedure. They relied in particular on Article 1 of Protocol No. 1 (protection of property).

Violation of Article 1 of Protocol No. 1

Salvatore and Others v. Italy (nos. 1635/03, 22395/03, 22399/03, 22400/03, 22402/03, and 22406/03)*

In these cases, relying on Article 6 § 1 (right to a fair trial), the applicants complained about the length of the proceedings to which they were parties, their failure to obtain redress through "Pinto" proceedings and the length of the latter.

Violation of Article 6 § 1 – on account of the length of the main proceedings

Just Satisfaction

Dragalina v. Romania (no. 17268/03)*

Maria and Dorel-Dănuț Barbu v. Romania (no. 14332/03)*

Petroiu and Others v. Romania (no. 30105/05)*

In these cases, the Court found that there had been a violation of Article 6 § 1 (right to a fair hearing) and of Article 1 of Protocol No. 1 (protection of property).

The Court found, respectively, in each of these cases, that the State had not made all the necessary efforts in order to enforce a judgment obliging the local authorities to return a plot of land to the applicant, that there had been a failure to enforce judicial decisions ordering local councils to provide the applicants with a plot of land adjacent to their house, and that no compensation had been paid for the deprivation of possessions sustained by some of the applicants.

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

Just satisfaction:

- in the case of *Dragalina*: EUR 40,200 (pecuniary damage) and EUR 4,700 (non-pecuniary damage)
- in the case of *Maria and Dorel-Dănuț Barbu*: EUR 4,700 to the two applicants jointly (non-pecuniary damage). With regard to pecuniary damage, the Court held that Romania was to (i) issue the applicants with title to the part of the land in their possession and (ii) grant them effective possession of and title to the remainder of the land, failing which it would have to pay the applicants jointly the sum of EUR 35,000 in respect of pecuniary damage.
- in the case of *Petroiu and Others*: EUR 142,052 to all applicants jointly (pecuniary damage), EUR 1,500 to each applicant (non-pecuniary damage), and EUR 1,270 to all applicants jointly (costs and expenses)

Length-of-proceedings case

In the following case, the applicant complained in particular under Article 6 § 1 (right to a fair hearing within a reasonable time) about the excessive length of civil proceedings.

Jáhny v. Hungary (no. 25279/06)

Violation of Article 6 § 1

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court's press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHR_Press](https://twitter.com/ECHR_Press).

Press contacts

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

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

Céline Menu-Lange (tel: + 33 3 90 21 58 77)

Nina Salomon (tel: + 33 3 90 21 49 79)

Denis Lambert (tel: + 33 3 90 21 41 09)

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.