



Judgments concerning Armenia, Bulgaria, Georgia, Latvia, Montenegro, Poland, Romania, Russia, Serbia, Slovakia, and Turkey

The European Court of Human Rights has today notified in writing the following 28 judgments, of which two (in italics) are Committee judgments and are final. The others are Chamber judgments¹ and are not final.

Length-of-proceedings cases, 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 (*).

Antonyan v. Armenia (application no. 3946/05)

The applicant, Venera Antonyan, is an Armenian national who was born in 1937 and lives in Yerevan. The case concerned a flat in Yerevan which had been allocated to her during the Soviet period under a tenancy agreement and which she had acquired ownership of in 1993 when it had been privatised. In 1981 she had agreed to register her niece (now deceased) at her flat and subsequently her two children. Relying on Article 1 of Protocol No. 1 (protection of property) of the European Convention on Human Rights, she complained that in 2004 the Armenian authorities had refused to cancel the registration at her flat of her late niece's children and had required her to pay them compensation in order to terminate their right to live in the flat.

Violation of Article 1 of Protocol No. 1

Just satisfaction: 3,000 euros (EUR) (non-pecuniary damage)

Sefilyan v. Armenia (no. 22491/08)

The applicant, Zhirayr Sefilyan, is a Lebanese national who was born in 1967 and lives in Yerevan. He holds leading positions in several non governmental organisations, including the Unity of Armenian Volunteers, and is an active critic of the Armenian authorities. In December 2006 he was arrested and charged with making calls for a violent overthrow of the government during a speech he had given at a meeting organised by the Unity of Armenian Volunteers. He was also accused of keeping a weapon without a permit after his demobilisation in 1998. In August 2007 he was acquitted of the first charge and found guilty of the second and sentenced to one year and six months' imprisonment. Relying on Article 5 §§ 1, 3 and 4 (right to liberty and security) of the Convention, he made a number of complaints about his detention and its extension. Notably, he alleged that his detention between 10 and 22 June 2007 had been unlawful as it had not been authorised by a court, that the courts had refused to grant bail without providing reasons and that proceedings in February 2007 concerning his continued detention had not been adversarial. Further relying on Article 8 (right to respect for correspondence),

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

Mr Sefilyan also complained that his telephone conversations had been tapped for six months in 2006 and that at that time Armenian law, lacking clear and detailed rules on secret surveillance, had not provided sufficient safeguards against possible abuse.

Violation of Article 5 § 1 (unlawfulness of detention between 10 and 22 June 2007)

Violation of Article 5 § 3 (failure to provide relevant and sufficient reasons for continued detention)

Violation of Article 5 § 4 (in that the proceedings in February 2007 concerning Mr Sefilyan continued detention had not been adversarial)

Violation of Article 8

Just satisfaction: EUR 6,000 (non-pecuniary damage) and EUR 55 (costs and expenses)

Yordanova and Toshev v. Bulgaria (no. 5126/05)

The applicants, Svetlana Yordanova and Toshko Toshev, are Bulgarian nationals who were born in 1970 and 1942 respectively. At the time of the events, Ms Yordanova was employed as a journalist at the national daily newspaper *Trud* and Mr Toshev was the paper's editor in chief. Relying on Article 10 (freedom of expression), they complained of being found liable for defamation and ordered to pay damages in January 2005 in respect of two articles published in *Trud* in May and August 1996 about a former employee of the Ministry of Internal Affairs, who had been investigated for abuse of public office.

Violation of Article 10

Just satisfaction: EUR 4,500 (non-pecuniary damage) and EUR 1,518 (costs and expenses) to Ms Yordanova. M. Toshev did not submit any claim for just satisfaction.

Kakabadze and Others v. Georgia (no. 1484/07)

The applicants, Irakli Kakabadze, Lasha Chkhartishvili, Jaba Jishkariani, Zurab Rtveliashvili and Davit Dalakishvili are Georgian nationals who were born in 1969, 1980, 1985, 1967 and 1984 respectively and live in Tbilisi. They are members of the Equality Institute, a Georgian non-governmental organisation. The case concerned their arrest and punishment by detention, imposed as an administrative sanction by a court on the day of their arrest, for their participation in a demonstration on 29 June 2006 to express their support for two owners of a TV channel, who were on trial that day. The applicants complained that their arrest, conviction for breach of public order and contempt of court, and subsequent punishment by deprivation of liberty, had been unlawful and unfair, in breach of Article 5 § 1 (right to liberty and security) and Article 6 §§ 1 and 3 (c) (right to a fair trial). They further complained that their arrest and detention had violated their rights under in particular Articles 10 (freedom of expression) and 11 (freedom of assembly and association). Finally, relying on Article 2 of Protocol No. 7 (right of appeal in criminal matters), they complained that they had had no right of appeal against their conviction.

Violation of Article 5 § 1

Violation of Article 6 § 1 taken together with Article 6 § 3 (c)

Violation of Article 11

Violation of Article 2 of Protocol No. 7

Just satisfaction: EUR 6,000 (non-pecuniary damage) to each applicant and EUR 5,957 (costs and expenses) to the applicants jointly

Jurijs Dmitrijevs v. Latvia (no. 37467/04)*

The applicant, Jurijs Dmitrijevs, is a former national of the USSR, "a non-citizen, permanent resident" of Latvia, who was born in 1974 and, according to the information available to the Court, is currently serving a sentence in Brasa Prison in Riga. From 1995 onwards he was placed under psychiatric monitoring for "schizophrenic psychosis" and already had two convictions. On 7 October 1999 he was apprehended by a private company's security guards during a hold-up. He was immediately taken to the police station as a suspect. According to the report of the doctor who examined him in hospital that very evening, the applicant had two injuries, one behind the ear, the other in the occipital region. The applicant alleged that he had been interrogated again and beaten up by the same security guards at the police station the next day. When he was taken to the neurology unit of the prison hospital that same day, the doctor identified a new series of injuries. On 13 October the applicant began to show signs of expressive aphasia. He was treated in hospital until 1 November 1999, when he was transferred to the central prison in Riga, then on the same day he was beaten up in a basement by prison officers. In June 2002 he was sentenced to eight years' imprisonment. On 26 October 2004 he was once again subjected to the use of force by a special unit of the prison administration. The applicant complained that he had been the victim of ill-treatment prohibited by Article 3 (prohibition of inhuman or degrading treatment), inflicted on him by officers of the central prison of Riga on 1 November 1999, and by officers of the special disciplinary unit of the prison administration on 26 October 2004. Also relying on Article 6 § 1 (right to a fair hearing within a reasonable time), he complained about the length of the criminal proceedings brought against him as well as the proceedings brought against the prison officers of the central prison of Riga who had beaten him.

Violation of Article 3 (applicant's ill-treatment on 1 November 1999 + investigation)

No violation of Article 3 (concerning the incident on 26 October 2004)

Two violation of Article 6 § 1 (length of both the criminal and non-criminal proceedings)

Just satisfaction: EUR 5,000 (non-pecuniary damage)

Mitkus v. Latvia (no. 7259/03)

The applicant, Andris Mitkus, is a Latvian national who was born in 1959. Convicted of extortion in April 2001 and of robbery in July 2002, and sentenced to two and a half years' and eight years' imprisonment respectively, he alleged that he had been infected with HIV and hepatitis C while in prison, when medical staff had used a multiple-use syringe to take a sample of his blood, and complained that no adequate investigation had been conducted by the authorities into his allegation. He relied on Article 3 (prohibition of inhuman or degrading treatment). Further relying on Article 6 § 1 (right to a fair trial within reasonable time), he complained about the excessive length of the criminal proceedings against him. Relying on Article 6 § 3 (d) (right to examine or have examined witnesses against oneself), he also complained that the criminal courts had not heard witnesses on his behalf. Under Article 6 § 1, he further complained in particular that he had not been transported to an appeal court hearing concerning two civil claims he had brought for damages. Finally, he complained that a newspaper article which had disclosed information about his HIV infection, and had published his photo, had violated his rights under Article 8 (right to respect for private life).

Violation of Article 3 (investigation)

Violation of Article 6 § 3 (d)

Violation of Article 6 § 1

Violation of Article 8

Just satisfaction: EUR 16,000 (non-pecuniary damage)

Velimirović v. Montenegro (no. 20979/07)

The applicant, Milutin Velimirović, is a Montenegrin national who was born in 1940 and lives in Danilovgrad (Montenegro). The case concerned his complaint about the non-enforcement of a final domestic judgment of 1992 concerning flat-allocation by his employer. He relied on Article 6 § 1 (right to a fair trial).

Violation of Article 6 § 1

Just satisfaction: EUR 3,600 (non-pecuniary damage) and EUR 725 (costs and expenses)

Czaja v. Poland (no. 5744/05)

Kapel v. Poland (no. 16519/05)

Kluska v. Poland (no. 33384/04)

Kowal v. Poland (no. 21913/05)

Kura v. Poland (no. 17318/04)

Lasota v. Poland (no. 6762/04)

Antoni Lewandowski v. Poland (no. 38459/03)

Płaczkowska v. Poland (no. 15435/04)

Rusin v. Poland (no. 25360/04)

Trznadel v. Poland (no. 5970/05)

The ten applicants, all from the same region of Poland, Rzeszów, are parents of children who require constant care due to serious health conditions such as epilepsy, asthma, bronchitis and chronic allergies. Their cases concerned their complaint about the revocation in 2002 of their early-retirement pensions (the so-called "EWK" pension) which they had been awarded to care for their children. They all relied in particular on Article 1 of Protocol No. 1 (protection of property). There are currently some 130 similar applications pending before the European Court of Human Rights.

Violation of Article 1 of Protocol No. 1

Just satisfaction: Making an assessment on an equitable basis, the Court awarded each applicant between EUR 8,000 and 12,000 (pecuniary and non-pecuniary damage).

Hulea v. Romania (no. 33411/05)*

The applicant, Gabriel Hulea, is a Romanian national who was born in 1969 and lives in Bacău (Romania). He was an electrician in the Romanian army. His second son was born on 17 December 2001 and, for the first ten months his wife, a teacher, enjoyed parental leave. On 9 September 2002 the applicant lodged a request for parental leave with his superior, arguing that his wife had to go back to work so as not to lose the benefit of her permanent teacher status. This request was made on several occasions. The Defence Ministry refused to grant him parental leave on the ground that by law such leave was granted only to female personnel. Mr Hulea brought proceedings before a court, which dismissed his claim. The Constitutional Court, which also heard the case, found that the law in question infringed the principle of equality before the law and that of discrimination on grounds of sex, both enshrined in the Constitution. However, on 16 March 2005 the Court of Appeal dismissed the applicant's appeal on points of law with final effect. Mr Hulea argued that the refusal to grant him parental leave constituted

discrimination on grounds of sex. He relied in particular on Article 14 (prohibition of discrimination) taken together with Article 8 (right to respect for private and family life) in respect of the proceedings that had led to the rejection of his claims in this connection.

Violation of Article 14 taken together with Article 8

Just satisfaction: EUR 8 000 (non-pecuniary damage)

Knecht v. Romania (no. 10048/10)

The applicant, Daniela Knecht, is a German and American national who was born in 1967. The case concerned her complaint that she had been prevented from becoming a mother by means of *in vitro* fertilisation due to the State's refusal to transfer embryos she had deposited with a private clinic and which, when the clinic came under criminal investigation, had been seized and deposited at the Institute of Forensic Medicine, which had not been authorised to function as a genetic bank. She relied on Article 8 (right to respect for private and family life).

No violation of Article 8

Bortkevich v. Russia (no. 27359/05)

The applicant, Vladimir Bortkevich, is a Russian national who was born in 1969 and until his conviction lived in Vologda (Russia). In November 2001 he was convicted of assault causing grave bodily harm and sentenced to nine years' imprisonment. He complained in particular, relying on Article 6 § 1 (right to a fair trial), about the failure of the domestic courts to ensure his presence at hearings in the civil proceedings he had brought claiming compensation for conditions of his post-conviction detention in Sokol correctional colony.

Violation of Article 6 § 1

Just satisfaction: EUR 1,500 (non-pecuniary damage)

Khrabrova v. Russia (no. 18498/04)

The applicant, Irina Khrabrova, is a Russian national who was born in 1963 and lives in Moscow. She was a secondary school teacher in Moscow until her dismissal in February 2002 following a dispute with a pupil during a lesson. The case concerned her complaint about the unfairness of the ensuing civil proceedings she had brought against the school in which she had sought compensation and to be reinstated. She notably complained about the domestic courts' refusal to call the pupils who had been eye-witnesses to the dispute during one of their lessons and the lack of a public hearing on the case. She relied on Article 6 § 1 (right to a fair trial).

Two violation of Article 6 § 1 (unfairness and lack of a public hearing)

Just satisfaction: EUR 4,000 (non-pecuniary damage)

Pelipenko v. Russia (no. 69037/10)

The applicants, Svetlana and Aleksandr Pelipenko, mother and son, are Russian nationals who were born in 1963 and 1985 respectively and live in the town of Anapa, Krasnodar Region (Russia). Ms Pelipenko has worked at a former State-owned seaside health resort in Anapa since 1989. The case concerned their eviction in 2010 from two rooms in a former administrative building for staff members of the resort – where they

had resided for 20 years – following the transfer of the property into private hands. They complained in particular about the non-enforcement of a final judgment in their favour of November 2001 in which the courts had dismissed the action seeking their eviction, finding it established that the rooms had been their permanent place of residence. They relied on Article 6 (right to a fair trial) and Article 8 (right to respect for private and family life and home).

Violation of Article 6 § 1

Violation of Article 8

Just satisfaction: The Court reserved the question of just satisfaction and invited the parties to submit within three months their written observations on the matter.

Adamović v. Serbia (no. 41703/06)

The applicant, Predrag Adamović, is a Serbian national who died in August 2007. His wife continued the application before the European Court in his stead. The case concerned non-enforcement of a judgment of November 2002 awarding Mr Adamović unpaid allowances from his former employer. He relied on Article 6 § 1 (right to a fair trial) and Article 1 of Protocol No. 1 (protection of property).

Violation of Article 6 § 1

Violation of Article 1 of Protocol No. 1

Just satisfaction: The Court held that the Government had to pay Mr Adamović, within three months from the date on which the judgment becomes final, the amounts awarded in the judgment of November 2002 together with social contributions and interest. The Court further awarded the applicant EUR 4,700 (non-pecuniary damage) and EUR 50 (costs and expenses).

Jovanović v. Serbia (no. 32299/08)

The applicant, Vladeta Jovanović, is a Serbian national who was born in 1944 and lives in Kruševac (Serbia). The case concerned a civil claim filed against Mr Jovanović by his brother concerning the validity of a maintenance contract concluded between Mr Jovanović and their late mother in respect of a house in which she had lived. The courts allowed the claim, declaring the contract partially void, and the Supreme Court rejected Mr Jovanović's appeal in September 2007, finding that the value of the dispute was below the applicable threshold of 300,000 dinars (approximately 4,500 euros). Relying in particular on Article 6 § 1 (right to a fair trial), he complained that he had been arbitrarily denied access to the Supreme Court, since he had challenged the value of the dispute and the first-instance court had affirmed that the value was 600,000 dinars.

Violation of Article 6

Just satisfaction: EUR 850 (costs and expenses)

Önal v. Turkey (nos. 41445/04 and 41453/04)*

The applicant, Ahmet Önal, is a Turkish national who was born in 1956 and lives in Istanbul. Both his applications concerned criminal proceedings brought against him for publishing works which had allegedly incited hatred and hostility. According to the first application, of December 1999, the publishing house of which he is the proprietor published the biography (in 4,000 copies) of a businessman of Kurdish origin accused of drug trafficking and belonging to the illegal armed organisation PKK (Kurdistan Workers' Party). In a decision of 4 January 2000 the court ordered all copies of the work to be

seized and in a bill of indictment of 7 January 2000 the public prosecutor brought criminal proceedings against the applicant for inciting hatred and hostility on the basis of a racial distinction. Following the judicial proceedings he was sentenced on 7 November 2002 to one year and eight months' imprisonment, and to payment of a fine; the sentence was later commuted to a "heavy fine"². According to the second application, of April 1999, Mr Öner's publishing house had published the second edition of a work that had initially been published in Sweden in 1995 on the subject of the Alevi of Dersim. On 25 July 1999 the court ordered the seizure of all copies, finding that the work divided the people between Turks and Kurds, Alevi and Sunnis, and thus incited hatred and hostility. Following the judicial proceedings, Mr Öner was sentenced on 31 December 2002 to a prison sentence of one year and eight months, later commuted to a "heavy fine". Mr Öner complained, among other things, that his right to freedom of expression had not been taken into consideration by the courts, which had given him harsh sentences even though the two works had contained neither an incitation to hatred, nor violations of the rights of others, nor any glorification of crime. He relied on Article 10 (freedom of expression).

Violation of Article 10

Just satisfaction: EUR 6 000 (pecuniary and non-pecuniary damage)

Length-of-proceedings cases

In the following cases, the applicants complained in particular about the excessive length of (non-criminal) proceedings.

Stakić v. Montenegro (no. 49320/07)

Laduna v. Slovakia (n° 2) (no. 13439/10)

Tresa v. Slovakia (no. 209/10)

Violation of Article 6 § 1 (in all three cases)

Violation of Article 13 (in the case of *Stakić*)

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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.

² Until the amendment of November 2004, the term "heavy fine" meant in Turkish criminal law that the convicted person could be imprisoned for non payment.