



Judgments concerning Bosnia and Herzegovina, Denmark, Hungary, Italy, the Republic of Moldova, Romania and Turkey

The European Court of Human Rights has today notified in writing the following 11 judgments, of which two (in italics) are Committee judgments and are final. The others are Chamber judgments¹ and are not final.

Repetitive cases² and 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 (*).

The Court has also delivered today judgments in the cases of Harakchiev and Tolumov v. Bulgaria (applications nos. 15018/11 and 61199/12), M.P.E.V. and Others v. Switzerland (no. 3910/13), Nedim Şener v. Turkey (no. 38270/11) and Şık v. Turkey (no. 53413/11), for which separate press releases have been issued.

M.E. v. Denmark (application no. 58363/10)

The applicant, M.E., is a stateless Palestinian and was apparently born in Syria in 1982. He currently lives in Sweden. The case concerns his expulsion from Denmark to Syria in 2010.

The applicant entered Denmark in 1990, when he was seven years old, and was granted asylum in 1993. His father lives in Denmark but his mother and other relatives live in Syria. He has two children, born in 2001 and 2004, from two previous marriages in Denmark. In August 2006 he was convicted in a final judgment of 26 drug-related offences involving 2.68 kg of heroin and cocaine and sentenced to seven years' imprisonment. The courts, finding that the applicant was poorly integrated in Danish society with previous convictions of assault, human trafficking and theft, also ordered his expulsion. The Aliens Service, and on appeal, the Refugee Appeals Board, examined whether the applicant could be expelled or not, and in a final decision of December 2009 found that he could be deported to Syria. All the applicant's subsequent requests to review the expulsion order were rejected and he was ultimately expelled to Syria on 3 November 2010.

Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment), the applicant complained that he had been detained and tortured by the Syrian authorities upon his return, alleging that the Danish authorities should have been aware that he had been at such risk on account of his conviction for drugs offences in Denmark. Further relying on Article 8 (right to respect for private and family life), he alleged that his deportation had separated him from his two children born out of his previous two marriages as well as his new wife, who he had met when imprisoned in Denmark and with whom he had been expecting another child.

The applicant was released from detention in Syria on 4 December 2010 and, having fled the country, entered Sweden in November 2011 where he was granted asylum in the summer of 2013.

No violation of Article 3
No violation of Article 8

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.

Revision

De Luca v. Italy (no. 43870/04)*

Pennino v. Italy (no. 43892/04)*

The applicants, Giovanni De Luca and Ciro Pennino, are Italian nationals who were born in 1927 and 1935 respectively and live in Benevento (Italy).

The case concerned a request for revision of judgments by the European Court of Human Rights in cases relating to claims for damages lodged by the applicants against the municipality of Benevento, which owed them sums of money and which had declared itself insolvent in 1993. More broadly, the cases dealt with the impact of the Italian legislation on local authorities facing financial difficulties.

In its judgments of 24 September 2013 the European Court held in both cases that there had been a violation of Article 1 of Protocol No. 1 (protection of property) on account of their inability to obtain payment of the debt owed to them, and a violation of Article 6 § 1 (right to a fair trial) since the applicants had been deprived for an excessively long time of their right of access to a court in order to secure enforcement of the judgment recognising the debt owed to them by the municipality. The Court also awarded Mr De Luca 50,000 euros (EUR) in respect of pecuniary damage and EUR 5,000 in respect of costs and expenses. It awarded Mr Pennino EUR 30,000 in respect of pecuniary damage and EUR 5,000 in respect of costs and expenses.

The Government requested the revision of the judgments of 24 September 2013 on the grounds that a relevant new fact had emerged since its delivery, namely the payment of the debt owed to the applicants, together with statutory interest and a sum to compensate for inflation.

In both cases, the Court decided to reject the request for revision (the Government could reasonably have been expected to know about the new facts before the delivery of the judgments of 24 September 2013).

Ciorap v. the Republic of Moldova (no. 4) (no. 14092/06)*

The applicant, Tudor Ciorap, is a Moldovan national who was born in 1965 and lives in Chişinău. The case concerned an operation which the applicant underwent while in detention.

Mr Ciorap suffers from a personality disorder. He has served several prison sentences for a variety of offences. Beginning in 1990, he was admitted to hospital on several occasions while in detention after he deliberately harmed himself, including by sticking nails into his abdomen in October 1999. He was operated on following that incident and was in a satisfactory condition when he left the prison hospital. On 9 November 2000 he was taken to the prison hospital, where the following preliminary diagnosis was made: "self-harm; multiple foreign bodies in digestive tract". Following radiological examinations which confirmed the presence of a metal object in Mr Ciorap's abdomen, an operation was performed on 21 December 2000 during which the doctors did not find any metal object.

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment), the applicant notably alleged that the operation in question had been carried out against his will, and complained of the authorities' refusal to prosecute the doctors who had performed it.

Violation of Article 3 – on account of the operation performed on the applicant

No violation of Article 3 (procedure) – on account of the authorities' refusal to prosecute the doctors

Just satisfaction: 9,000 euros (EUR) (non-pecuniary damage) and EUR 150 (costs and expenses)

Dulbastru v. Romania (no. 47040/11)*

The applicant, Cristian Dulbastru, is a Romanian national who was born in 1971 and lives in Bucharest. He was sentenced to a prison term for sexual perversion and sexual corruption of minors. The case concerned his conditions of detention.

Relying on Article 3 (prohibition of inhuman or degrading treatment), he complained in particular of the poor conditions of detention in Colibași Prison.

Violation of Article 3 – concerning the material conditions of the applicant’s detention

Just satisfaction: EUR 3,900 (non-pecuniary damage)

Stoian v. Romania (no. 33038/04)

The case concerned an allegation of police brutality.

The applicant, Vasile Stoian, is a Romanian national who was born in 1961 and lives in Bucharest. He is a lawyer and former police officer.

Mr Stojan alleged that on 19 September 1999 the police had beaten and kicked him without reason when pulling him over in his car for an identity check and that his resulting injuries, requiring up to 14 days of treatment, had been noted in a medical examination later the same day. The police denied this version of events, alleging that they had had to use force to immobilise Mr Stojan, who they had suspected of drunk driving and who had refused to accompany them to a laboratory to establish his blood alcohol content. Criminal proceedings brought against the police officers concerned had ultimately been dismissed by the domestic courts in January 2008 on the ground that Mr Stojan’s injuries had been self-inflicted. In the meantime, in August 2000 the criminal proceedings brought against Mr Stojan for driving a vehicle under the influence of alcohol, causing bodily harm and insulting behaviour towards the police had been discontinued.

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment), Mr Stojan complained of police brutality as well as of the inadequacy of the related investigation. He claimed in particular that the proceedings against the police officers had only been launched one and half years after his complaint into the incident and had been dismissed following a superficial but protracted investigation lasting more than nine years.

Violation of Article 3 (ill-treatment)

Violation of Article 3 (investigation)

Just satisfaction: EUR 9,000 (non-pecuniary damage) and EUR 210 (costs and expenses)

Yerli v. Turkey (no. 59177/10)

The case concerned an allegation of police ill-treatment.

The applicant, Mehmet Yerli, is a Turkish national who was born in 1982 and lives in Adana (Turkey).

Mr Yerli alleged that he had been arrested on 5 July 2001 while working at a street stand selling CDs in Adana and had then been taken to the local police station and ill-treated. The Government denied this version of events, contending that police officers, without making any arrest, simply went to Mr Yerli’s street stand following a complaint about damaged CDs. Mr Yerli lodged a criminal complaint against a police officer who he alleged had ill-treated him, complaining that his left eardrum had been perforated as a result of the officer punching him in the ear. The police officer was subsequently indicted and put on trial. However, the proceedings were ultimately discontinued in February 2010 as they had become time-barred.

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment), Mr Yerli alleged that he had been subjected to ill-treatment by the police. He further alleged that the length – five becoming time-barred, and that, during that time, he had not even been given the opportunity of confronting or identifying the accused police officer.

No violation of Article 3 (treatment)

Violation of Article 3 (investigation)

Just satisfaction: EUR 12,500 (non-pecuniary damage) and EUR 2,000 (costs and expenses)

Yurtsever and Others v. Turkey (no. 22965/10)*

The applicants are thirteen Turkish nationals³ who were born between 1946 and 1988 and live in various towns and cities in Turkey and Germany. The case concerned the death of their relative Metin Yurtsever in police custody.

On 19 November 1998 Metin Yurtsever was arrested by police officers from the counter-terrorism department while he was in the offices of the provincial branch of HADEP (People's Democracy Party, a pro-Kurdish left-wing party) in Kocaeli in western Turkey. On that day, numerous demonstrations had been held in different cities in Turkey following the arrest in Italy of Abdullah Öcalan, head of the illegal armed organisation the PKK (the Workers' Party of Kurdistan). The police officers used force in arresting Metin Yurtsever, claiming to have faced resistance from the persons present in the office. The applicant was placed in pre-trial detention on the same day. The following day, complaining of pain, he asked to be taken to hospital, where he underwent an operation for a thrombosis of the abdominal aorta, in the course of which he died. A medical report found that his death had been the result of a complication of his cardiovascular disorder following a general trauma to the body and the thorax, and that there was a causal link between his arrest and his death.

The Kocaeli public prosecutor's office started an investigation in December 1998, on conclusion of which criminal proceedings were brought against sixteen police officers involved in the incident. The public were excluded from the trial. On 26 December 2013 the assize court acquitted the accused on the grounds that the evidence against them was insufficient.

Relying in particular on Article 2 (right to life), the applicants alleged mainly that their relative Metin Yurtsever had died in police custody as a result of blows inflicted by police officers during his arrest and while he had been in police custody.

Violation of Article 2 (right to life + investigation)

Just satisfaction: a total of EUR 65,000 in respect of non-pecuniary damage (distributed as follows: EUR 21,000 to İsalet Yurtsever, EUR 16,000 each to Duygu Yurtsever and Diba Yurtsever, EUR 2,000 each to Gülnur Yurtsever, Kadriye Yurtsever, Selamet Yurtsever, Şadiye Yurtsever and Semra Yurtsever, and EUR 2,000 jointly to Emine Yurtsever, Tarkan Yurtsever, Özden Yurtsever, Türkan Sümerkan and Aylin Yurtsever), and EUR 5,937 to the applicants jointly in respect of costs and expenses.

Repetitive cases

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

Milinković v. Bosnia and Herzegovina (no. 21175/13)

Mišković v. Bosnia and Herzegovina (no. 7194/12)

³ İsalet Yurtsever, Duygu Yurtsever, Diba Yurtsever, Gülnur Yurtsever, Kadriye Yurtsever, Selamet Yurtsever, Sadiye Yurtsever, Semra Yurtsever, Emine Yurtsever, Tarkan Yurtsever, Özden Yurtsever, Aylin Yurtsever and Türkan Sümerkan.

These cases concerned the domestic authorities' failure to enforce final judgments in the applicants' favour. The applicants relied on Article 6 § 1 (right to a fair trial) and Article 1 of Protocol No. 1 (protection of property).

Violation of Article 6 – in both cases

Violation of Article 1 of Protocol No. 1 – in both cases

Length-of-proceedings case

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

Benkő and Soósné Benkő v. Hungary (no. 17596/12)

Violation of Article 6 § 1

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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.