EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Press Release
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Judgments concerning Hungary, Italy, Latvia, Poland, Slovakia, and Turkey

The European Court of Human Rights has today notified in writing the following nine judgments, of which two (in italics) are Committee judgments and are final. The others are Chamber judgments[1] and are not final.

Repetitive cases[2], 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 Vasilescu v. Belgium (application no. 64682/12), for which a separate press release has been issued.

Pákozdi v. Hungary (application no. 51269/07)

The applicant, Ildikó Pákozdi, is a Hungarian national who was born in 1976 and lives in Igar (Hungary). The case concerned her complaint about the lack of a public hearing before the court of final instance in the context of tax proceedings.

In 2004, Ms Pákozdi had tax surcharges imposed on her following a tax audit for the years 1999-2001. This decision was upheld by the second-instance tax authority. It noted in particular, with regard to the disputed funds, that it was implausible that her father had granted her a large loan so that she could provide a financial service to a cooperative whose majority shareholders were her own parents. In 2006, Ms Pákozdi sought judicial review of these decisions, which were overturned by the County Regional Court. This court found that Ms Pákozdi's father was under no obligation to prove the existence and origin of his income and property which had served as personal credit for his daughter. In 2007, the Supreme Court granted the tax authorities' petition for review, without holding an oral hearing. It found for the tax authorities, noting in particular that Ms Pákozdi could not give any reasonable explanation for the complicated scheme she had put forward.

Relying on Article 6 § 1 (right to a fair trial) of the European Convention on Human Rights, Ms Pákozdi complained that there had been no public hearing before the Supreme Court when revising the court of appeal's decision and endorsing the imposition of tax surcharges on her.

Violation of Article 6 § 1

Just satisfaction: 7,500 euros (EUR) (non-pecuniary damage) and EUR 2,000 (costs and expenses)

Liepiņš v. Latvia (no. 31855/03)

The applicant, Valdis Liepiņš, is a Latvian national who was born in 1965. The case concerned Mr Liepiņš' inability to participate in a cassation hearing following his conviction for aggravated theft by a lower court.

[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.

In January 2003, Mr Liepiņš lodged an appeal on points of law in his case. His appeal for review was accepted and he was informed that the cassation hearing would take place on 11 March 2003. Mr Liepiņš' attendance request of 27 February 2003 was subsequently refused on the grounds that it had not been made on time to organise his transport from prison to the court. At the hearing on 11 March 2003 the only party present was the public prosecutor. Mr Liepiņš' appeal on points of law was dismissed.

Relying on Article 6 § 1 (right to a fair trial), Mr Liepiņš complained in particular that he had been unable to participate in the cassation hearing at which the prosecutor's argument had been heard.

Violation of Article 6 § 1 – on account of the infringement of the principle of equality of arms

Just satisfaction: EUR 2,000 (non-pecuniary damage)

K.C. v. Poland (no. 31199/12)

The applicant, Ms K.C., is a Polish national who was born in 1936 and lived in Żary (Poland). The case concerned her enforced placement in a social care home in 2008 on the ground that she had been suffering from mental disorders.

In 1981, at the request of her daughter, Ms K.C. was declared partially incapacitated because she needed help as regards medical treatment and the amount of money she spent on alcohol. In 2007, social services requested her placement in a social care home, which – following her examination by two psychiatrists – was granted by a court decision of 19 June 2008. The court found in particular that, although Ms K.C. did not pose a danger to herself or society, her neglecting of the basic principles of hygiene and nutrition could lead to infections or undernourishment and that she needed to be under constant care. Ms K.C. appealed against this decision, without success. Her daughter's request that the measure in question be varied was dismissed in 2009, after Ms K.C. had been heard in court. Her attempt to vary the decision on her compulsory placement in the social care home was also dismissed in 2010.

Relying on Article 5 § 1 (right to liberty and security) and Article 5 § 4 (right to have lawfulness of detention decided speedily by a court), Ms K.C. complained about her compulsory placement and continued deprivation of liberty in the social care home, and that she had had no effective procedure by which she could challenge the lawfulness and the necessity of her confinement.

Violation of Article 5 § 1
No violation of Article 5 § 4

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

Borovská and Forrai v. Slovakia (no. 48554/10)
Mráz and Others v. Slovakia (no. 44019/11)

Both cases concerned land in the area of Košice-Sever that had been expropriated in the 1980s by the then socialist State in order to build a sports complex.

The applicants in the first case, Mária Borovská, Mária Buzová, and Štefan Forrai, are Slovak nationals who were born in 1948, 1937, and 1927 respectively. Ms Borovská and Mr Forrai live in Košice (Slovakia). Ms Buzová, who also lived in Košice, died in October 2013. The applicants in the second case are eight Slovak nationals who were born between 1937 and 1981 respectively and live in Košice and Cestice (Slovakia) and Čáslav (the Czech Republic).

The applicants are all the successors in title to the former owners of the land in Košice-Sever on which the sports complex was built. Claiming that they were the owners of the land, the applicants sought an arrangement of their relationship with the owners of the complex. Their claims were

however dismissed at second instance in February 2010 (first case) and May 2010 (second case) on the grounds that they had no standing to sue under the general civil law. The applicants' complaints to the Constitutional Court, alleging that the judgments in their cases were inconsistent with the outcomes in a number of other cases similar to theirs, were declared inadmissible in June 2010 (first case) and May 2011 (second case).

The applicants alleged that the proceedings dismissing their property claims had been arbitrary. In particular, they complained that the national courts had failed to respond to their argument that a number of generically similar claims concerning other plots of land on which the sports complex had been built had been granted. They relied in particular on Article 6 § 1 (right to a fair trial).

Violation of Article 6 § 1 – in respect of all applicants, except Ms Buzová, whose application was struck out of the Court's list of cases

Just satisfaction:

- in the case of *Borovská and Forrai*: EUR 5,200 each to Ms Borovská and Mr Forrai (non-pecuniary damage), and EUR 1,200 to them jointly (costs and expenses);

- in the case of *Mráz and Others*: EUR 5,200 to each of the eight applicants (non-pecuniary damage), and EUR 1,500 to all applicants jointly (costs and expenses).

Fatma Nur Erten and Adnan Erten v. Turkey (no. 14674/11)*

The applicants, Adnan Erten and Fatma Nur Erten, who are the parents of Murat Erten, are Turkish nationals who were born in 1955 and 1958 and live in Mersin (Turkey).

The case concerned the alleged impossibility of applying to the Supreme Military Administrative Court for additional compensation following determination by experts of pecuniary damage.

On 28 November 2006 Murat Erten, their son, was killed during an accident which occurred while he was carrying out his compulsory military service. His parents sued the Ministry of Defence for damages before the Supreme Military Administrative Court. The judges ordered an expert report in order to determine the pecuniary loss. The experts assessed the damage incurred at an amount higher than that which had originally been claimed by the parents in their application. The parents accordingly applied for an adjustment of the amount. Their application was refused in application of the law in force at the relevant time.

Relying on Article 6 § 1 (right to a fair trial), the applicants alleged that they had been deprived of their right to an effective remedy as a result of the rejection by the Supreme Military Administrative Court of their application for an adjustment of the pecuniary loss they had claimed to have sustained.

Violation of Article 6 § 1

Just satisfaction: EUR 6,000 to the applicants jointly (non-pecuniary damage)

Şevket Kürüm and Others v. Turkey (no. 54113/08)*

The applicants, Şevket Kürüm, Fadime Kürüm, Nurhan Kürüm, Burhan Kürüm, Gülhan Kürüm, and Cemile Kürüm, are Turkish nationals who were born in 1950, 1948, 1982, 1977, 1981, and 1974 respectively and live in Malatya (Turkey).

The case concerned the murder of their son/brother, U.K., by a mentally ill individual who had left the psychiatric hospital in which he had been confined.

On 15 April 2002 that individual stabbed U.K., aged 26 at the time, to death in the centre of Malatya. The applicants sued the Ministry of Health on account of the death. They were awarded a total of

TRL 23,999.67 (about EUR 13,660) in damages. The Administrative Court and the Supreme Administrative Court established that the Elazığ psychiatric hospital was liable for negligence, as the individual had been authorised to leave without the necessary preventive measures being taken.

Relying in particular on Article 6 § 1 (right to a fair trial within a reasonable time), the applicants notably complained about the length of the proceedings in the administrative courts, which had lasted for more than five years.

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

Just satisfaction: The applicants did not submit a claim for just satisfaction.

Repetitive cases

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

Maiorano and Serafini v. Italy (no. 997/05)

The applicants in this case complained that the local authorities had taken possession of land they had owned in Galatina in order to build council housing, without using a formal expropriation procedure and without providing adequate compensation. They relied in particular on Article 1 of Protocol No. 1 (protection of property).

Violation of Article 1 of Protocol No. 1

Akan and Çelik v. Turkey (no. 8076/08)*

This case concerned the question of respect for the principle of equality of arms between the parties during proceedings which the applicants claimed had failed to offer remedies. Relying on Article 5 § 4 (right to have lawfulness of detention decided speedily by a court) and Article 5 § 5 (right to compensation), the applicants complained of the lack of effective remedies by which to challenge the lawfulness of their detention and obtain compensation.

Violation of Article 5 § 4
Violation of Article 5 § 5

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