



Judgments of 17 February 2015

The European Court of Human Rights has today notified in writing 13 judgments¹:

seven Chamber judgments are summarised below;

six Committee judgments, which concern 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 below are indicated with an asterisk ().*

Devriendt v. Belgium (application no. 32001/07)*

Kurt v. Belgium (no. 17663/10)*

Maillard v. Belgium (no. 23530/08)*

These three cases concerned the lack of reasons given for the jury verdicts in assize court judgments, in which the defendants had been sentenced to life or long-term imprisonment for homicide.

In the first case, the applicant, Johan Devriendt, is a Belgian national who was born in 1970 and is currently held in Louvain Prison. At the relevant time he was a police inspector.

On 25 August 2003 Mr Devriendt's partner was found dead in their shared bed. Mr Devriendt was charged with premeditated intentional homicide. The trial was held from 18 to 26 September 2006 before the assize court of the Province of Flemish Brabant. By a judgment of 26 September 2006, the assize court sentenced Mr Devriendt to life imprisonment. He appealed on points of law. By a judgment of 30 January 2007, the Court of Cassation dismissed the appeal, holding, in particular, that Article 6 § 1 of the European Convention on Human Rights did not impose on juries any obligation to give reasons for their decisions, and that the right to a fair trial was safeguarded if, as had been the case here, the defendant had an opportunity to put forward his or her defence arguments.

In the second case, the applicant, Cevher Kurt, is a Belgian national who was born in 1961 and is currently held in Lantin Prison.

Criminal proceedings were brought against Mr Kurt, who was suspected of murder. During the investigation he asked on three occasions to be assisted by a sworn interpreter for Kurmanji (a Kurdish language), his mother tongue. Instead, he was allocated a sworn interpreter for Turkish. As a result, he refused to sign the records of his questioning, on the ground that they did not correspond to what he had wished to say. Those records contained confessions which he subsequently retracted.

At the trial the sworn interpreter for Turkish failed to appear at the hearing on account of a trip abroad. Mr Kurt then requested that the contested records be withdrawn from the proceedings. The assize court dismissed his request, considering that the claim that Mr Kurt was unable to express himself in Turkish was not supported by any evidence in the file and contradicted the interpreter's

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

statements. Mr Kurt was sentenced to thirty years' imprisonment. He appealed on points of law and the Court of Cassation dismissed the appeal.

In the third case, the applicant, Philippe Maillard, is a Belgian national who was born in 1978 and is currently held in Bruges Prison.

Criminal proceedings were brought against Mr Maillard and his partner, Mr Maillard being suspected of having committed several robberies against various individuals, one of whom had died as a result of the injuries sustained. The trial was held before the Hainaut assize court from 8 to 11 October 2007. At the hearing of 10 October 2007, Mr Maillard asked the president of the assize court to pose subsidiary questions to the jury. The assize court rejected the applicant's request, holding that the requested questions concerned facts other than those in respect of which Mr Maillard had been committed for trial. The assize court sentenced Mr Maillard to life imprisonment. He appealed on points of law, complaining that the president of the assize court had not put to the jury the questions he had submitted, which concerned the victim's death. He also criticised the decision by the president of the assize court to ask two questions of his own motion, which referred to an aggravating circumstance that did not appear in the order committing him for trial. Lastly, Mr Maillard cast doubt on the impartiality of the president of the assize court. The Court of Cassation dismissed an appeal on points of law.

Relying in particular on Article 6 § 1 (right to a fair trial) of the European Convention on Human Rights, the applicants alleged that, since no reasoning had been given for the juries' verdicts, their trials had been unfair.

Violation of Article 6 § 1 – in all three cases

Just satisfaction: 2,000 euros (EUR) each to Mr Devriendt and Mr Maillard (non-pecuniary damage); as for Mr Kurt, he did not make any claim for just satisfaction.

Guseva v. Bulgaria (no. 6987/07)

The applicant, Lyubov Guseva, is a Bulgarian national who was born in 1951 and lives in Vidin. The case concerned the local mayor's persistent failure to provide Ms Guseva with information she had requested despite three administrative court judgments ordering the mayor to do so.

Ms Guseva is a Board member of the Animal Protection Society in Vidin, Bulgaria. Between April 2002 and June 2003 she submitted three requests to the Mayor of Vidin for information related to the treatment and management of stray animals. The mayor refused to provide the information she requested in each instance, referring either to objections of the contracted companies involved in the process or to administrative procedures. Ms Guseva challenged these refusals, eventually obtaining judgments in support of her three requests from the Supreme Administrative Court in 2004. However, Ms Guseva complains that she has still not received the information she sought.

Relying in particular on Article 10 (freedom of expression) of the Convention, Ms Guseva complained that the mayor's failure to provide the information she requested had amounted to a violation of her right to receive and impart information of public interest. Further relying on Article 13 (right to an effective remedy) in conjunction with Article 10, she complained that she had not had an effective remedy for her complaint as the rulings of the Supreme Administrative Court had not been enforced.

Violation of Article 10

Violation of Article 13 taken in conjunction with Article 10

Just satisfaction: EUR 5,000 (non-pecuniary damage), and EUR 1,520 (costs and expenses)

Popov and Chonin v. Bulgaria (no. 36094/08)

The applicants, Dimitar Popov and Veselin Chonin, are Bulgarian nationals who were born in 1930 and 1953 respectively and live in Sofia. The case concerned their complaint that the State authorities has delayed paying them agreed compensation for expropriated forestry land for an unjustifiable length of time.

Mr Popov and Mr Chonin are the heirs of the former owners of a forested island in the Danube. Mr Popov's benefactor also owned another island and forest on the shores of the Danube. All of this land was nationalised in 1948. Mr Popov and Mr Chonin's mother initially applied for the restitution of the land in 1998. In 2000, the Valchedram Land Commission acknowledged their right to compensation, since restitution of the land was not possible as the forests had been classified as exclusive State property. Mr Popov and Mr Chonin were entitled to compensation in the form of equivalent state owned land. In 2003 they were allocated various plots of land but following a judicial review in 2007, the Montana District Court conceded that these plots were not equivalent to the land held initially and the land offered should be replaced with other plots. In February 2013 the Government submitted that the identification and transfer of plots was imminent.

Relying in essence on Article 1 of Protocol No. 1 (protection of property) to the Convention, Mr Popov and Mr Chonin argued in particular that the State authorities' delay in providing compensation had been excessive and had been a result of the authorities' confused and contradictory actions, lengthy periods of inactivity and a lack of willingness to solve the problems.

Violation of Article 1 of Protocol No. 1

Just satisfaction: EUR 1,500 to Mr Popov and EUR 2,500 to Mr Chonin (non-pecuniary damage), and EUR 1,000 to both applicants jointly (costs and expenses)

Boman v. Finland (no. 41604/11)

The applicant, Alexander Boman, is a Finnish national who was born in 1992 and lives in Jomala (Finland). The case concerned his complaint of having been punished twice for the same offence.

Early in 2010 Mr Boman was charged with causing a serious traffic hazard and operating a vehicle without a licence. The prosecutor requested that Mr Boman be banned from driving based on the charge of causing a serious traffic hazard. The District Court convicted Mr Boman in April 2010, and duly sentenced him to a fine and a driving ban up until 4 September 2010. In May 2010 the police imposed a new two month driving ban on Mr Boman, to start on 5 September, for driving a vehicle without a licence.

Relying on Article 4 of Protocol No. 7 (right not to be tried or punished twice) to the Convention, Mr Boman complained that he had been subjected to two sets of criminal proceedings and two punishments for an offence derived from one set of facts.

No violation of Article 4 of Protocol No. 7

Bălăşoiu v. Romania (no. 70555/10)*

The applicant, Ion Bălăşoiu, is a Romanian national who was born on an unspecified date and lives in Ştefăneşti. He is of Roma ethnic origin, and the father of Nelu Bălăşoiu, who died on 5 June 2002 at the age of eighteen. The case concerned the young man's death in prison, which, according to his father, had been the result of the ill-treatment to which he had been subjected two months earlier by police officers while being held in police custody.

During the night of 4 to 5 April 2002 Nelu Bălăşoiu was arrested by the police together with several Roma friends, on suspicion of theft. All escaped, with the exception of Nelu Bălăşoiu, who was taken

to a police station and placed in custody. On 5 April he was questioned by the police, then, on the following day, he was placed in pre-trial detention. On 14 May 2002 he was transferred to Târgu Jiu Prison. On 28 May 2002 Nelu Bălăşoiu experienced discomfort and asked to be examined by a doctor. On the following day he experienced abdominal pain and began to vomit. A prison doctor examined him and prescribed medicine. On 3 June 2002 his state of health deteriorated visibly. The prison doctor decided to transfer him urgently to hospital. He was diagnosed with “basal pleurisy” and it was recommended that he be placed in the Bucharest-Jilava prison hospital. He was transferred there on 4 June. The grounds for hospitalisation were chest pain, temperature and shivering, and oedemas on the lower limbs and the face. The medical records noted that those symptoms had occurred for about two months and that they had worsened in the two weeks preceding hospitalisation. The young man died on the morning of 5 June 2002.

In the meantime, the applicant had lodged a criminal complaint with the domestic authorities against the police officers who had questioned his son, accusing them of ill-treating the young man while he was in police custody.

Following the death the authorities formed, of their own motion, a committee made up of officers from the General Inspectorate of Police in order to investigate the circumstances of the death. On 18 September 2003 the military prosecutor’s office at the regional military court terminated the proceedings in respect of one of the doctors and ordered that the case be transmitted to the prosecutor’s office with regard to the complaint against a police officer who had conducted the initial questioning. The applicant appealed against the decision not to bring charges. The military court granted the appeal and sent the case to the prosecutor’s office so that criminal proceedings could be brought against the doctor in respect of whom charges had been dropped. In September 2008 the prosecutor’s office discontinued the proceedings on the ground that the young man’s death had not been the result of medical negligence. In October 2008 the prosecutor’s office reopened the criminal proceedings against the police officer, accused of violence, who had conducted the interview in police custody. On 20 March 2009 the prosecutor’s office ordered that the case be closed, on the ground that it had been impossible to prove the accuracy of the facts. The High Court upheld the prosecutor’s decision in a final judgment.

Relying on Article 2 (right to life), the applicant alleged that the reason for his son’s death had been the ill-treatment to which he had been subjected while detained at the police station. He complained of the lack of an effective investigation into the treatment to which his son had been subjected. Relying on Article 3 (prohibition of inhuman or degrading treatment), he alleged that his son had been subjected to ill-treatment by the police and that this abuse had not given rise to an effective and adequate investigation. Relying on Article 14 (prohibition of discrimination) taken together with Article 3 (prohibition inhuman or degrading treatment), the applicant considered that the motive for the alleged misconduct laid in the fact that his son belonged to the Roma community.

No violation of Article 2 (right to life)

Violation of Article 3 (investigation)

No violation of Article 3 (treatment)

No violation of Article 14 taken in conjunction with Article 3

Just satisfaction: EUR 7,500 (non-pecuniary damage)

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

echrpess@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.