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

Press Release
issued by the Registrar of the Court

ECHR 300 (2015)
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Judgments of 6 October 2015

The European Court of Human Rights has today notified in writing 24 judgments[1]:

15 Chamber judgments are listed below; for six others, in the cases of *Alouache v. France (application no. 28724/11)*, *Memlika v. Greece (no. 37991/12)*, *Turbylev v. Russia (no. 4722/09)*, *Belek and Velioğlu v. Turkey (no. 44227/04)*, *Müdür Duman v. Turkey (no. 15450/03)*, and *Karpyuk and Others v. Ukraine (nos. 30582/04 and 32152/04)* separate press releases have been issued;

three 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 (*).

Stoykov v. Bulgaria (application no. 38152/11)*

The applicant, Milen Stoykov, is a Bulgarian national who was born in 1985. He is currently serving a sentence in Stara Zagora Prison.

The case concerned Mr Stoykov's allegations of ill-treatment by the police during his arrest and the hours that followed it.

On 26 February 2009 Mr Stoykov was arrested by the police at his home in the early hours of the morning. He was accused, together with two others, of the theft of a substantial sum of money belonging to a local company. He alleges that he was ill-treated throughout his time in police custody. The same day he and two other persons were formally charged and the prosecutor ordered his placement in detention. A medical certificate issued the following day recorded bruising, abrasions and injuries to various parts of Mr Stoykov's body. On 15 May 2010 he was found guilty and sentenced to 16 years and six months' imprisonment. The court considered that he had not been forced to confess and that he had voluntarily shown the police the place where he had hidden the stolen money. In November 2010 Mr Stoykov lodged a complaint with the Chief Public Prosecutor and the Ministry of the Interior alleging that he had been subjected to ill-treatment on 26 February 2009. The regional prosecutor's office refused to open criminal proceedings against the police officers concerned, and the appellate prosecutor gave a final decision upholding the regional prosecutor's decision not to prosecute.

Relying on Article 3 (prohibition of torture and inhuman or degrading treatment) of the European Convention on Human Rights, Mr Stoykov alleged that he had been the victim of police violence during and after his arrest on 26 February 2009. He complained that the investigation into the circumstances surrounding his arrest had been ineffective.

Violation of Article 3 (torture)
Violation of Article 3 (investigation)

[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

Just satisfaction: The Court held that the finding of a violation constituted sufficient just satisfaction for the non-pecuniary damage suffered by the applicant.

Lecomte v. Germany (no. 80442/12)

The applicant, Cécile Lecomte, is a French national who was born in 1981 and lives in Lüneburg (Germany).

The case concerned, in particular, Ms Lecomte's complaint that the conditions of her detention for preventive purposes in two police stations, for a total period of three days, had been poor and humiliating.

Ms Lecomte is an anti-nuclear and environmental activist. She was arrested on 6 November 2008 after having fixed, together with other activists, a number of banners on a railway bridge. The banners aimed to express the activists' protest against the impending transportation of nuclear waste by train from La Hague, France, to an interim storage facility in Gorleben, Germany.

On the evening of the same day, a district court ordered Ms Lecomte's detention for preventive purposes until the arrival of the containers with the nuclear material at the train station which was their destination, and until 10 November at midnight at the latest. On the following day, the regional court dismissed her appeal against that decision. In the late afternoon of 9 November 2008 the district court quashed its order and ordered her immediate release.

Ms Lecomte's court action against the local police to complain about the unlawfulness of both the order for her detention and the conditions of her detention was dismissed by the district court in 2009. That decision was upheld by the regional court. The Federal Constitutional Court declined to consider her constitutional complaint, without giving reasons, in two separate decisions, on 24 August 2010 and on 30 May 2012, the first one concerning the complaint about the lawfulness of her detention and the second one concerning the complaint about the conditions of her detention.

Ms Lecomte complained, in particular, that the conditions in which she had been kept in police custody, viewed in their entirety, had been in breach of Article 3 (prohibition of inhuman or degrading treatment). Notably: the cell where she had been kept in the first police station for one night and a half day had been very small and had had no window but only ventilation slots; in the second police station she had had to pass by some photographs of shackled persons on the walls of the detention wing each time she had gone to the toilet; and she had not had sufficient possibilities for outdoor exercise.

No violation of Article 3

N.P. v. the Republic of Moldova (no. 58455/13)

The applicant, Ms N.P., is a Moldovan national who was born in 1986 and lives in Chișinău. The case concerned the withdrawal of her parental authority and restrictions on visiting rights to her daughter.

On 22 September 2011 the police were called to the applicant's home by a neighbour. The police, finding the applicant and her mother in a drunken fight and her four-year-old daughter dirty, hungry and crying, removed the child from her home and placed her in care. In the ensuing court proceedings, it was decided in February 2012 at first-instance to withdraw the applicant's parental authority. The first-instance court relied on the police report of September 2011, an inspection of the applicant's home (found to be unsanitary as it had no running water, electricity or gas) and submissions from the social services reporting that the child was generally neglected by her mother, often had to beg neighbours for food and did not attend school. Before the courts the applicant submitted that, as a single parent without financial support, she was in a difficult situation but that,

whilst the court proceedings were ongoing, she had obtained employment, improved her living conditions and sought to enrol her daughter in pre-school. Ultimately, however, in May 2013 the Supreme Court of Justice upheld the lower courts' decisions to withdraw parental authority.

The applicant's repeated requests to visit her daughter were refused: initially because the court proceedings were still pending; and then in October 2013, when a guardian – the child's aunt – was appointed, because she no longer had parental rights. In December 2013 the social services eventually allowed visits on Saturdays in the presence of the child's guardian.

Relying on Article 8 (right to respect for private and family life), the applicant complained about the national courts' decisions to withdraw her parental authority and the restrictions on visiting rights to her daughter. Accepting that it might have been beneficial for her daughter to be taken temporarily into care, she alleged that the authorities could have found a less severe measure than simply withdrawing her parental authority, without taking into consideration the improvements she had made to her situation and without providing support to help her raise her daughter herself.

Violation of Article 8 – in respect of the withdrawal of parental authority
Violation of Article 8 – in respect of the restrictions on visiting rights

Just satisfaction: 7,500 euros (EUR) (non-pecuniary damage) and EUR 1,030 (costs and expenses)

Krasnodębska-Kazikowska and Łuniewska v. Poland (no. 26860/11)

The applicants, Maria Krasnodębska Kazikowska and Hanna Łuniewska, are Polish nationals who were born in 1942 and 1943 respectively and live in Warsaw.

The case concerned conflicting domestic case-law on the time-limit for bringing compensation claims for damage caused by an unlawful administrative decision.

Ms Krasnodębska Kazikowska and Ms Łuniewska are sisters and the legal successors to land formally owned by their mother. An administrative decision made in 1971 obliged their mother to transfer this land to the State Treasury without compensation. In December 2005 the sisters obtained an administrative decision declaring that the 1971 decision had been unlawful and entitling them to seek compensation. In August 2006, the sisters brought their compensation claim. In May 2009 the first instance court held that the claim had been brought within the time-limit, allowed their claim and awarded them compensation. The second instance court overturned this decision holding that the time-limit had started to run from an earlier date and that as such, the sisters' claim was, in fact, out of time. The Supreme Court refused to consider their cassation appeal, holding that it did not raise a significant legal issue. Other claimants for compensation arising from the same legal and factual background were successful, the courts applying the later time limit.

In January 2010, the Supreme Court, noting the two different strands of case-law, considered the issue and held that the time-limit within which to claim compensation for damage caused by an unlawful administrative decision started to run from the later date.

Relying on Article 1 of Protocol No. 1 (protection of property) to the Convention, the sisters complained that, due to differences in the national case law in applying the time-limit for bringing compensation claims for unlawful administrative decisions, they had been denied compensation for damages. They notably alleged that this had created legal uncertainty as they had been unsuccessful in their claim while other applicants with the same legal and factual background had been successful.

No violation of Article 1 of Protocol No. 1

Stasik v. Poland (no. 21823/12)

The applicant, Mirosław Stasik, is a Polish national who was born in 1974 and lives in Sulejówek (Poland).

The case concerned the enforcement of Mr Stasik's contact rights with his child and the length of his divorce proceedings.

In April 2007, Mr Stasik's wife left the matrimonial home with the couple's son, M., born on 1 July 2004, and filed an action for separation in August 2008. The marriage was eventually dissolved in March 2013 by the first-instance court which granted the mother custody and authorised Mr Stasik contact rights with his son. Both parties lodged appeals against this judgment which were ultimately dismissed in October 2013.

Pending those divorce proceedings, Mr Stasik and his wife initially managed to arrange contact with their son between themselves. However, difficulties arose in 2008 and Mr Stasik submitted a request to the domestic court to issue a contact order. Thus, in September 2008 the court issued an interim contact order. Nevertheless, the problems persisted and in April 2009, following an application by Mr Stasik, the court imposed a fine on his wife for failure to comply with the access arrangements. Another interim contact order was then issued which was subsequently amended in July 2010. In December 2011, the court set a 14-day time limit for his wife to comply with the terms of the July 2010 interim order on pain of a fine. In February 2012, Mr Stasik lodged a further request for enforcement of his contact rights. The enforcement proceedings were subsequently discontinued as the issue of contact rights had been regulated in the final divorce settlement.

Relying on Article 8 (right to respect for private and family life) and Article 6 § 1 (right to a fair hearing within a reasonable time), Mr Stasik alleged that the Polish authorities had failed to take effective steps to enforce his right of contact with his son and that the length of the divorce proceedings had been excessive.

Violation of Article 8
Violation of Article 6 § 1

Just satisfaction: EUR 4,200 (non-pecuniary damage)

Żuk v. Poland (no. 48286/11)

The applicant, Danuta Bronisława Żuk, is a Polish national who was born in 1951 and lives in Szczecin (Poland).

The case concerned Ms Żuk's claim to purchase two plots of state-owned land and the non-enforcement of a final judgment in her favour with regard to that claim.

By an administrative decision of November 1989 the Szczecin Town Council held that Ms Żuk's husband was entitled to purchase plots of land owned by the State Treasury. The Town Council was obliged to sell the land to him on the basis of that decision. This entitlement was confirmed in another administrative decision in March 1990.

However, the Szczecin municipality refused to transfer ownership of the land to Ms Żuk and her husband as the land they wished to claim had been designated for non-agricultural purposes under a new land development plan. Notably, on 16 May 1994 the municipality had adopted a local land development plan which provided that land situated within the administrative limits of the municipality was designated for non-agricultural purposes.

In April 2003, Ms Żuk and her husband lodged a civil action against the Szczecin municipality requesting the court to oblige it to sell the land to which they were entitled on the basis of the 1989 decision. The Szczecin District Court dismissed the claim. However, in September 2004 Ms Żuk and

her husband were successful on appeal to the Szczecin Regional Court which allowed the claim and obliged the municipality to sell them the land concerned. That court notably found that the 1989 administrative decision created a right to buy the plot of land concerned and that the legal reform of 1990 did not affect the validity of Ms Żuk's claim. This decision, which became final, was not implemented and, in 2008, Ms Żuk and her husband initiated further civil proceedings seeking to have their rights realised. These proceedings were unsuccessful.

Relying on Article 6 (right to a fair hearing within a reasonable time) and Article 1 of Protocol No. 1 (protection of property), Ms Żuk notably complained that her rights originating in the administrative decisions of 1989 and 1990 and later confirmed by the final judicial decision of 2004 had never been enforced.

Violation of Article 6 § 1
Violation of Article 1 of Protocol No. 1

Just satisfaction: The Court held that the question of the application of Article 41 (just satisfaction) of the Convention, as regards pecuniary damage, was not ready for decision and reserved it for decision at a later date. It further awarded the applicant EUR 200 in respect of costs and expenses.

Coniac v. Romania (no. 4941/07)

The applicant, Victor Coniac, is a Romanian national who was born in 1955 and lives in Focsani (Romania).

The case concerned Mr Coniac's complaint that he had been convicted of fraud in his absence without being informed of the accusations against him or being heard by the investigating authorities or any court.

In September 2003, criminal proceedings were instituted against Mr Coniac, the administrator of four commercial companies, on charges of fraud. The proceedings before the first-instance court took place in Mr Coniac's absence, as he had left Romania for Italy in June 2003. In May 2005, the County Court found him guilty of fraud and imposed a three-year suspended sentence. On appeal (by both parties) Mr Coniac claimed that his defence rights had not been observed as he had not been notified of the accusations against him and had not been summoned to attend the hearing. In December 2005, the Court of Appeal allowed the appeal lodged by the prosecutor's office in part and increased Mr Coniac's sentence. Mr Coniac appealed to the High Court of Cassation and Justice. He attended all the hearings but he was not heard by the court. The High Court held that Mr Coniac could not rely on his absence from the proceedings by way of defence finding that he had left Romania in order to avoid the investigation and the trial against him.

Relying on Article 6 (right to a fair trial), Mr Coniac alleged, in particular, that the criminal proceedings against him had not been fair in so far as he had been convicted without evidence being heard directly either from him or from witnesses.

Violation of Article 6 § 1

Just satisfaction: EUR 2,400 (non-pecuniary damage) and EUR 3,000 (costs and expenses)

Marius Dragomir v. Romania (no. 21528/09)*

The applicant, Marius Dragomir, is a Romanian national who was born in 1979 and lives in London.

The case concerned Mr Dragomir's conviction on appeal without evidence being taken directly and despite the fact that he had been acquitted at first instance on the basis of the same evidence.

On 30 June 2006 Mr Dragomir and two other individuals were committed for trial on charges of aggravated rape. They were accused of raping N.B. in the flat belonging to one of them. The three

men did not deny having sexual relations with N.B., but claimed that they had been consensual and that N.B. had been given money. The District Court acquitted Mr Dragomir and the other two men. The County Court then set aside the first-instance judgment and convicted the three men of aggravated rape. In the County Court's view, the statements of the witnesses proposed by the accused in order to demonstrate N.B.'s immoral character were untrue and were contradicted by the medical documents. No evidence was taken at the appeal stage. Mr Dragomir was sentenced to five and a half years' imprisonment. He lodged a further appeal against the appellate judgment, claiming that the Court of Appeal had convicted him without taking evidence directly and despite the fact that he had been acquitted by the first-instance court on the basis of the same evidence. His appeal was dismissed.

Relying on Article 6 § 1 (right to a fair trial), Mr Dragomir complained that he had not had a fair trial, alleging that he had been convicted on appeal without evidence being taken directly and despite the fact that he had been acquitted at first instance on the basis of the same evidence.

Violation of Article 6 § 1

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

Mirea v. Romania (no. 19314/07)

The applicant, Călin Eusebiu Mirea, is a Romanian national who was born in 1968 and lives in Braşov.

The case concerned Mr Mirea's complaint that his conviction for, among other things, aiding and abetting extremely aggravated murder had been unfair as evidence of his role as an intelligence service informant had been withheld during the criminal proceedings against him.

On 25 September 2002, Mr Mirea was contacted by M.V., a business man for whom he was working, to go to headquarters. On arriving he discovered a severely beaten man begging M.V. for his life. The man was driven away in the boot of his own car and murdered. Mr Mirea went to the scene of the crime and drove the attackers back to their homes. Mr Mirea, who at the time was also providing information on M.V's business activities to the Romanian Intelligence Service ("the SRI"), subsequently contacted S.S, an operative officer, and informed him of what had happened.

One of the participants in the murder later confessed to the police and a criminal investigation was launched. Mr Mirea was informed in October 2003 that he was accused of aiding and abetting illegal deprivation of liberty and extremely aggravated murder. He was convicted in November 2004 as charged and sentenced to seven years' imprisonment. Throughout the criminal proceedings, Mr Mirea argued that he had only been present at the murder scene as he had infiltrated M.V.'s group as an informant on behalf of the SRI and had felt coerced by M.V. into participating in the crime. The County Court acknowledged that Mr Mirea was transmitting information on M.V.'s group to officer S.S., however noted that the SRI denied that they had actually infiltrated him into the group or that the information he had provided about the murder had been the result of collaboration with the intelligence services. The County Court decided that as such, Mr Mirea could not benefit from any status as an SRI informant. This judgment was subsequently upheld by the Braşov Court of Appeal and the Court of Appeal's decision was then upheld by the Braşov High Court of Cassation and Justice.

Mr Mirea requested a revision of the final decision on the basis that it was impossible to prove before the ordinary courts that he was an SRI informant. In November 2008, the County Court acquitted Mr Mirea on both counts. However, that judgment was then quashed on appeal. Mr Mirea's appeal was finally dismissed by the High Court of Cassation and Justice in October 2010.

Relying on Article 6 (right to a fair trial within a reasonable time), Mr Mirea complained about the unfairness and excessive length of the criminal proceedings against him. In particular, he alleged that it had been impossible for him to present his case and make his defence as evidence to explain why

he had been present at the murder scene – namely to collect information for the SRI – had been withheld by the intelligence services.

No violation of Article 6 §§ 1 and 3 – concerning the fairness of the proceedings
No violation of Article 6 § 1 – concerning the length of the criminal proceedings

Boris Ivanov v. Russia (no. 12311/06)*

The applicant, Boris Nikolayevich Ivanov, is a Russian national who was born in 1965 and lives in Tolyatti.

The case concerned Mr Ivanov's allegations that he had been subjected to inhuman and degrading treatment by his fellow prisoners.

In July 2003 Mr Ivanov was arrested on suspicion of fraud and placed in pre-trial detention. He was transferred to the IZ-47/1 detention facility in St Petersburg. On 29 August 2003 he was placed in a cell already occupied by three prisoners. Mr Ivanov claims that his fellow inmates beat him up – in the presence of a prison officer – in an attempt to extort money from him. On 31 August 2003 he was examined by the facility's doctor, who noted several injuries to his head and body. A further medical examination confirmed the diagnosis. Mr Ivanov contends that he addressed several complaints of ill-treatment to the prosecutor's office but that the prison authorities did not send them on. In 2005, in the course of the criminal proceedings against him, Mr Ivanov underwent a psychiatric examination which found him to be suffering from an organic schizophrenic delusional disorder, the symptoms of which might have first appeared in 2003. Following this expert examination the court ordered his compulsory admission to a psychiatric hospital.

Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Ivanov alleged that he had been subjected to inhuman and degrading treatment by his fellow inmates and that no effective investigation had been carried out into his complaints.

Violation of Article 3 (investigation)
Violation of Article 3 (failure to comply with the obligation to protect the applicant's physical integrity)

Just satisfaction: EUR 19,500 (non-pecuniary damage)

Gorshchuk v. Russia (no. 31316/09)

The applicant, Sergey Gorshchuk, is a Russian national who was born in 1969 and lives in Nizhniy Novgorod (Russia).

The case concerned Mr Gorshchuk's complaint that he had been ill-treated in police custody.

In September 2007 Mr Gorshchuk was arrested by the police and taken for questioning about the murder of a man in Nizhniy Novgorod public garden. According to Mr Gorshchuk, he was beaten by the police when he refused to confess to the murder. He alleges that he eventually signed a confession in pre-trial detention in November 2007 when threatened by two police officers. He later retracted his confession. The outcome of the proceedings against him is unknown.

Mr Gorshchuk wrote to the detention authorities complaining that he had been ill-treated in police custody and requesting that an inquiry be carried out. No criminal proceedings have however ever been opened, the investigating authorities finding that no crime had been committed. Nor has any judicial review been carried out of that decision as the courts found that any examination of Mr Gorshchuk's appeal against the decision to not open criminal proceedings against the police officers had to be carried out in the context of the criminal case against him so as not to prejudice the legal assessment of his confession.

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment), Mr Gorshchuk complained about his ill-treatment in police custody, submitting in particular medical records drawn up on his arrival in the pre-trial detention facilities which stated that he had had injuries to his head, chin, chest and shoulder. He also complained that no effective investigation into his allegations of ill-treatment had ever been carried out.

Violation of Article 3 (inhuman and degrading treatment)
Violation of Article 3 (investigation)

Just satisfaction: EUR 17,000 (non-pecuniary damage) and EUR 3,000 (costs and expenses)

Sergeyev v. Russia (no. 41090/05)*

The applicant, Mikhail Sergeyev, is a Russian national who was born in 1975 and lives in Bryansk.

The case concerned Mr Sergeyev's allegations of poor conditions of detention in prison.

In November 2003 Mr Sergeyev, who was a police officer at the time, was arrested on suspicion of unlawful possession of a firearm. He was remanded in custody in order to prevent him from obstructing the course of justice. On 22 February 2005 he was found guilty of unlawful possession of a firearm and handling stolen goods and was sentenced to a prison term. He was detained in detention facility IZ-40/1 and in the temporary detention centre (IVS) at the Babininski district police station in the Kaluga Region. With regard to detention facility IZ-40/1, Mr Sergeyev complains in particular of overcrowding, lack of privacy and poor hygiene standards; as regards the Babininski IVS, he alleges that there was an insufficient number of beds, windows and showers, that the hygiene and sanitary conditions were generally unsatisfactory and that the food was inadequate.

Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Sergeyev complained about his conditions of detention in Kaluga detention facility IZ/40-1 and in the IVS in Babininski; under Article 5 § 3 (right to liberty and security), he complained of the length of his pre-trial detention.

Violation of Article 3
Violation of Article 5 § 3

Just satisfaction: EUR 5,500 (non-pecuniary damage) and EUR 60 (costs and expenses)

Stibilj v. Slovenia (nos. 1446/07 and 5667/07)

The applicants, Ivanka and Anamarija Stibilj, mother and daughter, are Slovenian nationals who were born in 1921 and 1949 respectively and live in Ajdovščina (Slovenia).

The case concerned their complaint about the excessive length of land consolidation proceedings.

The applicants brought various administrative and judicial proceedings constituting different stages of one and the same dispute with regard to the allotment of plots of land in land consolidation proceedings. Those proceedings commenced in 1989 before the lower administrative courts and, actions for judicial review having been granted in 2003 and 2009, are currently still pending before the Ajdovščina Administrative Unit, the body which has competence to decide on land consolidation matters.

Relying in particular on Article 6 § 1 (right to a fair hearing within a reasonable time), the applicants complained that the length – more than 21 years – of the land consolidation proceedings had been excessive.

Violation of Article 6 § 1

Just satisfaction: EUR 10,000 to each applicant (non-pecuniary damage) and EUR 3,000 to the applicants jointly (costs and expenses)

Kavaklıoğlu and Others v. Turkey (no. 15397/02)*

The applicants are 74 Turkish nationals. The case concerned the operation launched on 26 September 1999 to quell an uprising in Ulucanlar Central Prison in Ankara. Nine of the applicants are relatives of eight prisoners who died, while the remaining 65 are prisoners who were injured during the operation.

There was a long history of clashes between the prison staff in Ulucanlar and some of the 170 male and female inmates convicted and imprisoned for membership of illegal extreme left-wing organisations. The authorities were aware of the problems relating to overcrowding and the age and unsuitability of the prison premises. In January 1996, under the auspices of the prefect, a first plan of action was prepared by the public prosecutor's office and the Ankara regional gendarme command (CDGA) in order to deal with a suspected future uprising in the prison. That plan was not put into action. Following an increase in criminal activity between January and August 1998, the CDGA alerted the authorities to the risk of a riot inside the prison owing to a situation that was no longer within the control of the prison staff. From September 1998 onwards the prisoners gradually took control of parts of the prison. At the request of the Ankara public prosecutor's office the gendarmerie ordered searches to be carried out and some of the prisoners to be transferred. Those operations were partially prevented. The hostilities subsequently escalated.

On 26 September 1999 at around 4 a.m. gendarmerie action units entered the prison. A series of very violent clashes broke out between the security forces and the left-wing extremists. Several people were killed and injured.

A parliamentary inquiry was launched in the wake of the operation. Disciplinary proceedings were started against the prison governor and his four deputies following the discovery of weapons and various illicit substances and objects in the prison. The persons concerned were accused of breaching their duty of supervision in the performance of their duties. The disciplinary board held that no fault had been committed.

Criminal proceedings were opened automatically against certain prison officers for negligence in the performance of their duties. The public prosecutor discontinued the proceedings.

The case is still pending before the Court of Cassation.

The European Court of Human Rights gave a decision in the case on 5 January 2010.

Relying on Articles 2 (right to life) and 3 (prohibition of inhuman and degrading treatment), nine of the applicants maintained that their relatives had been killed by the security forces. The remaining applicants complained of the ill-treatment to which they had allegedly been subjected during and after the operation carried out in Ulucanlar. The applicants alleged that the investigations carried out had been inadequate and ineffective. Relying on Article 1 of Protocol No. 1, they also complained of the destruction or confiscation of their personal effects by the security forces after the operation.

Violation of Article 2 (right to life and investigation)in respect of the deceased Ümit Altıntaş, Abuzer Çat, Nevzat Çiftçi, Mahir Emsalsiz, Halil Türker, İsmet Kavaklıoğlu, Zafer Kırbıyık and Önder Gençaslan, and of the applicants Küçük Hasan Çoban, Serdar Atak, Erdal Gökoğlu, Nihat Konak, Savaş Kör, Behsat Örs, Ertan Özkan, Enver Yanık et Haydar Baran
Violation of Article 3 (ill-treatment and investigation) in respect of Kemal Yarar, Özgür Soylu, Mustafa Selçuk, Cem Şahin, Sadık Türk, Yahya Yıldız, Cenker Aslan, Özgür Saltık, Resul Ayaz, Barış Gönülşen, Devrim Turan, Bülent Çütçü, Yıldırım Doğan, Mehmet Kansu Keskinkan, Önder Mercan,

Ercan Akpınar, İlhan Emrah, Duygu Mutlu, Gürcü Çakmak, Filiz Gülkokuer, Hayriye Kesgin, Filiz Uzal (Soylu), Songül Garip, Aynur Sız, Cemile Sönmez and Sevinç Şahingöz

Violation of Article 3 (investigation) in respect of Sibel Aktan (Aksoğan), Şerife Arıöz, Derya Şimşek, Edibe Tozlu, Fadime Özkan, Başak Otlu, Zeynep Güngörmez, Fatime Akalın, Gönül Aslan, Esmehan Ekinci, Cemaat Ocak, Aydın Çınar, Murat Güneş, Gürhan Hızmay, Ertuğrul Kaya, Murat Ekinci, Halil Doğan, İnan Özgür Bahar and Veysel Eroğlu

No violation of Article 1 of Protocol No. 1

The Court further held that the applicant Ms Saime Örs could not claim to be a "victim" within the meaning of Article 34 (individual applications) of the Convention and declared the application **inadmissible** as far as she was concerned

Just satisfaction:

- *non-pecuniary damage*: EUR 50,000 each to Melek Altıntaş, Hanım Çiftçi, Mehiyet Emsalsiz, Firdevs Kırbıyık, Selame Türker, Ali Gençaslan and Şaban Kavaklıoğlu; EUR 50,000, jointly, to Hüseyin Çat and Hasan Çat, which they will hold for the respective heirs of the eight deceased; EUR 36,000 to Savaş Kör; EUR 20,000 to Cenker Aslan; EUR 10,000 EUR each to Özgür Saltık, Haydar Baran, Nihat Konak and Enver Yanık; EUR 5,000 each to Behsat Örs, Ertan Özkan, Küçük Hasan Çoban, Serdar Atak, Erdal Gökoğlu, Kemal Yarar, Özgür Soylu, Mustafa Selçuk, Cem Şahin, Sadık Türk, Yahya Yıldız, Resul Ayaz, Barış Gönülşen, Devrim Turan, Bülent Çütçü, Yıldırım Doğan, Mehmet Kansu Keskinkan, Önder Mercan, Ercan Akpınar, İlhan Emrah, Duygu Mutlu, Cemaat Ocak, Aydın Çınar, Murat Güneş, Gürhan Hızmay, Ertuğrul Kaya, Murat Ekinci, Halil Doğan, İnan Özgür Bahar, Veysel Eroğlu, Gürcü Çakmak, Filiz Gülkokuer, Hayriye Kesgin, Filiz Uzal (Soylu), Songül Garip, Aynur Sız, Cemile Sönmez, Sevinç Şahingöz, Sibel Aktan (Aksoğan), Şerife Arıöz, Derya Şimşek, Edibe Tozlu, Fadime Özkan, Başak Otlu, Zeynep Güngörmez, Fatime Akalın, Gönül Aslan and Esmehan Ekinci ;

- *costs and expenses*: EUR 80,000 jointly to these same applicants.

Metin Gültekin and Others v. Turkey (no. 17081/06)

The applicants, Metin Gültekin, Gülten Gültekin, Tanju Gültekin, and Selma Karaduman, are Turkish nationals who were born in 1960, 1963, 1988, and 1986 respectively and live in Zonguldak (Turkey).

The case concerned the death of their close relative, Toğay Gültekin (born in 1983), of acute liver failure during his compulsory military service. Metin and Gülten Gültekin are his parents, Tanju Gültekin his brother and Selma Karaduman his fiancée.

Toğay, feeling unwell and complaining that he thought he might have contracted hepatitis, first went to his regimental infirmary on 17 March 2004. The doctor who examined him decided to refer him to a hospital specialising in infectious diseases. Toğay was not however taken to hospital and he went back to the infirmary on two further occasions, on 20 March when he was diagnosed with and treated for an infection of the upper respiratory tract and on 22 March when he was again referred to hospital for suspected hepatitis or meningoencephalitis. He was eventually sent to Edirne hospital on 23 March and, diagnosed with acute liver failure, was transferred to a hospital in Istanbul for a liver transplant operation. He died on 27 March before having had the operation.

The military investigation concluded that the military authorities had acted in accordance with their duties to provide medical assistance and could not be held responsible for Toğay's death.

In September 2004 the applicants instituted compensation proceedings against the Ministry of Defence before the Supreme Military Administrative Court. In October 2005 that court dismissed the applicants' case. It relied essentially on a medical expert report commissioned for the proceedings in which three experts concluded that the military authorities had not been negligent: notably, hepatitis could be difficult to diagnose in the initial stages as it could be confused with the less serious diagnosis of an infection of the upper respiratory tract. In those proceedings the Ministry of

Defence denied that Toğay had been examined by a doctor and referred to hospital on 17 March 2004, nor had he apparently gone to the infirmary between 16 February and 20 March 2004.

Relying on Article 2 (right to life), the applicants alleged that the military authorities' repeated failure to send their relative to hospital between 17 and 23 March 2004 had delayed his access to appropriate medical treatment and had caused his death.

Violation of Article 2 (right to life)

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

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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.