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

Press Release
issued by the Registrar of the Court

ECHR 127 (2016)
05.04.2016

Judgments of 5 April 2016

The European Court of Human Rights has today notified in writing 13 judgments[1]:

nine Chamber judgments are summarised below;

four 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 (*).

Blum v. Austria (application no. 33060/10)

The applicant, Helmut Blum, is an Austrian national who was born in 1959 and lives in Linz (Austria), where he is a practising lawyer. The case concerned disciplinary proceedings against him.

In 2006 the investigating judge in a criminal case, in which Mr Blum was representing one of the defendants, informed the regional bar association that he suspected Mr Blum of double representation in the criminal proceedings. Following the judge's notice, the disciplinary council of the bar association initiated disciplinary proceedings against Mr Blum on suspicion of double representation and falsification of evidence.

In September 2007 the disciplinary council of the bar association held a hearing and adjourned proceedings, as in the meantime a preliminary criminal investigation had been opened against Mr Blum on suspicion of, in particular, attempting to aid the perpetrator and falsifying evidence. After the hearing, the disciplinary prosecutor applied for an interim measure. In December 2007, while the criminal proceedings against Mr Blum were pending, the disciplinary council of the bar association, without holding a hearing, withdrew his right to represent clients before the Linz courts in criminal cases as an interim measure. It held that, in view of the accusations against him, the measure was proportionate. Mr Blum's appeal against the measure was dismissed and his subsequent constitutional complaint was rejected by the Constitutional Court in December 2009.

In June 2011 Mr Blum was acquitted of all charges in the criminal proceedings, the judgment being eventually upheld on appeal in November 2011. Following his acquittal, the bar association lifted the interim measure prohibiting him from representing clients before the Linz courts in criminal cases.

In 2012 a hearing was held in the disciplinary proceedings, in preparation of which Mr Blum submitted statements denying that there was a case of double representation. In a decision of March 2013 the disciplinary council of the bar association found that he had acted in double representation in the criminal proceedings, as he had acted both in the interests of the defendant whom he represented and of the opposing party. At the same time the disciplinary council found that he had not knowingly falsified evidence. It imposed a fine of 1,000 euros on him. The Supreme Court dismissed his appeal on points of law in May 2004, while reducing his fine to 500 euros.

[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

Mr Blum complained in particular that the disciplinary council had not held an oral hearing before deciding on the interim measure against him. He relied on Article 6 § 1 (right to a fair hearing within a reasonable time) of the European Convention on Human Rights.

Violation of Article 6 § 1

Just satisfaction: The Court held that the finding of a violation constituted in itself sufficient just satisfaction for the non-pecuniary damage sustained by Mr Blum.

Körtvélyessy v. Hungary (no. 7871/10)

The applicant, Zoltán Körtvélyessy, is a Hungarian national who was born in 1965 and lives in Budapest. The case concerned his complaint about the authorities banning a demonstration he had planned.

On 14 August 2009 the police authorities banned a demonstration Mr Körtvélyessy intended to organise the next day in Budapest, Venyige Street, to protest against the persecution of national radicalism. They notably found that there was no alternative route for the traffic in the neighbourhood, meaning that a demonstration would cause great disruption. Because of the ban, the demonstration did not take place.

Mr Körtvélyessy requested judicial review of the police decision. His complaint was, however, rejected on 19 August 2009 on the ground that the demonstration would have notably impeded traffic heading to the facilites located in Venyige Street, a dead end, and that the disruption might have extended to a major thoroughfare in the vicinity.

Relying in particular on Article 11 (freedom of assembly and association) of the European Convention, Mr Körtvélyessy alleged in particular that the sole reason for the ban – traffic disruption – had been excessive, arguing that Venyige Street, with the service lane included, had been wide enough to accommodate the expected 200 participants without major incident.

Violation of Article 11

Just satisfaction: The Court held that the finding of a violation constituted in itself sufficient just satisfaction for any non-pecuniary damage sustained by Mr Körtvélyessy. It further awarded him 3,000 euros (EUR) in respect of costs and expenses.

Cazan v. Romania (no. 30050/12)*

The applicant, Ionuţ Cazan, is a Romanian national who was born in 1979 and lives in Constanţa (Romania).

The case concerned alleged ill-treatment inflicted by a police officer on Mr Cazan, a practising lawyer, while he was representing a client at a police station.

On 12 July 2010 Mr Cazan and his client attended the Constanţa police station in order to study a file concerning a criminal investigation that had been initiated against his client. Mr Cazan submits that he was insulted by the police officer when he asked for explanations concerning the inclusion in the file of an order for the initiation of criminal proceedings which had not been served on his client; Mr Cazan and his client were also prevented from leaving the office, which had been locked by the police officer, because of Mr Cazan's refusal to sign a police record, dated six months previously, certifying that he had been notified of the ongoing criminal proceedings; the police officer also allegedly twisted his left ring finger while attempting to snatch away his telephone to prevent him from dialling the emergency number to secure his and his client's release from the premises; finally, the police officer tore up the proxy form mandating Mr Cazan to represent his client before the investigating authorities, and ordered him never to come back to his office. After the incident

Mr Cazan went to hospital, where he was diagnosed with a sprained finger and traumatic injuries. On 13 July 2010 he lodged a complaint against the police officer for abusive conduct, unlawful imprisonment and insult. The police officer, who denied the facts during his hearing before the prosecution, also lodged a complaint against Mr Cazan for malicious falsehood and refusal to submit to the judicial authorities. On 23 August 2011 the prosecution dropped the case against the two persons in question. Under a final decision of 22 November 2011 the Court of Appeal dismissed Mr Cazan's complaint. On 30 July 2010, however, the police officer was withdrawn from the criminal investigation by decision of the prosecutor's office with the Mangalia court of first instance, at Mr Cazan's request.

Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Cazan complained that he had been subjected to ill-treatment by a police officer while ensuring the legal representation of a client during a criminal investigation. He also complained of the lack of an effective investigation into his complaint.

Relying on Article 5 § 1 (right to liberty and security), he further complained that on 12 July 2010 he had been unlawfully imprisoned in the police officer's office to force him to sign, against his will, a record drawn up by the latter.

Violation of Article 3 (degrading treatment)
Violation of Article 3 (investigation)
No violation of Article 5 § 1

Just satisfaction: EUR 11,700 (non-pecuniary damage)

Lukats v. Romania (no. 24199/07)
Teodorescu v. Romania (no. 33751/05)

The cases concerned the domestic mechanism providing compensation for property taken over under the Treaty of Craiova of 1940.

The applicants are, Maria Lia Lukats and Guta Tudor Teodorescu, Romanian nationals who live, respectively, in Skokie (the USA) and Bucharest.

A compensatory mechanism for Romanian citizens whose immovable properties were confiscated without compensation under the Treaty of Craiova of 1940 was established in March 1998 under Law no. 9/1998. There have since been a number of successive legislative amendments impacting the functioning of this mechanism, the most recent being Law no. 164/2014 which provides for a five-year instalment payment plan and adjustment of the amounts granted as compensation in line with the consumer price index.

In August 1998 Ms Lukats lodged a request with the Bucharest Commission for Implementing Law no. 9/1998 seeking compensation for assets owned by her ancestors in provinces which were formerly part of Romania and were transferred to the Bulgarian State. The Commission issued a decision in April 2004 stating that she was entitled to approximately 123,500 euros (EUR) in compensation. Her entitlement was subsequently validated in February 2009 by the National Authority for Property Restitution. This decision mentioned that payment would be made in two annual instalments. She has not, however, to date received any compensation.

In April 1998 Mr Teodorescu made a similar request under Law no. 9/1998 and in December 2000 the Commission issued a decision proposing him compensation of approximately EUR 88,000. The compensation was eventually validated in August 2003 and paid out in November 2003, which at that time represented approximately EUR 54,000. In the meantime, Mr Teodorescu had brought judicial proceedings claiming adjustment of the compensation to take into account inflation. His general entitlement to have the amount of compensation adjusted was confirmed several times by the courts between 2002 and 2004. However, in February 2005 the Bucharest Court of Appeal found

against Mr Teodorescu. The Court of Appeal notably found that he was not entitled to an adjustment for inflation because the compensation had been paid all at once and in the same year as it had been validated.

Relying in particular on Article 1 of Protocol No. 1 (protection of property), Ms Lukats complained that she had not been able to obtain the compensation granted to her in 2004 and validated in 2009; and Mr Teodrescu complained that the authorities had failed to issue and validate the decisions granting him compensation in good time and that the courts had then refused his claim for an adjustment of the compensation in line with inflation.

No violation of Article 1 of Protocol No. 1 – in respect of Ms Lukats
Violation of Article 1 of Protocol No. 1 – in respect of Mr Teodorescu

Just satisfaction: EUR 900 (non-pecuniary damage) to Mr Teodorescu

Just Satisfaction

Rozalia Avram v. Romania (no. 19037/07)*

The applicant, Rozalia Avram, is a Romanian national who was born in 1947 and lives in Arad (Romania).

The case concerned a building which had formerly belonged to the Catholic diocese of Oradea and had become State property under limitation legislation. Several apartments in the building were sold to the tenants, including Ms Avram. In 1998 the diocese applied to the domestic courts for restitution of the building, but its application was dismissed by the Timişoara Court of Appeal. The diocese then brought an action for cancellation of the contracts of sale of the apartments, which action was this time allowed by the same Court of Appeal.

Relying on Article 6 § 1 of the Convention (right to a fair trial), Ms Avram complained of an infringement of the principle of legal certainty on the ground that the Timişoara Court of Appeal had cancelled the contract of sale of her apartment, thus casting doubt on the previous decision of the same Court of Appeal. She also submitted that the cancellation of the contract of sale of her apartment had violated Article 1 of Protocol No. 1 to the Convention (protection of property).

In its principal judgment of 16 September 2014 the Court had found a violation of Article 6 § 1 of the Convention. It had also decided that the issue of the application of Article 41 (just satisfaction) was not ready for examination and postponed its assessment of that issue to a later date.

Today's judgment concerned the question of just satisfaction.

Just satisfaction: EUR 34,000 (pecuniary and non-pecuniary damage)

Svetlana Vasilyeva v. Russia (no. 10775/09)
Trapeznikov and Others v. Russia (nos. 5623/09, 12460/09, 33656/09, and 20758/10)

Both cases concerned the applicants' complaints about the quashing of final domestic judgments in their favour by way of supervisory review, as in force between 2008 and 2012.

The applicant in the first case, Svetlana Gennadyevna Vasilyeva, is a Russian national who was born in 1978 and lives in Kaliningrad (Russia). In September 2007 the national courts decided in Ms Vasilyeva's favour in civil proceedings brought against her by a bank with regard to her house. The courts notably found that the house was her property and its sale could not be used to pay the debt of M., the person to whom she had given power of attorney for the purchase of the house. The judgment was upheld on appeal in December 2007 and became final. However, in August 2008 the judgment of September 2007 was quashed by the Presidium of the Kaliningrad Regional Court,

which ordered the seizure of the house to pay M.'s debt to the bank. The Presidium, relying on a first-instance decision in 2006 in the criminal proceedings for fraud brought against M., found that although Ms Vasilyeva was registered as the official owner of the house, it had been bought with funds belonging to M. The seizure of Ms Vasilyeva's house has been stayed pending the examination of her case before the European Court.

The applicants in the second case, Vladimir Trapeznikov, Vera Markova, Aleksandr Bychkov, Ivan Russkikh, Stefan Zhuravskiy, Aleksandr Skiba, and Sergey Ryabchikov, are Russian nationals who were born in 1940, 1928, 1947, 1940, 1942, 1943, and 1940 respectively and live in Georgiyevsk (Stavropol region), Barnaul, Stavropol, and Segiyev Posad (Moscow region) – all in Russia. All these applicants were claimants in civil proceedings: Mr Trapeznikov, Mr Bychkov, Mr Russkikh, Mr Zhuravskiy and Mr Skiba, who participated in the Chernobyl clean-up operation, sued the authorities for an inflation adjustment to their social benefits; Ms Markova and Mr Ryabchikov made claims in property disputes. In all of the applications, the first-instance courts found for the applicants, the judgments were upheld on appeal and they became enforceable. However, these judgments were subsequently quashed by the supervisory review courts on the grounds that they were contrary to the law or ill-founded. In particular, as concerned the applications concerning social benefits, the presidia found that the lower courts had failed to take into account the specific method of indexation established by the Government for this particular category of social benefits. In the other two applications, the presidia concluded that the findings of the lower courts in favour of the applicants had been based on the retrospective application of the law.

Relying on Article 6 § 1 (right to a fair hearing / access to court) and Article 1 of Protocol No. 1 (protection of property), the applicants complained about the quashing of final judgments in their favour.

Violation of Article 1 of Protocol No. 1 – in respect of Svetlana Vasilyeva
No violation of Article 6 § 1 – in the case of *Trapeznikov and Others*

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

Vedat Doğru v. Turkey (no. 2469/10)*

The applicant, Vedat Doğru, is a Turkish national who was born in 1977 and lives in Istanbul (Turkey).

The case concerned Mr Doğru's placement in pre-trial detention and the prolongation of that detention, and also the fact that he had only been released three days after the judicial decision ordering his release.

On 17 March 2009 a judge of the Erzurum Assize Court issued an arrest warrant against Mr Doğru on suspicion of involvement in attempts to bring about the secession of part of the national territory between 1993 and 1994. On 15 May 2009 Mr Doğru was arrested in Tuzla, a district of Istanbul located 1,200 km from the town of Erzurum, and brought before a criminal judge in Tuzla. The judge ascertained Mr Doğru's identity and placed him in pre-trial detention with a view to his appearance before the Erzurum Assize Court within 24 hours. On 12 June 2009 Mr Doğru's lawyer challenged the arrest warrant, mentioning that her client, who had been in detention since 15 May 2009, had still not been transferred to Erzurum; she requested his prompt transfer. On 25 June 2009 the Erzurum prosecutor asked his opposite number in Tuzla to accept Mr Doğru's submissions and to release him. On 26 June 2009 Mr Doğru was heard by the Kartal prosecutor and brought before the Kartal criminal court, which ordered his release. On the same day the Erzurum prosecutor's office, noting that a discontinuance decision had been given on 15 July 1994 regarding the facts with which Mr Doğru had been charged, decided to discontinue the proceedings. Mr Doğru was released on 29 June 2009.

On 7 July 2010 Mr Doğru brought an action for pecuniary and non-pecuniary damages, submitting that he had suffered damage on account of the length of his detention, which he deemed excessive, and his continued detention between 26 and 29 June 2009, which had been contrary to the decision of the Kartal criminal court. On 15 September 2011 the Kartal Assize Court found that the period of detention from 15 May 2009 to 29 June 2009 had been unlawful, and awarded Mr Doğru a sum of money in respect of the pecuniary and non-pecuniary damage which he had suffered. His appeal on points of law was dismissed on 27 May 2013.

Relying in particular on Article 5 § 1 (right to liberty and security), Mr Doğru complained about the fact that he had been detained for 45 days even though the criminal court had placed him in pre-trial detention in order to guarantee his appearance before the Erzurum Assize Court within 24 hours. He also complained that he had not been released until three days after the judicial decision ordering his release.

Relying on Article 5 § 3 (right to be brought promptly before a judge), Mr Doğru complained that he had not been placed in pre-trial detention by a judge authorised by law to exercise judicial power, on the grounds that the Tuzla criminal judge had failed to question him about the charges against him and had merely ascertained his identity in order to ensure that he had been the person against whom the arrest warrant had been issued and had ordered his detention with a view to his appearance before the competent judge or court. He also complained of the length of his pre-trial detention.

Violation of Article 5 § 1
Violation of Article 5 § 3

Just satisfaction: EUR 9,250 (non-pecuniary damage) and EUR 1,350 (costs and expenses)

Press contacts
echrpress@echr.coe.int | tel: +33 3 90 21 42 08

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)
Nina Salomon (tel: + 33 3 90 21 49 79)
Denis Lambert (tel: + 33 3 90 21 41 09)
Inci Ertekin (tel: + 33 3 90 21 55 30)