



Judgments of 28 February 2017

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

three Chamber judgments are summarised below;

five Committee judgments, concerning 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 are indicated with an asterisk ().*

Manoli v. the Republic of Moldova (application no. 56875/11)

The applicant, Radu Manoli, is a Moldovan national who was born in 1984 and lives in Boscana (the Republic of Moldova). At the time of the events Mr Manoli was a police officer. The case concerned his conviction for ill-treating a suspect.

In December 2006, Mr Manoli and another officer, V.G., arrested two suspects (both of whom were intoxicated) and took them to the police station. The officers were later charged with ill-treating the suspects, both during the arrest and at the station. According to statements made by the victims to prosecutors, at the police station only officer V.G. had ill-treated one of the suspects, A.C., by kicking him in the chest. The charges against Mr Manoli were therefore dropped – only for them to be reinstated one month later.

During the court proceedings A.C. alleged that V.G. had kicked him in the chest. The other suspect, A.V., made two different contradictory statements about the incident. First he stated that both Mr Manoli and V.G. had kicked him. However, he later said that only V.G. had hit him, using a machine gun. A.V. also said that he did not have a clear memory of what had happened because of the acute state of his intoxication.

In a judgment of May 2009, the Buiucani District Court found that the police officers had used legitimate force during the arrest, and acquitted them in respect of that episode. In relation to the ill-treatment in the police station, the court acquitted Mr Manoli and found V.G. guilty of kicking A.C. in the chest. The Prosecutor's Office appealed.

In January 2010 the Chişinău Court of Appeal upheld the appeal, reversed the judgment at first instance, convicted Mr Manoli as charged and gave him a three-year suspended prison sentence. The court did not question the suspects, victims or witnesses again, but only cited some of the statements they had made before the first-instance court. In particular, the court cited the part of A.V.'s statement where he had accused both police officers of ill-treating him in the police station - but not the rest of his statement.

Mr Manoli lodged an appeal on points of law to the Supreme Court of Justice, alleging that he had received an unfair hearing in the Court of Appeal. The Court dismissed the appeal in February 2011. A further extraordinary appeal to the Supreme Court of Justice was also dismissed, in October 2011.

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

Relying on Article 6 § 1 (right to a fair trial) of the European Convention on Human Rights, Mr Manoli complained that the criminal proceedings against him had not been fair, because the Court of Appeal had failed to hear the victims and witnesses before overturning his acquittal.

Violation of Article 6 § 1

Just satisfaction: 2,000 euros (EUR) (non-pecuniary damage) and EUR 2,807 (costs and expenses)

Bivolaru v. Romania (no. 28796/04)

The applicant, Gregorian Bivolaru, is a Romanian national who was born in 1952 and lives in Romania.

The case concerned the complaints lodged by Mr Bivolaru, leader of the “Movement for Spiritual Integration into the Absolute”, relating to the lawfulness of his pre-trial detention, his right to presumption of innocence and respect for his right to private life.

Mr Bivolaru has been the leader of the “Spiritual Yoga Movement” (MISA) since 1990. On 18 March 2004 sixteen buildings occupied by members of the MISA, including M.D., were searched. On 26 March 2004 the public prosecutor brought proceedings against Mr Bivolaru on charges of sexual relations with a minor and sexual perversion allegedly committed on M.D., who had been a minor at the material time. In May 2004 two more similar complaints were added to Mr Bivolaru’s criminal file.

On 28 March 2004 Mr Bivolaru was arrested in the customs building at Nădlac, on the Romanian/Hungarian border, and charged with attempting to cross the border illegally. According to Mr Bivolaru, he had gone to the customs building to ascertain whether he was prohibited from leaving Romania before attempting to attend a seminar on yoga in Hungary. On 29 March 2004 Mr Bivolaru was remanded in custody and informed that he was charged with attempting to cross the border illegally, having sexual relations with a minor and sexual perversion. On 30 March 2004 the Bucharest County Court ordered Mr Bivolaru’s placement in pre-trial detention. Mr Bivolaru denied the charges and appealed. On 1 April 2004 the Bucharest Court of Appeal ordered his release at a hearing held at twelve noon. The applicant was released at 9.10 p.m. on the same day. The case had attracted extensive coverage by the Romanian media, which quoted the comments of a member of parliament and the Minister for Administration and the Interior on Mr Bivolaru. At the end of the criminal proceedings Mr Bivolaru was sentenced to six years’ imprisonment. In the meantime, however, he had moved to Sweden, where he had been granted political asylum. According to the information available to the Court, Mr Bivolaru was arrested in Paris on 26 February 2016 and then extradited to Romania.

Relying on Article 5 § 1 (right to liberty and security) of the Convention, Mr Bivolaru alleged that he had been deprived of his liberty without any plausible reason and detained for 10 hours in a police station despite the judgment of the Bucharest Court of Appeal of 1 April 2004 ordering his release. Relying on Article 6 § 2 (presumption of innocence), Mr Bivolaru complained about the various public statements made regarding him by State representatives. Relying on Article 8 (right to respect for private and family life), Mr Bivolaru complained in particular of the alleged disclosure to the press by the authorities of audio-visual material produced during the investigation and the information on his private life made public by the media.

No violation of Article 5 § 1 – concerning the alleged lack of plausible reasons justifying the deprivation of liberty

Violation of Article 5 § 1 – on account of the the deprivation of liberty subsequent to the judgment of the Court of Appeal of 1 April 2004

No violation of Article 6 § 2

No violation of Article 8

Just satisfaction: EUR 1,000 (non-pecuniary damage) and EUR 5,980 (costs and expenses)

Müftüoğlu and Others v. Turkey (nos. 34520/10, 34733/10, and 34745/10)

The applicants, Halil Hilmi Müftüoğlu, Adnan Tınarlıoğlu and Turgut Aksu, are Turkish nationals who were born in 1965, 1966 and 1961 respectively and live in Istanbul (Turkey).

The case concerned allegations of ill-treatment inflicted on the applicants during their arrest and police custody.

On 12 November 1999 the applicants were arrested during a police operation against the *Bilim Araştırma Vakfı* foundation (scientific research foundation). Mr Aksu was released on 17 November 1999. Mr Müftüoğlu and Mr Tınarlıoğlu were released on 18 November 1999. On 11 January 2000 criminal proceedings were brought against them for assisting and participating in a criminal organisation, but the Istanbul Assize Court discontinued the proceedings in May 2008 on grounds of statute limitation. That decision was upheld by the Court of Cassation.

In 2000 the applicants had lodged a complaint of torture against the police officers responsible for their custody. In October 2001 the prosecution decided to discontinue the proceedings, but that decision was set aside by the Assize Court in April 2005. On different dates the prosecution charged several police officers with torture, and the proceedings before the 7th Division of the Istanbul Assize Court led to the acquittal of eight officers. That judgment was, however, quashed by the Court of Cassation in April 2013 and the case should now be pending before the 7th Division of the Istanbul Assize Court. The Court has not been informed of any developments in the case since 5 March 2015.

Relying, in particular, on Article 3 (prohibition of inhuman or degrading treatment), the applicants complained that they had suffered ill-treatment during their police custody and had had no access to an effective remedy enabling them to identify those responsible and have them convicted.

No violation of Article 3 (treatment)

Violation of Article 3 (investigation)

Just satisfaction: EUR 5,000 to each applicant (non-pecuniary damage) and EUR 5,850 to the applicants jointly (costs and expenses)

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

echrpres@echr.coe.int | tel: +33 3 90 21 42 08

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Denis Lambert (tel: + 33 3 90 21 41 09)

Inci Ertekin (tel: + 33 3 90 21 55 30)

George Stafford (tel: + 33 3 90 21 41 71)

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.