



## Judgments and decisions of 15 June 2017

The European Court of Human Rights has today notified in writing ten judgments<sup>1</sup> and 77 decisions<sup>2</sup>: three Chamber judgments are summarised below; separate press releases have been issued for two other Chamber judgments in the cases of *Metodiev and Others v. Bulgaria* (application no. 58088/08) and *Independent Newspapers (Ireland) Limited v. Ireland* (no. 28199/15); a separate press release has also been issued for one decision, in the case of *De Mortemart v. France* (no. 67386/13); five Committee judgments, concerning issues which have already been submitted to the Court, and the 76 other decisions, can be consulted on [Hudoc](#) and do not appear in this press release.

*The judgments below are available only in English.*

### Shalyavski and Others v. Bulgaria (application no. 67608/11)

The applicants are a Bulgarian family: Ventsislav Shalyavski and Silvia Kotseva, and their son and daughter, Martin Kotsev and Yoana Shalyavska. They were born in 1966, 1967, 1988 and 2003 respectively and live in Blagoevgrad (Bulgaria). The case concerned the alleged ill-treatment of Ventsislav Shalyavski, who was heavily disabled, when he had been made to wait for ten hours outside a police station in his car in order to have charges brought against him for usury.

On 7 April 2011, Mr Shalyavski, who has muscular dystrophy and can only move his head and hands, was left immobilised in a car in front of a police station while the investigation authorities searched his home and other premises as well as carried out the necessary formalities for bringing charges against him. During this time his personal needs had to be attended to in public by his partner, the second applicant. His care assistant, who had been driving him in his car when he was stopped by the police at about 11 a.m. was arrested and taken into detention, but brought out under guard on two occasions during the day in order to move him to another car and eventually at 9.30 p.m. to help him attend a hearing at which his house arrest was ordered. He was kept under house arrest until 21 June 2011, with the police frequently – sometimes up to four or five times a day – checking whether he was at home or not. Mr Shalyavski has apparently since been indicted – in 2016 – and is currently standing trial.

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights, Mr Shalyavski alleged that his treatment on 7 April 2011 had caused him physical pain and public humiliation. Under Article 13 (right to an effective remedy) of the European Convention the applicants alleged in particular that they had had no effective remedies in domestic law for their complaints under Article 3.

**Violation of Article 3** (degrading treatment) – in respect of Ventsislav Shalyavski, concerning the events of 7 April 2011

<sup>1</sup> 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](http://www.coe.int/t/dghl/monitoring/execution)

<sup>2</sup> Inadmissibility and strike-out decisions are final.

**Violation of Article 13 taken in conjunction with Article 3** – in respect of Ventsislav Shalyavski

**Just satisfaction:** EUR 3,000 euros (EUR) (non-pecuniary damage) and EUR 2,500 (costs and expenses) to Ventsislav Shalyavski

**Frolovs v. Latvia (no. 13289/06)**

The applicant, Vladimirs Frolovs, is a permanently resident non-citizen of the Republic of Latvia who was born in 1963 and is detained in Riga. Mr Frolovs complained that criminal proceedings brought against him had been unfair. In July 2003 he was convicted of organising, inciting and aiding various crimes against persons and property, and sentenced to six years' imprisonment. The conviction was made in Mr Frolovs' absence and he was not detained to serve his sentence until November 2009. In the meantime, a lawyer claiming to act on his behalf had lodged appeals against the conviction. However, the senior courts had refused to consider the appeals, on the grounds that Mr Frolovs had not been present to attend the hearings and could not confirm that he wished to pursue an appeal.

Relying in particular on Article 6 §§ 1 and 3 (c) (right to a fair trial and right to legal assistance of own choosing), Mr Frolovs complained that the refusal of the appellate courts to examine his appeal in his absence had violated his right to have his case considered by a court.

**Violation of Article 6 §§ 1 and 3 (c)**

**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 Frolovs.

**Centre for Development of Analytical Psychology Ltd v. 'the former Yugoslav Republic of Macedonia' (nos. 29545/10 and 32961/10)**

The applicant company is a limited liability company which is owned and managed by Dr Marija Arsovska, a psychiatrist, whose name at the time was Dr Marija Karanfilova. The case concerned two sets of civil proceedings for claims brought against the State Health Insurance Fund ("the Fund").

In 2004 Dr Marija Karanfilova's Independent Psychiatric Practice ("the Practice") signed a contract with the Fund on the funding of the treatment it provided to health insurance beneficiaries. In 2006 the Practice was obliged by the health authorities to re-register under new statutory provisions: its name had thus been changed and it had been given a new individual tax number ("the new Practice"). In 2007 the new Practice was transformed into the applicant company.

In the meantime two sets of proceedings were initiated against the Fund for non-adherence to the terms of the contract of 2004. The domestic courts dismissed those claims for lack of standing on the side of the claimant, finding that the contract had been signed by the Fund and Dr Marija Karanfilova's Independent Psychiatric Practice and that the applicant company could not be considered as the Practice's legal successor as they had different individual tax numbers. Both sets of proceedings ended before the second-instance courts since the value of the claims fell below the statutory threshold for lodging an appeal on points of law with the Supreme Court.

A separate set of civil proceedings between the applicant company and the Fund (concerning the same contract of 2004) reached the Supreme Court which found that, in the particular circumstances of the case, the lower courts had incorrectly established that the applicant company had no standing in the proceedings.

Relying in particular on Article 6 § 1 the applicant company complained of a lack of access to a court concerning its claims related to the contract with the Fund.

**Violation of Article 6 § 1** (access to court)

**Just satisfaction:** EUR 3,600 (non-pecuniary damage) and EUR 1,360 (costs and expenses)

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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.