



Judgments of 10 July 2018

The European Court of Human Rights has today notified in writing 21 judgments¹:

five Chamber judgments are summarised below; separate press releases have been issued for four other Chamber judgments in the cases of *Vasilevskiy and Bogdanov v. Russia* (nos. 52241/14 and 74222/14), *Bakir and Others v. Turkey* (no. 46713/10) and *İmret v. Turkey (no. 2)* (no. 57316/10), and *Foundation Zehra and Others v. Turkey* (no. 51595/07);

12 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 below are available only in English.

Ščensnovičius v. Lithuania (application no. 62663/13)

The applicant, Anton Ščensnovičius, is a Lithuanian national who was born in 1980 and is detained in Pravieniškės Correctional Facility (Lithuania) for participation in an armed criminal organisation and drugs offences.

The case concerned the length and conditions of his detention on remand.

Mr Ščensnovičius was arrested in February 2010 and, given the seriousness of the crimes he was suspected of, his previous convictions and the risk of him absconding and/or interfering with the investigation, the courts authorised his detention on remand. This detention was repeatedly extended on essentially the same grounds until February 2014 when he was placed under house arrest.

He was subsequently convicted in May 2014 and sentenced to eight years' imprisonment and a fine. His sentence was increased to 12 years on appeal. However, on examining his appeal on points of law, the Supreme Court reduced the 12-year sentence by six months because of the delays in the criminal proceedings and the long duration of his detention on remand.

In administrative proceedings, Mr Ščensnovičius lodged two separate claims for compensation because of inadequate conditions of detention on remand, notably due to overcrowding. The courts awarded him 3,389 euros (EUR) for the period of his detention from February 2010 to May 2013 and EUR 1,437 for the period from May 2013 to February 2014.

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights, Mr Ščensnovičius alleged that, even though he had been awarded compensation for inadequate conditions of detention, the sums had been inadequate.

Violation of Article 3 (degrading treatment) – on account of the conditions of detention from 24 February 2010 to 13 May 2013

Just satisfaction: 11,900 euros (EUR) (non-pecuniary damage) and EUR 300 (costs and expenses)

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

X v. the Netherlands (no. 14319/17)

The applicant, Mr X, is a Moroccan national who was born in 1988 and is currently in the Netherlands.

The case concerned his possible expulsion from the Netherlands to Morocco.

He left Morocco in 2012 and went to stay with family in the Netherlands, overstaying his tourist visa. In 2014 he was arrested on suspicion of planning terrorist attacks in the Netherlands and placed in police custody. In June 2016 he was convicted of preparing terrorist offences and sentenced to 12 months' imprisonment.

In the meantime, he had applied for asylum, claiming that he would be at risk of being detained and ill-treated if he were removed to Morocco where he was considered a terror suspect. His application was rejected in July 2016, the Netherlands authorities finding that he had not made out a plausible case. In particular he was not being searched for by the Moroccan authorities, nor had he been charged with any criminal offences there. His fears were based on general reports and assumptions. The courts upheld this decision and rejected the applicant's appeal in February 2017.

The Dutch authorities scheduled the applicant's removal to Morocco in March 2017. However, his deportation was stayed on the basis of an interim measure granted by the European Court of Human Rights under Rule 39 of its Rules of Court, which indicated to the Dutch Government that he should not be deported for the duration of the proceedings before it.

Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment), the applicant alleged in particular that, as a known terror suspect, he belonged to a group systematically exposed to torture and/or ill-treatment in Morocco. He alleged that the Moroccan authorities must be aware of his conviction for a terrorism offence in the Netherlands and his links to a dismantled terrorist cell in Morocco, because he had been personally named in a Moroccan judgment convicting nine members of the cell.

No violation of Article 3 in the event of X's removal to Morocco

Interim measure (Rule 39 of the Rules of Court) – not to expel X – still in force until judgment becomes final or until further order.

Abdulkadyrov and Dakhtayev v. Russia (no. 35061/04)

The case concerned the applicants' being ill-treated while in police custody, the lack of a proper investigation into their allegations, the fact that the evidence obtained from the ill-treatment was used to convict them, as well as the applicants' being allocated to remote penal facilities for serving their sentences.

Mr Abdulkadyrov and Mr Dakhtayev were arrested in September 2002 in the Chechen capital Grozny. They allege that during several days each of unrecorded detention they were forced to confess to being members of an illegal armed group and to the murder of several people, including police officers and military servicemen. The ill-treatment included being beaten with truncheons, receiving electric shocks while they had gas masks or bags on their head, and threats of rape and blackmail.

They were convicted in May 2004 and given sentences of 25 years' imprisonment, which were reduced slightly on appeal. The domestic courts based their verdicts on the applicants' confessions and dismissed their complaints of ill-treatment and of not being able to examine prosecution witnesses at the trial. They were subsequently sent to serve their sentences in correctional colonies that are more than 3,000 km from their home region.

Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment), the applicants complained of ill-treatment by the police and of the lack of a proper investigation. They also complained that their trial had been unfair under Article 6 § 1 (right to a fair trial) in particular, and about being sent to serve their sentences so far away from their relatives under Article 8 (right to respect for private and family life).

Violation of Article 3 (torture)

Violation of Article 3 (investigation)

Violation of Article 6 § 1

Violation of Article 8

Just satisfaction: EUR 37,000 each to Mr Abdulkadyrov and Mr Dakhtayev for non-pecuniary damage and EUR 4,150 jointly to the applicants for costs and expenses

Kumitskiy and Others v. Russia (no. 66215/12)

The applicants, Aleksey Kumitskiy, Igor Glushchenko, Sergey Volchkov, Rustam Akhmadiyev, and Fedor Nikolayev, are five residents of Russia who were born in 1983, 1972, 1970, 1988, and 1986 respectively.

The case concerned their complaints about police entrapment.

The five applicants were all convicted of various drugs-related offences, with the final domestic decisions being handed down between March 2012 and April 2015. They alleged, among other things, that they had been pressured into selling the drugs in question and that there had been a lack of incriminating information.

Relying on Article 6 § 1 (right to a fair trial), the applicants complained principally that they had been convicted unfairly of drugs offences which they had been incited to commit and that their allegation of entrapment had not been properly examined in the domestic proceedings.

Violation of Article 6 § 1

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

İshak Sağlam v. Turkey (no. 22963/08)

The applicant, İshak Sağlam, is a Turkish national who was born in 1966 and lives in Diyarbakır (Turkey).

The case concerned criminal proceedings brought against him for membership of Hizbullah.

A lawyer practising in Diyarbakır, Mr Sağlam was questioned by the prosecuting authorities in April 2000 on suspicion of membership of an illegal organisation, Hizbullah. He was subsequently arrested and detained on remand.

He was ultimately convicted in April 2006 and sentenced to six years and three months' imprisonment. In convicting him, the courts relied on information obtained from a computer disk found by the security forces in a house belonging to Hizbullah, and written statements by other alleged members of the group. The latter claimed that Mr Sağlam had been a recruiter for Hizbullah, giving courses to new members and being in charge of certain cells.

Mr Sağlam appealed, arguing that the trial court had failed to hear evidence from the two witnesses against him and had not given him the possibility to put questions to them, despite his requests. The judgment was however upheld by the Court of Cassation in November 2007.

Relying in particular on Article 6 §§ 1 and 3 (d) (right to a fair trial right to obtain attendance and examination of witnesses), Mr Sağlam made a number of complaints about the criminal proceedings, alleging that they had been too long and unfair because he had not been given legal assistance during his questioning, could not cross-examine the witnesses against him during his trial and had not had access to the other incriminating evidence against him, namely the computer disk.

Violation of Article 6 § 1 (length of the criminal proceedings)

Violation of Article 6 §§ 1 and 3 (d)

Just satisfaction: EUR 5,000 (non-pecuniary damage) and EUR 1,500 (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.