



Judgments of 28 January 2020

The European Court of Human Rights has today notified in writing 14 judgments¹:

seven Chamber judgments are summarised below;

a separate press release has been issued for one other Chamber judgment in the case of *Ali Rıza and Others v. Turkey* (applications nos. 30226/10, 17880/11, 17887/11, 17891/11, and 5506/16);

six 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 below are indicated with an asterisk ().*

Nicolaou v. Cyprus (application no. 29068/10)

The applicants, Andriana Nicolaou, Charalambos Nicolaou, Nicos Nicolaou, Andreas Nicolaou, and Parthenope-Ariadne Nicolaou, are five Cypriot nationals who were born in 1948, 1943, 1972, 1980, and 1982 and live in Limassol (Cyprus).

The case concerned the death of Athanasios Nicolaou, the first two applicants' son and the other applicants' brother.

In 2005 Mr Nicolaou, 26, was performing his six months of compulsory military service. After an overnight leave in September, he was due to return to camp, however, the family were alerted that he had not returned. His body was subsequently found under a bridge, not far from his parked car. His family alleged that he had been killed by other soldiers.

The initial police investigation concluded in June 2006 that he had fallen from the bridge and died. It excluded any criminal act.

The authorities also carried out a military investigation, two inquests, an investigation on behalf of the Council of Ministers, and a second police investigation, which ended in June 2018. The Attorney General concluded in September 2018 that it was not possible to secure evidence to show that his death had been the result of a criminal act.

The applicants complained that the investigation into Mr Nicolaou's death had been inadequate. The Court dealt with the complaint under the investigation obligation of Article 2 (right to life) of the European Convention on Human Rights.

Violation of Article 2 (investigation)

Just satisfaction: 32,000 euros (EUR) for non-pecuniary damage to the applicants jointly

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

Lobarev and Others v. Russia (nos. 10355/09, 14358/11, 12934/12, 76458/12, 25684/13, and 49429/14)

The applicants, Pavel Lobarev, Dmitriy Dumler, Stanislav Shkarin, Roman Kazakovskiy, Valeriy Kosov, and Vadim Novgorodov, are six Russian nationals who were born in 1979, 1965, 1980, 1985, 1979, and 1970 respectively and live in various regions of Russia.

The case concerned the applicants' complaint that they had not been able to examine at their trials prosecution witnesses who had been evading justice.

They were convicted between 2008 and 2014 on the basis, among other things, of pre-trial statements of the prosecution witnesses who did not appear at court because they were either in hiding and/or on wanted lists.

They appealed, arguing that the domestic courts did not make sufficient efforts to ensure the presence of the witnesses at trial and read out their pre-trial statements. The trial court judgments were, however, upheld.

Relying on Article 6 §§ 1 and 3 (d) (right to a fair trial and right to obtain attendance and examination of witnesses) of the European Convention, the applicants complained that the criminal proceedings against them had been unfair because the domestic courts had read out the prosecution witnesses' pre-trial statements without good reason, thus restricting their right to have those witnesses examined at trial.

No violation of Article 6 §§ 1 and 3 (d)

Zinatullin v. Russia (no. 10551/10)

The applicant, Ramazan Zinatullin, is a Russian national who was born in 1993 and lives in Tolyatti (Samara region, Russia).

The case concerned an accident on a construction site near the applicant's school which had left him disabled at the age of 14.

Mr Zinatullin was seriously injured in 2008 when he fell through a hole in the floor of an unfinished building near his school. The building, owned by the Tolyatti mayor's office, was freely accessible from the school. Construction work on it had been on hold for years for lack of funding.

Criminal proceedings against officials from the mayor's office were never instituted as the investigating authorities found the accident had happened because of the applicant's own lack of care.

In civil proceedings brought by the applicant the courts established that the mayor's office, as owner of the unfinished building, had primary responsibility for the accident for failing to close off the unfinished building and awarded the applicant 600 euros (EUR) in compensation.

Relying in particular on Article 2 (right to life), Mr Zinatullin complained about the authorities' refusal to institute criminal proceedings against the officials from the mayor's office who had been responsible for taking safety measures at the construction site. He also complained that the compensation awarded to him in the civil proceedings had been inadequate.

Violation of Article 2

Just satisfaction: EUR 7,000 for non-pecuniary damage

A.P. v. Slovakia (no. 10465/17)

The applicant, Mr A.P., is a Slovak national who was born in 1999, lives in Rudňany (Slovakia). He is of Roma origin.

The case concerned his allegation of police brutality and the lack of an adequate investigation.

In February 2015 two municipal police officers went to his school after an allegation that he had been involved in an attack on another youth. He alleged that he was beaten by one of the officers and obtained medical reports the same day that showed an injury to his nose and a swollen top lip.

He lodged a criminal complaint against the police officers with the district police but in March 2015 an investigator dismissed the case, accepting the police officers' account that the applicant had been aggressive and that one of them had put him in an elbow lock and slapped him. Further investigations all essentially found that the police officers had acted in accordance with the law.

The applicant complained, in particular, that he had been subjected to treatment banned by Article 3 (prohibition of inhuman or degrading treatment).

Violation of Article 3 (degrading treatment)

Violation of Article 3 (investigation)

Just satisfaction: EUR 5,000 for non-pecuniary damage and EUR 4,500 for costs and expenses

Just Satisfaction

Cingilli Holding A.Ş. and Cingilloğlu v. Turkey (nos. 31833/06 and 37538/06)*

The case concerned the transfer in 2000 and the sale of Demirbank, the fifth biggest private bank in Turkey at the time.

The applicants are Cingilli Holding A.Ş, a Turkish company based in Istanbul, and Sema Cingilloğlu, a Turkish national who was born in 1951 and lives in Istanbul. Ms Cingilloğlu is one of the main shareholders in Cingilli Holding. The applicants were the main shareholders in Demirbank. In the second case, the applicant, Michael Reisner, is a German national who was born in 1961 and lives in Schrobenhausen (Germany). He was a shareholder in Demirbank.

The applicants complained that the prolonged failure of the Turkish authorities to comply with the binding judgments annulling the transfer of Demirbank to the Savings Deposit Insurance Fund and the sale of the bank had amounted to a violation of their rights as secured under Article 6 § 1 (right to a fair trial) and Article 1 of Protocol No. 1 (protection of property).

In its judgment delivered on 27 July 2015, the Court found, in the cases of Cingilli Holding A.Ş. v. Turkey and Cingilloğlu v. Turkey, a violation of Article 6 § 1 (right of access to court) and a violation of Article 1 of Protocol No. 1.

Today's judgment concerned the question of the application of Article 41 (just satisfaction) of the Convention.

Just satisfaction: The Court decided to strike the case out insofar as the question of the application of Article 41 (just satisfaction) of the Convention with regard to the requests in respect of pecuniary and non-pecuniary on account of the violation of Article 1 of Protocol No. 1 was concerned. It further held that Turkey was to pay: EUR 5,000 EUR to each applicant for the non-pecuniary damage resulting from the violation of Article 6 § 1 of the Convention, and EUR 19,991,24 to the applicant company for costs and expenses.

Mehmet Zeki Çelebi v. Turkey (no. 27582/07)

The applicant, Mehmet Zeki Çelebi, is a Turkish national who was born in 1973 and lives in Van (Turkey).

The case concerned his complaint that criminal proceedings against him for membership of a terrorist organisation, the PKK (Workers' Party of Kurdistan), for extortion and murder had been unfair owing to the systemic restriction imposed on his right to a lawyer.

Throughout the criminal proceedings against him he changed his position on the accusations against him.

When he was first arrested in 1999 and questioned by the police, he said that he had committed extortion for the PKK on six occasions and had acted as a lookout during a murder. Before the public prosecutor and investigating judge he admitted to three incidents of extortion and denied being involved in the murder. Under a statutory ban in force he was not represented by a lawyer at this stage.

During the trial itself, he was represented by a lawyer and retracted all his earlier statements. However, in 2004 he decided to confirm them, asking to benefit from Law. 4959, which provided for a reduction in his sentence if he gave information about his activities and other accused.

He then maintained for the next five years, up until his conviction in 2009, that he had been involved in two extortion incidents and as lookout for the murder, but denied any criminal responsibility for the latter. His conviction was based on his statements, those of his co-accused and the victims, as well as reports from an identification parade. He was sentenced to life imprisonment.

On appeal, his lawyer unsuccessfully contested the use of his statements taken without a lawyer present. In 2010 the Court of Cassation upheld the judgment of the first-instance court.

Relying on Article 6 §§ 1 and 3 (c) (right to a fair trial and right to legal assistance of own choosing), Mr Çelebi complained about the restriction on his right to a lawyer while in police custody and the subsequent use by the trial court of his statements taken without a lawyer present to convict him.

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 Çelebi.

Timurlenk v. Turkey (no. 37758/08)

The applicant, Ayşe Timurlenk, is a Turkish national who was born in 1948 and lives in Ankara.

The case concerned her complaint about statutory interest on a medical negligence award failing to compensate for inflation.

Ms Timurlenk had had to have a leg amputated in August 1996 after complications from an earlier gynaecological procedure. She sought compensation for medical negligence and eventually in 2008 she was awarded 50,000 new Turkish liras (TRY) for both pecuniary and non-pecuniary damage (about 25,000 euros (EUR) at the time) with default statutory interest from the date of the incident.

In December 2008 the Ministry of Defence paid her TRY 330,373. After a further court ruling changing the start date for statutory interest she repaid TRY 28,620 to the Ministry in 2011.

Relying on Article 1 of Protocol No. 1 (protection of property), Ms Timurlenk complained that the default interest had not kept pace with Turkey's very high rate of inflation.

Violation of Article 1 of Protocol No. 1

Just satisfaction: EUR 300,000 for pecuniary damage and EUR 1,250 for non-pecuniary damage

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Press contacts

echrpess@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)

Patrick Lannin (tel: + 33 3 90 21 44 18)

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.