



Judgments of 12 May 2020

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

four Chamber judgments are summarised below;

four Committee judgments, concerning issues which have already been submitted to the Court, including excessive length of proceedings, can be consulted on [Hudoc](#) and do not appear in this press release.

The judgments in French below are indicated with an asterisk ().*

Sudita Keita v. Hungary (application no. 42321/15)

The applicant, Michael Sudita Keita, is a stateless person (of Somali and Nigerian descent) who was born in 1985 and lives in Budapest.

The case concerned the difficulties in regularising his legal situation in Hungary over a period of 15 years.

Mr Sudita Keita arrived in Hungary in 2002, submitting a request for recognition as a refugee. The immigration authorities rejected it the same year.

He has continued to live in the country without any legal status, apart from one period from 2006 to 2008 when he was granted a humanitarian residence permit as an exile because he could not be returned to Somalia while the civil war was ongoing and the Nigerian embassy in Budapest had refused to recognise him as one of its citizens.

The authorities reviewed his exile status in 2008 and ordered his deportation in 2009, but it was not enforced.

Ultimately, in 2017, the Hungarian courts recognised him as a stateless person. His request had at first been refused because he did not meet the requirement under the relevant domestic law of "lawful stay in the country". That requirement was, however, found unconstitutional in 2015.

He submits that he has been living with his Hungarian girlfriend since 2009 and completed a heavy-machinery operator training course in 2010.

Relying in particular on Article 8 (right to respect for private and family life) of the European Convention on Human Rights, Mr Sudita Keita complained about the authorities' protracted reluctance to regularise his situation, alleging that it had had adverse repercussions on his access to healthcare and employment and his right to marry.

Violation of Article 8

Just satisfaction: 8,000 euros (EUR) for non-pecuniary damage and EUR 4,000 for 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

Danciu and Others v. Romania (no. 48395/16)

The applicants are a Romanian family, a mother, Sava Danciu, her two sons, Dumitru Danciu and Ionuc Danciu, and daughter, Lupa Timiș. They were born in 1954, 1975, 1986 and 1974 respectively and live in Borșa (Romania), San Giuliano Milanese and Como (Italy).

The case concerned the alleged attempt to murder their relative.

In September 2008 the local Borșa police were called to an altercation outside a restaurant involving the applicants' relative (husband and father, respectively), but by the time they arrived he had already been taken to hospital with an open head injury and concussion. When questioned there he stated that he had been sprayed with tear gas and attacked with a wooden bat.

The applicants' relative filed a criminal complaint in November 2008, naming five people as his attackers. The prosecutor heard the victim in February 2009 and, after he complained about the protracted length of the proceedings, questioned the five suspects in May 2009 and, a few months later, the witnesses indicated by the parties.

One of the suspects was eventually indicted in 2010 for hitting the applicants' relative and other forms of violence, as well as with causing a serious disturbance of public order. That legal classification was subsequently changed during the criminal case before the courts to attempted first-degree murder.

The criminal proceedings ended, however, in 2016 with an acquittal because of lack of incriminating evidence.

The applicants' relative had died in 2011 while the proceedings were still ongoing. A medical report concluded that there was no causal link between his death and the cranial injury he had sustained during the attack.

Relying on Article 2 (right to life) of the European Convention, the applicants mainly complained that the authorities had failed to carry out an effective and speedy investigation into the alleged attempt to murder their relative.

Violation of Article 2

Just satisfaction: EUR 15,000 for non-pecuniary damage and EUR 8,000 for costs and expenses

Korostelev v. Russia (no. 29290/10)

The applicant, Anton Korostelev, is a Russian national who was born in 1987 and is detained in penal colony IK-18 in the settlement of Kharp (Yamalo-Nenetskiy Region, Russia).

The case concerned his complaint about a violation of his religious rights after he had been reprimanded for praying during the prison's obligatory night-time sleeping period.

Mr Korostelev was sentenced to life imprisonment in June 2009. He is a practising Muslim and believes that it is his religious duty to perform acts of worship at least five times a day, including night-time.

In July 2012 and May 2013, while being held in remand prison no. 1 in the town of Syktyvkar, Republic of Komi ("IZ-1"), prison guards observed him saying prayers in the early hours. They ordered him to return to his sleeping place, but he refused.

The guards reported him to the prison governor for failing to observe the prison's daily schedule, which stated that a prisoner had to sleep at night between 10 p.m. and 6 a.m. After looking into the matter, including statements by the applicant, the governor in August 2012 and May 2013 formally reprimanded him for a breach of the Pre-trial Detention Act.

The applicant appealed to the Syktyvkar Town Court, which dismissed his appeal in November 2012. The court found that his conduct – absence from his sleeping place at the time set for uninterrupted night-time sleep – had violated the daily prison schedule and the legislative rules on prison discipline. The Supreme Court of the Republic of Komi dismissed an appeal by him in February 2013.

The applicant also submitted that he had been reprimanded in IK-18 in March 2018 for an act of worship performed during the daytime.

The applicant complained about the disciplinary proceedings under, in particular, Article 9 (freedom of thought, conscience, and religion).

Violation of Article 9

Just satisfaction: EUR 2,600 (non-pecuniary damage) and EUR 2,000 (costs and expenses)

Nechayeva v. Russia (no. 18921/15)*

The applicant, Ms Yelena Nechayeva, is a Russian national who was born in 1978 and lives in Moscow. Married and the mother of four children, she worked, from 2002 to 2015, as a federal civil servant in the Department of Labour and Employment. The case concerned the application of a mechanism for the reduction of an allowance that she had been granted to help with the purchase of housing.

At the relevant time Ms Nechayeva was living with her family in a room in a communal flat. She owned that room and one room in another flat, with a total area of 66.37 sq. m. In December 2010 she asked the head of her Department to place her on the list of civil servants eligible for housing assistance. In a decision of 18 March 2011 the head of the Department of Labour granted that request, pursuant to Government Decree no. 63 of 29 January 2009 and to a decision of 15 February 2011 by a committee of that Department set up to examine grants of allowances to civil servants. In December 2013 the committee determined which civil servants were eligible for assistance and decided to apply a reduction coefficient to the amount granted to candidates working in Moscow “in view of limited budgetary resources”. It selected thirteen officials, including the applicant, who were eligible for the grant, and fixed the reduction coefficient.

On 23 December 2013 the head of the Department of Labour granted the applicant assistance for the purchase of housing in the amount of 4,353,927 roubles (RUB). In September 2014 Ms Nechayeva entered into a contract for the purchase of a flat in Moscow with a surface area of 26.5 sq. m. On 9 October 2014 the sum of RUB 4,353,927 was transferred to her bank account.

In April 2014 Ms Nechayeva filed an administrative appeal challenging the amount granted to her. In particular, she considered that she was entitled to RUB 24,486,105. She argued that by applying a coefficient not provided for under Russian law the committee had overstepped its powers.

On 4 July 2014 the Moscow Simonovsky District Court handed down its judgment. It validated the committee’s calculation of the allowance. As to the reduction coefficient, the court noted that the committee had justified its application on the grounds of insufficient funds. It found that, in these circumstances, the decision to apply a reduction mechanism was “legal and justified”. It therefore dismissed Ms Nechayeva’s appeal.

On 16 October 2014 the Moscow court upheld the District Court’s judgment on appeal. Ms Nechayeva appealed to the Supreme Court of Russia, which, on 6 July 2015, ruling in a single judge formation, refused to refer the appeal to its civil division for consideration.

Relying on Article 1 of Protocol No. 1 (protection of property), the applicant argued that the application of the reduction coefficient to the amount of the allowance that she had been entitled to receive had been an arbitrary measure incompatible with the requirements of that Article.

Violation of Article 1 of Protocol No. 1

Just satisfaction: EUR 72,000 for pecuniary damage, EUR 1,600 for non-pecuniary damage, and EUR 1,130 for 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.