



Judgments and decisions of 19 November 2020

The European Court of Human Rights has today notified in writing 12 judgments¹ and nine decisions²: four Chamber judgments are summarised below;

separate press releases have been issued for three other Chamber judgments in the cases of *Barbotin v. France* (application no. 25338/16), *Efstratiou v. Greece* (no. 53221/14), and *Dupate v. Latvia* (no. 18068/11);

five Committee judgments, concerning issues which have already been submitted to the Court, and the nine decisions, can be consulted on [Hudoc](#) and do not appear in this press release.

The judgments summarised below are available only in English.

Pantalon v. Croatia (application no. 2953/14)

The applicant, Đani Pantalon, is a Croatian national who was born in 1964 and lives in Zadar (Croatia).

The case concerned the applicant's complaint that he had been convicted in minor-offence proceedings for failing to declare a diving speargun at a border control.

The applicant was indicted in 2009 for the minor offence of failing to declare a weapon after the Croatian border police had searched his car when he had been on his way back from Bosnia and Herzegovina and found a diving speargun, together with other beach equipment.

He was found guilty of the minor offence and fined in 2010. His speargun was also confiscated.

He appealed, arguing that spearguns were not considered weapons under the relevant domestic legislation. The High Minor Offences Court dismissed his appeal in 2012, ruling that spearguns were bowstring weapons under domestic law. He should therefore have declared his speargun at the border.

His constitutional complaint, in which he further argued that his speargun was band- and not bowstring-powered and exclusively intended for fishing, was dismissed as ill-founded in 2013.

Relying in particular on Article 7 (no punishment without law) of the European Convention on Human Rights, Mr Pantalon alleged that he had been convicted for an act which had not constituted an offence under domestic law.

Violation of Article 7

Just satisfaction: 520 euros (EUR) (pecuniary damage), EUR 1,500 (non-pecuniary damage) and EUR 1,660 (costs and expenses)

¹ Under Articles 43 and 44 of the Convention, Chamber judgments are not final. During the three-month period following a 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.

² Inadmissibility and strike-out decisions are final.

Project-Trade d.o.o. v. Croatia (no. 1920/14)

The applicant, Project-Trade d.o.o., is a limited liability company incorporated under Croatian law which is based in Zagreb.

The case concerned the applicant company's complaint of having been deprived of its shares in a commercial bank following Government restructuring.

The applicant company was a shareholder of Croatia Bank, a privately-owned joint-stock company incorporated under Croatian law.

In 1999 the Croatian National Bank appointed a temporary administrator at Croatia Bank and proposed a process of recovery and restructuring to the Croatian Government.

The Government adopted a decision on the recovery and restructuring of Croatia Bank on 23 September 1999. All shares held by the bank's shareholders were revoked and cancelled. The bank issued new shares, all in the name of the State agency in charge of the recovery process. The powers of the bank's governing bodies and the rights of shareholders were also extinguished.

In 1999 and 2000 five shareholders of the bank lodged four separate applications with the Constitutional Court for a review of the conformity of the Government's decision with the Constitution and with the relevant primary legislation. In January 2003 the Constitutional Court discontinued the proceedings since the legislation on which the Government's decision was based had in the meantime been repealed.

In September 2003 the applicant company brought a civil action against the bank and the State agency, arguing that the Government's decision had been unjustified in economic terms and that the statutory requirements had not been satisfied.

In February 2006, the first-instance court dismissed the applicant company's action. It established that all the existing shares of the bank had been extinguished and that the new shares issued were now owned by the State agency. In June 2008 the appeal court dismissed the applicant's appeal concerning the constitutionality of the Government's decision.

Relying in particular on Article 6 § 1 (right to a fair trial/right of access to court) of the European Convention and Article 1 of Protocol 1 (protection of property) to the Convention, the applicant company complained of having been deprived of its shares in Croatia Bank following the Government decision on its restructuring and recovery, the lack of access to the domestic courts to complain in respect of the/that decision, and the excessive length of the proceedings.

Violation of Article 6 § 1 (access to court)

Violation of Article 1 of Protocol No. 1

Violation of Article 6 § 1 (length of proceedings)

Just satisfaction: the Court dismissed the applicant company's claim for just satisfaction.

Shavadze v. Georgia (no. 72080/12)

The applicant, Tsitsino Shavadze, is a Georgian national who was born in 1965 and lives in Batumi (Georgia).

The case concerned the death of the applicant's husband, a military officer, in police custody.

Against the background of the five-day war between Georgian and Russian military forces in August 2008, the applicant's husband, R.Sh., was arrested on a street in Batumi by a unit of security forces of the Ministry of the Interior. Independent eyewitnesses subsequently reported that he had been ferociously beaten by law-enforcement officers and called "a traitor to this country" before being taken away in a van.

According to the official version of events, law-enforcement officers arrested R.Sh. in relation to a drug offence. He was fatally injured by escorting officers when attempting to escape during his transfer from Batumi to Tbilisi.

The applicant alleged that her husband had died as a result of severe ill-treatment, claiming that his body had displayed clear signs of torture when returned to her. She submitted in particular video—footage of his body with multiple injuries, including extensive deep wounds and what appeared to be broken fingers.

The Ministry of the Interior immediately opened a criminal pre-investigation inquiry into R.Sh.'s death. In the following days it carried out all the preliminary investigative measures before handing the investigation over to the prosecuting authorities. The investigation has not produced any conclusive findings since then and is currently ongoing. The applicant, who has repeatedly complained about not being granted civil-party status in the proceedings, has neither been allowed access to the case file nor the post-mortem report.

Relying on Article 2 (right to life), Ms Shavadze alleged that law-enforcement officers had tortured her husband to death and that the related investigation had been ineffective.

Violation of Article 2 (right to life and investigation)

Just satisfaction: EUR 40,000 (non-pecuniary damage)

Klaus Müller v. Germany (no. 24173/18)

The applicant, Klaus Müller, is a German national who was born in 1967 and lives in Rhede (Germany).

The case concerned lawyer-client privilege.

Between 1996 and 2014 the applicant (a lawyer) and his firm gave legal advice to four companies that went into insolvency in 2014. In 2017 criminal proceedings were opened against the former managing directors of those companies. The applicant was summoned as a witness. Despite the managing directors at the time of the trial waiving lawyer-client privilege, the applicant refused to testify, arguing that he was still bound by professional secrecy unless released by the former managing directors too.

Twice the Münster Regional Court ruled that the applicant had no right to refuse to testify, and fined him. On the first occasion the Hamm Court of Appeal quashed the fine order. In the second appeal proceedings the Court of Appeal upheld the Regional Court's decision. It acknowledged the divergent case-law of courts of appeal around Germany in similar matters. However it stated that the lawyer-client relationship existed between the company and its lawyer only, and that the interests of a former managing director might run counter to those of the company.

The applicant lodged a constitutional complaint with the Federal Constitutional Court, which on 26 March 2018 refused to entertain that complaint.

The applicant later paid 600 euros in fines and testified in court on pain of administrative detention.

Relying on Article 8 (right to respect for private life) of the Convention, the applicant complained that forcing him to testify had breached his legal professional privilege.

No violation of Article 8

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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.