



Judgments of 14 November 2023

The European Court of Human Rights has today given notification in writing of 15 judgments¹:

Five Chamber judgments are summarised below;

a separate press release has been issued for the judgment in the case of *Nika v. Albania* (application no. 1049/17);

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

The judgment in French below is indicated with an asterisk ().*

C.Y. v. Belgium (application no. 19961/17)*

The applicant, C.Y., is a Belgian national who was born in 1965 and lives in Belgium, where he is a self-employed nurse who performs home-care services.

The case concerns the imposition of an administrative fine on the applicant for having claimed payment from the compulsory health insurance and benefits scheme, in 2005 and 2006, for care services he had failed to provide or that had not been in compliance with Belgian law.

Criminal proceedings were brought against the applicant in which he was tried for forgery, using forged documents with intent to defraud and fraud. Following those proceedings, the Brussels Court of Appeal acquitted him in 2015, finding that his intent to defraud, fraudulent practices or use of false qualifications had not been made out. Administrative proceedings were also brought against him, which resulted in his being ordered to repay 113,048.48 euros for wrongly paid-out claims and a fine totalling 1,200 euros.

Relying on Article 4 of Protocol No. 7 (right not to be tried or punished twice) to the European Convention on Human Rights, the applicant alleges that he was the victim of a violation of the *ne bis in idem* principle as a result of being ordered to reimburse the undue payments and to pay an administrative fine despite his having been acquitted of criminal charges by the Brussels Court of Appeal.

No violation of Article 4 of Protocol No. 7

Vukušić v. Croatia (no. 37522/16)

The applicant, Zoran Vukušić, is a Croatian national who was born in 1979 and lives in Zagreb.

The case notably concerns the applicant's complaints about his confinement in a so-called "rubber cell" (*gumenjara*) in Split Prison, for two periods in 2012 amounting in total to 17 days. A *gumenjara* is a specially secured cell, padded with rubber or other soft material to prevent self-harm.

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.

He relies on Article 3 (prohibition of inhuman or degrading treatment) of the European Convention, alleging in particular that prison guards had placed him in the specially secured cell both times naked and with the lights on at all times, and the second time also with handcuffs and belts restraining his hands and ankles.

Also relying on Article 3 he makes complaints about the conditions of his detention between 2011 and 2013 in Zagreb and Split Prisons, particularly on account of overcrowding.

Violation of Article 3 on account of the applicant's placement in the specially secured cell in Split Prison

Violation of Article 3 on account of the applicant's conditions of detention in Zagreb and Split Prisons

Just satisfaction:

non-pecuniary damage: 15,000 euros (EUR)

costs and expenses: EUR 4,000

Janakieski v. North Macedonia (nos. 57325/19 and 16291/20)

The applicant, Mile Janakieski, is a Macedonian /citizen of the Republic of North Macedonia who was born in 1978 and lives in Skopje. He is a former Minister of Transport.

The case concerns two sets of criminal proceedings against Mr Janakieski, the first for terrorist threat to constitutional order and security, and the second for abuse of office, during which he was deprived of liberty by decisions of the domestic courts.

Relying on Article 5 (right to liberty and security) of the Convention, Mr Janakieski complains of alleged unlawfulness and arbitrariness, lack of relevant and sufficient reasons and lack of a speedy review of his deprivation of liberty.

Violation of Article 5 § 3 on account of the lack of sufficient reasons for the applicant's deprivation of liberty

Violation of Article 5 § 4 on account of the lack of a "speedy" review of the applicant's deprivation of liberty

Just satisfaction:

non-pecuniary damage: EUR 3,900

costs and expenses: EUR 2,200

Canavcı and Others v. Türkiye (nos. 24074/19, 44839/19, and 9077/20)

The case concerns lawyer-client confidentiality in the aftermath of the attempted *coup d'état* of 15 July 2016.

The applicants are three Turkish nationals: Mehmet Ali Canavcı, Ramazan Çaylı and Harun Altun.

All three applicants were placed in pre-trial detention in 2016: the first two for membership of the FETÖ/PDY and for attempting to overthrow the Government of the Republic of Türkiye or preventing it wholly or partly from performing its duties; and, the third for membership of an armed terrorist organisation.

Relying on Articles 8 (right to respect for private and family life) and 13 (right to an effective remedy), the applicants complain about the monitoring and recording of their meetings with their lawyers while they were in prison, pursuant to a legislative decree which had been adopted under the state of emergency declared in the aftermath of the attempted *coup d'état*.

Violation of Article 8

Just satisfaction:

non-pecuniary damage: EUR 9,750 to each applicant

costs and expenses: EUR 2,000 to the first applicant, EUR 4,942 to the second applicant and EUR 2,184 to the third applicant

Cangı and Others v. Türkiye (no. 48173/18)

The applicants are six Turkish nationals who were born between 1939 and 1964.

The case concerns a court-appointed expert examination procedure within administrative proceedings taken by the applicants, concerning the extraction of gold using cyanide leaching at a mine situated in the city of Uşak.

Relying on Article 6 (right to a fair trial) the applicants complain of, within the proceedings, not being able to put their own questions to experts, that the documents assessed by those experts, including other expert opinions, had not been forwarded to them for comments, and that the national courts had not responded to their arguments around those expert opinions.

No violation of Article 6 § 1 on account of inability to put questions to the experts

Violation of Article 6 § 1 on account of the non-communication of documents in the case-file

Just satisfaction: The Court rejected the applicants' claim for just satisfaction

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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.