



Judgments and decisions of 14 May 2020

The European Court of Human Rights has today notified in writing 11 judgments¹ and eight decisions²:

five Chamber judgments are summarised below; separate press releases have been issued for three other Chamber judgments in the cases of *Kostov and Others v. Bulgaria* (applications nos. 66581/12 and 25054/15), *Hirtu and Others v. France* (no. 24720/13), and *Mraović v. Croatia* (no. 30373/13);

a separate press release has also been issued for one decision, in the case of *Astruc v. France* (no. 5499/15);

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

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

Romić and Others v. Croatia (applications nos. 22238/13, 30334/13, 38246/13, 57701/13, 62634/14, 52172/15, and 17642/15)

The applicants in this case are seven Croatian nationals, Josip Romić, Ivan Romić, Željko Vlaškalić, Želimir Radonić, Zvonimir Dumančić, Željko Severec, and Josip Topalović, who were born in 1960, 1958, 1955, 1960, 1961, 1959, 1981 respectively, and one national of Bosnia and Herzegovina, Darko Domazet, who was born in 1963. They live in Croatia and Bosnia and Herzegovina.

The case concerned their allegations of unfairness in criminal proceedings brought against them.

All eight applicants were found guilty between 2010 and 2014 of crimes varying from fraud to attempted murder and given sentences.

When the domestic courts dismissed their appeals and upheld their convictions, they lodged constitutional complaints. They argued that during the appeal proceedings the submissions of the State Attorney's Office in their cases had never been served on the defence and/or that they had not been given the opportunity to be present at sessions of the appeal panel.

The first and second applicants' constitutional complaints were dismissed because domestic law did not require appeal courts to forward State Attorney's Office submissions to the defence, while all the other applicants' complaints were dismissed as unfounded.

Relying on Article 6 §§ 1 and 3 (c) (right to a fair trial and right to legal assistance of own choosing) of the European Convention on Human Rights, the first, second, fourth, fifth, sixth, seventh and eighth applicants alleged that the principle of equality of arms had been breached in the proceedings against them because the State Attorney submissions had never been forwarded to them. The third, fourth, sixth, seventh and eighth applicants complained about the holding of sessions of the appeal panel in their absence.

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

² Inadmissibility and strike-out decisions are final.

Violation of Article 6 § 1 - in respect of the first, second, fourth, fifth, sixth, seventh and eighth applicants as regards the breach of the principle of equality of arms and of adversarial trial resulting from the failure to forward the submission of the competent State Attorney's Office to the defence

Violation of Article 6 §§ 1 and 3 (c) - in respect of the third, fourth, sixth, seventh and eighth applicants as regards their absence from the sessions of the appeal panel

Just satisfaction: 1,000 euros (EUR), each, to the first and second applicants, and EUR 1,500, each, to the fourth, fifth, sixth, seventh and eighth applicants for non-pecuniary damage; EUR 1,244, each, to the first and second applicants, EUR 844 to the sixth applicant, and 1,644, each, to the fourth, fifth and seventh applicants, for costs and expenses

Kadagishvili v. Georgia (no. 12391/06)

The applicants, Amiran Kadagishvili, Nana Kadagishvili, and Archil Kadagishvili, are Georgian nationals who were born in 1949, 1947, and 1978 respectively, and live in Tbilisi. Amiran and Nana Kadagishvili are husband and wife and Archil is one of their two sons.

The case concerned their allegations that their trial for fraud and money laundering had been unfair and that the first and third applicants had been held in inadequate conditions of detention.

In July 2004 the first and third applicants were arrested on suspicion of financial crimes, including money laundering related to the activities of Gammabank, established by the first applicant. In September 2004 the second applicant was also arrested as a suspect. Their case was covered by the Rustavi 2 television channel, which in one report had an interview with the investigator, who stated that 10 billion euros (EUR) had been transferred through Gammabank accounts.

The applicants' trial began in 2005, ending with their conviction in April 2006. The court found them guilty of organising money laundering and other illegal acts, involving also employees of Gammabank. The first and third applicants were sentenced to prison while the second applicant was given a suspended prison sentence.

Sixteen Gammabank employees testified, including 10 who had been convicted of the same financial crimes on the basis of plea-bargaining agreements. The court also based its findings on other material, such as financial and other documents, an expert examination apparently carried out in respect of the relevant documents, and a report obtained from the United States Department of the Treasury.

On appeal, the applicants, argued in particular against the first-instance court's reliance on the witnesses who had concluded plea-bargaining agreements. During the proceedings the first applicant was excluded from the final hearing for contempt of court. In October 2006 the appeal court upheld their convictions.

The Supreme Court in February 2007 rejected an appeal on points of law as inadmissible.

The first and third applicants were held at a short-term remand prison; Tbilisi prison no. 5; and Rustavi prison no. 2. Both submit that the conditions of detention in their cells in Tbilisi prison no. 5 were very poor and included over-crowding. They also submit that they received insufficient treatment for their medical problems, which for the first applicant included type II diabetes.

Relying on Article 3 (prohibition of inhuman or degrading treatment) of the European Convention, the first and third applicants complained that they had not received adequate medical care in prison. They also submitted that the conditions of their detention had violated Convention standards.

The three applicants made various complaints about the criminal proceedings under Article 6 (right to a fair trial). They also raised complaints under Article 7 § 1 (no punishment without law) and Article 1 of Protocol No. 1 (protection of property), stating that their property had been confiscated as a result of a retroactive application of a criminal sanction.

Under Article 34 (right of individual petition) the first and third applicants complained that the Government had failed to comply with the letter and spirit of an interim measure indicated by the Court under Rule 39. The first applicant also complained that his representatives had twice been prevented from entering the prison hospital to finalise a response to the Government's observations in the case.

Violation of Article 3 - in respect of the first and the third applicants' conditions of detention at Tbilisi prison no. 5

Violation of Article 3 - in respect of the first and the third applicants' medical treatment in prison

No violation of Article 6 §§ 1 and 3 - in respect of the fairness of the criminal proceedings

No violation of Article 6 § 1 - in respect of the right of access to a court

No violation of Article 7

Violation of Article 34 - in respect of the first applicant

No violation of Article 34 - in respect of the third applicant

Just satisfaction: EUR 12,000 each to the first and the third applicants for non-pecuniary damage

Papadopoulos v. Greece (no. 78085/12)*

The applicant, Mr Efthymios Papadopoulos, is a Greek national who was born in 1965 and lives in Athens. The case concerned, in particular, the use at a hearing of a complaint made against the applicant by his former spouse, who had accused him of sexually abusing their son. That statement served as the basis for the applicant's conviction, which was upheld by the Court of Cassation.

Mr Papadopoulos, a judge by profession, divorced his wife in 2001. Parental authority in respect of their son, born in 1998, was awarded to the mother. At an unspecified date he brought proceedings before the Court of First Instance asking that parental authority be awarded to him. The court dismissed the case and authorised Mr Papadopoulos to meet his son during the day and in the mother's presence.

In January 2005, at the public prosecutor's request, the head of the child psychiatry clinic at Evangelismos Hospital interviewed the child. She recommended increasing the number of meetings between father and son, taking the view that the mother was not inclined to allow Mr Papadopoulos to assume his role as father and was seeking to prevent any relationship between father and son.

In April 2005 the Athenian Child Protection Society sent the public prosecutor responsible for the protection of minors a report, as requested by him, which set out the various points of disagreement between the parents and reproduced the mother's allegations that she was trying to protect her son from the physical, sexual and psychological ill-treatment that Mr Papadopoulos would inflict on him.

On 28 December 2005 the mother filed a complaint against her former husband for sexual abuse against their child. The public prosecutor ordered a preliminary investigation and Mr Papadopoulos presented his defence. After the investigation, criminal proceedings for repeated abuse of a minor were opened against Mr Papadopoulos and another person, Th. G.

During the investigation, Mr Papadopoulos, his ex-wife, the child and witnesses were summoned to testify. When examined by the judge on 13 July 2007 the child described a number of sexual acts that the applicant and Th. G. had allegedly inflicted on him. On 5 August 2009 the applicant and Th. G. were committed to stand trial before the Athens Court of Appeal.

In a judgment of 6 April 2011 the Court of Appeal sentenced Mr Papadopoulos to thirteen years' imprisonment for repeated abuse of a minor under ten years old. It also sentenced Th. G. to eleven years' imprisonment. Mr Papadopoulos appealed.

On 19 December 2011 the Court of Appeal upheld the conviction, but reduced the sentence to six years' imprisonment based on mitigating circumstances. It acquitted Th. G.

During the proceedings Mr Papadopoulos asked the Court of Appeal not to read out the statement that his son had made on 13 July 2007, arguing that the statement had been given under the harmful influence of the child's mother. As at first instance, he disputed the accusations against him, portraying them as a form of revenge on the part of his ex-wife.

At the hearing the Court of Appeal read out the impugned statement. It founded Mr Papadopoulos' conviction on the clarity of that statement and the lack of any contradiction in it, on a report drawn up by a social worker who had examined the child, and on the judgment of the Court of First Instance.

Mr Papadopoulos appealed on points of law. The Court of Cassation dismissed the appeal.

Relying in particular on Article 6 §§ 1 and 3 (d) (right to a fair hearing and right to examine witnesses), the applicant complained that his son's statement to the investigating judge, which in his submission had been the sole ground of his conviction, had been taken in the absence of a specialist and without any audio-visual recording.

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

Rodina v. Latvia (nos. 48534/10 and 19532/15)

The applicant, Irina Rodina, is a Latvian national who was born in 1954 and lives in Riga.

The case concerns her complaint about violations of her private life by a newspaper article and television programme.

In January 2005 the Russian-language newspaper *Čas* (Час) published an article entitled "An apartment sets a family at loggerheads", with the headline "A family drama".

Including statements from the applicant's mother and two other family members, the article stated among other things that the applicant had taken her mother to a psychiatric hospital, had sold her mother's apartment and had refused to support her. It was accompanied by a photograph of the family, including the applicant.

In November 2005 the applicant brought proceedings against the newspaper's publisher and two members of the family. The first-instance court dismissed her claim against the family members and partly upheld it in respect of the publisher, finding that the applicant's right to private life had been infringed and that four of the contested statements had violated her right to respect for honour and dignity.

On appeal, the Riga Regional Court quashed the first-instance judgment in May 2009. It concluded that 13 statements impugned by the applicant had not been false and could not damage her honour and dignity. It found likewise for the photograph. The applicant lodged an appeal on points of law, but the Senate of the Supreme Court declined to institute proceedings.

In November 2005 the TV3 television channel broadcast a short feature about the dispute in the applicant's family and the applicant brought a second set of proceedings. The Riga City Zemgale District Court dismissed her claim in September 2008 and the Riga Regional Court in essence upheld the first-instance judgment in June 2010. In July 2011 the Senate of the Supreme Court decided against instituting proceedings on points of law.

Relying on Article 8 (right to respect for private and family life, the home and the correspondence), the applicant complained about the publication of her family story in the newspaper and its subsequent broadcast on television, and alleged that the domestic courts had failed to protect her rights in both sets of civil proceedings.

Violation of Article 8

Just satisfaction: EUR 6,500 for non-pecuniary damage and EUR 3,800 for costs and expenses

Jabłońska v. Poland (no. 24913/15)

The applicant, Teresa Jabłońska, is a Polish national who was born in 1954 and lives in Warsaw.

The case concerned the death of her son following an attempt to arrest him during a routine police check.

On 18 June 2013 the applicant's son, D.J., was stopped at a police checkpoint for a random search of his car. The officers found two small packets of white powder and decided to arrest him. When he started to walk away, two officers tried but failed to overpower him and a struggle ensued with six more officers who arrived on the scene. After the officers managed to restrain and handcuff him, they realised that he was not breathing. All resuscitation attempts, by two officers, two passing paramedics and an ambulance crew called to the scene, were unsuccessful, and D.J. was pronounced dead on site.

Criminal proceedings were instituted the next day and the prosecuting authorities took witness statements and collected evidence. The autopsy concluded that the cause of death had been acute cardiorespiratory failure related to a chronic circulatory insufficiency. It noted, however, that neck injuries found on D.J. might also have had an impact on his death.

The Warsaw District Prosecutor discontinued the investigation in September 2014, finding that the police officers' actions had been justified by the reasonable suspicion of a drugs offence and to prevent D.J. from fleeing. The prosecutor dismissed as not credible the witness statements given by the passenger riding in D.J.'s car on the day of the incident and other witnesses alleging that he had been kicked in the head by one of the officers. He further found that D.J.'s neck injuries had no connection to the cardiorespiratory failure, which had resulted from "excited delirium syndrome", a condition related to stress caused by police actions and associated with excessive hormonal stimulation.

Those findings were upheld by the Warsaw District Court in November 2014.

The prosecution services reviewed the case five years later, interviewing more witnesses and requesting another forensic opinion, but they found that the evidence thus obtained did not justify reopening the investigation.

Relying on Article 2 (right to life), Ms Jabłońska complained about the conduct of the police operation, which she alleged had involved an excessive use of force, the failure to provide her son with requisite medical care as well as to conduct an effective investigation into his death.

Violation of Article 2 (investigation)

No violation of Article 2 (right to life)

Just satisfaction: EUR 26,000 for non-pecuniary damage

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Press Release

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.