EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Press Release
issued by the Registrar of the Court

ECHR 2 (2016)
05.01.2016

Judgments of 5 January 2016

The European Court of Human Rights has today notified in writing six judgments[1]:

five Chamber judgments are summarised below; for one other, in the case of *Frumkin v. Russia (application no. 74568/12)*, a separate press release has been issued.

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

Süveges v. Hungary (application no. 50255/12)

The applicant, Péter Süveges, is a Hungarian national who was born in 1972. A multiple recidivist, Mr Süveges essentially complained about the criminal proceedings against him on, among other offences, aggravated murder, armed robbery and illegal possession of firearms and explosives, as well as his related pre-trial detention and house arrest.

After more than 50 hearings before a number of different judges, Mr Süveges was found guilty of those offences in February 2014 and sentenced to life imprisonment. In July 2015 this judgment was quashed and remitted to the first-instance court where the case is currently still pending.

In the context of those criminal proceedings and on the grounds of a risk of absconding and reoffending, the courts ordered Mr Süveges' pre-trial detention which essentially covered three periods, starting on June 2005 when he was arrested and remanded in custody and still continuing. These periods of pre-trial detention were punctuated by periods when he served prison sentences in other, unrelated, criminal proceedings or was placed under house arrest (between January 2012 and November 2013). Most recently, in July 2015 he was placed in pre-trial detention again following the quashing of his conviction of February 2014.

During his house arrest, Mr Süveges made various requests for one-off leave, including visits to family, which were granted. Other requests for more regular visits to his mother and father, who were both in poor health, were refused. In December 2012, the High Court dismissed an application for leave for him to attend Mass on Sundays and this decision was upheld on appeal. From 7 to 18 January 2013, as the owner of the flat where Mr Süveges was staying could no longer provide for him, his house arrest continued, at his request, from a campsite that was unsuitable for residence during the winter. On 21 January 2013, the court re-ordered his house arrest at the flat of his acquaintance.

Relying in particular on Article 5 § 3 (entitlement to trial within a reasonable time or to release pending trial) and Article 6 § 1 (right to a fair within a reasonable time) of the European Convention on Human Rights, Mr Süveges complained about the excessive length of both his pre-trial detention – more than six years – and criminal proceedings – more than ten years – against him. Furthermore, he alleged under Article 5 § 4 (right to have lawfulness of detention decided speedily by a court) that the proceedings concerning his motions for release had been unfair. Lastly, relying on Article 8 (right to respect for family life), and Article 9 (freedom of thought, conscience, and

[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

religion), Mr Süveges complained that contact with his family had been restricted and that he had been unable to attend mass while under house arrest.

Violation of Article 5 § 3
No violation of Article 5 § 4
Violation of Article 6 § 1
No violation of Article 8
No violation of Article 9

Just satisfaction: 2,000 euros (EUR) (non-pecuniary damage) and EUR 6,000 (costs and expenses)

Cătălin Eugen Micu v. Romania (no. 55104/13)*

The applicant, Cătălin Eugen Micu, is a Romanian national who was born in 1973 and is being detained in the Drobeta Turnu Severin prison (Romania).

The case concerned Mr Micu's conditions of detention in the Bucharest-Jilava prison, his alleged contamination in prison with hepatitis C and the lack of medical treatment.

Having been sentenced to ten years' imprisonment, Mr Micu has been incarcerated in various prisons in Romania, including Bucharest-Jilava. In that prison, Mr Micu was placed in a cell with an area of 33.96 m2 which was occupied by 27 prisoners and fitted with a bathroom comprising two toilets, two washbasins and two showers. Furthermore, he was apparently forced to take his meals under difficult conditions because of the lack of space and the inadequate numbers of tables and chairs. During his detention Mr Micu was hospitalised on several occasions at the Bucharest-Jilava prison hospital, where he was diagnosed with viral hepatitis C. As regards his treatment, the medical team advised him to avoid smoking and to adhere to a special diet. In prison he was put on a special diet for sick prisoners and treated with hepatoprotectors. Nevertheless, when the doctors advised him to undergo reassessment, Mr Micu twice refused to be hospitalised for the purpose. During an examination in the internal medicine and cardiology department of the Bucharest prison hospital he was diagnosed with angina and a hepatopathy which was probably toxic. Mr Micu was provided with medical treatment. His complaints about his conditions of detention and the lack of medical treatment for hepatitis C were dismissed by the judge delegated to the Bucarest-Jilava prison and the Bucharest court of first instance.

Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Micu complained, firstly, about the situation of overcrowding in the Bucarest-Jilava prison, and secondly, about his contamination with hepatitis C, which he had developed in prison, as well as the lack of medical treatment in prison for this condition.

Violation of Article 3 – on account of the conditions of detention
No violation of Article 3 – regarding the contamination with hepatitis C and the alleged lack of medical treatment in prison

Just satisfaction: EUR 4,350 (non-pecuniary damage)

Kleyn v. Russia (no. 44925/06)

The applicant, Aleksandr Kleyn, is a Russian national who was born in 1969 and lived, prior to his conviction, in Chelyabinsk (Russia). The case concerned his complaints of unlawful detention and the lack of an enforceable right to compensation.

On 13 September 2001 Mr Kleyn was convicted of murder by a court comprising one professional judge and two lay judges and sentenced to 23 years' imprisonment. On 12 April 2002 the Supreme Court upheld his conviction on appeal.

In July 2004, Mr Kleyn lodged a supervisory-review complaint alleging that the lay judges who considered the case had been appointed in contravention of the applicable legislation. On 15 June 2005 the Presidium of the Supreme Court quashed the judgments of 13 September 2001 and 12 April 2002 holding that the lay judges had not been authorised to consider the case and that this affected the lawfulness of the conviction. The case was remitted to the Regional Court for re-consideration and Mr Kleyn was detained pending a new trial.

A preliminary hearing took place on 5 August 2005 at which Mr Kleyn requested his release arguing that he had already served over four years of the earlier imposed prison sentence making the further extension of his pre-trial detention unnecessary. The Regional Court held that the measure of preventive detention previously imposed should remain unchanged noting, in particular, that his remand in custody during the preliminary investigation was lawful and justified and that there were no grounds to replace it with a more lenient measure in view of the gravity of the charges and the character of the defendant. On 19 September 2005, the Regional Court found Mr Kleyn guilty as charged and sentenced him to 22 years and three months' imprisonment; the time already served being removed from the newly imposed sentence. The conviction was ultimately upheld by the Supreme Court on 13 October 2005.

Relying on Article 5 § 1 (a) and (c) (right to liberty and security), Mr Kleyn complained that he had been unlawfully detained from 13 September 2001, when he was convicted for the first time, to 15 June 2005, when the judgment was quashed, and again pending the new trial between 15 June and 19 September 2005, when he was convicted for the second time. Finally, relying on Article 5 § 5 (right to compensation), Mr Kleyn complained that he was unable to receive compensation for his unlawful detention.

Violation of Article 5 § 1 (a) – on account of the unlawfulness of Mr Kleyn's detention from 13 September 2001 to 15 June 2005
Violation of Article 5 § 1 (c) – on account of the unlawfulness of Mr Kleyn's detention from 15 June to 5 August 2005
Non-violation of Article 5 § 1 (c) – on account of Mr Kleyn's detention from 5 August to 19 September 2005
Violation of Article 5 § 5 – on account of the lack of an enforceable right to compensation in respect of Mr Kleyn's detention from 13 September 2001 to 15 June 2005

Just satisfaction: EUR 26,000 (non-pecuniary damage) and EUR 1,500 (costs and expenses)

Manerov v. Russia (no. 49848/10)

The applicant, Aleksandr Manerov, is a Russian national who was born in 1963 and lives in Vladivostok (Russia). The case concerned his appeals against orders of pre-trial detention.

On 1 July 2009 Mr Manerov, a former military unit commander, was convicted of fraud by the Garrison Court and sentenced to four years' imprisonment. On 29 January 2010, the Fleet Court quashed his conviction on appeal and ordered a retrial holding that the custodial measure should continue until 1 April 2010 in view of the seriousness of the charges against him and the risk of his absconding and threatening a witness.

On 15 February 2010 the Garrison Court rejected Mr Manerov's application for release and informed him that the decision could be appealed within three days to the Fleet Court. On 26 March 2010 however the Fleet Court discontinued Mr Manerov's appeal on the basis that, in accordance with domestic law, the appeal was not amenable to a separate consideration before the final decision in the case.

In the meantime, by order dated 22 March 2010, the Garrison Court extended Mr Manerov's detention until 1 July 2010. A copy of the extension order was handed to him on 25 March 2010

after the three-day time limit-limit for lodging an appeal had expired. Mr Manerov lodged an appeal on 27 March 2010 and the Garrison Court renewed the time-limit for lodging the appeal. On 21 April 2010 the appeal was submitted to the Fleet Court for examination and on 23 April 2010 Mr Manerov was informed that a hearing would take place on that day. He requested an adjournment in light of the late notification, which was granted, and the appeal hearing was adjourned until 30 April 2010.

On 29 April 2010, the Garrison Court convicted Mr Manerov of nine counts of fraud committed in abuse of office and sentenced him to four years' imprisonment. On 30 April 2010, the Fleet Court upheld on appeal the custody order of 22 March 2010.

Relying on Article 5 § 4 (right to have lawfulness of detention decided speedily by a court) Mr Manerov complained that the examination of his appeal against the decision of 15 February 2010 rejecting his application for release had been discontinued and that the examination of his appeal against the custody order of 22 March 2010 had not been speedy.

Violation of Article 5 § 4 – on account of the failure to consider the substance of the Mr Manerov's appeal against the decision of 15 February 2010 to reject his request for release
Violation of Article 5 § 4 – on account of the length of the appeal proceedings in relation to the detention order of 22 March 2010

Just satisfaction: EUR 5,000 (non-pecuniary damage)

Minikayev v. Russia (no. 630/08)

The applicant, Almaz Minikayev, is a Russian national who was born in 1981 and is serving a prison sentence in Bor in the Nizhniy Novgorod Region (Russia). The case concerned, in particular, his complaints of ill-treatment by the police and forced confession resulting in unfair criminal proceedings.

On 22 March 2005 Mr Minikayev was arrested during the course of a robbery. He alleges that he was assaulted by the police both at the scene and on the way to the police station. He alleges that once at the police station he was assaulted again, repeatedly questioned and threatened and that as a result he confessed to another robbery which had taken place on 30 December 2004. On 23 March 2005 Mr Minikayev was examined by a forensic medical expert who noted bruising, abrasions and haemorrhaging. She recorded Mr Minikayev's complaints of headaches and impaired vision and concluded that his injuries may have been caused by the impact of blunt objects at the time and in the circumstances he had described. The expert suggested further medical advice should be sought.

On 24 March 2005, the court authorised Mr Minikayev's pre-trial detention and he remained in custody pending trial. On the same day Mr Minikayev was questioned by the investigator in the presence of his lawyer and admitted his involvement in the robbery of 22 March 2005.

During the trial, however, Mr Minikayev revoked his confessions, alleging that he had not told the investigator about the ill-treatment and confessed to the robbery because he had been threatened and pressured by the police. On 30 December 2006, he was found guilty of two counts of robbery and sentenced to eleven years' imprisonment. On 16 April 2007 the Regional Court upheld Mr Minikayev's conviction on appeal holding that his allegations that his confession had been extracted under coercion had been considered to be unsubstantiated by the trial court.

Following his arrest Mr Minikayev made a number of complaints of ill-treatment by the police to the District Prosecutor's Office who refused to institute criminal proceedings. On 27 September 2007 a senior investigator refused to institute criminal proceedings, basing his decision on the court judgment which had held Mr Minikayev's allegations to be unsubstantiated and made in an attempt to avoid criminal liability. Most recently, on 23 September 2009, a decision refusing to open a criminal investigation was upheld by the Regional Court.

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment), Mr Minikayev notablyh complained that his ill-treatment by the police had resulted in his confessing to a crime and that there had been no effective investigation into his complaints.

Violation of Article 3 (treatment) – on account of the excessive use of force against Mr Minikayev during his arrest
Violation of Article 3 (investigation)

Just satisfaction: EUR EUR 15,000 (non-pecuniary damage) and EUR 1,210 (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.