



Judgments¹ concerning the Czech Republic and Ukraine

The European Court of Human Rights has today notified in writing the following three judgments.

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

Tesař and Others v. the Czech Republic (application no. 37400/06)*

The applicants, Vladimír Tesař, Olga Tesařová and Jaroslava Tesařová, are three Czech nationals who were born in 1957, 1960 and 1932 respectively and live in Prague. In 1977, V.T., the father and spouse of the applicants, purchased from the Czechoslovak authorities a house that had become State property following confiscation. Successful restitution proceedings were subsequently brought by the person from whom the house had been confiscated. Relying on Article 6 § 1 (right to a fair hearing in a reasonable time) and Article 1 of Protocol No. 1 (protection of property) to the European Convention on Human Rights, the applicants complained, in particular, about the length of the restitution proceedings brought against them and the deprivation of their property, acquired in good faith, without adequate compensation.

Violation of Article 6 § 1 (length)
No violation of Article 1 of Protocol No. 1

Just satisfaction:

- non-pecuniary damage: to each applicant, 5,500 euros (EUR)
- costs and expenses: EUR 2,500, jointly

Luchaninova v. Ukraine (no. 16347/02)

The applicant, Olga Luchaninova, is a Ukrainian national who was born in 1947 and lives in Trostyanets. (Ukraine). The case concerned her complaint about the unfairness of proceedings in which she had been found guilty of stealing 35 labels from the company where she was working as a packer. Relying on Article 6 §§ 1 and 3 (b) and (c) (right to a fair trial) of the Convention, she complained that the proceedings had not been held in public and that she had not been given adequate time and facilities to prepare her defence or consult a lawyer as a judge had come on 6 November 2000 to the clinic where she had been staying with her six-year-old grandson while he had been undergoing specialised skin treatment and had held a hearing on the case in his room. Further relying on Article 2 of Protocol No. 7 (right of appeal in criminal matters), she also complained that she had not been given the opportunity to appeal the decision of 6 November 2000.

Violation of Article 6 § 1 (fairness – lack of a public hearing)

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

Violation of Article 6 § 1 taken together with Article 6 § 3 (b) and (c) (fairness – right to adequate time and facilities for preparation of defense and right to legal assistance of own choosing)

No violation of Article 2 of Protocol No. 7

Just satisfaction: EUR 3,000 (non-pecuniary damage)

Zheltyakov v. Ukraine (no. 4994/04)

The applicant, Oleg Zheltyakov, is a Ukrainian national who was born in 1955 and lives in Vinnytsya (Ukraine). The case concerned the quashing of a judgment of 5 April 2000 in which he had been awarded compensation for the partial destruction of his house as well as the lengthy partial non-enforcement of that judgment. He also complained about the excessive length of the related proceedings. He relied in particular on Article 6 § 1 (right to a fair hearing within a reasonable time) and Article 1 of Protocol No. 1 (protection of property).

Two violations of Article 6 § 1 (fairness – quashing and lengthy partial non-enforcement)

Violation of Article 6 § 1 (length)

Violation of Article 1 of Protocol No. 1

Just satisfaction: EUR 30,640 (pecuniary damage) and EUR 6,200 (non-pecuniary damage)

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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.