



## Judgments concerning Armenia, Austria, Azerbaijan, Bulgaria, Greece, Italy, the Netherlands, Poland, Romania, Russia and Turkey

The European Court of Human Rights has today notified in writing the following 30 judgments, six, of which (in italics) are Committee judgments and are final. The others are Chamber judgments and are not final<sup>1</sup>.

Repetitive cases<sup>2</sup> and length-of-proceedings cases, with the Court's main finding indicated, can be found at the end of the press release. The judgments available only in French are indicated with an asterisk (\*).

### Bukharatyan v. Armenia (application no. 37819/03)

### Tsaturyan v. Armenia (no. 37821/03)

The applicants, Hayk Bukharatyan and Ashot Tsaturyan, are Armenian nationals who were both born in 1980 and live in Yerevan. Jehova's Witnesses, they complained about being convicted and sentenced to two years in prison in April 2003 for refusing to serve in the army. They relied on Article 9 (freedom of thought, conscience and religion) of the European Convention on Human Rights.

#### **Violation of Article 9** (in both cases)

**Just satisfaction:** EUR 6,000 euros (EUR) (non-pecuniary damage) and EUR 4,000 (costs and expenses) to each applicant.

### Standard Verlags GmbH v. Austria (no. 3) (no. 34702/07)

The applicant company, Standard Verlags GmbH, is a limited liability company based in Vienna which owns the daily newspaper *Der Standard*. The case concerned an article it published in April 2006 reporting on enormous speculation losses incurred by the bank, Hypo Alpe-Adria, and the ensuing criminal investigation for embezzlement brought against the bank's senior management. The head of the bank's treasury brought proceedings against the applicant company for disclosing his identity in that article and, as a result, was awarded EUR 5,000 compensation. The applicant company relied on Article 10 (freedom of expression) of the Convention.

#### **Violation of Article 10**

**Just satisfaction:** EUR 7,602.12 (pecuniary damage) and EUR 4,500 (costs and expenses)

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<sup>1</sup> 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](http://www.coe.int/t/dghl/monitoring/execution)

<sup>2</sup> In which the Court has reached the same findings as in similar cases raising the same issues under the Convention.

Hajili v. Azerbaijan (no. 6984/06)

Kerimli and Alibeyli v. Azerbaijan (nos. 18475/06 and 22444/06)

Mammadov v. Azerbaijan (no. 2) (no. 4641/06)

The applicants, Arif Mustafa oglu Hajili, Ali Amirhuseyn oglu Kerimli, Gulamhuseyn Surkhan oglu Alibeyli and Sardar Jalal oglu Mammadov, are Azerbaijani nationals who live in Baku. Mr Kerimli and Mr Alibeyli are well-known politicians. All opposition party (Azadliq) candidates, the applicants complained about the invalidation of the results of the November 2005 national parliamentary elections in which, they claimed, they were the outright winners in their respective constituencies. They also claimed that they were deprived of their seats in the National Assembly (Milli Majlis) owing to their affiliation with the opposition. They relied in particular on Article 3 of Protocol No. 1 (right to free elections).

**Violation of Article 3 of Protocol No. 1** (in all the three cases)

**Just satisfaction:** EUR 7,500 (non-pecuniary damage) and EUR 1,600 (costs and expenses) to Mr Hajili; EUR 20,000 (pecuniary damage) to Mr Kerimli, EUR 7,500 (non-pecuniary damage) to each of the applicants and EUR 3,000 (costs and expenses) jointly to both applicants in the case of *Kerimli and Alibeyli*; EUR 7,500 (non pecuniary damage) and EUR 1,600 (costs and expenses) to Mr Mammadov.

Biser Kostov v. Bulgaria (no. 32662/06)

The applicant, Biser Kostov, is a Bulgarian national who was born in 1951 and lives in Yambol (Bulgaria). He alleged that in April 2004 the manager of a supermarket as well as its owner beat him up as they suspected him of stealing a bottle of vodka. He sustained severe bruising and ten broken ribs. The case concerned his complaint about the inadequacy of the ensuing criminal investigation into his allegation and that, as a result, the two men who assaulted him were never prosecuted. The case was examined under Article 3 (prohibition of inhuman or degrading treatment / lack of effective investigation).

**Violation of Article 3** (investigation)

**Just satisfaction:** EUR 4,000 (non-pecuniary damage) and EUR 1,000 (costs and expenses)

Shahanov v. Bulgaria (no. 16391/05)

The applicant, Nikolai Shahanov, is a Bulgarian national who was born in 1977 and is currently serving a life sentence in Plovdiv Prison (Bulgaria) for aggravated robbery and murder. The case concerned his complaint about the conditions of his detention in Varna Prison from December 2002 to February 2009. Notably, during that period he was detained in a damp and draughty cell where he had to use a bucket to go to the toilet and was only allowed to bathe once a fortnight. He relied on Article 3 (prohibition of inhuman or degrading treatment). Mr Shahanov also complained about the prison authorities both in Varna and Plovdiv prisons hindering contact with his lawyer by monitoring their correspondence and not allowing telephone calls between them, in breach of, in particular, Article 8 (right to respect for private and family life), and about the excessive length of the criminal proceedings against him, in breach of Article 6 § 1 (right to a fair trial within a reasonable time). Lastly, he alleged under Article 13 (right to an effective remedy) that he had had no effective remedies in respect of his complaints.

**Violation of Article 3**

**Violation of Article 13 in conjunction with Article 3**

**Violation of Article 8****No violation of Article 13 in conjunction with Article 8****Violation of Article 6 § 1** (length of the criminal proceedings)**Violation of Article 13 in conjunction with Article 6 § 1****Just satisfaction:** EUR 7,000 (non-pecuniary damage) and EUR 2,000 (costs and expenses)

Just satisfaction

## di Marco v. Italy (no. 32521/05)\*

In its principal judgment in this case, the Court held that there had been a violation of Article 1 of Protocol No. 1 on account of the inadequate compensation paid to the applicant – Raffaele di Marco, an Italian national born in 1935 and living in Sessa Cilento (Salerno) – in respect of the expropriation of a plot of land which he rented and used to run a business. The Court found that the compensation paid, which was more than 6.5 times lower than the estimates given by the officially-appointed experts, had not been reasonably related to the value of the applicant's "possession", and that the authorities had not taken account of the fact that the expropriation in question had deprived Mr di Marco of the "tools of his trade", on which he depended for his living. In its judgment today the Court decided that Italy is to pay the applicant EUR 250,000 for pecuniary and non-pecuniary damage and EUR 10,000 for costs and expenses.

## G.R. v. the Netherlands (no. 22251/07)

The applicant, G.R., is an Afghan national who was born in 1961 and lives in Zoetermeer (the Netherlands). He arrived in the Netherlands in December 1997 to join his wife and two children who had arrived from Afghanistan five months earlier. A number of requests for asylum refused, he applied for a residence permit for the purpose of residing with his wife and children who had, in the meantime, been granted Netherlands nationality. Relying on Article 8 (right to respect for private and family life), he complained about the refusal to exempt him from the statutory administrative charge, EUR 830, required to obtain a decision on his request for a residence permit and which he could not afford to pay. The Court examined that complaint under Article 13 (right to an effective remedy).

**Violation of Article 13****Just satisfaction:** The Court dismissed the applicant's claim for just satisfaction.

## Pohoska v. Poland (no. 33530/06)

The applicant, Danuta Pohoska, is a Polish national who was born in 1951 and lives in Elbląg (Poland). Ms Pohoska was involved in a long-running dispute with her neighbour which had resulted in a number of administrative and criminal cases. This case concerned Ms Pohoska's allegation that the court which heard one of the criminal cases against her was not impartial as the supervising judge was her neighbour's brother. She relied on Article 6 § 1 (right to a fair trial).

**Violation of Article 6 § 1****Just satisfaction:** EUR 1,000 (non-pecuniary damage)

### B. v. Romania (no. 42390/07)\*

The applicant, Ms B., is a Romanian national who was born in 1958 and lives in Buhuși. She suffered from a mental health disorder and was compulsorily admitted to the psychiatric wing of various hospitals on a number of occasions between 2000 and 2008. In 2006, she lodged an oral complaint with the police against D, alleging rape. She refused to be examined by a gynaecologist, claiming that she had been the victim of attempted rape rather than the full act. A decision was taken not to prosecute. Relying on Article 3, Ms B. alleged, in particular, that the investigation by the national authorities into her allegations of attempted rape was ineffective.

#### **Violation of Article 3 (investigation)**

**Just satisfaction:** EUR 10,000 (non-pecuniary damage)

### Cristescu v. Romania (no. 13589/07)

The applicant, Ioan Cristescu, is a Romanian national who was born in 1959 and lives in Bucharest. Relying in particular on Article 8 (right to respect for private and family life), he complained about the authorities' failure to enforce judicial decisions granting him contact rights with his son, born in 1996, following his divorce from the child's mother in 2001. In 2002 Mr Cristescu was granted custody of their eldest son, born in 1992, but the younger son remained with the mother.

#### **No violation of Article 8**

### Roșioru v. Romania (no. 37554/06)\*

The applicant, Silviu Roșioru, is a Romanian national who was born in 1967 and lives in Buzău. In January 2000, on entering a bar, he saw six members of the special police forces who had removed their masks. After referring to them as terrorists, Mr Roșioru was handcuffed by the officers, who beat him with truncheons and kicked him. In the van taking him to the county police headquarters, the officers continued to beat him until he lost consciousness. After imposing a minor-offence fine on the applicant for insulting the bar staff and refusing to provide information on his identity, the police released him. Mr Roșioru's wife lodged a complaint and an investigation was started which lasted for over eight years and was eventually closed because the time-limit for bringing a prosecution had expired. Relying on Article 3 (prohibition of inhuman or degrading treatment and torture), the applicant complained that he was assaulted by the police officers and that the investigation by the national authorities into his allegations of torture was ineffective.

#### **Violation of Article 3 (treatment and investigation)**

**Just satisfaction:** EUR 12,000 (non-pecuniary damage) and EUR 5,300 (costs and expenses)

### Șerban v. Romania (no. 11014/05)\*

The applicant, Bogdan Claudiu Șerban, is a French national who was born in 1968 and lives in Bezons (Val d'Oise). On the night of 22 September 2002, in a Bucharest park, two local police officers asked Mr Șerban to present his identity papers for inspection, after drawing his attention to the fact that he and his girlfriend, who were sitting on a bench, were seated in an indecent position in a public place. When the applicant refused to give his identity, the police officers attempted to immobilise him with the help of several security guards working in the discotheque located in the park. Relying on Article 3 (prohibition of inhuman or degrading treatment and torture), Mr Șerban

complained that he was subjected to ill-treatment by the security guards, incited by the two police officers who were present. He further complained that the investigation by the national authorities into his allegations of physical assault and of robbery with violence was ineffective.

**Violation of Article 3** (treatment and investigation)

**Just satisfaction:** EUR 10 000 (non-pecuniary damage) and EUR 4,300 (costs and expenses)

Arutyunyan v. Russia (no. 48977/09)

Sakhvadze v. Russia (no. 15492/09)

Vladimir Vasilyev v. Russia (no. 28370/05)

The applicants, Armen Arutyunyan, Teymuraz Sakhvadze and Vladimir Vasilyev, are Russian nationals who were born in 1970, 1975 and 1953, respectively. They are all currently in detention – for various criminal offences including in particular manslaughter, attempted rape and murder – while suffering from numerous health problems. Mr Arutyunyan, in a wheelchair, has very poor eyesight, a failing kidney transplant and suffers from obesity and a severe form of diabetes. Mr Sakhvadze has a spinal cord injury and suffers from tuberculosis and acute stomach, liver and kidney pain; he is also incontinent, has deteriorating eyesight, rotten gums (he has lost most of his teeth) and impaired speech as he had to have half his tongue removed. Following frostbite Mr Vasilyev had to have a toe and part of his left foot amputated and also suffers from tuberculosis and diabetes. Relying on Article 3 (prohibition of inhuman or degrading treatment), all the applicants complained that they have been denied adequate medical care in detention. Mr Arutyunyan complained in particular that the conditions of his pre-trial detention in a regular facility for almost 17 months were wholly inadequate in view of his disability; he was for example placed in a cell on the fourth floor of a building with no lift when the medical facilities were all on the ground floor. He was also thereby denied outdoor exercise and fresh air. Mr Sakhvadze and Mr Vasilyev complained about being denied essential care, despite doctors' recommendations (Mr Sakhvadze a scan for his spine injury and consultation with a neurosurgeon and Mr Vasilyev orthopaedic footwear for his injured feet). Mr Arutyunyan further complained under Article 5 §§ 1 and 3 (right to liberty and security) about the excessive length as well as unlawfulness of his pre-trial detention, and Mr Vasilyev under Article 6 § 1 (right to a fair trial) about the unfairness of civil proceedings he brought before the courts concerning damage to his health due to inadequate care in detention.

In the case of *Arutyunyan*:

**Violation of Article 3** (conditions of detention)

**Violation of Article 5 § 1** (on account of the applicant's detention from 24 to 28 January 2010)

**No violation of Article 5 § 3**

**Just satisfaction:** EUR 15,000 (non-pecuniary damage)

In the case of *Sakhvadze*:

**Violation of Article 3** (inadequate medical care in detention)

**Just satisfaction:** EUR 9,000 (non-pecuniary damage) and EUR 5,000 (costs and expenses)

In the case of *Vladimir Vasilyev*:

**Violation of Article 3** (inadequate medical care in detention)

**Violation of Article 6 § 1****Just satisfaction:** EUR 9,000 (non-pecuniary damage)

## Sokurenko v. Russia (no. 33619/04)

The applicant, Igor Sokurenko, is a Russian national who was born in 1960 and lives in the town of Bratsk in the Irkutsk Region (Russia). The case concerned his allegation that he was beaten in January 2004 by prison guards in Bratsk remand centre where he was being detained pending trial on charges of robbery and possession of weapons and that the ensuing inquiry into his allegation was ineffective. He relied in particular on Article 3 (prohibition of inhuman or degrading treatment). Convicted as charged in December 2004 and sentenced to five years' imprisonment, he was released a few months later as he had already served most of the prison term pending his trial. He also complained under Article 5 § 3 (right to liberty and security) about the excessive length of his detention pending trial as well as, under Article 5 § 4 (right to have lawfulness of detention decided speedily by a court), about defects in the judicial review of his detention (notably, he was not invited to a number of hearings on his continued detention).

**Violation of Article 3** (treatment and investigation)**Violation of Article 5 § 3****No violation of Article 5 § 4** (in relation to the detention orders of 26 March and 28 June 2004)**Violation of Article 5 § 4** (in relation to the detention order of 29 September 2004)**Just satisfaction:** EUR 18,000 (non-pecuniary damage)

## Vulakh and Others v. Russia (no. 33468/03)

The applicants are four Russian nationals who live in Kurganinsk in the Krasnodar Region (Russia). They are the parents and children of a man who, suspected of being the leader of a criminal syndicate, committed suicide in March 2002. The criminal proceedings against him were discontinued as a result of his death, and his co-defendants were convicted of serious criminal offences in October 2002. The trial court's judgment stated that the applicants' late relative had been the leader of the criminal gang and had paid its members to commit crimes. In subsequent civil proceedings brought by several victims of the gang's crimes, the courts, relying on the criminal judgment, awarded a large part of a minority share in a dairy factory, which the applicants had inherited from their late relative, to those victims as compensation for pecuniary and non-pecuniary damage. Relying on Article 6 § 2 (presumption of innocence), the applicants complained that the findings of the Russian courts in the criminal trial had breached their late relative's presumption of innocence. Further relying on Article 1 of Protocol No. 1 (protection of property), they also complained in particular about the Russian courts' decisions holding them financially liable for the crimes allegedly committed by their relative.

**Violation of Article 6 § 2****Violation of Article 1 of Protocol No. 1****Just satisfaction:** EUR 4,000 (non-pecuniary damage) to each applicant



## Just satisfaction

## Lordos and Others v. Turkey (no. 15973/90)

This case concerned the allegation by 13 applicants that the Turkish occupation of the northern part of Cyprus following the 1974 conflict had deprived them of their homes and properties. In its principal judgment, delivered on 2 November 2010, the Court held in particular that there had been a violation of Article 1 of Protocol No. 1 (protection of property) as concerned eight of the applicants and a violation of Article 8 (right to respect for private and family life) as concerned seven of the applicants. In its judgment today the Court awarded each of the applicants between EUR 100,000 and EUR 8,000,000 for pecuniary and non-pecuniary damage and EUR 15,000 jointly to all applicants for costs and expenses.

## Repetitive cases

The following cases raised issues which had already been submitted to the Court.

**Hüseyin Özel v. Turkey** (no. 2917/05)

**Kıran v. Turkey** (no. 23321/09)

**Serap Demirci v. Turkey** (no. 316/07)

The three cases above concerned the applicants' complaints that they could not bring compensation claims before the Turkish courts as they were refused legal aid. They relied in particular on Article 6 § 1 (right of access to a court).

**Violation of Article 6 § 1** in all three cases

## Length-of-proceedings cases

In the following cases, the applicants complained in particular about the excessive length of non-criminal proceedings.

**Fergadioti-Rizaki v. Greece** (no. 370/09)\*

**Naka v. Greece (no. 2)** (no. 33585/09)\*

**Theodorakis and Theodorakis-Tourism and Hotels S.A. v. Greece (n° 2)**\*  
(no. 57713/09)

**Voutyras and Others v. Greece** (no. 54391/08)\*

**Violation of Article 6 § 1** (all four cases)

**Violation of Article 13** (in the cases of *Fergadioti-Rizaki* and *Voutyras and Others*)

In the following cases, the applicants complained in particular about the excessive length of criminal proceedings against them for fraud, forgery and misappropriation of property (*Getimis*) and drug related offences (*Jusuf*).

**Getimis v. Greece** (no. 58040/09)

**Jusuf v. Greece** (no. 4767/09)

**Violation of Article 6 § 1** (both cases)

**Violation of Article 13** (in the case of *Getimis*)

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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.