



## Judgments concerning the Czech Republic, France and Ukraine

The European Court of Human Rights has today notified in writing the following six judgments, four of which (in italics) are final: three Committee judgments and one friendly settlement. 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 (\*).

### Plathey v. France (application no. 48337/09)\*

The applicant, Kacy Plathey, is a French national who was born in 1987. He was sent to prison in July 2005 to serve several sentences. Following an altercation with a prison officer during a search of his cell, where a mobile phone was found, he appeared before the prison's disciplinary body, which ordered his placement in a disciplinary cell for 45 days. Relying on Article 6 (right to a fair hearing), he alleged that the disciplinary body acted on behalf of the State, as both prosecutor and judge, and was neither impartial nor independent. He further complained, under Article 3 (prohibition of torture and inhuman or degrading treatment), about his conditions of detention in the disciplinary cell, where there was a particularly nauseous smell in the air as another detainee had previously set fire to the cell. Lastly, under Article 13 (right to an effective remedy) in conjunction with Article 3, he complained that he had been unable to lodge an effective appeal before the end of the disciplinary measure against him.

#### **Violation of Article 3**

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

**Just satisfaction:** EUR 9,000 euros (EUR) (non-pecuniary damage)

### Mokallal v. Ukraine (no. 19246/10)

The applicant, Far Abolfazl Abbas Mokallal, is an Iranian national who was born in 1971 and lives in Odessa (Ukraine). He has been living and working in Ukraine since 1995. He has a partner and five small children, who are all Ukrainian nationals. Relying on Article 5 § 1 (right to liberty and security), he complained about the unlawfulness of his detention pending extradition between 3 April and 14 July 2010 on account of criminal proceedings for embezzlement brought against him in Iran. He alleged in particular that there was no legislation governing detention pending extradition in Ukraine and that, despite the Iranian Embassy in Kiev informing the Ukrainian authorities on 12 July 2010 that the applicant's extradition was no longer required, he was only actually released two

<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.

days later. On his release the applicant continued to live in Ukraine, where he had been refused refugee status.

**Violation of Article Article 5 § 1** (in respect of the applicant's detention between 3 April and 29 June 2010 and 12 and 14 July 2010)

**No violation of Article 5 § 1** (in respect of the applicant's detention between 29 June and 12 July 2010)

**Just satisfaction:** no claim submitted by the applicant

## Repetitive cases

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

### ***Otava v. the Czech Republic* (no. 36561/05)\***

This case concerned the length and unfairness of restitution proceedings brought against the applicant and the alleged violation of his right to the peaceful enjoyment of his possessions. Relying on Article 1 of Protocol No. 1 (protection of property), the applicant complained in particular of having been deprived of his property – which he had acquired in good faith – without any compensation. In a judgment of 27 May 2010 the Court found that there had been a violation of Article 1 of Protocol No. 1 (protection of property). The Court reserved the question of the application of Article 41 (just satisfaction).

**Following a friendly settlement between the parties, the Court decided to strike the remaining part of the application out of its list of cases.**

## Length-of-proceedings cases

In the following cases, the applicants complained in particular under Article 6 § 1 (right to a fair trial) about the excessive length of non-criminal proceedings.

***Larionov v. Ukraine*** (no. 30741/08)

***Sverchkov and Sverchkova v. Ukraine*** (no. 55865/07)

**Violation of Article 6 § 1** in both cases

In the following case, the applicant complained in particular about the excessive length of criminal proceedings.

***Kayuda v. Ukraine*** (no. 31467/06)

**Violation of Article 6 § 1**

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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.