



## Judgments<sup>1</sup> concerning the Republic of Moldova, Romania, Russia, Turkey and the United Kingdom

The European Court of Human Rights has today notified in writing the following 12 judgments, none of which are final.

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 in French are indicated with an asterisk (\*).

### Asito v. Republic of Moldova (no. 2) (application no. 39818/06)

The applicant company, QBE Asito S.A., is a private insurance company registered in the Republic of Moldova. It was ordered by a final Supreme Court judgment of July 2005 to pay a bank a certain amount of compensation for pecuniary damage. However, in August 2005 the Supreme Court amended its judgment to the effect that the company had to pay a higher sum to the bank. By a supplementary judgment of March 2006, the Supreme Court further ordered the company to pay legal fees to a company with which it had signed a contract but which was not a party in the main proceedings. Relying on Article 6 § 1 (right to a fair hearing) and Article 13 (right to an effective remedy) of the European Convention on Human Rights, the applicant company complained that the judgments of August 2005 and March 2006 had breached the principle of legal certainty. The applicant company further alleged a violation of its rights under Article 1 of Protocol No. 1 (protection of property) of the Convention.

**Violation of Article 6 § 1 and Article 1 of Protocol No. 1** (in so far as the Supreme Court of Justice delivered a supplementary judgment in respect of company's claims)

**No violation of Article 6 § 1 and Article 1 of Protocol No. 1** (in so far as the Supreme Court of Justice delivered a supplementary judgment in respect of the bank's claims)

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

### Onaca v. Romania (no. 22661/06)

The applicant, Nicolae Ioan Onaca, is a Romanian national who was born in 1975 and lives in Oradea (Romania). The case concerned his detention in custody, on suspicion of accepting a bribe, in the Bihor Investigation Service detention facility between 28 November 2005 and 31 January 2006. Mr Onaca complained that his detention conditions had violated his rights under Article 3 (prohibition of inhuman or degrading treatment). He alleged in particular: that he had shared a cell with five other detainees and that the toilet in the cell had offered no privacy, that the cell had not been heated

<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.

even when the outside temperature had reached minus 20 degrees, that hot water had only been available for ten minutes per week for all six detainees and that, being a non-smoker, he had been detained with cellmates who smoked in the cell all day long.

### **Violation of Article 3**

**Just satisfaction:** EUR 6,000 (non-pecuniary damage)

### **Şega v. Romania (no. 29022/04)\***

The applicants, Titus and Ecaterina Şega, were Romanian nationals who were born in 1925 and 1935. They died on 12 June 2007 and 25 April 2011 respectively, leaving as heirs their sons, Sorin Şega and Dan Laurentiu Şega, who expressed a wish to continue with the proceedings before the Court. On 25 May 1990, while on holiday in Germany, Titus and Ecaterina Şega were involved in a road traffic accident caused by a third party, also a Romanian national. Their vehicle was completely destroyed and they sustained serious injuries. By means of a registered letter posted on 24 May 1993 they lodged an action for damages, which was dismissed by the Romanian courts for failure to pay the stamp duty – an error recognised by the Supreme Court of Justice in 2000 – and then for expiry of the limitation period. Relying on Article 6 § 1 (right to a fair hearing within a reasonable time), the applicants alleged that they had been deprived of access to a court on account of the dismissal of their action for reasons not attributable to them. They also complained about the length of the proceedings.

**Violation of Article 6 § 1** (access to court and length)

**Just satisfaction:** EUR 7,000 (non-pecuniary damage) and EUR 2,000 (costs and expenses)

### **Borisov v. Russia (no. 12543/09)**

The applicant, Vyacheslav Borisov, is a Russian national who was born in 1964 and lives in Yekaterinburg (Russia). The case concerned his detention in Yekaterinburg remand centre between September 2008 and June 2010. He complained that his detention conditions had violated Article 3 (prohibition of inhuman or degrading treatment). In particular, he alleged that the cells had been severely overcrowded, poorly lit and ventilated, that there had been no walls to separate the toilet, that he had not had an individual bed, that a shower had been allowed only every ten days and that the nutrition had been inadequate. Relying further on Article 6 §§ 1 and 3 (c) (right to a fair trial), he alleged that his right to take part in the appeal hearing in his case had been violated.

**Violation of Article 3**

**No violation of Article 6 §§ 1 and 3 (c)**

**Just satisfaction:** EUR 7,500 (non-pecuniary damage)

### **Karpenko v. Russia (no. 5605/04)**

The applicant, Kirill Karpenko, is a Russian national who was born in 1971 and is currently serving a sentence in a correctional colony in the Sverdlovsk Region (Russia). He complained that his conviction of aggravated robbery in May 2003 had been based only on statements by his alleged accomplices in the series of robberies and that he had been unable to confront them in open court, in violation of Article 6 §§ 1 and 3 (d) (right to obtain attendance and examination of witnesses). Relying on Article 6 § 1 (right to a fair trial by an independent and impartial tribunal), he further complained that the courts

which terminated his parental rights had refused to give him an opportunity to attend hearings and present his case on an equal footing with his former wife.

**Violation of Article 6 §§ 1 and 3 (d)**

**Violation of Article 6 § 1**

**Just satisfaction:** EUR 5,200 (non-pecuniary damage)

**Kolpak v. Russia (no. 41408/04)**

The applicant, Sergey Kolpak, is a Russian national who was born in 1969 and lives in St Petersburg (Russia). Arrested in July 2001 on suspicion of aggravated theft and robbery and unlawful possession of firearms, he complained that the police had beaten him on the night after his arrest, and had left him overnight chained to a radiator in the squatting position in the corridor of a police station without the possibility to use a toilet. He also alleged that the authorities had not carried out an adequate investigation into his related complaints. Mr Kolpak relied in particular on Article 3 (prohibition of inhuman or degrading treatment).

**No violation of Article 3** (treatment)

**Violation of Article 3** (investigation)

**Just satisfaction:** EUR 10,000 (non-pecuniary damage) and EUR 550 (costs and expenses)

**Mogilat v. Russia (no. 8461/03)**

The applicant, Ruslan Mogilat, is a Ukrainian national who was born in 1971. His home address after his release from detention in 2003 was not provided. Arrested in the early morning of 6 November 2001 on suspicion of trying to steal a car, he complained, under Article 3 (prohibition of inhuman or degrading treatment), that the police had ill-treated him in police custody and that there had been no effective investigation into his related complaints.

**No violation of Article 3** (treatment)

**Violation of Article 3** (investigation)

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

**Nefedov v. Russia (no. 40962/04)**

The applicant, Sergey Nefedov, is a Russian national who was born in 1966 and lives in Irkutsk (Russia). Relying on Article 6 §§ 1 and 3 (c) (right to a fair trial by an independent and impartial tribunal and to legal assistance of own choosing), he complained that neither he nor his lawyer could attend his appeal in a criminal case against him on suspicion of drug-trafficking, while the prosecutor had attended that hearing and had been heard by the court.

**Violation of Article 6 §§ 1 and 3 (c)**

**Just satisfaction:** EUR 4,000 (non-pecuniary damage)

**Aysu v. Turkey (no. 44021/07)**

The applicant, Yunus Aysu, is a Turkish national who was born in 1975 and is serving a life sentence in Diyarbakır Prison, the courts having found that he was a member of an armed illegal organisation, the Hizbullah. Relying on Article 3 (prohibition of inhuman or

degrading treatment), he complained that he had been ill-treated while in police custody and that no effective investigation had been carried out into his complaints. Relying further on Article 5 § 3 in particular (right to liberty and security), Mr Aysu complained that he had been kept in police custody for too long. Finally, relying on Article 6 § 1 (right to a fair trial within a reasonable time), he complained that the criminal proceedings against him had been too long.

**No violation of Article 3** (treatment)

**Violation of Article 3** (investigation)

**Violation of Article 5 § 3** (length of detention)

**Violation of Article 6 § 1**

**Just satisfaction:** EUR 19,500 (non-pecuniary damage)

### Malik v. the United Kingdom (no. 23780/08)

The applicant, Zafar Iqbal Malik, is a British national who was born in 1943 and lives in London. Having started his medical practice as a general practitioner in 1978, he was suspended from the list of doctors authorised to practise for the National Health Service, following a monitoring visit to his practice premises. Relying on Article 1 of Protocol No. 1 (protection of property), he complained about his suspension from the list.

**No violation of Article 1 of Protocol No. 1**

### Reynolds v. the United Kingdom (no. 2694/08)

The applicant, Patricia Reynolds, was a British national, born in 1935. She died subsequent to lodging her complaint and the case was pursued by her daughter on her behalf. The case concerned the death of Ms Reynolds' son, a psychiatric patient diagnosed with schizophrenia, in 2005 following his fall from the sixth floor of a public care unit. Relying on Article 2 (right to life) alone and in conjunction with Article 13 (right to an effective remedy), Ms Reynolds complained that no effective mechanism had been available to her whereby civil liability could be determined for the alleged negligent care of her son and by which she could have obtained compensation for her loss.

**Violation of Article 13 in conjunction with Article 2**

**Just satisfaction:** EUR 7,000 (non-pecuniary damage) and EUR 8,000 (costs and expenses)

### Y.C. v. the United Kingdom (no. 4547/10)

The applicant, Y.C., is a British national who was born in 1962 and lives in Bridgwater (England). Her case concerned childcare proceedings in respect of her son, born in 2001, which had resulted in an order authorising the child to be placed for adoption because of concerns about her relationship with the child's father. She complained that the courts' refusal to order an assessment of her as a sole carer for her son and their failure to have regard to all relevant considerations when making the placement order had violated her rights under Article 8 (right to respect for private and family life).

**No violation of Article 8**

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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.