



## Judgments<sup>1</sup> concerning Bulgaria, the Czech Republic, Germany, Greece, Russia and Ukraine

The European Court of Human Rights has today notified in writing the following 26 judgments.

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 (\*).

### Andreev v. Bulgaria (application no. 11578/04)\*

The applicant, Stanko Naydenov Andreev, is a Bulgarian national who was born in 1922 and lives in Sofia. Relying on Article 6 § 1 (right of access to a court) of the European Convention on Human Rights, he complained that an administrative decision fixing the amount of compensation for 5 ares of land belonging to him in the suburbs of Sofia on which a road was built had not been examined on the merits on appeal.

#### **Violation of Article 6 § 1**

##### **Just satisfaction:**

- the most appropriate form of redress would be to re-open the proceedings
- pecuniary damage: claim dismissed

### Dimitrov-Kazakov v. Bulgaria (no. 11379/03)\*

The applicant, Stoyan Dimitrov-Kazakov, is a Bulgarian national who was born in 1939 and lives in Sofia. In 1997 his name was entered in the police registers, with reference to a rape, as an "offender", after being questioned about a rape, even though he had never been indicted for the offence. He was later subjected by the police to a number of checks related to rape complaints or disappearances of young girls. Relying on Articles 8 (right to respect for private and family life) and 13 (right to an effective remedy) of the Convention, he complained about his inclusion in the police file and about the lack of a remedy by which to have that complaint examined.

#### **Violation of Article 8**

#### **Violation of Article 13 in conjunction with Article 8**

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

### Genchevi v. Bulgaria (no. 33114/03)\*

The applicants are three Bulgarian nationals living in Bulgaria. Vida Gencheva, born in 1933 and living in Mihaylovo, is the widow of Yovcho Genchev, who was found dead on

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1 Under Articles 43 and 44 of the Convention, Chamber judgments are not final. During the three-month period following their 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)

28 February 1994 in a field near his village. Nancho and Georgi Genchev, who were born in 1953 and 1960 respectively and live in Stara Zagora, are the sons of the deceased. Relying on Article 2 (right to life) they alleged that the criminal investigation into the murder of their husband/father had not been sufficiently effective.

**Violation of Article 2** (lack of effective investigation)

**Just satisfaction:** 12,000 euros (EUR), jointly (non-pecuniary damage)

### Iliev and Others v. Bulgaria (nos. 4473/02 and 34138/04)

The applicants, Krasimir Iliev, Mihail Ekimdzhiev and Katina Boncheva, are three Bulgarian nationals who were born in 1964, 1964 and 1979 respectively and live in Bulgaria. Mr Iliev is currently serving several sentences in Varna prison, and Mr Ekimdzhiev and Ms Boncheva, who are his legal representatives before the European Court of Human Rights, live in Plovdiv. Relying on Articles 3 (prohibition of inhuman or degrading treatment) and 13 (right to an effective remedy), Mr Iliev complained of the inhuman and degrading conditions in which he has been detained. All applicants, relying on Article 8 (right to respect for private and family life and correspondence) and 13 (right to an effective remedy), complained that the prison authorities had monitored Krasimir Iliev's correspondence with his legal representatives and that they had not had an effective remedy in that respect.

**(Mr Iliev) Violation of Article 3** (prohibition of inhuman or degrading treatment) concerning the conditions of detention in Varna Prison

**(Mr Iliev) No violation of Article 13** (concerning the conditions of detention in Sofia Prison)

**(Mr Iliev) Violation of Article 13** (concerning the conditions of detention in Varna Prison)

**(All applicants) Violation of Article 8**

**(All applicants) No violation of Article 13** (concerning the monitoring of the first applicant's correspondence)

**Just satisfaction:**

- non-pecuniary damage: to Mr Iliev, EUR 4,000; the finding of a violation sufficient just satisfaction for non-pecuniary damage sustained by Mr Ekimdzhiev and Ms Boncheva
- costs and expenses: to Mr Iliev, EUR 1,000

### Nalbantski v. Bulgaria (no. 30943/04)

The applicant, Lyubomir Nalbantski, is a Bulgarian national who was born in 1957 and lives in Shumen (Bulgaria). Relying on Article 6 § 1 (right to a fair trial within a reasonable time) and Article 13 (right to an effective remedy), Mr Nalbantski complained about the excessive length of criminal proceedings brought against him for theft in 1991. He was found guilty as charged in 2002 and sentenced to two years' imprisonment, later upheld on appeal in 2004. Further relying on Article 2 of Protocol No 4 (freedom of movement), he also complained about three bans on his leaving Bulgaria, two imposed while the proceedings against him were pending and one imposed after his conviction became final.

**Violation of Article 6 § 1** (length)

**Violation of Article 13**

**Violation of Article 2 of Protocol No. 4**

**Just satisfaction:** EUR 6,500 (non-pecuniary damage) and EUR 1,565 (costs and expenses)

### Radkov v. Bulgaria (No. 2) (no. 18382/05)

The applicant, Plamen Radkov, is a Bulgarian national who was born in 1972 and is currently serving a life sentence in Bobov Dol Prison (Bulgaria) for murder to which he was sentenced in November 2003. Relying on Articles 3 (prohibition of inhuman or degrading treatment) and 13 (right to an effective remedy), he complained about the inadequate conditions in which he had been detained and that he had had no effective remedy available to challenge that at the national level.

**Violation of Article 3** (in respect of the applicant's detention from 8 March 2000 to 27 October 2004)

#### **Violation of Article 13**

**Just satisfaction:** EUR 1,530 (non-pecuniary damage)

### 3A.CZ s.r.o. v. Czech Republic (no. 21835/06)\*

The applicant, 3A.CZ s.r.o., is a limited liability company incorporated under Czech law based in Prague. Relying in particular on Article 6 § 1 (right to a fair hearing), the applicant company complained about debt collection enforcement proceedings, in particular that it could not respond to another party's observations to the Constitutional Court because it had not been notified.

#### **Violation of Article 6 § 1**

**Just satisfaction:** the finding of a violation sufficient just satisfaction for non-pecuniary damage; EUR 500 (costs and expenses)

### Kysilková and Kysilka v. Czech Republic (no. 17273/03)

The applicants, Radmila Kysilková and Zdeněk Kysilka, are two Czech nationals who were born in 1927 and 1936 respectively and live in Písek (Czech Republic). The case concerned civil proceedings in which they had sought the suspension of a building permit granted to a neighbour of theirs. Relying in particular on Article 6 § 1 (right to a fair hearing), they complained about the failure to provide them with the written observations submitted by the presiding judge of the regional court which had been used in a Constitutional Court decision.

#### **Violation of Article 6 § 1**

**Just satisfaction:**

- non-pecuniary damage: the finding of a violation sufficient just satisfaction
- costs and expenses: EUR 380, jointly

### Minarik v. Czech Republic (no. 46677/06)

The applicant, Susanne Minarik, is a German national who was born in 1975 and lives in Willstät (Germany). A minority shareholder in a Czech joint-stock company, she complained that she had been forced to transfer all her shares following a decision by the majority shareholder. She relied on Article 6 § 1 (right of access to a court).

#### **Violation of Article 6 § 1**

**Just satisfaction:** EUR 2,500 (costs and expenses)

### Tsikakis v. Germany (no. 1521/06)\*

The applicant, Konstantinos Tsikakis, is a Greek national who was born in 1959 and lived at the relevant time in Pullheim (Germany). Relying in particular on Article 8 (right to respect for private and family life) and Article 6 § 1 (right to a fair hearing within a reasonable time), he complained that he had had no right of access to his child for two

years and that the proceedings he had brought in that connection had been excessive in length.

**Violation of Article 6 § 1** (length)

**Violation of Article 8**

**Just satisfaction:** EUR 7,000 (non-pecuniary damage), EUR 3,100 (costs and expenses)

Korosidou v. Greece (no. 9957/08)\*

The applicant, Sophia Korosidou, is a Greek national who was born in 1929 and lives in Thebes (Greece). Relying in particular on Articles 8 (right to respect for private and family life) and 14 (prohibition of discrimination) and Article 1 of Protocol No. 1 (protection of property), she complained about a refusal to award her a survivor's pension as a widow on the ground that she had not been married to her deceased partner. Under Article 6 § 1 (right to a fair hearing within a reasonable time) and Article 13 (right to an effective remedy), she complained that the proceedings she had brought for the payment of the survivor's pension had been excessively long and that she had had no remedy by which to have that complaint examined.

**Violation of Article 6 § 1** (length)

**Violation of Article 13**

**No violation of Article 14 in conjunction with Article 8 and Article 1 of Protocol No. 1**

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

Nisiotis v. Greece (no. 34704/08)\*

The applicant, Nikolaos Nisiotis, is a Greek national who was born in 1965 and is currently in prison in Ioannina (Greece). He was sentenced in 2006 to six years' imprisonment for drug trafficking. Relying on Article 3 (prohibition of inhuman or degrading treatment), he complained about the conditions of his detention in an overcrowded facility, and notably that he had been held in a dilapidated cell of 50 sq.m. holding 30 inmates, which had no fresh air.

**Violation of Article 3**

**Just satisfaction:** EUR 10,000 (non-pecuniary damage) and EUR 2,500 (costs and expenses)

Just satisfaction

Thaleia Karydi AXTE v. Greece (no. 44769/07)\*

The applicant, "Thaleia Karydi AXTE", is a public limited company based on the island of Zakynthos (Greece). In its judgment of 5 November 2009, the Court held that there had been a violation of Article 6 § 1 (right to a fair hearing), on account of the restriction on the company's right of access to a court, and a violation of Article 1 of Protocol No. 1 (protection of property), finding in particular that the conditions in which notice of an auction had been given to the company's legal representative, and the rejection as inadmissible of an action to have that auction annulled, had failed to strike a fair balance between the safeguarding of the right to enjoyment of property and the demands of the general interest. In its judgment today, the Court awarded the applicant company EUR 25,000 in respect of non-pecuniary damage.

Dolgov v. Russia (no. 22475/05)  
Kapanadze v. Russia (no. 19120/05)

The applicants, Oleg Dolgov and Anzor Kapanadze, are two Russian nationals who were born in 1974 and 1975 respectively, and are currently serving prison sentences in the Tula Region (Russia) for armed robbery of the cashier desk of a psychiatric hospital. Relying on Article 3 (prohibition of inhuman or degrading treatment), both applicants complained that they had been ill-treated by the police after their arrest. Mr Dolgov, also relying on Article 5 § 1 (right to liberty and security), complained that part of his detention had been unlawful.

**(Both applicants) Violation of Article 3** (prohibition of inhuman or degrading treatment)

**(Both applicants) Violation of Article 3** (lack of effective investigation)

**(Mr Dolgov) Violation of Article 5 § 1**

**Just satisfaction:**

- non-pecuniary damage: to Mr Dolgov, EUR 20,000; to Mr Kapanadze EUR 8,300
- costs and expenses: to Mr Kapanadze, EUR 850

Dorogyaykin v. Russia (no. 1066/05)

The applicant, Vyacheslav Dorogyaykin, is a Russian national who was born in 1974 and is currently serving a prison sentence for manslaughter in the Altay Region (Russia). Relying on Article 3 (prohibition of inhuman or degrading treatment), he complained about the conditions in which he had been detained awaiting trial.

**Violation of Article 3**

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

Pelevin v. Russia (no. 38726/05)

The applicant, Sergey Pelevin, is a Russian national who was born in 1972 and lives in St Petersburg (Russia). Relying on Article 5 §§ 1, 3 and 4 (right to liberty and security), he complained that his detention on suspicion of robbery and participating in a criminal gang had been extended unlawfully after the expiration, on 21 October 2004, of his initial detention period authorised by a court. He also complained that he had been detained for too long awaiting trial and that the appeal court had not decided quickly enough on his requests for release.

**Violation of Article 5 §§ 1, 3 and 4**

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

Dzhaksybergenov v. Ukraine (no. 12343/10)

The applicant, Anvar Dzhaksybergenov, is a Kazakhstani national who was born in 1974 and lives in Kyiv. Following the opening in Kazakhstan of criminal proceedings against him for misappropriation – as part of an organised group – of financial resources in particularly large amounts, the Kazakhstani authorities requested his extradition from Ukraine. The Ukrainian Prosecutor General's Office temporarily prohibited him from leaving the country in view of the extradition request. Mr Dzhaksybergenov's application to the European Court of Human Rights under Rule 39 of the Rules of Court, asking the Court to stop Ukraine from extraditing him, was granted: the Court indicated to Ukraine that extradition should not take place until it has had the possibility to examine the application. Relying on Article 3 (prohibition of inhuman or degrading treatment) and Article 6 § 1 (right to a fair trial), Mr Dzhaksybergenov complained that, if extradited to Kazakhstan, he would risk ill-treatment and would not get a fair trial. Relying further on

Article 2 of Protocol No. 4 (freedom of movement) he also complained of the prohibition on him leaving the country.

**(If applicant expelled) No violation of Article 3  
(If applicant expelled) No violation of Article 6  
Violation of Article 2 of Protocol No. 4**

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

### Kharchenko v. Ukraine (no. 40107/02)

The applicant, Leonid Kharchenko, is a Ukrainian national who was born in 1958 and lives in Kyiv. He was detained in April 2001 as a suspect in criminal proceedings concerning embezzlement of a company's funds; those proceedings were terminated against him about three years later for lack of evidence. Relying on Article 3 (prohibition of inhuman or degrading treatment), he complained in particular about the poor conditions in which he had been detained. Relying further on Article 5 §§ 1 (c), 3 and 4 (right to liberty and security), he complained that he had been detained unlawfully and for too long awaiting trial.

**Violation of Article 3  
Three violations of Article 5 § 1  
Violation of Article 5 §§ 3 and 4**

**Just satisfaction:** EUR 20,000 (non-pecuniary damage)

### Pleshkov v. Ukraine (no. 37789/05)

The applicant, Yevgeniy Pleshkov, is a Ukrainian national who was born in 1960 and lives in Belgorod (Russia). Criminal proceedings against him on suspicion of trafficking in human beings are currently pending. Relying on Article 5 §§ 3 and 4 (right to liberty and security) and Article 6 § 1 (right to a fair trial within a reasonable time), he complained that he had been detained for too long pending trial between 25 May 2004 and 31 July 2006, that he had had no possibility to challenge that effectively before a judge and that the criminal proceedings against him had lasted for too long.

**Violation of Article 5 §§ 3 and 4  
Violation of Article 6 § 1 (length)**

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

### Seryavin and Others v. Ukraine (no. 4909/04)

The applicants, Oleksandr Seryavin, Iryna Kolomiyets and Larysa Logvinova are three Ukrainian nationals who were born in 1960, 1960 and 1959 and live in Kyiv. Relying in particular on Article 1 of Protocol No. 1 (protection of property) and Article 6 § 1 (right to a fair hearing), the applicants complained that the authorities had unlawfully commissioned renovation work in their attic, which, had subsequently been transferred to a third party, and that the Ukrainian courts had adopted arbitrary judgments in respect of their ensuing claim.

**Violation of Article 1 of Protocol No. 1** on account of the decision by a public authority to renovate the attic without the applicants' consent  
**Violation of Article 1 of Protocol No. 1** on account of the applicants' deprivation of the attic  
**Violation of Article 6 § 1 (fairness)**

**Just satisfaction:** no claim made by the applicants within time-limit

## Length-of-proceedings cases

In the following cases, the applicants complain in particular about the excessive length of legal proceedings.

### ***Criminal***

**Gospodinova v. Bulgaria** (no. 38646/04)

**Vihos v. Greece** (no. 34692/08)\*

These cases concerned in particular complaints about the excessive length of criminal proceedings brought by the applicant for a death threat (first case) and against the applicant for paedophile pornography (second case).

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

**Violation of Article 13 – both cases**

### ***Non-criminal***

**Kiselyova v. Ukraine** (no. 8944/07)

**Marchenko v. Ukraine** (no. 24857/07)

**Rudych v. Ukraine** (no. 48874/06)

**Violation of Article 6 § 1 – all cases**

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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.