



## Judgments concerning Austria, Finland, Greece, Hungary, Latvia, Lithuania, Moldova, Poland, Portugal, Russia, Spain and Turkey

The European Court of Human Rights has today notified in writing the following 26 judgments, four 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 (\*).

*Krone Verlag GmbH & Co KG and Krone Multimedia GmbH & Co KG v. Austria* (no. 33497/07)

*Kurier Zeitungsverlag und Druckerei GmbH v. Austria* (no. 3401/07)

The applicants are three Austrian newspaper publishing companies. Both cases concerned proceedings brought against the companies for publishing articles which had revealed the identity of a girl who had been sexually abused by her father and stepmother, and notably, in one of the cases, for publishing photographs of her. The applicant companies complained about the Austrian courts' ensuing decisions to award the girl compensation as they had found that her right as a victim of a criminal offence not to have her identity disclosed to the public had been breached. They relied on Article 10 (freedom of expression) of the European Convention on Human Rights.

### **No violation of Article 10**

*Lahtonen v. Finland* (no. 29576/09)

The applicant, Mika Lahtonen, is a Finnish national born in 1970 who lives in Helsinki. Editor-in-chief of a monthly magazine, he published an article in March 2004 about a pending court case against a police officer suspected of using his police identity card to steal a car. The article included the officer's name, age, place of work, and information that he had been ordered by the court to undergo a psychiatric examination. Mr Lahtonen complained under Article 10 (freedom of expression) of the Convention about his ensuing conviction for disseminating information which had violated the police officer's private life and in which he had been ordered, together with his publisher, to pay EUR 5,000 in damages.

### **Violation of Article 10**

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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.

**Just satisfaction:** 5,650 euros (EUR) (pecuniary damage), EUR 2,000 (non-pecuniary damage)

### Takush v. Greece (no. 2853/09)\*

The applicant, Mr Fatmir Takush, who is married and has children, is an Albanian national who was born in 1964. He had been lawfully resident in Thessaloniki, on the basis of a temporary residence permit, until his deportation. On 10 September 2008 he was arrested by the police and immediately committed for trial before the Criminal Court on a charge of aiding and abetting the unlawful entry of aliens into Greece. Pending an order for his deportation, which was issued on 15 September 2008, the authorities ordered his detention on the grounds that he presented a danger to public order and safety and was liable to abscond. The deportation order also stipulated that Mr Takush's name was to be entered in the national register of undesirable persons and in the Schengen Information System. Relying in particular on Article 1 of Protocol No. 7 (procedural safeguards relating to expulsion of aliens), Mr Takush argued that his deportation and his entry in the register of undesirable persons had been unjust, that he had been detained arbitrarily and that his application to have the deportation order set aside had been ineffective.

#### **Violation of Article 1 of Protocol No. 7**

**Just satisfaction:** EUR 8,000 (non-pecuniary damage) and EUR 1,500 (costs and expenses)

### Tsitsiriggos v. Greece (no. 29747/09)\*

The applicant, Mr Dimitrios Tsitsiriggos, is a Greek national who was born in 1958 and lives in Piraeus. He was arrested and placed in pre-trial detention on 4 February 2008. At that time he was the subject of six arrest warrants and an order for his pre-trial detention which had been extended by separate decisions of the Indictment Division of the Athens Criminal Court. In February and March 2008 all the detention orders – with the exception of one, which gave 4 February 2008 as the starting date and was valid for a six-month period – were replaced by orders for his conditional release. However, in a decision delivered on 6 April 2009, the Indictment Division extended Mr Tsitsiriggos's detention up to the 18-month maximum period. Relying on Article 5 § 1 (right to liberty and security) and 5 § 4 (right to have lawfulness of detention decided speedily by a court), the applicant complained that he was detained from 4 February to 6 April 2009 without any legal basis and that his continued pre-trial detention beyond a period of one year had been in breach of the domestic procedures. He also complained that the Indictment Division of the Court of Appeal had not decided on his case "speedily".

#### **Violation of Article 5 § 1**

#### **Violation of Article 5 § 4**

**Just satisfaction:** EUR 17,000 (non-pecuniary damage) and EUR 3,000 (costs and expenses)

### István Gábor Kovács v. Hungary (no. 15707/10)

The applicant, István Gábor Kovács, is a Hungarian national who was born in 1969 and lives in Szatymaz (Hungary). The case concerned his complaint that he had been detained in overcrowded cells when serving a three-and-a-half-year prison sentence in Szeged Prison for trafficking in goods subject to excise tax. He relied on Article 3 (prohibition of inhuman or degrading treatment). Further relying on Article 8 (right to respect for their family life), he also complained that during his detention on remand,

between January 2008 and June 2010, he had been allowed visitors for only one hour every month.

**Violation of Article 3**  
**Violation of Article 8**

**Just satisfaction:** EUR 10,000 (non-pecuniary damage) and EUR 1,500 (costs and expenses)

### Krivošejs v. Latvia (no. 45517/04)

The applicant, Viktors Krivošejs, is a permanent resident “non-citizen” of Latvia who was born in 1974 and is currently serving a sentence in Jelgava Prison (Latvia) for a number of offences, including aggravated murder and robbery. Diagnosed with an inherited cyst in his brain, he complained that the medical assistance provided to him in prison had been inadequate, that his medical condition had deteriorated during his detention and that, despite this deterioration, he continued to be detained. He relied in particular on Article 3 (prohibition of inhuman or degrading treatment).

**No violation of Article 3**

### Varapnickaitė-Mažylienė v. Lithuania (no. 20376/05)

The applicant, Jolanta Varapnickaitė-Mažylienė, is a Lithuanian national who was born in 1960 and lives in Vilnius. Divorced from her husband, who has custody of their son, she complained about an article published in a daily newspaper in June 2001 about the work of the Vilnius Children’s Welfare Service. Relying in particular on Article 8 (right to respect for private and family life), she complained that the Welfare Service had disclosed humiliating information about her private life and the health of her son, a teenager at the time, and that from the text of the article it had been possible to recognise her.

**No violation of Article 8**

### Levința v. Moldova (no. 2) (no. 50717/09)

The applicants, Pavel Levința and Vitalie Levința, are Moldovan nationals who were born in 1971 and 1974 respectively and live in Cahul (Moldova). Arrested in Russia in October 2000 and extradited to Moldova, they were subsequently convicted by the Moldovan courts of murder and attempted murder committed as members of a criminal organisation. In a judgment of 16 December 2008, the European Court of Human Rights held that there had been a violation of Article 3 (prohibition of inhuman or degrading treatment) and of Article 6 (right to a fair trial) as it found that the courts had based those convictions on confessions the applicants had made under duress. In February 2010, the Moldovan Supreme Court quashed the judgments against the applicants and remitted their case to the lower courts. They were released from detention in December 2010 and placed under house arrest until February 2011. This further case before the European Court concerned the applicants’ complaint that their detention after the quashing of their convictions had been illegal, that the courts had not given sufficient reasons for ordering and extending their detention pending trial, and that during a hearing concerning their appeal against the detention they had not been represented by their lawyer. They relied in particular on Article 5 §§ 1, 3 and 4 (right to liberty and security).

**Violation of Article 5 § 1**

**No violation of Article 5 § 3**

**Violation of Article 5 § 4**

**Just satisfaction:** EUR 8,000 (non-pecuniary damage) and EUR 2,000 (costs and expenses)

### Biziuk v. Poland (no. 2) (no. 24580/06)

The applicant, Janusz Biziuk, is a Polish national who was born in 1964 and lives in Sokółka (Poland). In 2004 Mr Biziuk was charged with a number of offences, notably of uttering threats. He was subsequently diagnosed as suffering from paranoia and, in September 2005, the proceedings against him were discontinued and his placement in a psychiatric hospital was ordered. He was then arrested on 23 February 2006 and transferred to a psychiatric hospital in Choroszcza. On 11 September 2006, in another set of proceedings against him, the courts found that his condition had significantly improved and ordered his release. However, the hospital, referring to the decision of September 2005, refused to release him. He escaped on 17 September 2006. Relying on Article 5 § 1 (right to liberty and security), Mr Biziuk alleged that his detention in the psychiatric hospital from 11 to 17 September 2006 had been unlawful. The applicant further complained about the delay in the proceedings by which he sought to challenge the lawfulness of his detention in the psychiatric hospital.

**No violation of Article 5 § 1** (in respect of the period between 23 February 2006 and 11 September 2006)

**Violation of Article 5 § 1** (in respect of the period between 11 and 17 September 2006)

**Violation of Article 5 § 4** (right to have lawfulness of detention decided speedily by a court)

**Just satisfaction:** EUR 2,500 (non-pecuniary damage) and EUR 1,150 (costs and expenses)

### Fetisov and Others v. Russia (nos. 43710/07, 6023/08, 11248/08, 27668/08, 31242/08 and 52133/08)

The applicants are five Russian nationals and a stateless person who were all held in Russian remand prisons at some point in time between 2006 and 2009, charged with various offences including drug-trafficking and kidnapping. Relying on Article 3 (prohibition of inhuman or degrading treatment), all six applicants complained about the allegedly inhuman conditions of their detention, in particular severe overcrowding. Some of the applicants further complained about the absence of an effective domestic remedy in that respect, relying on Article 13 (right to an effective remedy). One of the applicants further complained that letters of the European Court of Human Rights addressed to him had been opened by the prison authorities, in breach of Article 34 (right of individual petition).

**No violation of Article 3**

**Violation of Article 13** (all applicants)

**Violation of Article 34** (in respect of the applicant in application no. 27668/08)

**Just satisfaction:** the finding of a violation constituted sufficient just satisfaction.

### Alony Kate v. Spain (no. 5612/08)\*

The applicant, Mr Taysir Alony Kate, is a Spanish national who was born in 1955. He is a journalist. On 20 September 1994 the central external intelligence unit of the police requested permission from the central investigating judge to tap the telephone lines of

several individuals in order to investigate their links with the Palestinian organisation Hamas. On 17 September 2003 the central investigating judge issued an order charging the applicant and others with membership of, or collaboration with, a terrorist organisation. Relying on Article 6 § 1 (right to a fair trial), Mr Alony Kate alleged that the Division of the *Audiencia Nacional* which had examined the merits of his case and had convicted him had not been impartial; in his submission, all the evidence obtained from the telephone tapping should have been declared unlawful.

**Violation of Article 6 § 1** (in respect of the right to an impartial tribunal)

**No violation of Article 6 § 1** (in respect of the use of evidence obtained from unlawful telephone tapping)

**Just satisfaction:** EUR 10,000 (non-pecuniary damage) and EUR 6,000 (costs and expenses)

### Feti Demirtaş v. Turkey (no. 5260/07)\*

The applicant, Mr Feti Demirtaş, is a Turkish national who was born in 1981 and lives in Istanbul. He was baptised as a Jehovah's Witness at the age of 20 and refuses to perform his military service. He has declared his willingness to perform alternative civilian service. Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Demirtaş complained of an endless series of prosecutions and convictions on account of his refusal to wear military uniform. He also alleged that he had been subjected to various forms of inhuman and degrading treatment in Şirinyer military prison, in his military unit in Erzurum and in Balıkesir military prison. He further contended that his successive convictions for refusing to serve in the armed forces had amounted to a violation of Article 9 (right to freedom of thought, conscience and religion). Relying also on Article 6 (right to a fair trial), he complained of being forced, as a civilian, to appear before a court made up exclusively of army officers.

**Violation of Article 3**

**Violation of Article 9**

**Violation of Article 6 § 1**

**Just satisfaction:** EUR 15 000 (non-pecuniary damage) and EUR 5 000 (costs and expenses)

### Fidancı v. Turkey (no. 17730/07)

The applicant, Mehmet Fidancı, is a Turkish national who was born in 1972 and lives in Diyarbakır (Turkey). He was detained by the police on suspicion of membership in an illegal armed organisation, namely the Hizbullah. Relying in particular on Article 6 § 1 (right to a fair trial), he complained that he had been denied a fair hearing as a result of the domestic courts' reliance on statements obtained from him under duress and in the absence of a lawyer during his detention in police custody.

**Violation of Article 6 § 3 (c) in conjunction with Article 6 § 1** (on account of the lack of legal assistance afforded to the applicant while in police custody)

**Just satisfaction:** EUR 1,800 (non-pecuniary damage)

### Hasko v. Turkey (no. 20578/05)

The applicant, Dündar Hasko, is a Turkish national who was born in 1930 and lives in Istanbul. He was indicted in 1993 for knowingly using false powers of attorney and was sentenced to four years and eight months imprisonment. Relying in particular on Article

6 § 1 (right to a fair trial within a reasonable time) he complained that the criminal proceedings against him had been unfair and had lasted for too long.

**Violation of Article 6 § 1** (in respect of the length of the proceedings and the non-communication of the written opinion of the Principal Public Prosecutor at the Court of Cassation)

**Just satisfaction:** EUR 7,200 (non-pecuniary damage)

### Keshmiri v. Turkey (no. 2) (no. 22426/10)

The applicant, Mansour Edin Keshmiri, is an Iranian national who was born in 1958 and lives in Kırklareli (Turkey). In 1985, he joined the People's Mojahedin Organisation of Iran ("PMOI"). In 1986 travelled to Iraq where he was recognised, in 2006, as a refugee by the UNHCR, following him leaving the PMOI in 2003. In June 2008, he was arrested in Turkey while attempting to leave for Greece with a false passport and was detained with a view to his deportation to Iran. Relying in particular on Article 5 § 1 (right to liberty and security) and Article 5 § 4 (right to have lawfulness of detention decided speedily by a court), he complained that he had been detained unlawfully and arbitrarily.

**Violation of Article 5 §§ 1 and 4**

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

### Mehmet Ali Okur v. Turkey (no. 31869/06)\*

The applicant, Mehmet Ali Okur, is a Turkish national who was born in 1971 and lives in Bursa (Turkey). On 3 February 2005 he was arrested at his home by police officers on suspicion of assault and of wounding a restaurant owner with a firearm. During the night the police drew up a report of the incident, according to which, on being told that he was to be handed over to the organised crime division, Mr Okur had protested vehemently, throwing himself onto the ground and against the wall. A medical certificate issued by the Bursa Forensics Institute three days later noted, in particular, purplish rail-shaped bruises covering an area of 10 x 15 cm on his left shoulder blade. Relying in particular on Article 3 (prohibition of inhuman or degrading treatment), the applicant alleged that he had been ill-treated while in police custody and that no effective investigation had been carried out in that regard.

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

**Just satisfaction:** EUR 15,600 (non-pecuniary damage) and EUR 1,500 (costs and expenses)

### Repetitive cases

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

**Kosheleva and Others v. Russia** (no. 9046/07)

**Lavrov v. Russia** (no. 33422/03)

**Vladimir Melnikov v. Russia** (no. 38202/07)

These cases concerned delayed enforcement or non-enforcement of judgments in the applicants' favour. The applicants relied on Article 6 § 1 (right to a fair trial) and Article 1 of Protocol No. 1 (protection of property). In the *Kosheleva and Others* case, the applicants also complained about being intimidated by the authorities during interviews concerning their applications before the Court.

**Violation of Article 34** (concerning 17 of the 53 applicants in the case of *Kosheleva and Others*)

**Violation of Article 6 § 1 and Article 1 of Protocol No. 1** (in the cases of *Lavrov* and *Vladimir Melnikov*)

***Cemil Tekin v. Turkey*** (no. 33153/04)\*

The applicant, Mr Cemil Tekin, is a Turkish national who was born in 1952 and lives in Hakkari (Turkey). On 19 April 2003 two individuals were wounded by a firearm on a street in the city of Van. The victims told police that they had recognised Mr Tekin as one of their attackers; the other, they claimed, was the man who had killed their uncle and had been convicted of murder. The applicant and the other man were charged with attempted double murder. Relying on Article 5 (right to liberty and security), Mr Tekin alleged that he had been kept in detention for an excessively long period and that he had not had an effective remedy by which to challenge the lawfulness of his detention.

**Violation of Article 5 § 4** (right to have lawfulness of detention decided speedily by a court)

## Length-of-proceedings cases

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

***Jesus Mateus v. Portugal*** (no. 58294/08)\*

***Domingos Marques Ribeiro Maçarico v. Portugal*** (n° 12363/10)\*

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

In the following cases, the applicants complained in particular about the excessive length of different sets of (criminal) proceedings.

***Butkevičius v. Lithuania*** (no. 23369/06)

***Dolutaş v. Turkey*** (no. 17914/09)

**Violation of Article 6 § 1** (in both cases), and

**Violation of Article 13** in the case of ***Dolutaş***

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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.