



## Judgments concerning Albania, Belgium, Hungary, Italy, Latvia, Romania, Slovakia, and Turkey

The European Court of Human Rights has today notified in writing the following 16 judgments, of which three (in italics) are Committee judgments and are final. The others are Chamber judgments<sup>1</sup> and are not 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 (\*).

*The Court has also delivered today a judgment in the case of Youth Initiative for Human Rights v. Serbia (application no. 48135/06), for which a separate press release has been issued.*

### Kaçiu and Kotorri v. Albania (applications nos. 33192/07 and 33194/07)

The applicants, Olsi Kaçiu and Elidon Kotorri, are Albanian nationals who were born in 1979 and 1975 respectively. Mr Kaçiu lives in Tirana and Mr Kotorri is serving a sentence of life imprisonment in Peqin High Security Prison (Albania) for three murders. The case essentially concerned Mr Kaçiu's allegation that he had been brutally beaten during police questioning in April 2000 in order to make him confess to his and Mr Kotorri's involvement in the murders. Mr Kaçiu was subsequently found guilty of failing to report a crime and sentenced to three years' imprisonment and Mr Kotorri was found guilty of premeditated murder and sentenced to life imprisonment. There were two retrials, resulting in the two men being convicted again. Their convictions were then upheld by the Supreme Court on appeal and, ultimately, in February 2007 their constitutional complaints were dismissed. Relying on Article 3 (prohibition of inhuman or degrading treatment) of the European Convention of Human Rights, Mr Kaçiu notably alleged that he had been badly beaten by police officers during his questioning. He further complained under Article 3 that the ensuing investigation into his allegations of ill-treatment had been inadequate. Both men also made a number of complaints under Article 6 (right to a fair trial) about the unfairness of the proceedings against them, in particular due to the admission of statements extracted from Mr Kaçiu under duress which had then been used to convict them. Mr Kaçiu further complained that he had been denied access to a lawyer during his police custody, in breach of Article 6 § 3 (right to legal assistance of own choosing). Lastly, the applicants complained under Article 6 § 1 (right to a fair trial within a reasonable time) about the excessive length of the criminal proceedings against them.

#### **Violation of Article 3** (torture; inadequate investigation) – in respect of Mr Kaçiu

<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.

**Violation of Article 6 § 1** in respect of Mr Kaçiu – as regards the admission and use of statements obtained in breach of Article 3

**Violation of Article 6 § 1** in respect of Mr Kotorri – as regards the admission and use of statements obtained from Mr Kaçiu in breach of Article 3

**Violation of Article 6 § 3 (c)** in respect of Mr Kaçiu – as regards the denial of access to a lawyer in police custody

**Violation of Article 6 § 1** (excessive length of criminal proceedings) in respect of both applicants

**Just satisfaction:** EUR 15,600 (non-pecuniary damage) to Mr Kaçiu; the Court further held that the finding of violations constituted sufficient just satisfaction in respect of Mr Kotorri

## Just Satisfaction

### Trévalec v. Belgium (no. 30812/07)\*

The case concerned a journalist who had been wounded in the leg by police gunfire during an operation that he was filming. The police had previously authorised him to film. In a judgment of 14 June 2011 the Court found that there had been a violation of Article 2 (right to life) of the European Convention because the applicant's life had been put in danger. It found that the authorities, who were responsible for the applicant's safety in a context where his life was potentially in danger, had not used all the vigilance that could reasonably be expected of them. Today's judgment concerned the question of just satisfaction (Article 41).

**Just satisfaction:** EUR 50,000 (non-pecuniary damage)

### Gáll v. Hungary (no. 49570/11)

The applicant, Eszter Mária Gáll, is a Hungarian national who was born in 1954 and lives in Szolnok (Hungary). She was a civil servant for the Hungarian Tax Authority for more than 30 years until being dismissed in March 2011. Relying in particular on Article 1 of Protocol No. 1 (protection of property) of the Convention, she complained that part of her severance pay had been taxed at a rate of 98%.

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

**Just satisfaction:** EUR 16,000 (pecuniary and non-pecuniary damage) and EUR 900 (costs and expenses)

### Anghel v. Italy (no. 5968/09)

The applicant, Aurelian Anghel, is a Romanian national who was born in 1961 and currently lives in Qatar. The case concerned Mr Anghel's complaint about the proceedings he had brought under the Hague Convention on the Civil Aspects of International Child Abduction in which he had sought to have his son, born in March 2003, returned to him from Italy where his mother had taken him in January 2007. Relying in particular on Article 6 § 1 (right to a fair hearing), he alleged that he could not effectively contest the decision of the Italian courts of July 2007 refusing his application for the return of his son because of delays in granting him legal aid as well as misleading information about the appeal procedure. Further relying on Article 8 (right to respect for private and family life), he also complained that the proceedings had been unfair and had not taken into account his son's best interests.

#### **Violation of Article 6 § 1**

### No violation of Article 8

**Just satisfaction:** EUR 14,000 (non-pecuniary damage) and EUR 3,000 (costs and expenses)

### Grimailovs v. Latvia (no. 6087/03)

The applicant, Artemijs Grimailovs, is a 'permanently resident non-citizen' of the Republic of Latvia who was born in 1957 and lives in Jelgava (Latvia). Mr Grimailovs made a number of complaints under Article 3 (prohibition of inhuman or degrading treatment) following his arrest on 10 September 2001 after a car chase with the police. First, he alleged that during his arrest police officers had dragged him out of his car and kicked him in the back, hurting him badly and dislodging a metal implant which held his spine in place. He also alleged that the ensuing investigation into his allegations of this ill-treatment had been inadequate. Lastly, he complained that he had become paraplegic and confined to a wheelchair as a result of inadequate medical care during his detention, making the facilities unsuitable for him in Pārlielupe and Valmiera prisons where he had been held to serve his five-and-half year sentence following his conviction on a firearm charge as well as separate further charges of bodily injury and rape of a minor.

**Violation of Article 3** – on account of the ineffective investigation into the applicant's allegations of police ill-treatment on 10 September 2001

**Violation of Article 3** – on account of the inadequacy of the facilities in Valmiera Prison

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

### Association of the victims of S.C. Rompetrol S.A. and S.C. Geomin S.A. and Others v. Romania (no. 24133/03)\*

The applicant association was set up in 1993 and has its head office in Bucharest. In March 1992 an economist from S.C. Rompetrol S.A. allegedly informed the company's employees that they could invest in the foreign operations of S.C. Rompetrol S.A. and S.C. Geomin S.A. and several thousand people – including the applicants – did so. In February 1993, the payment of interest and the restitution of the capital ceased before the applicants had recovered their investments. A number of criminal complaints were filed from March 1993 onwards. The proceedings ended with a final judgment of 20 December 2002. Relying in particular on Article 6 (right to a fair hearing), the applicants alleged among other things that there had been a breach of their right to obtain a decision on their claims within a reasonable time.

**Violation of Article 6 § 1** (length of proceedings) in respect of Mr Ioan Guseila; the application was struck out in respect of three other applicants and declared inadmissible in respect of the remaining applicants

**Just satisfaction:** EUR 2,250 (non-pecuniary damage) and EUR 50 (costs and expenses) to Mr Ioan Guseila

### Gheorghe Cobzaru v. Romania (no. 6978/08)\*

The applicant, Gheorghe Cobzaru, is a Romanian national who was born in 1957 and lives in Bucharest. Following the theft of a car and a car-chase by police during the night, Mr Cobzaru's son was struck by a bullet in the throat and died from his injuries. Relying in particular on Article 2 (right to life), Mr Cobzaru complained that his son had been murdered by a police officer and that there had been no effective investigation with a view to punishing those responsible.

**Violation of Article 2** (death + ineffective investigation)

**Just satisfaction:** EUR 30,000 (non-pecuniary damage)

Niculescu v. Romania (no. 25333/03)

Valentino Acatrinei v. Romania (no. 18540/04)

Both cases concerned criminal proceedings brought against a former lawyer and judge for corruption as a result of telephone tapping by the Romanian Intelligence Service.

The applicant in the first case, Lidia Niculescu, is a Romanian national who was born in 1956 and lives in Bucharest. She is a former lawyer in the Bucharest Bar Association. She was convicted and sentenced to six years' imprisonment in November 2002 for giving bribes to judges, trading in influence and fleeing the country in an attempt to escape the criminal proceedings against her. She served her sentence and was released in March 2005.

The applicant in the second case, Valentino Acatrinei, is a Romanian national who was born in 1947 and lives in Bucharest. He was judge inspector at the Bucharest Court of Appeal. He was convicted in November 2002 of trading in influence and aiding and abetting bribery and was sentenced to five years' imprisonment. He was ultimately released from prison in May 2005 following a presidential pardon.

Both applicants complained in particular that the criminal proceedings brought against them had been unfair and alleged that the telephone tapping of their conversations used as evidence to convict them had been illegal. They relied on Article 6 §§ 1 and 3 (right to a fair trial) and Article 8 (right to respect for private and family life and correspondence).

Ms Niculescu made further complaints, under Article 6, that she had not been informed of the charges made against her and had not been assisted by counsel during her initial questioning.

Lastly, relying on Article 3 (prohibition of inhuman or degrading treatment), Ms Niculescu complained about the conditions of her detention in prison from December 2001 when she had been arrested until her release in March 2005, mainly on account of overcrowding and poor hygiene.

**Violation of Article 8** in respect of both applicants

**No violation of Article 6 §§ 1 and 3** in respect of Ms Niculescu

**No violation of Article 6 §§ 1 and 3** in respect of Mr Acatrinei

**Violation of Article 3** in respect of Ms Niculescu – concerning the conditions of detention in Rahova

**Just satisfaction:** EUR 9,000 to Ms Niculescu and EUR 4,500 to Mr Acatrinei (non-pecuniary damage), and EUR 2,000 to Ms Niculescu (costs and expenses)

Abdülstar Akgül v. Turkey (no. 31595/07)\*

The applicant, Abdülstar Akgül, is a Turkish national who was born in 1986 and lives in Diyarbakır. The case concerned Mr Akgül's complaints under Article 5 (right to liberty and security) following his arrest in January 2007 on suspicion of murder. On 14 January 2007 he was arrested and the Justice of the Peace remanded him in custody pending his timely appearance before the Assize Court. He applied for his release and the Assize Court held a hearing in his absence at which it extended his detention, which was again confirmed and extended on 25 January 2007. In September 2007 the Assize Court ordered his release pending trial and he was ultimately acquitted in July 2008. Mr Akgül complained in particular that he had been remanded in custody on the basis of an arrest warrant and without having been able to defend himself. He accused the Assize Court of dismissing his appeal and ordering the extension of his detention without giving him the opportunity to be heard.

**Violation of Article 5 § 3**  
**Violation of Article 5 § 4**

**Just satisfaction:** the applicant did not submit a claim for just satisfaction.

**Mustafa Tunç and Fecire Tunç v. Turkey (no. 24014/05)\***

The applicants, Mustafa Tunç and Fecire Tunç, husband and wife, are Turkish nationals who were born in 1946 and 1952 respectively and live in Istanbul. They are the father and mother of Cihan Tunç, who was born in 1983 and died on 13 February 2004, while he was doing his military service in Kocaköy, on the site of a private oil company whose security service was run by the national gendarmerie. He was one of the gendarmes on duty and was injured by gunfire. He died shortly after his arrival at the hospital. Relying in particular on Article 2 (right to life), the applicants complained that the authorities had failed to carry out an effective investigation into their son's death.

**Violation of Article 2** (ineffective investigation into the death of the applicants' son)

**Just satisfaction:** EUR 10,000 to the applicants jointly (non-pecuniary damage) and EUR 2,000 jointly (costs and expenses)

**Süleyman Ege v. Turkey (no. 45721/09)\***

The applicant, Süleyman Ege, is a Turkish national. On 26 January 2001 Mr Ege's brother went to Gazi Hospital in Ankara. After examining him the doctors suggested that he might have motor neurone disease and started treating him pending the final diagnosis. On 25 February 2001 he was admitted to the emergency department at Gazi Hospital for respiratory failure, in a life-threatening condition. The doctors diagnosed Guillain-Barré syndrome, an auto-immune inflammatory disorder of the peripheral nervous system. Mr Ege's brother died on 9 March 2001. He alleged in particular that the circumstances of his brother's death at Ankara University Hospital entailed a violation of Article 2 (right to life).

**Violation of Article 2** (ineffective investigation)

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

**Repetitive case**

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

**Enver Kaplan v. Turkey (no. 40343/08)\***

In this case the applicant, who had been arrested and taken into police custody in the context of an operation against an armed illegal organisation, complained about the length of his pre-trial detention and alleged that the length of the proceedings had been unreasonable.

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

**Length-of-proceedings cases**

In the following cases, the applicants complained in particular about the excessive length of proceedings concerning enforcement of a claim and an employment dispute.

**Csákó v. Slovakia (no. 47386/07)**

**Sika v. Slovakia (no. 7) (no. 1640/07)**

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

**Violation of Article 13 in conjunction with Article 6 § 1** in the case *Csákó*

**Violation of Article 13** in the case *Sika (no. 7)*

In the following case, the applicant complained in particular about the excessive length of criminal proceedings brought against him for smuggling agricultural equipment into Romania.

***Schuller v. Romania*** (no. 4801/04)

**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.