



Judgments concerning Greece, Portugal and Russia

The European Court of Human Rights has today notified in writing the following ten judgments, of which five (in italics) are Committee judgments and are final. The others are Chamber judgments¹ and are not final.

Repetitive cases² 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 (*).

Tsokas and Others v. Greece (application no. 41513/12)*

The six applicants are Greek nationals who received prison sentences of several years' duration for sexual offences. They were held or are still serving their sentences in Tripoli Prison (the Peloponnese). The case concerned the conditions of detention in that prison, which houses only persons awaiting trial for, or convicted of, offences of a sexual nature.

According to the applicants, the prison's official capacity was 65 prisoners; it housed 177 prisoners in January 2009, 185 in June 2012 and 215 ten months later. There were only nine showers, located in the courtyard. Heating was provided by six oil-burning stoves, which did not operate simultaneously. In summer, there was neither air-conditioning nor ventilation. The toilet facilities were in very poor condition, and the food was of a very low standard. Prisoners were required to clean the premises themselves, and had to wash their clothes by hand.

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights, they complained about their conditions of detention; some of their number also alleged a lack of appropriate medical treatment.

Violation of Article 3 (degrading treatment) – in respect of the applicants' conditions of detention

Violation of Article 3 – concerning the quality of assistance and care provided to Mr Katratzopoulos-Katratzis

No violation of Article 3 – concerning the quality of assistance and care provided to Mr Athanasopoulos and Mr Zafiroopoulos

Just satisfaction: The Court awarded 18,800 euros (EUR) to Mr Tsokas, EUR 15,300 to Mr Biliias, EUR 23,400 to Mr Sgardelis, EUR 23,400 to Mr Zafiroopoulos, EUR 20,200 to the widow of Mr Athanasopoulos and 26,200 EUR to the brother of Mr Katratzopoulos-Katratzis in respect of non-pecuniary damage. It further awarded EUR 6,000 jointly to Mr Tsokas, Mr Biliias, Mr Sgardelis, Mr Zafiroopoulos, the widow of Mr Athanasopoulos and the brother of Mr Katratzopoulos-Katratzis, in respect of costs and expenses.

¹ 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

² In which the Court has reached the same findings as in similar cases raising the same issues under the Convention.

Martins Silva v. Portugal (no. 12959/10)*

The applicant, Mr Abilio Martins Silva, is a Portuguese national who was born in 1965 and lives in Fafe (Portugal). The case concerned the failure to communicate a medical report during civil proceedings to reassess permanent disability entailing partial incapacity for work.

In October 1999 Mr Martins Silva was the victim of an industrial accident. In April 2001 a court found that he was suffering from partial permanent incapacity (“PPI”) for work, the degree of which it determined to be 15.92%, and awarded him an annual allowance of 719 euros, to be paid for the rest of his life. In March 2008 Mr Martins Silva asked the labour court to review the degree of PPI, claiming that his disability had worsened. In October 2008, following an examination, a report concluded that his condition had worsened and evaluated his PPI at 17.35%. The parties challenged that outcome and lodged an appeal, calling for a second medical opinion. The subsequent report, drawn up in March 2009, set the PPI at 13%. A further medical opinion was ordered, which concluded that the PPI was 17.35%. In May 2009 the court decided that it was not necessary to order additional measures, and took account of the PPI as established in the second report to reassess the allowance. Mr Martins Silva challenged the newly attributed invalidity allowance, and alleged a violation of the principle of adversarial proceedings, in that he had not been informed of the contents of the second report.

Mr Martins Silva considered that the failure to communicate the medical report which had provided the basis for the court’s decision, and his inability to respond to it, had been in breach of his right as provided for by Article 6 § 1 (right to a fair trial).

Violation of Article 6 § 1

Just satisfaction: EUR 5,000 (non-pecuniary damage) and EUR 2,000 (costs and expenses)

Akram Karimov v. Russia (no. 62892/12)

The applicant, Akram Karimov, is a national of Uzbekistan who was born in 1967 and lives in Moscow. The case concerned proceedings for his removal from Russia to Uzbekistan.

Having regularly travelled to Russia for a number of years for seasonal jobs, Mr Karimov entered Russia in 2010 and remained in the Moscow region, where he worked in construction. In March 2012 he was arrested in Moscow, as he was wanted by the Uzbek authorities on suspicion of a number of offences, including incitement to national, racial, ethnic or religious hatred, and an international search warrant had been issued in his respect. He was subsequently placed in detention pending extradition to Uzbekistan. In September 2012 he was released, as the six-month maximum detention period had expired and the General prosecutor’s office refused his extradition. However, immediately following his release, Mr Karimov was rearrested on suspicion of a breach of the Russian residence rules. Two days after his new arrest, a district court found him guilty of having breached the residence rules and ordered his administrative removal from Russia. The order was upheld on appeal in October 2012, but his removal was suspended following an interim measure granted by the European Court of Human rights under Rule 39 of its Rules of Court, which indicated to the Russian Government that Mr Karimov should not be expelled to Uzbekistan pending the proceedings before the Court. In parallel, Mr Karimov applied for refugee status in Russia, alleging a risk of persecution on religious grounds and fear that the authorities in Uzbekistan would torture him into confessing to crimes he had not committed. The migration service rejected his application in a decision which was upheld by a district court in April 2013.

Relying in particular on Article 3 (prohibition of torture and of inhuman or degrading treatment), Mr Karimov complained that, if returned to Uzbekistan, he would face a real risk of being subjected to torture and ill-treatment. Further relying on Article 5 §§ 1 and 4 (right to liberty and security / right to have lawfulness of detention decided speedily by a court), he complained in particular: that both

his detention during the extradition proceedings and his detention pending administrative removal had been unlawful; and, that he had been unable to obtain a judicial review of his detention from September 2012 on, as Russian law had not provided for periodic review of the lawfulness of detention following a decision on administrative removal.

Violation of Article 3 – in the event of the applicant’s forced return to Uzbekistan

No violation of Article 5 § 1 (f) – in respect of the applicant’s detention pending extradition between 17 and 19 March 2012 and between 15 May and 17 September 2012, and in respect of the applicant’s detention pending expulsion between 17 and 19 September 2012

Violation of Article 5 § 1 (f) – in respect of the applicant’s detention pending extradition between 19 March and 15 May 2012, and in respect of his detention pending expulsion after 19 September 2012

Violation of Article 5 § 4 – on account of the unavailability of any procedure for a judicial review of the lawfulness of the applicant’s detention pending expulsion

Just satisfaction: EUR 7,500 (non-pecuniary damage) and EUR 8,000 (costs and expenses)

Interim measure (Rule 39 of the Rules of Court) – not to remove Mr. Karimov to Uzbekistan or any other country – still in force until judgment becomes final or until further order

Revision

Damir Sibgatullin v. Russia (no. 1413/05)

The case concerned a request for revision of a judgment by the European Court of Human Rights in a case concerning the unfairness of criminal proceedings.

The applicant, Damir Sibgatullin, is a Russian national who was born in 1974 and is currently serving an 18-year sentence in a correctional colony in Kineshemskiy District, Ivanovo (Russia), for the robbery and murder of an elderly woman in Uzbekistan.

Relying on Article 6 §§ 1 and 3 (d) (right to a fair trial and right to obtain attendance and examination of witnesses), he alleged in particular that he had not been given the opportunity to confront any of the witnesses for the prosecution as they lived in Uzbekistan. He also alleged that the Government had failed to submit copies of prosecution witness statements requested by the European Court for its examination of his case, in breach of Article 38 § 1 (obligation to furnish necessary facilities for the examination of the case). These complaints were examined by the Court in its [judgment of 24 April 2012](#) where the Court found a violation of Article 6 § 1 taken together with Article 6 § 3 (d) and a violation of Article 38, and awarded the applicant 4,000 euros in respect of non-pecuniary damage.

On 23 July 2012 the Russian Government requested that the European Court revise the judgment of 24 April 2012, submitting that the requested documents had in fact been submitted and disputing the finding of a violation of Article 38.

The Court decided to revise the judgment of 24 April 2012 and held that that Russia had complied with its obligations under Article 38 of the Convention.

Kopnin and Others v. Russia (no. 2746/05)

The applicants are four Russian nationals, Oleg Kopnin and Olga Kopnina, a previously married couple, and their two children, Yuriy Kopnin and Natalya Kopnina. They were born between 1958 and 1986 and live in Stavropol (Russia).

The case concerned the lengthy non-enforcement of a district court judgment of May 2004, which acknowledged that the applicants’ flat was at risk of collapsing and ordered the municipalities to provide the family with alternative accommodation from its temporary housing stock within ten days. The applicants subsequently turned down a housing offer of July 2004, on the grounds that the

flat offered was unsuitable for habitation. Following their refusal, the enforcement proceedings were terminated in September 2004. The applicants' subsequent efforts to be provided with appropriate housing were unsuccessful until, in September and December 2005, respectively, they were provided with two separate social housing flats.

The applicants complained in particular that the lengthy non-enforcement of the judgment of May 2004 had been in breach of their rights under Article 6 § 1 (right to a fair trial / access to court) and Article 1 of Protocol No. 1 (protection of property). They further relied on Article 13 (right to an effective remedy), complaining that they had not had any effective remedies available in respect of their complaints.

Violation of Article 6 § 1

Violation of Article 1 of Protocol No. 1

Violation of Article 13

Just satisfaction: EUR 1,500 to Oleg Kopnin and EUR 2,000 jointly to Olga Kopnina, Yuriy Kopnin and Natalya Kopnina (non-pecuniary damage)

Repetitive cases

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

Khanustaranov v. Russia (no. 2173/04)

The applicant in this case complained about the quashing, by way of supervisory review, of a domestic court's final decision awarding him readjustment of compensation for damage to his son's health and ordering the company responsible to pay him a monthly pension. The applicant relied in particular on Article 6 § 1 (right to a fair trial) and Article 1 of Protocol No. 1 (protection of property).

Violation of Article 6 § 1

Violation of Article 1 of Protocol No. 1

Kuzmin v. Russia (no. 30212/06)

The applicant in this case, a retired military serviceman, complained about the non-enforcement as well as the quashing, by way of supervisory review, of a domestic court's final decision concerning pension arrears. The applicant relied on Article 6 § 1 (right to a fair trial) and Article 1 of Protocol No. 1 (protection of property).

Two violations of Article 6 § 1 – on account of both the non-enforcement and the quashing, by way of supervisory review, of the domestic court's final decision

Two violations of Article 1 of Protocol No. 1 – on account of both the non-enforcement and the quashing, by way of supervisory review, of the domestic court's final decision

Samarov v. Russia (no. 47388/06)

The applicant in this case complained about the quashing, by way of supervisory review, of a domestic court's final decision ordering that his local authority establish his title to a plot of land. The applicant relied on Article 6 § 1 (right to a fair trial) and Article 1 of Protocol No. 1 (protection of property).

Violation of Article 6 § 1

Violation of Article 1 of Protocol No. 1

Yeliseyev v. Russia (no. 21594/05)*

The applicant in this case complained about the quashing, by way of supervisory review, of final judicial decisions in his favour. Relying on Article 6 § 1 (right to a fair trial), he complained of a breach of his right to a fair hearing.

Violation of Article 6 § 1

Length-of-proceedings case

In the following case, the applicant complained in particular under Article 6 § 1 (right to a fair trial within a reasonable time) about the excessive length of civil proceedings.

Minatsis v. Greece (no. 13558/10)*

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.