

Press release issued by the Registrar

**Chamber judgments concerning
Cyprus, Germany, Greece, Italy, Romania, Russia, Slovenia and Ukraine**

The European Court of Human Rights has today notified in writing the following 37 Chamber judgments, of which only the friendly-settlement judgment is final.¹

Repetitive cases² and length-of-proceedings cases, with the Court's main finding indicated, can also be found at the end of the press release.

Violation of Article 6 § 1 (fairness)

N.T. Giannousis & Kliafas Brothers S.A. v. Greece (application no 2898/03)

The applicant, N.T. Giannousis & Kliafas Brothers S.A., is a company whose registered office is in Kallithea, in the outskirts of Athens. Since 1923 it has specialised in processing textiles.

Between 1923 and 1993 the applicant company remained constantly in production by virtue of operating licences for its factory issued by the administrative authorities. On 1 December 2000 the Athens Prefect issued an order altering the terms of the original operating licence and authorising the factory to continue to operate for a further six months from 16 October 2000. However, on 22 December 2000 the Prefect permanently rescinded the factory's operating licence.

The applicant company asked the Supreme Administrative Court to set aside the Prefect's order. On 19 June 2002 the Supreme Administrative Court discontinued the proceedings because it was no longer in a position to rule on the merits, holding in particular that on the date when the applications to set aside had been made the order of 1 December 2000 was no longer in force, having been rescinded on 22 December 2000.

Relying on Article 6 § 1 of the European Convention on Human Rights (right to a fair trial), the applicant company complained that the discontinuation of the proceedings by the Supreme Administrative Court had infringed its right to a court.

¹ Under Article 43 of the European Convention on Human Rights, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

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

The European Court of Human Rights held unanimously that there had been a violation of Article 6 § 1 and awarded the applicant company 5,000 euros (EUR) for non-pecuniary damage and EUR 5,000 for costs and expenses. (The judgment is available only in French.)

Zouboulidis v. Greece (no. 77574/01)

Violation of Article 6 § 1 (fairness)

The applicant, Ioannis Zouboulidis, is a Greek national who was born in 1960 and lives in Berlin. He is a civil servant working for the Ministry of Foreign Affairs.

Although the applicant received an expatriation allowance, he did not receive the additional payments for dependent children and so brought an action in the Greek courts to obtain them. In the course of the proceedings he appealed to the Court of Cassation. On 15 June 2001 the Court of Cassation declared his appeal partly inadmissible on the ground that he had not specified in his appeal on points of law the terms of his contract of employment or the number and ages of his children.

The applicant complained that the rejection by the Court of Cassation of some of his grounds of appeal for formalist reasons had breached Article 6 § 1 (access to a court).

The Court held unanimously that there had been a violation of Article 6 § 1 and awarded the applicant EUR 5,000 for non-pecuniary damage and EUR 500 for costs and expenses. (The judgment is available only in French.)

Ali v. Italy (no. 24691/04)

Violation of Article 6 §§ 1 and 3

The applicant, Ay Ali, is a Swedish national who was born in 1962; he is at present imprisoned in Milan (Italy).

In June 1994 the Verona preliminary investigations judge ordered the applicant to be detained pending trial in connection with criminal proceedings against 84 people suspected of international drug trafficking. As the applicant was untraceable the Italian authorities considered that he had deliberately sought to evade justice and declared him a fugitive (*latitante*). A lawyer was appointed to represent him under the legal aid scheme.

On 3 June 1998 the applicant was found guilty and sentenced to 20 years' imprisonment. He was arrested in Lithuania in November 2000 and extradited to Italy. He appealed against the judgment, contending that he had not been informed of the proceedings against him or of his conviction. His appeal was dismissed by the trial courts, and by the Court of Cassation on 4 December 2003.

The applicant complained that he had been tried on drug trafficking charges and convicted by default without having had the opportunity to defend himself. He relied on Article 6 (right to a fair trial) and Article 2 of Protocol No. 7 (right of appeal in criminal matters).

The Court held unanimously that there had been a violation of Article 6 §§ 1 and 3 and considered that it was not necessary to examine separately the complaint under Article 2 of Protocol No. 7. By way of just satisfaction, it awarded the applicant EUR 8,000 for costs and expenses. (The judgment is available only in French.)

Bogdanovski v. Italy (no. 72177/01)

No violation of Article 5 §§ 1 and 5

The applicant asserted that his name was Kristijan Bogdanovski and that he was a Serbian national born in 1980 and living in Silvi Marina (Italy). He denied that he was Miroslav Bogdanovski, a person wanted by the Yugoslav authorities.

In March 2000 the applicant was granted refugee status in Italy. However, on 12 September 2000 he was detained with a view to his extradition under an international warrant for the arrest of Miroslav Bogdanovski; accused of homicide and possession of prohibited weapons. When the applicant denied that he was the person being sought by Interpol, expert reports were produced on his fingerprints, handwriting and measurements.

On 5 October 2001 the Minister of Justice rescinded the order for the applicant's extradition on the ground that a person granted refugee status could not be extradited. The applicant was released on 9 October 2001.

Relying on Article 5 (right to liberty and security), the applicant submitted that his detention with a view to extradition had been unlawful and complained that he had not been released immediately when the order to detain him was rescinded.

The Court held that there had been no violation of Article 5 §§ 1 and 5. (The judgment is available only in French.)

No violation of Article 3 (inhuman treatment)

Violation of Article 3 (investigation)

Violation of Article 5 § 1

2 Violations of Article 5 § 4

Filip v. Romania (no. 41124/02)

The applicant, Marin Filip, is a Romanian national who was born in 1932 and lives in Bucharest.

In October 2000 the applicant lodged a criminal complaint against his former wife and his son, accusing them of preventing him from recovering furniture from his former wife's flat. In the course of the related proceedings the applicant committed contempt of court and accused the prosecutor of various offences.

At the request of the public prosecutor's office the applicant was arrested on 8 November 2002 and detained in the Professor Al. Obregia Psychiatric Hospital so that his state of mind could be assessed. The doctor who examined him reported that he was suffering from "paranoid disorders". The applicant lodged a number of complaints against his compulsory hospitalisation and the conditions in which he was being detained.

The hospital order was rescinded on 28 January 2003 and the applicant was released on 30 January. The Romanian courts subsequently ordered him to undergo compulsory psychiatric treatment.

The applicant alleged that his compulsory hospitalisation in a psychiatric hospital had breached Articles 3 (prohibition of inhuman or degrading treatment) and 5 (right to liberty and security). He complained in particular that he had not received appropriate treatment for his cardio-vascular illness and his locomotor disability, that he had been forcibly strapped to his bed and that he had been released from restraint only once every 24 hours, to go to the toilet.

Having regard to the information in its possession, the Court considered that the facts were not sufficiently well established for it to be able to find a violation of Article 3 on account of the alleged ill-treatment and the lack of medical treatment. It therefore held unanimously that there had been no violation of Article 3 in that respect.

The Court noted that the applicant had complained about the conditions in which he had been detained. However, the Romanian Government had not supplied any information to show that a criminal investigation had been opened or that the prosecution service had reached any finding on the applicant's complaints. That being so, having regard to the lack of a thorough and effective investigation into the applicant's allegation of ill-treatment in the psychiatric hospital, the Court held unanimously that there had been a violation of Article 3.

The Court further held that there had been violations of Article 5 § 1, on account of the unlawful deprivation of the applicant's liberty, and Article 5 § 4 on account of the failure to review the lawfulness of his compulsory hospitalisation and because he had not been able to obtain a speedy judicial determination of the lawfulness of his detention.

By way of just satisfaction, the Court awarded the applicant EUR 8,000 for non-pecuniary damage. (The judgment is available only in French.)

Violation of Article 6 § 1 (fairness)

Lupaş and Others v. Romania (nos. 1434/02, 35370/02 and 1385/03)

The 19 applicants are Romanian nationals living in Germany and Romania. They are the descendants of the joint-owners of land measuring about 50 hectares in an area situated in Constanţa, on the shore of the Black Sea, which was expropriated in 1950 for the construction of a military base.

In 1998 and 1999 three actions for recovery of the property were brought by some of the applicants, without the agreement of the heirs of two former co-owners. All three of these actions were dismissed by the Court of Cassation pursuant to the unanimity rule, which barred joint owners from claiming an undivided property to the detriment of, and in breach of the rights of, the other joint owners.

The applicants complained that the dismissal of their actions for recovery, pursuant to the unanimity rule applicable to claims concerning undivided property, had breached Article 6 § 1 (access to a court) and Article 1 of Protocol No. 1 (protection of property).

The Court considered that the strict application of the unanimity rule had imposed on the applicants a disproportionate burden and had deprived them of any clear and practical possibility of obtaining from the courts a determination of their applications for recovery of the land, in breach of their right of access to a court. It therefore held unanimously that there had been a violation of Article 6 § 1. The Court declared the complaint under Article 1 of Protocol No. 1 inadmissible and awarded each of the applicants EUR 1,000 for non-pecuniary damage. It also awarded them EUR 6,000 jointly for costs and expenses. (The judgment is available only in French.)

Violation of Article 6 § 1 (fairness)

Shabanov and Tren v. Russia (no. 5433/02)

No violation of Article 10

The applicants, Sergey Mikhaylovich Shabanov and Sergey Alimovich Tren, are Russian nationals who were born in 1959 and 1963 and live in Chernyakhovsk (Russia). They are founders of the Pravo Znat newspaper (The Right to Know).

On 13 June and 25 September 2001 the applicants were found civilly liable by the Chernyakhovsk Town Court of the Kaliningrad Region in two sets of separate proceedings for having published defamatory materials.

In their appeal against the judgment delivered on 13 June 2001 they alleged that there had been a procedural violation in that one of the lay judges had already participated in a hearing earlier that year, contrary to the rule that lay judges could only sit in court once a year and for no longer than 14 days.

The applicants complained that both judgments violated their right to impart ideas and information. They also complained about the procedural violation on 13 June 2001. They relied on Article 6 § 1 (right to a fair hearing) and Article 10 (freedom of expression).

The Court examined the allegations concerning the breach of the domestic rules for the appointment of lay judges and found that there had been a breach of the rules for the selection of lay judges established in section 9 of the Lay Judges Act. In view of those circumstances, the Court could not conclude that the Chernyakhovsk Town Court that issued the judgment of 13 June 2001 could be regarded as a tribunal “established by law”. It therefore held unanimously that there had been a violation of Article 6 § 1.

It also held, unanimously, that there had been no violation of Article 10 in the first set of proceedings, and, by four votes to three, that there had been no violation of that article in the second set of proceedings.

The Court awarded each applicant EUR 500 for non-pecuniary damage. (The judgment is available only in English.)

Shcheglyuk v. Russia (no. 7649/02)

Violation of Article 5 § 3

The applicant, Vitaliy Viktorovich Shcheglyuk, is a Russian national who was born in 1970 and lives in St. Petersburg.

On 12 December 2000 he was arrested and detained in custody. He was charged with organised crime activities and with being in possession of firearms. He made numerous requests for release which were all dismissed. On 25 September 2002 the St Petersburg City Court issued two decisions extended the applicant’s detention. He did not appeal against those decisions.

He was eventually released on 23 December 2002 and was later acquitted of all charges.

The applicant complained about the length of his pre-trial detention (over two years). He relied on Article 5 § 3 (right to liberty and security).

The Court held unanimously that there had been a violation of Article 5 § 3 concerning the applicant’s right to trial within a reasonable time or release pending trial in the period until 25 September 2002, and awarded Mr Shcheglyuk EUR 3,000 in respect of non-pecuniary damage and EUR 100 for costs and expenses. (The judgment is available only in English.)

Repetitive cases

In the following cases the Court has reached the same findings as in similar cases raising the same issues under the Convention:

Iuliano and Others v. Italy (no. 13396/03)

Violation of Article 1 of Protocol No. 1

The applicants are Italian nationals who were born in 1919, 1946, 1947, 1957 and 1949 respectively and live in San Nicola Manfredi (Benevento province), San Marco dei Cavoti, Benevento, Toccanisi and Brighton (USA).

The applicants submitted that they had been deprived of their land in circumstances incompatible with Article 1 of Protocol No. 1 (protection of property) and Article 6 § 1 (right to a fair trial), among other provisions.

The Court held unanimously that there had been a violation of Article 1 of Protocol No. 1 and that it was not necessary to examine the complaint under Article 6 § 1. It considered that the question of just satisfaction was not ready for decision and accordingly reserved it. (The judgment is available only in French.)

Violation of Article 6 § 1 (fairness)

Ionescu and Mihaila v. Romania (no. 36782/97)

Zamfirescu v. Romania (no. 46596/99)

The applicants are Romanian nationals living in Bucharest.

In both cases the applicants complained of the dismissal of their actions for the recovery of real property, relying on Article 6 § 1 (access to a court). They further complained under Article 1 of Protocol No. 1 (protection of property) of an infringement of their right to the peaceful enjoyment of their possessions.

The Court declared both applications admissible as regards the complaint under Article 6 § 1 and inadmissible as to the remaining complaints. It held unanimously that in both cases there had been a violation of Article 6 § 1.

In the ***Ionescu and Mihaila*** case the Court awarded the applicants EUR 10,000 jointly for non-pecuniary damage and EUR 200 for costs and expenses. It awarded Mrs ***Zamfirescu*** EUR 5,000 for pecuniary damage. (The judgments are available only in French.)

Violation of Article 1 of Protocol No. 1

Dimitrie Dan Popescu v. Romania (no. 21397/02)

Vidrascu v. Romania (no. 23576/04)

Tarbuc v. Romania (no. 2122/04)

The applicants are Romanian nationals. They are the former owners of real property nationalised by the State.

In these three cases the applicants alleged that the sale of their properties by the State to third parties, endorsed by the Romanian courts, had been in breach of Article 1 of Protocol No. 1 (protection of property), among other provisions.

The Court held unanimously that there had been a violation of Article 1 of Protocol No. 1. It held that Romania was to return the applicants' real property to them within three months of the date when the judgments became final, failing which it was to pay Mr Popescu EUR 80,000, Mrs Vidrascu EUR 50,000 and Mrs Tarbuc EUR 110,000. In any event, the Court awarded for non-pecuniary damage EUR 8,000 to Mr Popescu and EUR 5,000 to Mrs Vidrascu. It also awarded for costs and expenses EUR 269.68 to Mr Popescu, EUR 1,928.58 to his lawyer and EUR 300 to Mrs Vidrascu. (The judgments are available only in French.)

Simion v. Romania (no. 13028/03)

Violation of Article 1 of Protocol No. 1

The applicant, Ileana Madeleine Simion, is a Romanian national who was born in 1940 and lives in Bucharest.

She alleged that the annulment of a final judgment in her favour had breached Article 1 of Protocol No. 1 (protection of property).

The Court held unanimously that there had been a violation of Article 1 of Protocol No. 1. It held that Romania was to return the applicant's property to her within three months of the date when the judgment became final, failing which it was to pay her EUR 37,200 for pecuniary damage. The Court also awarded the applicant EUR 3,000 for non-pecuniary damage. (The judgment is available only in French.)

Violation of Article 6 § 1 (fairness)

Violation of Article 1 of Protocol No. 1

Violation of Article 13

Lositskiy v. Russia (no. 24395/02)

Violation of Article 6 § 1 (fairness)

Violation of Article 1 of Protocol No. 1

Gurska v. Ukraine (no. 35185/04)

Ivashchenko v. Ukraine (no. 22215/04)

Luganskaya v. Ukraine (no. 29435/04)

Maksimikha v. Ukraine (no. 43483/02)

Mironov v. Ukraine (no. 19916/04)

Popov v. Ukraine (no. 23892/03)

Sarafanov and Others v. Ukraine (no. 32166/04)

Solovyev v. Ukraine (no. 4878/04)

Tsaruk v. Ukraine (no. 42476/04)

Vnuchko v. Ukraine (no. 1198/04)

Yeremenko v. Ukraine (no. 1179/04)

Yeremeyev v. Ukraine (no. 42473/04)

Yuriy Ivanov v. Ukraine (no. 40132/02)

Violation of Article 6 § 1 (fairness)

Antonina Kucherenko v. Ukraine (no. 45092/04)

Lyakhovetskaya v. Ukraine (no. 22539/04)

Martynov v. Ukraine (no. 36202/03)

Tikhonchuk v. Ukraine (no. 16571/03)

The applicant in the first case is a Russian national; the other applicants are Ukrainian nationals. They complained, in particular, about the lengthy non-enforcement of judgments or decisions in their favour. They all relied on Article 6 § 1 (right to a fair hearing within a reasonable time). With the exception of *Antonina Kucherenko v. Ukraine*, *Lyakhovetskaya v. Ukraine*, *Martynov v. Ukraine* and *Tikhonchuk v. Ukraine* the applicants also relied on Article 1 of Protocol No. 1 (protection of property). The applicants in *Lositskiy v. Russia*, *Solovyev v. Ukraine* and *Yuriy Ivanov v. Ukraine* also complained under Article 13.

The Court noted that the judgments and decisions in question were not enforced for years, a situation for which the Governments had not provided any plausible justification.

The Court held unanimously that there had been a violation of Article 6 § 1 in all the cases. With the exception of *Antonina Kucherenko v. Ukraine*, *Lyakhovetskaya v. Ukraine*, *Martynov v. Ukraine* and *Tikhonchuk v. Ukraine*, the Court also held unanimously that there had been a violation of Article 1 of Protocol No. 1, and a further violation of Article 13 in the case of *Lositskiy v. Russia*. The Court held that it was not necessary to examine the Article 13 complaint in the cases of *Solovyev v. Ukraine* and *Yuriy Ivanov v. Ukraine*.

The Court held that, where applicable, the respondent State should pay the applicants the judgment debts still owed to them, and awarded the amounts, in euros, as shown in the table below.

In the case of *Yuriy Ivanov v. Ukraine* the applicant did not submit a claim for just satisfaction in the time-limit fixed by the court. Accordingly, the Court considered that there was no call to award him any sum on this account.

	Pecuniary damage	Non-Pecuniary damage	Costs and expenses
<i>Lositskiy v. Russia</i>		4,100	
<i>Gurska v. Ukraine</i>		1,300	100
<i>Ivashchenko v. Ukraine</i>		2,100	
<i>Luganskaya v. Ukraine</i>		1,300	
<i>Maksimikha v. Ukraine</i>	36,530	2,000	
<i>Mironov v. Ukraine</i>		800	
<i>Popov v. Ukraine</i>		2,600	
<i>Sarafanov and Others v. Ukraine</i> (total)		6,240	
<i>Solovyev v. Ukraine</i>		600	8
<i>Tsaruk v. Ukraine</i>		800	
<i>Vnuchko v. Ukraine</i>		2,300	
<i>Yeremenko v. Ukraine</i>	472	1,800	
<i>Yeremeyev v. Ukraine</i>		1,280	
<i>Antonina Kucherenko v. Ukraine</i>		1,000	
<i>Lyakhovetskaya v. Ukraine</i>		2,000	
<i>Martynov v. Ukraine</i>		1,000	
<i>Tikhonchuk v. Ukraine</i>		2,300	

(All the judgments are available only in English except *Antonina Kucherenko v. Ukraine*, which is available only in French.)

Length-of-proceedings cases

In the following cases the applicants complained, in particular, of the excessive length of civil or administrative proceedings. The applicants in the cases of *Aggelakou-Svarna v. Greece* and *Jazbec v. Slovenia* also complained that they had no “effective remedy” concerning their length-of-proceedings complaints.

Papakokkinou v. Cyprus (no. 4403/03)

Violation of Article 6 § 1 (length)

Becker v. Germany (no. 8722/02)

Friendly settlement

Violation of Article 6 § 1 (length)

Violation of Article 13

Aggelakou-Svarna v. Greece (no. 28760/04)

Jazbec v. Slovenia (no. 31489/02)

These summaries by the Registry do not bind the Court. The full texts of the Court’s judgments are accessible on its Internet site (<http://www.echr.coe.int>).

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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.