



Judgments concerning Albania, the Republic of Moldova, Poland, Romania and Turkey

The European Court of Human Rights has today notified in writing the following ten judgments, none of which is final.

Repetitive cases¹, 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 (*).

Just Satisfaction

Dragostea Copiilor - Petrovski - Nagornii v. the Republic of Moldova (application no. 25575/08)

The applicant company runs a primary school in Chişinău (Moldova). A party to civil proceedings in 2001, the company was ordered to pay an individual 78,400 US dollars. However, in a final judgment in July 2007, an appeal court found that the application for enforcement of the order was time-barred. The company complained that the final judgment in its favour had been subsequently quashed in review proceedings, which ended in October 2008 with a Supreme Court judgment enforcing the original payment order. The company also complained that the judge rapporteur in the review proceedings had been changed in disregard of the applicable provisions.

In its [principal judgment](#) of 13 September 2011 the Court found violations of Article 6 § 1 (right to a fair trial) of the European Convention on Human Rights and Article 1 of Protocol No. 1 (protection of property) to the Convention. Today's judgment concerned the question of just satisfaction (Article 41).

Just satisfaction: 2,000 euros (EUR) (non-pecuniary damage) and EUR 4,300 (costs and expenses)

P.K. v. Poland (no. 43123/10)

The case concerned a child custody dispute.

The applicant, P.K., is a Polish national who was born in 1978 and lives in Bychawa (Poland). Relying on Article 8 (right to respect for private and family life) of the Convention, he alleged that the Polish authorities had failed to enforce his contact rights with his son, born in 2001, following his divorce with the child's mother in 2004. Mr P.K. submitted in particular that between 2001 – when he separated with the child's mother – and 2006, he had repeatedly requested the police to assist with the access arrangements to his son, to no avail. After that, he had turned to the courts, repeatedly informing them of the mother's obstructive behaviour, but alleged that the fines imposed on her had been infrequent and far too lenient and the court-appointed guardian ineffectual. The Government argued that the animosity between Mr P.K. and his ex-wife had made it particularly difficult for the authorities to enforce the contact order, submitting also that Mr P.K. had in any event shown little interest in his son between 2001 and 2006 and had even tried – unsuccessfully – to challenge his paternity of the child during the divorce proceedings.

No violation of Article 8

¹ In which the Court has reached the same findings as in similar cases raising the same issues under the Convention.

Bujorean v. Romania (no. 13054/12)*

The applicant, Gheorghe Bujorean, is a Romanian national who was born in 1968. He is currently detained in Botoşani Prison in Romania, where he is serving a five-year sentence after being convicted of fraud on 13 September 2011. The case concerned the conditions of detention in the prison. Relying in substance on Article 3 (prohibition of inhuman or degrading treatment), Mr Bujorean complained of his conditions of detention.

Violation of Article 3 – concerning the applicant’s conditions of detention in Botoşani Prison

Just satisfaction: The applicant did not submit a claim for just satisfaction within the time-limit fixed by the Court.

Constantin Aurelian Burlacu v. Romania (no. 51318/12)*

The applicant, Constantin Aurelian Burlacu, is a Romanian national who was born in 1982. He is currently detained in Vaslui Prison. The case concerned the issue of overcrowding in certain detention facilities in Romania. On 16 February 2009 Mr Burlacu, who was suspected of trafficking in hard drugs, was taken into police custody following a decision by the public prosecutor’s office, and was placed in pre-trial detention. He was subsequently sentenced to 11 years’ imprisonment, a decision which was upheld on appeal and on further appeal. Relying in particular on Article 3 (prohibition of inhuman or degrading treatment), Mr Burlacu complained of the poor conditions of detention in the Bucharest police headquarters and in Rahova Prison, and especially of overcrowding in the cells.

Violation of Article 3 – concerning the applicant’s conditions of detention

Just satisfaction: EUR 8,400 (non-pecuniary damage)

Mihai Laurenţiu Marin v. Romania (no. 79857/12)

The applicant, Mihai Laurenţiu Marin, is a Romanian national who was born in 1975. He is currently detained in Măgineni Prison (Romania). Relying on Article 3 (prohibition of inhuman or degrading treatment), he complained about the conditions in which he had been detained since 2004 in Poarta Albă and Măgineni Prisons in overcrowded and inadequately heated cells.

Violation of Article 3 (degrading treatment)

Just satisfaction: EUR 15,300 (non-pecuniary damage)

Voicu v. Romania (no. 22015/10)

The case concerned the pre-trial detention of a former senator on charges of trading in influence.

The applicant, Cătălin Voicu, is a Romanian national who was born in 1965 and lives in Bucharest. He was arrested in March 2010 and his pre-trial detention was extended roughly every month until he was released pending trial in July 2011 on the condition that he was not to leave town. Mr Voicu made notably several complaints under Article 3 (prohibition of inhuman or degrading treatment), complaining in particular about the conditions of his pre-trial detention (on account of overcrowding and lack of basic hygiene) and his transportation from prison to the prosecutor’s office (in the back of a van with no heating or lighting). He also complained under Article 8 (right to respect for private and family life) that the authorities had leaked excerpts from the prosecution file to the press – in particular, transcripts of conversations obtained through telephone tapping during the criminal surveillance operation against Mr Voicu and his co-defendants.

Violation of Article 3 (degrading treatment) – on account of the conditions of the applicant’s pre-trial detention

No violation of Article 3 – on account of the conditions of the applicant’s transportation while in detention

Violation of Article 8

Just satisfaction: EUR 4,500 (non-pecuniary damage)

Revision

Gülbahar Özer and Others v. Turkey (no. 44125/06)

The case concerned a request for revision of a judgment by the European Court of Human Rights in a case relating to the killing of the applicants’ children by Turkish soldiers.

The applicants, Gülbahar Özer, Yusuf Özer, Halil Esen, Hüseyin Esen and Abdurrahman Çınar, are Turkish nationals who were born in 1963, 1965, 1947, 1952 and 1946 respectively. Gülbahar Özer and Yusuf Özer live in İzmir, Halil Esen and Hüseyin Esen live in Mardin and Abdurrahman Çınar lives in Diyarbakır (Turkey). The case concerned the killing of the applicants’ five children, aged between 13 and 24, by soldiers in south-east Turkey in 2005. The ensuing investigation conducted by the authorities had concluded that the applicants’ children, terrorists and members of the PKK, had opened fire on the soldiers and had been killed in the ensuing armed clash. Relying in particular on Article 2 (right to life), the applicants alleged that the soldiers’ use of force against their children had been excessive and that the investigation into the incident, if it had been carried out adequately by, for example, taking swabs for gunpowder residue, would have shown that their children had been unarmed and could not possibly have opened fire on the soldiers.

In its principal [judgment](#) of 2 July 2013 the Court held that there had been a violation of Article 2 (right to life) as concerned both the death of the applicants’ children as well as the related investigation, and awarded each of the five applicants 65,000 euros (EUR) for non-pecuniary damage and EUR 5,930, jointly, for costs and expenses.

On 5 December 2013 the applicants’ legal representatives requested that the European Court revise its judgment of 2 July 2013, submitting that Mr Halil Esen had died and that his widow, Mrs Fatma Esen, therefore requested that the judgment be rectified so that she could receive the compensation awarded to her husband in respect of the killing of their daughter Zerga Esen.

Just satisfaction: The Court decided to revise its judgment of 2 July 2013 in so far as it concerned the claim made by the deceased applicant Mr Halil Esen under Article 41 (just satisfaction) of the Convention and held that Turkey was to pay Mrs Fatma Esen EUR 65,000 in respect of non-pecuniary damage.

Just Satisfaction

Selin Aslı Öztürk v. Turkey (no. 39523/03)*

The applicant, Selin Aslı Öztürk, is a Turkish national who was born in 2000 and lives in Istanbul. She complained that she had been unable to apply for recognition of her deceased father’s divorce decree and was thus deprived of part of her inheritance.

In its principal [judgment of 13 October 2009](#), the Court held that there had been a violation of Article 6 (right to a fair trial) on account of the applicant’s inability to apply for recognition of her deceased father’s divorce decree, which had deprived her of a quarter of the inheritance to which she was entitled. The Court also found a violation of Article 1 of Protocol No. 1 (protection of property), on the grounds that the restrictive interpretation given by the Court of Cassation, according to which children could not request recognition of a parent’s divorce decree even after

the parent's death, was liable to upset the fair balance between the demands of the general interest and the requirement of the protection of individual rights. In the present case, Ms Öztürk had no longer been able to claim her full share of her father's estate. Today's judgment concerned the question of just satisfaction (Article 41).

Just satisfaction: The Court dismissed the applicant's claim for just satisfaction.

Repetitive cases

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

Eltari v. Albania (no. 16530/06) - **Just Satisfaction**

This case concerned the non-enforcement of final court decisions in the applicant's favour. In its [principal judgment](#) of 8 March 2011 the Court found violations of Article 6 § 1 (right to a fair trial), Article 13 (right to an effective remedy) in conjunction with Article 6 § 1, and Article 1 of Protocol No. 1 (protection of property). Today's judgment concerned the question of just satisfaction (Article 41).

Just satisfaction: Taking note of the unilateral declaration submitted by the Albanian Government, whereby the Government undertakes to pay the applicant EUR 44,000 in respect of pecuniary damage and EUR 3,000 in respect of non-pecuniary damage, the Court decided to strike the application out of its list of cases as regards the Article 41 procedure.

Vidu and Others v. Romania (no. 9835/02) - **Just Satisfaction**

This case concerned the failure to enforce a final judgment in the applicants' favour. In its [principal judgment](#) of 21 February 2008 (available only in French) the Court found violations of Article 6 § 1 (right to a fair trial) and Article 1 of Protocol No. 1 (protection of property). Today's judgment concerned the question of just satisfaction (Article 41).

Just satisfaction: The Court held that Romania shall ensure the enforcement of the final domestic judgment in its entirety, failing which it would be to pay the applicants jointly EUR 230,000 for pecuniary damage. The Court further awarded the applicants jointly EUR 4,700 in respect of non-pecuniary damage.

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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.