



Judgments of 13 June 2017

The European Court of Human Rights has today notified in writing 30 judgments¹:

eight Chamber judgments are summarised below;

22 Committee judgments, concerning issues which have already been submitted to the Court, including excessive length of proceedings, can be consulted on [Hudoc](#) and do not appear in this press release.

The judgments in French below are indicated with an asterisk ().*

Arnarson v. Iceland (application no. 58781/13)

The applicant, Ólafur Arnarson, is an Icelandic national who was born in 1963 and lives in Garðabær (Iceland). He was a journalist and freelance writer for the web-based media site *Pressan*. The case concerned proceedings brought against him for defamation following the publication of an article accusing the chief executive officer of the Icelandic Federation of Fishing Vessel Owners (“the LIU”) of accounting deception and fraud.

Between 2010 and 2011 Mr Arnarson published a series of articles regarding rumours that LIU was paying a website to lobby in its favour, namely by discrediting its detractors. One of the articles pointed out that it was possible that not all LIU’s board members were aware that the organisation’s funds were being used for that purpose, and insinuated that the payments had been well-disguised in the organisation’s financial records by LIU’s chief executive officer alone. In November 2012, in proceedings brought by LIU’s chief executive officer, the District Court found that this insinuation had been defamatory. The court took into account that the fisheries management system was a matter of great public concern in Iceland, with different views being expressed, but found in essence that Mr Arnarson had not given any proof to show that his allegations were true. He was ordered to pay 300,000 Icelandic *Krónur* (approximately 2,500 euros) in compensation. In February 2013 the Supreme Court refused the applicant’s request for appeal.

Relying on Article 10 (freedom of expression) of the European Convention on Human Rights, Mr Arnarson complained about the judgment against him, submitting in particular that he had published his remarks in good faith as he had based them on an article published a year before in another newspaper and that his statements had been value judgments which had contained several reservations.

No violation of Article 10

Kosteckas v. Lithuania (no. 960/13)

The applicant, Raimondas Kosteckas, is a Lithuanian national who was born in 1979 and lives in Šiauliai (Lithuania). Mr Kosteckas complained that a group of men who had attacked him had never

¹ Under Articles 43 and 44 of the Convention, Chamber judgments are not final. During the three-month period following a Chamber 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

been brought to justice. In February 2007, Mr Kosteckas and three friends became involved in a dispute with another group of men in a petrol station. Mr Kosteckas was subjected to a physical attack by the other group, whereby he was punched and kicked in the face and head. Criminal proceedings were brought against the alleged perpetrators. They were tried and convicted, but the judgment was overturned on appeal due to breaches of the criminal code of procedure. The alleged perpetrators were tried and convicted again, but once again their convictions were overturned on appeal. When the case came before the courts for a third time, the proceedings were discontinued due to the expiration of the five-year time limit in the statute of limitations. Mr Kosteckas subsequently instituted civil proceedings against the alleged perpetrators and was awarded monetary compensation in respect of pecuniary and non-pecuniary damage.

Relying in substance on Article 3 (prohibition of inhuman or degrading treatment) of the European Convention, Mr Kosteckas complained that the authorities had failed to investigate and prosecute the individuals who had assaulted him.

Violation of Article 3 (investigation)

Just satisfaction: 5,000 euros (EUR) (non-pecuniary damage) and EUR 1,013 (costs and expenses)

Šimkus v. Lithuania (no. 41788/11)

The applicant, Raimundas Šimkus, is a Lithuanian national who was born in 1975 and lives in Tauragė (Lithuania). Relying on Article 4 of Protocol No. 7 (right not to be tried or punished twice), Mr Šimkus complained that two different sets of proceedings had been brought against him relating to the same offence. In July 2006, a phone call was received by an officer of the State Border Guard Service, in which the caller threatened to “find and shoot” an officer who had shot a man suspected of smuggling earlier that night. A forensic examination identified the caller as Mr Šimkus. Later the same night, Mr Šimkus had arrived at the hospital where the wounded man was being treated and used various swearwords against the officers, demanded that they release the wounded man, and said that he would beat the officers up or kill them.

In administrative proceedings, Mr Šimkus, was found to have committed the offence of minor hooliganism for using swearwords in the hospital. However, criminal proceedings were also brought against him, in relation to both the phone call and his conduct in the hospital. The criminal proceedings were ultimately terminated for being time-barred. Mr Šimkus complained that the criminal proceedings had related to the same offence for which he had been given an administrative penalty.

Violation of Article 4 of Protocol No. 7

Just satisfaction: The Court held that the finding of a violation constituted in itself sufficient just satisfaction for the non-pecuniary damage sustained by Mr Šimkus. It further awarded him EUR 1,800 for costs and expenses.

Cheltsova v. Russia (no. 44294/06)

The applicant, Inna Cheltsova, is a Russian national who was born in 1947 and lives in Fryazino, the Moscow Region. She is retired, but is also editor-in-chief of a local independent newspaper, *Fryazinets*. The case concerned a series of defamation proceedings brought against her for articles published in her newspaper.

Between 2005 and 2006 she was held liable under civil law in three sets of defamation proceedings for articles which were critical of a local civil servant, a manager of a local branch of a State unitary enterprise and a local entrepreneur who was also running for mayor of Fryazino. The articles published had made a number of allegations against these individuals, including combining the

official function of civil servant with other gainful employment, alleged unlawful registration of real estate rights and dubious business activities. In the proceedings that these three individuals brought against her, the domestic courts essentially found against Ms Cheltsova because she had presented no evidence to prove that the information she had published had been true or verified. They ordered her to publish retractions and to pay between 10,000 and 15,000 Russian roubles in damages.

Relying on Article 10 (freedom of expression), Ms Cheltsova complained that the courts had not given enough consideration to the fact that her articles had been about a legitimate matter of public interest, namely corruption. She also complained in particular that the sanctions imposed on her, which had amounted to between four to six times her monthly retirement pension, had been excessive.

Violation of Article 10

Just satisfaction: Ms Cheltsova did not submit a claim for just satisfaction.

Koshevoy v. Russia (no. 70440/10)

The applicant, Aleksandr Koshevoy, was born in 1946 in Kazakhstan and has been living in Moscow since 2001. The case concerned his detention pending extradition for nearly six months.

Mr Koshevoy was arrested in Moscow in September 2010 and placed in detention pending extradition on the basis of an international arrest warrant issued by the Kazakh authorities for abuse of office when he had worked in local government in Kazakhstan. His detention was extended in November and December 2010 and then in February 2011; it was chiefly justified by the fact that proceedings were pending concerning his Russian nationality and that a decision had to be taken by the General Prosecutor's Office as to his extradition. He was released in early March 2011.

Mr Koshevoy suffers from serious heart and vascular illness and spent the major part of his detention in civilian and prison medical facilities. On 10 December 2010 the European Court of Human Rights (ECtHR) granted a request for an interim measure (Rule 39 of the Rules of Court), indicating to the Russian Government that he should be examined immediately by an independent medical practitioner and, if necessary, transferred to an appropriate civilian or prison hospital. He was admitted four days later to a prison medical unit and then two weeks later to a civilian hospital. He underwent a thorough examination by various doctors at these establishments, but both considered that his treatment in detention was adequate. Mr Koshevoy also lodged a claim following his release against the detention authorities for inadequate medical care, which was in the main dismissed.

Relying in particular on Article 5 § 1 (right to liberty and security), Mr Koshevoy alleged that his detention pending extradition had been unlawful and that the related proceedings had not been carried out diligently. Also relying on Article 34 (right of individual petition), he complained about the authorities' failure to comply with the ECtHR interim measure.

Violation of Article 5 § 1 – on account of the unlawfulness of Mr Koshevoy's detention from 25 September to 19 November 2010

No violation of Article 5 § 1 – in respect of Mr Koshevoy's detention from 19 November 2010 to 3 March 2011

No violation of Article 34

Just satisfaction: EUR 7,500 (non-pecuniary damage)

Atutxa Mendiola and Others v. Spain (no. 41427/14)*

The applicants are Spanish nationals. Juan Maria Atutxa Mendiola (born in 1941) is the former President of the Parliament of the Autonomous Community of the Basque Country. Gorka Knorr Borrás (born 1950) and Maria Concepción Bilbao Cuevas (born 1958) were respectively the Vice-President and clerk of the Parliament at the time when Mr Atutxa Mendiola was its President. They live in Lemoa, Barcelona and Zurbano (Spain) respectively.

The case concerned their conviction by the Supreme Court for failing to comply with a decision ordering the dissolution of the parliamentary groups in the different institutions of the autonomous communities of the Basque Country and of Navarre which bore the name *Batasuna*.

The union *Manos Limpias* and the public prosecutor filed a complaint against the applicants for the offence of non-compliance with a court order. In November 2005 and December 2006 the applicants were acquitted twice by the Superior Court of Justice. The union appealed on points of law. In a judgment of 8 April 2008, delivered after a public hearing attended by the applicants' representatives but during which they were not heard, the court found the applicants guilty of the offence of non-compliance and sentenced them to disqualification from public office for a period of between 12 and 18 months, together with the payment of a fine and costs. On the basis of the same facts, regarded as established by the judgment of the Superior Court of Justice, the Supreme Court found that the applicants had deliberately and openly refused to comply with the decision ordering the dissolution of the parliamentary groups in question.

Relying in particular on Article 6 § 1 (right to a fair hearing), the applicants complained that they had been convicted without having been heard in a public hearing. They alleged that the Supreme Court had not confined itself to purely legal questions but had carried out a review of the facts and had reconsidered evidence such as witness statements, which, in their view, had been of crucial importance for the assessment of the facts.

Violation of Article 6 § 1

Just satisfaction: EUR 1 to each applicant (non-pecuniary damage) and EUR 600 to the applicants jointly (costs and expenses)

Daşlık v. Turkey (no. 38305/07)*

The applicant, Remziye Daşlık, is a Turkish national who was born in 1980 and lives in Diyarbakır (Turkey). The case concerned allegations of ill-treatment sustained by her while in police custody.

On 28 February 2002 Ms Daşlık was questioned by two police officers in the context of an investigation into the activities of the PKK (Kurdistan Workers' Party, an illegal armed organisation) and a political party, HADEP (*Halkın Demokrasi Partisi* – People's Democratic Party) on the premises of the anti-terrorist division of the Diyarbakır police headquarters. While she was in police custody, which lasted for one day, Ms Daşlık suffered vaginal bleeding and was taken to hospital.

On 4 March 2002 Ms Daşlık filed a complaint for abuse of power against the officers who questioned her, arguing that she had been tortured during her police custody. On 10 March 2003 criminal proceedings were brought against two officers before the Diyarbakır Assize Court, which acquitted them in October 2004 for lack of sufficient evidence, particularly on the basis of medical reports, drawn up at the beginning and end of the police custody, which did not show any injury on the complainant's body. The Court of Cassation upheld that judgment in September 2006. Moreover, the criminal proceedings against Ms Daşlık for propaganda in favour of the illegal organisation resulted in her acquittal in September 2002.

Relying on Article 3 (prohibition of torture and inhuman or degrading treatment), Ms Daşlık complained that she had been ill-treated while in police custody and that the authorities had not conducted an effective investigation following her complaint.

No violation of Article 3 (treatment)

Violation of Article 3 (investigation)

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

R.M. v. Turkey (no. 81681/12)

The applicant, R.M., is an Uzbek and Turkish national who was born in 1988 and lives in Istanbul (Turkey). The case essentially concerned his detention pending extradition for 32 months.

Wanted by the Uzbek prosecuting authorities for establishing a criminal organisation and causing bodily harm, R.M. was arrested in Turkey in September 2009 on the basis of an international arrest warrant. A month later a first-instance court ordered his detention pending extradition. Six months later, that decision was quashed by the Court of Cassation because it was considered manifestly inappropriate and the case was transferred to the Assize Court. The proceedings then lasted another year before this court, with the trial being adjourned six times pending receipt of information from the Uzbek authorities, and ended in June 2011 with a judgment again ordering R.M.'s detention. The Court of Cassation upheld this judgment in March 2012. R.M. was however ultimately released in May 2012 because he had, in the meantime, been granted subsidiary protection status by the Ministry of the Interior and a temporary residence permit. He has since also acquired Turkish nationality.

Relying in particular on Article 5 § 1 (right to liberty and security), R.M. notably complained that his detention pending extradition had been unlawful and excessively long.

Violation of Article 5 § 1 – on account of the excessive length of R.M.'s detention between 9 September 2009 and 9 May 2012

Just satisfaction: EUR 10,000 (non-pecuniary damage) and EUR 3,320 (costs and expenses)

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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.