



## Judgments concerning France, Russia, and Slovenia

The European Court of Human Rights has today notified in writing the following five judgments, of which one (in italics) is a Committee judgment and *id final*. The others are Chamber judgments<sup>1</sup> and are not final.

One length-of-proceedings case, 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 (\*).

### *De Lesquen du Plessis-Casso (no. 2) v. France (application no. 34400/10)\**

The applicant, Henry de Lesquen du Plessis-Casso, is a French national who was born in 1949 and lives in Versailles. The case concerned his conviction for defamation on account of comments addressed to the mayor of his town in an open letter. In September 2006, in response to an invitation from E.P., mayor of Versailles and member of parliament, to a ceremony to pay tribute to the "harkis" (French army auxiliaries during the Algerian war), Mr Plessis-Casso, a town councillor of Versailles, sent him an open letter that was published on the Internet. On the basis of comments attributed to an "eminent figure of Versailles", he accused E.P. of, among other things, having waited until the end of the war to request French nationality, in order to avoid military service in Algeria. In defamation proceedings initiated by E.P., Mr Plessis-Casso was found guilty and fined 1,500 euros (EUR), also having to pay EUR 2,000 in damages. After his first appeal was dismissed he lodged an appeal on points of law, which was dismissed in December 2009. Mr Plessis-Casso alleged in particular that his criminal conviction had been in breach of Article 10 (freedom of expression) of the European Convention on Human Rights.

#### **No violation of Article 10**

*Mikiyeva and Others v. Russia (nos. 61536/08, 6647/09, 6659/09, 63535/10, and 15695/11)*

*Z. and Khatuyeva v. Russia (nos. 39436/06 and 40169/07)*

Both cases concerned the disappearance of the applicants' relatives in Russia's North Caucasus region after having allegedly been abducted by State officials.

The applicants in the first case are nine Russian nationals who live in various settlements in the Chechen Republic (Russia). They are close relatives – daughter, son, wife or aunt – of five men, born between 1955 and 1983, who were abducted from their homes between 2001 and 2004 by groups of armed men wearing uniforms and speaking unaccented Russian, whom the applicants took to be State servicemen. None of the applicants have seen their missing relatives since. The applicants complained about the abductions to law-enforcement bodies, and official investigations were opened. The proceedings were repeatedly suspended and resumed, and have remained pending for several years without attaining any tangible results.

<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)

The applicants in the second case are two Russian nationals, one of whom, Ms Z., is a former resident of the Chechen Republic who now lives in Austria, while the other, Mrs Khatuyeva, lives in Grozny, the Chechen Republic. They are the sister and wife, respectively, of Zhamalayl Yanayev, born in 1961, who disappeared on 28 December 2004 in North Ossetia, where the family lived at the time. According to information collected by the applicants after the incident, Mr Yanayev was arrested at Beslan airport in North Ossetia after having checked in for a flight to Moscow by armed men in uniforms who appeared to be servicemen of the Regional Department for Combating Organised Crime. The family have not had any news of Mr Yanayev since then. In the weeks after his disappearance, they repeatedly contacted various public bodies, including the prosecuting authorities. On 10 February 2005 a criminal investigation into the abduction was opened. The investigation remains pending without having established Mr Yanayev's fate or the identities of those responsible for his abduction.

Relying on Article 2 (right to life), the applicants in both cases complained that their respective relatives had disappeared after having been detained by State officials and that the Russian authorities had failed to carry out an effective investigation into the matter.

The applicants also complained of violations of Article 3 (prohibition of inhuman or degrading treatment) and Article 5 (right to liberty and security) on account of the mental suffering caused to them by the disappearance of their respective relatives and the unlawfulness of their detention. They also argued that, contrary to Article 13 (right to an effective remedy), they had had no effective remedies at national level against the alleged violations, in particular those under Articles 2 and 3.

**Violation of Article 2** (right to life) – in both cases, in respect of the applicants' disappeared relatives

**Violation of Article 2** (procedure) – in both cases, in respect of the authorities' failure to investigate effectively the disappearance of the applicants' relatives

**Violation of Article 3** – in both cases, in respect of the applicants, on account of their relatives' disappearance and the authorities' response to their sufferings

**Violation of Article 5** – in both cases, in respect of the applicants' relatives, on account of their unlawful detention

**Violation of Article 13 in conjunction with Articles 2 and 3** – in both cases

**Just satisfaction:**

- in the case of *Mikiyeva and Others*: The Court awarded a total amount of EUR 9,000 (application no. 61536/08) and EUR 25,000 (no. 6659/09) in respect of pecuniary damage, EUR 60,000 per application in respect of non-pecuniary damage, and EUR 2,500 per application (except as regards application no. 15695/11: in this case, the applicant had not made any claim under this head) in respect of costs and expenses.

- in the case of *Z. and Khatuyeva*: the Court awarded Mrs Khatuyeva EUR 60,000 in respect of non-pecuniary damage, and EUR 1,800 in respect of costs and expenses

### Velikanov v. Russia (no. 4124/08)

The applicant, Vadim Velikanov, is a Russian national who was born in 1977 and lives in Shchelkovo, the Moscow Region. He is currently serving a prison sentence in the Saratov Region (Russia). The case concerned Mr Velikanov's complaint that he had been subjected to ill treatment by Russian police officers after his arrest on 31 March 2003 on suspicion of murder, and that there had been no effective investigation into his allegations. Mr Velikanov was found guilty in August 2003, and sentenced to eleven years' imprisonment. His conviction was upheld on appeal in February 2004. Relying in particular on Article 3 (prohibition of inhuman or degrading treatment), Mr Velikanov complained notably that when he had first been arrested, police officers had extracted a confession from him by handcuffing him to a chair and beating him on his back and sides.

**Violation of Article 3** (inhuman and degrading treatment)

**Violation of Article 3** (procedure)

**Just satisfaction:** EUR 15,000 (non-pecuniary damage)

**Length-of-proceedings case**

In the following case, the applicants complained in particular under Article 6 § 1 (right to a fair hearing within a reasonable time) about the excessive length of non-criminal proceedings.

*Bitenc v. Slovenia* (no. 34747/06)

**Violation of Article 6 § 1**

**Violation of Article 13** (right to an effective remedy)

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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.