



## Judgments and decisions of 14 January 2016

The European Court of Human Rights has today notified in writing nine judgments<sup>1</sup> and 25 decisions<sup>2</sup> :

five Chamber judgments are listed below; for one other, in the case of *Mandet v. France (application no. 30955/12)*, a separate press release has been issued;

three Committee judgments, which concern issues which have already been submitted to the Court, and the 25 decisions can be consulted on [Hudoc](#) and do not appear in this press release.

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

### Duong v. the Czech Republic (application no. 21381/11)\*

The applicant, Van Nam Duong, is a Vietnamese national who was born in 1974 and lives in Přimda (the Czech Republic). The case concerned his challenge to the warrant which had permitted a search of his home.

In July 2010 a police superintendent applied to the relevant judge for a search warrant, to be carried out in a flat belonging to a limited liability company and occupied by Mr Duong. A police investigation had been underway since April 2010 into the illegal manufacture of psychotropic substances. According to the police, the flat could have been used, among other purposes, for concealment of these illegal substances. On 28 July 2010 the Prague Municipal Prosecutor ordered a search of the flat occupied by Mr Duong, who was a suspect. On 4 August 2010, at the end of the search, he was charged and placed in detention. On 30 September 2010 he lodged a constitutional appeal, complaining of procedural flaws in the warrant, including a lack of sufficient reasoning. The Constitutional Court rejected the complaints as unfounded.

Relying on Article 8 (right to respect for one's home) of the European Convention on Human Rights, Mr Duong alleged that the search of his home on the basis of a warrant which he had considered to contain insufficient reasons had been in breach of his right to respect for one's home.

### No violation of Article 8

### Maslák and Micháľková v. the Czech Republic (no. 52028/13)\*

The applicants, Miroslav Maslák and Katarína Micháľková, are Slovak nationals who were born in 1979 and 1978 and live in Pružina (Slovakia) and Plevník-Drieňové (Slovakia) respectively. The case concerned a challenge to the lawfulness of searches.

In June 2012, as part of a preliminary investigation into Mr Maslák and two other individuals with regard to extortion, the prosecutor authorised, for a given period, surveillance of three vehicles. According to police information, the suspects were using these vehicles, which belonged to

<sup>1</sup> 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](http://www.coe.int/t/dghl/monitoring/execution)

<sup>2</sup> Committee judgments, as well as inadmissibility and strike-out decisions, are final.

Ms Michálková or to the company managed by her, for their criminal activities. Following changes in ownership and registration numbers, two new warrants were issued for the vehicle surveillance. On 22 November 2012 the prosecutor asked the district court to order searches in several residential buildings and other premises. The judge authorised searches of the flat rented by Mr Maslák and also of two vehicles used by him.

Mr Maslák and Ms Michálková lodged a constitutional appeal, alleging that the search warrants and the conduct of the police during the searches had breached their rights as guaranteed by the Convention. They alleged that there had been insufficient reasons given in the search warrants. The Constitutional Court considered that the warrants had been acceptable and held that it could not examine the objections based on the lack of prior questioning or the alleged failure to comply with the conditions of Article 84 of the Code of Criminal Procedure.

Relying in particular on Article 8 (right to respect for one's home), the applicants submitted that the search of Mr Maslák's flat, his garage, and the vehicles, had not been lawful.

### **No violation of Article 8**

#### **Ventouris and Ventouri v. Greece (no. 45290/11)\***

The applicants, Ioannis Ventouris and Athina Ventouri, are Greek nationals who were born in 1940 and 1987 respectively and live in Piraeus (Greece). The case concerned their inability to dispose of a property inherited from their parents.

The forbears of Mr Ventouris and Ms Ventouri were owners of a plot of land and a building located on this land in the municipality of Drapetsona. These were expropriated in 1926. This expropriation was revoked in March 1938. In 1969 the Ministers of the Economy and of Social Security froze the property with a view to its expropriation, a measure which was lifted following a judgment issued by the Supreme Administrative Court on an application by the applicants' forebears.

In May 1986 a Presidential decree amended the municipality's urban land-use plan and allocated the property for the creation of a public green area. In March 1997 and December 2000 the applicants inherited portions of the property. As the expropriation decided by the 1986 decree had not been enforced, in June 2001 the applicants lodged an appeal with the Athens Administrative Court of Appeal against the implicit refusal to lift the freeze on their property. The administrative court of appeal granted their application and transmitted the case to the authorities so that the necessary measures could be taken. The authorities did not react.

In June 2004 the Piraeus Prefecture revoked the expropriation, but amended the urban land-use plan and imposed a further expropriation. The applicants applied to the Supreme Administrative Court, seeking to have that decision set aside. It allowed their application. In July 2015 the municipal council again decided to expropriate the property with a view to creating a green area.

Relying in particular on Article 6 § 1 (right to a fair hearing), the applicants notably complained about the authorities' refusal to comply with the judgments issued by the administrative court of appeal and the Supreme Administrative Court.

### **Violation of Article 6 § 1**

**Just satisfaction:** 7,800 euros (EUR) (non-pecuniary damage) and EUR 984 (costs and expenses) to the applicants jointly

D.A. and Others v. Italy (nos. 68060/12, 16178/13, 23130/13, 23149/13, 64572/13, 13662/13, 13837/13, 22933/13, 13668/13, 13657/13, 22918/13,

22978/13, 22985/13, 22899/13, 9673/13, 158/12, 3892/12, 8154/12 and 41143/12)\*

The case concerned patients who had been contaminated through blood transfusions. The applicants are 889 Italian nationals who were born between 1921 and 1993 and live in Italy and Australia.

The applicants or the persons whom they are representing posthumously were infected by various viruses (HIV, hepatitis B and C) during blood transfusions in the course of curative treatment or surgical operations. They are or were entitled to administrative compensation, provided for by law, since the causal link between the transfusion of infected blood and their contamination has been proved. At various dates they brought civil proceedings against the Minister of Health with a view to obtaining compensation for the damage sustained by them.

Relying on Article 2 (right to life) under its procedural aspect, Article 6 § 1 (right to a fair hearing), Article 13 (right to an effective remedy) and Article 1 of Protocol No. 1 (protection of property), the applicants complained about the length of the proceedings for compensation or friendly settlement of their cases, and alleged that no effective remedy had been available in respect of their complaints.

**Violation of Article 6 § 1** – in respect of seven of the applicants in application no. 8154/12 (for full details, see the operative part of the judgment)

**Violation of Article 1 of Protocol No. 1** – in respect of the same seven applicants

**Violation of Article 13** – in respect of the same seven applicants

**Violation of Article 2** (investigation) – in respect of applications nos. 68060/12 (with the exception of one of the applicants), 16178/13, 23130/13, 23149/13, 13662/13, 13837/13, 22933/13, 13668/13, 13657/13, 22918/13, 22978/13, 22985/13, 22899/13 and 9673/13

As to the other applications, they were either **struck out** of the Court's list of cases or declared **inadmissible**.

**Just satisfaction:** For full details of the sums allocated in respect of pecuniary and non-pecuniary damage, and costs and expenses, see the operative part of the judgment.

### Rodzevillo v. Ukraine (no. 38771/05)

The applicant, Oleg Rodzevillo, is a Ukrainian national who was born in 1967. He is currently serving a life sentence in Ladyzhynska Correctional Colony no. 39, Gubnyk, in the Vinnytsia Region (Ukraine). The case concerned his allegations of poor detention conditions and ill-treatment by prison guards as well as the authorities' refusal to transfer him to a prison colony closer to his home.

Mr Rodzevillo was convicted of a number of offences, including having formed a criminal association and having committed several murders and robberies, and sentenced to life imprisonment in January 2005. The judgment was upheld by the Supreme Court in October 2005.

Following his arrest in October 2003, he was placed in custody in the Dnipropetrovsk pre-trial detention centre, where he remained in detention until April 2007. Since May 2007 he has been detained in the Ladyzhynska Correctional Colony. He submits that he was kept in inhuman conditions in the pre-trial detention centre. In particular: for some time he had to share a ten-bed cell with 19 detainees; another cell, which he shared with one other inmate and where he had to spend most of the day, was located in the basement, with almost no daylight or fresh air and without basic furniture; the toilet was not separated from the living area and very close to the dining table; the cell was infested with rats; food was scarce and consisted mostly of bread and wheat cereal. As regards the correctional colony, he maintains in particular that he was not provided with any medical care. According to the Government's submissions, the conditions in both facilities were adequate.

Mr Rodzevillo also submits that on one occasion he was severely beaten by eight guards from the pre-trial detention centre. Since 2005 he has requested the authorities on numerous occasions to transfer him to a detention facility closer to his hometown of Simferopol, in order to facilitate visits by his parents and his minor son. On some occasions he was promised that his requests would be taken into account if space became available at an appropriate detention facility; on other occasions he was told that it was not possible to accommodate the requests.

Mr Rodzevillo complained of violations of Article 3 (prohibition of inhuman or degrading treatment) on account of the detention conditions and on account of his ill-treatment by the prison guards. Relying on Article 13 (right to an effective remedy) in connection with Article 3, he complained that he had had no effective remedy in respect of his complaints under Article 3. Finally, relying in substance on Article 8 (right to respect for private and family life), he complained of the refusal to transfer him to a detention facility closer to his hometown.

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

**Violation of Article 13 in conjunction with Article 3**

**Violation of Article 8**

**Just satisfaction:** EUR 10,000 (non-pecuniary damage) and EUR 800 (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.