



## Judgments and decisions of 19 May 2016

The European Court of Human Rights has today notified in writing six judgments<sup>1</sup> and 62 decisions<sup>2</sup>: three Chamber judgments are summarised below; for one other, in the case of *D.L. v. Bulgaria* (application no. 7472/14), a separate press release has been issued; for one decision, in the case of *Barik Edidi v. Spain* (no. 21780/13), a separate press release has also been issued; two Committee judgments, which concern issues which have already been submitted to the Court, and the 61 other decisions can be consulted on [Hudoc](#) and do not appear in this press release.

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

### Kolonja v. Greece (application no. 49441/12)\*

The applicant, Stefan Kolonja, is an Albanian national who was born in 1968 and currently lives in Albania. Mr Kolonja, who is of Greek origin and married to a Greek national with whom he has two children (also Greek nationals), began working in Greece in 1989. His three brothers also live in Greece. The case concerned his expulsion to Albania and the lifetime ban on him returning to Greece.

On 12 October 1999 Mr Kolonja was sentenced to seven years' imprisonment for purchasing drugs; an order permanently excluding him from Greek territory was also made. Released on parole, he was deported to Albania, and he then returned to Greece. He was arrested there in 2011 and detained pending expulsion. He lodged several appeals against the permanent nature of the ban on entering Greece, against his detention, and the decision to deport him. In spite of certain decisions in his favour, the expulsion measure was held to be valid and Mr Kolonja was returned to Albania. His subsequent appeals and requests to be able to return to Greece were dismissed.

Relying on Article 8 (right to respect for private and family life) of the European Convention on Human Rights, Mr Kolonja complained that the obligation to leave Greece, and the lifetime ban on returning there, had entailed a disproportionate interference with his right to respect for his family life.

#### Violation of Article 8

**Just satisfaction:** 3,500 euros (EUR) (non-pecuniary damage) and EUR 400 (costs and expenses)

### Umnikov v. Ukraine (no. 42684/06)

The applicant, Sergey Umnikov, is a Ukrainian national who lives in the Odessa region. The case concerned his complaint about being beaten by the police and his conviction in an unfair trial.

<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> Inadmissibility and strike-out decisions are final.

In April 2005 Mr Umnikov was arrested on suspicion of having raped a seven-year-old boy. Mr Umnikov was taken to a police station where, according to his submissions, he was beaten by several police officers. Subsequently he was taken to a temporary detention centre, where he was kept for four weeks and where, according to him, he was held in inhuman conditions. In May 2005 he was transferred to a pre-trial detention facility. In January 2006 a district court convicted Mr Umnikov, who had pleaded not guilty, of having raped the boy and sentenced him to ten years' imprisonment. Mr Umnikov was absent from the court hearing, but his lawyer and his mother – who, at his request, was representing him in the proceedings – were present. The court based his conviction mainly on the testimony of the victim, but also on a witness statement and a report by a psychiatrist who had examined the victim. The judgment was upheld on appeal, again at a hearing held in Mr Umnikov's absence but in the presence of his lawyer. Mr Umnikov's cassation appeal was eventually rejected by the Supreme Court in November 2007.

Relying in particular on Article 6 §§ 1 and 3 (c) and (d) (right to a fair trial / right to legal assistance of own choosing / right to obtain attendance and examination of witnesses) of the European Convention, Mr Umnikov complained that he had been unable to defend himself because he had not been present at the appeal hearing in his case and that his conviction had been based on insufficient evidence. He further complained that the Ukrainian authorities had not reacted to his requests for copies of documents which the European Court of Human Rights had asked him to provide, in breach of Article 34 (right of individual petition).

**No violation of Article 6 §§ 1 and 3 c) and d)**

**No violation of Article 34**

### J.N. v. the United Kingdom (no. 37289/12)

The case concerned a complaint about the system of immigration detention in the United Kingdom.

The applicant, Mr J.N., is an Iranian national who was born in 1971 and lives in Barking (England, UK).

Mr J.N. arrived in the UK in January 2003 and claimed asylum. His claim was refused in October 2003. He was subsequently convicted of indecent assault, sentenced to 12 months' imprisonment and served with a deportation order. On completion of his sentence, he remained in immigration detention for a total of 55 months, notably from March 2005 to December 2007 and then from January 2008 to December 2009.

During the first period of detention Mr J.N. indicated that he wished to return to Iran and eventually, in November 2007, the Iranian Embassy agreed to issue a travel document provided that he sign a "disclaimer" consenting to his return. He refused, however, to sign the disclaimer. He was released in December 2007 pursuant to a court order but became liable for detention again because of failure to comply with the conditions for his release, namely that he take the necessary steps to obtain travel documents. He was thus detained again one month later while reporting to the immigration authorities. During this second period of detention, Mr J.N. continued to repeatedly refuse to cooperate with the authorities' attempts to engage him in a voluntary return or to sign a disclaimer. He was released in December 2009 when the High Court granted him permission to apply for judicial review and the Home Office was ordered to release him on bail.

Mr J.N. brought two sets of judicial review proceedings: the first during his initial period of immigration detention, which he failed to pursue following his release in December 2007; and the second, which resulted in the Administrative Court finding that his detention had been unlawful from 14 September 2009 and awarding him 6,150 British pounds in damages. The Administrative Court notably concluded that "the woeful lack of energy and impetus" applied to Mr J.N.'s case from at least the middle of 2008 meant that it could not be said that his deportation was being pursued with the obligation under the relevant national law to act with "reasonable diligence and expedition".

Relying on Article 5 § 1 (f) (right to liberty and security), Mr J.N. complained about the excessive length of his detention as well as the system of immigration detention in the UK, notably alleging that the time-limits on the maximum period of immigration detention had been unclear and that there had been no automatic judicial review.

**Violation of Article 5 § 1** – in respect of the period of detention from mid-2008 to 14 September 2009

**Just satisfaction:** EUR 7,500 (non-pecuniary damage) and EUR 10,000 (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.