



Arrêts et décisions du 14 janvier 2021

La Cour européenne des droits de l'homme a communiqué aujourd'hui par écrit 17 arrêts¹ et 41 décisions² :

quatre arrêts de chambre sont résumés ci-dessous ;

cinq arrêts font l'objet de communiqués de presse séparés : *Sabalić c. Croatie* (n° 50231/13), *Société Editrice de Mediapart et autres c. France* (n° 281/15), *E.K. c. Grèce* (n° 73700/13), *Kargakis c. Grèce* (n° 27025/13), and *Terna c. Italie* (n° 21052/18) ;

huit arrêts de comité qui concernent des questions déjà examinées par la Cour auparavant, et les 41 décisions peuvent être consultés sur [HUDOC](https://hudoc.echr.coe.int/) et ne figurent pas dans le présent communiqué de presse.

Les arrêts résumés ci-dessous n'existent qu'en anglais.

Fariz Ahmadov c. Azerbaïdjan (requête n° 40321/07)

Le texte de cette annonce n'est disponible qu'en anglais.

The applicant, Fariz Alam oglu Ahmadov, was an Azerbaijani national who was born in 1971 and lived in Mingachevir (Azerbaijan). The applicant died on 13 October 2015. His mother chose to continue his application in his stead.

The application concerned the fairness of the criminal proceedings that had led to the applicant's conviction for drugs offences.

On 7 March 2005 a certain A.S. was arrested in connection with possession of drugs. He stated that he had bought the drugs from the applicant. The substance originally seized was 0.24 grams of marijuana. On 10 March 2005 the applicant was charged. He was apprised of his rights, but signed a handwritten waiver of his right to a lawyer. Further investigative steps, including a confrontation and questioning, were carried out, without the applicant's having counsel present.

The applicant's pre-trial detention was extended several times.

On 5 August 2005 A.S. stated in the course of a confrontation that he had received manure, rather than marijuana, from the applicant. He later changed that testimony in the absence of the applicant.

Following his indictment, the applicant applied to have the case discontinued and returned to the prosecutor for a fresh investigation, which was successful. On 29 December 2005 the applicant was again indicted. In the meantime A.S. had died, so the trial court read out one of his statements, which affirmed that the applicant had given A.S. marijuana. The applicant was found guilty. An appeal by the applicant was dismissed, without his specific complaints being examined. That judgment was upheld

¹ Conformément aux dispositions des articles 43 et 44 de la Convention, les arrêts de chambre ne sont pas définitifs. Dans un délai de trois mois à compter de la date du prononcé de l'arrêt, toute partie peut demander le renvoi de l'affaire devant la Grande Chambre de la Cour. En pareil cas, un collège de cinq juges détermine si l'affaire mérite plus ample examen. Si tel est le cas, la Grande Chambre se saisira de l'affaire et rendra un arrêt définitif. Si la demande de renvoi est rejetée, l'arrêt de chambre deviendra définitif à la date de ce rejet. Conformément aux dispositions de l'article 28 de la Convention, les arrêts rendus par un comité sont définitifs.

Dès qu'un arrêt devient définitif, il est transmis au Comité des Ministres du Conseil de l'Europe qui en surveille l'exécution. Des renseignements supplémentaires sur le processus d'exécution sont consultables à l'adresse suivante : www.coe.int/t/dghl/monitoring/execution

² Les décisions d'irrecevabilité et de radiation du rôle sont définitives.

by the Supreme Court, which stated that the applicant had not complained of unlawfully obtained evidence during the investigation, only before the courts.

Relying on Article 6 (right to a fair trial) of the European Convention on Human Rights, the applicant complained that his conviction had breached his rights as it had been based on a confrontation that had taken place without his lawyer present.

No violation of Article 6 §§ 1 and 3 (c)

Vig c. Hongrie (n° 59648/13)

Le texte de cette annonce n'est disponible qu'en anglais.

The applicant, Dávid Vig, is a Hungarian national who was born in 1984 and lives in Budapest.

The case concerned the applicant's being searched by the police while at a festival.

In January 2013 the National Police Commissioner ordered that "enhanced checks" be carried out in Hungary in order to "to operate a screening network preventing illegal migration". This was done in accordance with pre-existing law. As part of this, checks were carried out at a community centre in Budapest where the applicant was attending a festival. The applicant asked why the checks were being carried out; the reply was that these were a "night check". The applicant stated that this was not in accordance with the Police Act; the police replied that it was a search for a missing person; others there said that these were "enhanced checks".

The police checked the applicant's identity. The applicant states that he was asked to go outside, and only did so as he felt intimidated by the group of police officers, especially having been pushed by one of them. He was searched then allowed to leave.

The applicant lodged a constitutional complaint in May 2013, challenging the constitutionality of the enabling pieces of legislation. It was rejected as time-barred. He complained to the Independent Police Complaints Board, which found that the search had been in accordance with the law and had not impinged on his rights.

The applicant complained to the Budapest police, who dismissed all the applicant's main complaints. The applicant applied for judicial review to the domestic courts, which rejected the application on the grounds that it could not review the "enhanced checks" or the operational plan carried out under the relevant legislation. It did find that the police actions had been carried out in accordance with the law.

Relying on Article 8 (right to respect for private and family life) of the European Convention, the applicant complained that his being stopped and searched by the police had breached his rights and that he had not had a remedy with regard to those breaches.

Violation of Article 8

Just satisfaction: 1,000 euros (EUR) (non-pecuniary damage) and EUR 4,080 (costs and expenses)

Gusev c. Ukraine (n° 25531/12)

Le texte de cette annonce n'est disponible qu'en anglais.

The applicant, Mykola Vasylyovych Gusev, is a Ukrainian national who was born in 1945 and lives in Kremenchuk (Ukraine).

The case concerned Mr Gusev's complaint about the domestic courts' refusal to allow his claim for damages against the police following a failed operation to arrest his son's kidnappers, which had resulted in the kidnappers running off with the ransom.

Mr Gusev's son was kidnapped in July 1998. The police intended to arrest the kidnappers during the handover of the ransom. However, when Mr Gusev threw the ransom out of a train, the kidnappers managed to escape with the money, which they hid and subsequently spent. Mr Gusev's son was set free a few days after the police operation.

The kidnappers were arrested in 2002 and convicted and sentenced to terms of imprisonment in 2004. The criminal courts found that the kidnappers had taken possession of Mr Gusev's money owing to the police's poor planning and lack of coordination.

In March 2005 Mr Gusev lodged a claim against the police and the State under general tort law seeking compensation for damages as a result of the failed operation. His claim, initially allowed in part, was ultimately rejected in February 2011 by the Court of Appeal. The Court of Appeal changed the legal characterisation of the applicant's claim, examining it under a legal provision which provides for compensation caused by unidentified or insolvent perpetrators. On that basis, it held that there was no causal link between the police officers' actions and the damage caused by the perpetrators, who had been identified and their insolvency not proven.

In July 2011 the Higher Specialised Civil and Criminal Court of Ukraine upheld the 2011 judgment in a summary ruling.

Relying in particular on Article 6 § 1 (right to a fair trial within a reasonable time) of the Convention, Mr Gusev alleged that the civil proceedings in his case had been excessively long and unfair because of an unlawful application of the law.

Violation of Article 6 § 1 (unfairness)

Just satisfaction: EUR 3,600 (non-pecuniary damage) and EUR 1,000 (costs and expenses)

Mont Blanc Trading Ltd et Antares Titanium Trading Ltd c. Ukraine (n° 11161/08)

Le texte de cette annonce n'est disponible qu'en anglais.

The applicants, Mont Blanc Trading and Antares Titanium Trading Ltd, are, respectively, Mauritian and British companies which are registered in Port Louis (Mauritius) and London. The first applicant company is the majority owner of the second.

The case concerned breach of the fair-hearing principle in contract proceedings in Ukraine of a matter that had already been under examination before an arbitral tribunal in the United Kingdom.

On 2 December 2003 the applicant companies entered into a series of contractual arrangements under English and Welsh law regarding the manufacture of titanium products in Ukraine and their exclusive sale through the applicant companies. According to the Government the applicant companies signed a supplementary agreement under Ukrainian law, thus changing jurisdiction for dispute settlement from London to the Ukrainian courts. The applicant companies refute that assertion.

In 2004 the applicant companies initiated proceedings against their contractual partner before the London Court of International Arbitration for breach of contract. They were awarded about four million United States dollars (USD) in compensation on 12 September 2005.

In the meantime the contractual partner initiated proceedings before the Kyiv Commercial Court for breach of contract. It did not inform the court that the matter was before an international tribunal. After the case was heard in their absence, the applicant companies were ordered to pay approximately USD 685,000 in compensation.

In June 2006 the applicant companies applied to the domestic courts to have that decision quashed and the proceedings closed on the basis of the London arbitration decision. The Commercial Court of

Appeal examined the case allegedly in the absence of the applicants' representatives. It upheld the first-instance decision. Several cassation appeals by the applicant companies and by their partner went in sum against the former.

The applicant companies argue that the summonses for the domestic hearings were not served correctly on them.

In 2006 and 2007 the domestic courts at three instances refused to enforce the London Court of International Arbitration's decision.

Relying in particular on Article 6 § 1 (right to a fair trial) of the Convention, the applicant companies complained that they had been denied equality of arms before the domestic courts, that the court decisions had not been properly reasoned, and that the decision not to enforce the arbitral award had infringed their rights.

Violation of Article 6 § 1 due to the lack of equality of arms in the proceedings before the commercial courts in so far as the first applicant company, Mont Blanc Trading Ltd, is concerned

Violation of Article 6 § 1 on account of the lack of adequate reasoning of the commercial courts' decisions in so far as, Mont Blanc Trading Ltd, is concerned

The Court decided to strike out of the list the application in so far as it was lodged by the second applicant company, Antares Titanium Trading Ltd.

Just satisfaction: EUR 8,000 for costs and expenses to Mont Blanc Trading Ltd

Rédigé par le greffe, le présent communiqué ne lie pas la Cour. Les décisions et arrêts rendus par la Cour, ainsi que des informations complémentaires au sujet de celle-ci, peuvent être obtenus sur www.echr.coe.int. Pour s'abonner aux communiqués de presse de la Cour, merci de s'inscrire ici : www.echr.coe.int/RSS/fr ou de nous suivre sur Twitter [@ECHR_CEDH](https://twitter.com/ECHR_CEDH).

Contacts pour la presse

Pendant la crise sanitaire actuelle, les journalistes peuvent continuer à contacter l'unité de la presse via echrpess@echr.coe.int

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La Cour européenne des droits de l'homme a été créée à Strasbourg par les États membres du Conseil de l'Europe en 1959 pour connaître des allégations de violation de la Convention européenne des droits de l'homme de 1950.