EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Press Release
issued by the Registrar of the Court

ECHR 290 (2019)
29.08.2019

Forthcoming judgments and decisions

The European Court of Human Rights will be notifying in writing six judgments on Tuesday 3 September 2019 and 23 judgments and / or decisions on Thursday 5 September 2019.

*Press releases and texts of the judgments and decisions will be available at **10 a.m.** (local time) on the Court's Internet site (www.echr.coe.int)*

Tuesday 3 September 2019

Januškevičienė v. Lithuania (application no. 69717/14)

The applicant, Ms Vida Januškevičienė, is a Lithuanian national who was born in 1955 and lives in Vilnius.

The case concerns her complaint that court judgments in cases concerning other defendants stated that she had committed criminal offences, although she herself had not been tried in those proceedings.

In 2007 the Vilnius office of the Financial Crime Investigation Service gave official notice to the applicant that she and other individuals were suspected of various fraud-related crimes as part of an organised group, including false invoicing.

The investigation was subsequently split and several trials were held. In particular, courts in 2009, 2012 and 2014 convicted other defendants. The courts' judgments included statements such as the applicant and others having received falsified invoices and cash and that those on trial had acted in concert with the applicant and others.

Finalised charges were brought against the applicant in 2014 and the case went to trial. However, the court discontinued the proceedings as time-barred in 2018.

Relying on Article 6 § 2 (presumption of innocence) of the European Convention on Human Rights, the applicant complains that the court judgments in the earlier cases that went to trial had unambiguously stated that she had committed criminal offences as part of an organised group, although she had not been found guilty of any such crimes by any court.

She also complains that was she was not able to appeal against the judgments against third parties which had affected her right to the presumption of innocence. The Court will deal with that complaint under Article 13 (right to an effective remedy) of the European Convention.

Religious Community of Jehovah's Witnesses of Kryvyi Rih's Ternivsky District v. Ukraine (no. 21477/10)

The applicant community is the Religious Community of Jehovah's Witnesses of Kryvyi Rih, Ternivsky District, Dnipropetrovsk Region.

The case concerns the community's complaint that it was not able to construct a building for worship on land it had purchased owing to the domestic authorities' inactivity.

In 2004 the applicant community purchased a residential building in Kryvyi Rih in order subsequently to erect a place of worship, a "Kingdom Hall", on the site. In February 2005 the city's Architecture and Planning Council approved the placement of the Kingdom Hall on the land and seven months later the city's planning authority submitted a draft decision to approve a land allocation project and

to grant the applicant community a lease, but this plan was not adopted at subsequent City Council meetings.

In February 2007 the applicant community initiated a first set of proceedings against the City Council, seeking to have its lack of activity declared unlawful. In June 2007 the Regional Court allowed the claim, but in August 2007 a draft decision on the applicant community's project failed to get enough votes to be adopted by the City Council.

In January 2008 the community lodged a second claim against the City Council for a declaration that it had the right to lease the plot of land and for the City Council to be ordered to enter into a lease agreement. In December 2008 the Regional Court rejected the claim, holding in particular that land allocation decisions fell within the exclusive competence of councils and that the courts could not replace the City Council and take the decision in its place. All further appeals by the religious community were rejected.

Relying on Article 9 (freedom of thought, conscience, and religion) and Article 1 of Protocol No. 1 (protection of property), the applicant community alleges that the City Council's failure to allow it to establish a place of worship had breached its rights. Relying on Article 6 § 1 (access to court), and Article 13 (right to an effective remedy), the community further complains that, owing to the domestic courts' decisions refusing to order the Council to issue the necessary decision, the City Council was allowed to exercise its discretion in an arbitrary and illegal manner.

Thursday 5 September 2019

Agro Frigo OOD v. Bulgaria (no. 39814/12)

The applicant company, Agro Frigo OOD, is a Bulgarian limited liability company with its headquarters in Nova Zagora (Bulgaria)

The case concerns the setting aside of a final judgment in the applicant company's favour following the re-opening of proceedings.

In 2006 Agro Frigo OOD applied for a subsidy under the SAPARD (Special Accession Programme for Agriculture and Rural Development) which was established in 1999 by the Council of the European Union. The programme was managed by a governmental agency called the State Fund "Agriculture". In August 2006 the head of the Fund rejected Agro Frigo OOD's application, finding that it had not been supported by the necessary documents and that it did not meet the relevant requirements.

Agro Frigo OOD applied for judicial review and in March 2008 a regional Court quashed the Fund's decision, finding that Agro Frigo OOD had submitted all the necessary documents and that its project had met the applicable requirements. The judgment was upheld in December 2008 by the Supreme Administrative Court. However, Agro Frigo OOD was informed in December 2009 that contracting by the Fund to beneficiaries under the SAPARD had stopped in October 2007 as Bulgaria had joined the European Union on 1 January 2007.

In 2010 the applicant company brought a tort action against the Fund. An administrative court dismissed the claim but in April 2011, upon appeal, the Supreme Administrative Court reversed the first-instance decision. It awarded Agro Frigo OOD approximately 5.6 million Bulgarian levs (BGN; approximately 2.85 million euros) in damages and an additional BGN 717,811 (approximately 367,000 euros) in interest. The judgment was final.

In June 2011 the Minister of Finance applied for the Supreme Administrative Court's judgment of April 2011 to be set aside and for the proceedings to be re-opened. He pointed out that the compensation awarded to Agro Frigo OOD had to be paid from the State budget, which meant that the State had been affected by the judgment but had not been summoned. In December 2011 the

Supreme Administrative Court allowed the Minister's application, set aside its previous judgment, re-opened the proceedings and remitted the case.

In the fresh proceedings the Supreme Administrative Court dismissed the company's tort claim in December 2014. The court found that no direct causal link had been established between the Fund's refusal to provide a subsidy to Agro Frigo OOD and any damage it had suffered because the payment of such a subsidy could only be made after the company had itself made an investment. However, it had not built the agricultural market it had planned with its own financial means.

Relying on Article 6 § 1 (right to a fair trial) and Article 1 of Protocol No. 1 (protection of property), the applicant company alleges that the quashing of a final judgment in its favour, which had awarded it damages against the State, impinged on its rights to a fair trial and to the peaceful enjoyment of its possessions.

Theodorou and Tsotsorou v. Greece (no. 57854/15)

The applicants, Georgios Theodorou and Sophia Tsotsorou, are Greek nationals who were born in 1951 and 1957 respectively. They live in Koropi (Greece).

The case concerns a judicial decision annulling the applicants' marriage.

In 1971 Mr Theodorou married P.T., with whom he had a daughter. In 2001 the marriage was dissolved by decision of Athens Regional Court, which pointed out in its judgment that the applicants had been living separately since 1996. In 2004 a divorce decision was given.

In 2005 Mr Theodorou married the sister of P.T. (Ms Tsotsorou) in a religious ceremony. The following year P.T. complained to the public prosecutor's office about that marriage, pleading nullity on the grounds of kinship by marriage between the two spouses.

In 2010 the Regional Court annulled the marriage on the basis of Article 1357 of the Greek Civil Code (CC), which prohibits, in particular, marriage between persons related by collateral descent up to the third degree. In its decision the court pointed out that the applicants were second-degree relatives by collateral descent, and Greek law prohibited their marriage for reasons of decency and respect for the institution of the family. The higher courts dismissed the ordinary appeal and the appeal on points of law lodged by the applicants.

The applicants relied on Article 12 (right to marry).

Rizzotto v. Italy (no. 20983/12)

The applicant, Mr Salvatore Stefano Rizzotto, is an Italian national who was born in 1972 and lives in Floridia.

The case concerns the lawfulness of his pre-trial detention and the procedural safeguards secured under Article 5 § 4 of the Convention (right to a prompt decision on the lawfulness of detention).

On 16 September 2010 the Palermo investigating judge decided to place Mr Rizzotto in pre-trial detention on account of his involvement in criminal proceedings for drug-trafficking. Since Mr Rizzotto could not be found, the authorities deemed him to be a fugitive and assigned him officially-appointed counsel. On 13 October 2010 the latter appealed to the Palermo Court against the applicant's placement in pre-trial detention, relying on Article 309 of the Code of Criminal Procedure. The court dismissed that appeal.

On 6 December 2010 Mr Rizzotto was arrested in Malta. He appointed a lawyer of his own choosing to represent him. The latter lodged an appeal against the pre-trial detention order. On 20 December 2010 Mr Rizzotto was extradited to Italy and remanded in custody in Rome.

On 3 January 2011 a hearing was held before the Palermo Court. Mr Rizzotto, who was still in custody in Rome, did not attend and was represented by his lawyer. The court declared the appeal

inadmissible on the grounds that the applicant had already exercised his right of appeal when his officially appointed lawyer had appealed when he had been untraceable.

Mr Rizzotto lodged an appeal on points of law. The Court of Cassation dismissed that appeal, relying on the "single appeal" principle, under which an appeal lodged by counsel, whether chosen or officially appointed, on behalf of an accused who has absconded prevents the latter from personally lodging any further appeal or requesting an extension of the time allowed for appealing.

In the meantime Mr Rizzotto had applied to the Palermo investigating judge to set aside the detention order and, in the alternative, to replace that order with a less restrictive measure. The judge dismissed that application, and Mr Rizzotto did not appeal.

On 14 September 2011 the Palermo Court sentenced Mr Rizzotto to two years eight months' imprisonment and fined him 12,000 euros. On 20 July 2012 the applicant was released after having served his sentence.

Relying, in particular, on Article 5 § 4 (right to a speedy decision on the lawfulness of detention), the applicant complains that he did not benefit from effective judicial review of the lawfulness of his pre-trial detention, adding that there had been several shortcomings in the impugned proceedings.

Olewnik-Cieplińska and Olewnik v. Poland (no. 20147/15)

The applicants, Danuta Olewnik-Cieplińska and Włodzimierz Olewnik, are Polish nationals who were born in 1974 and 1949, respectively, and live in Drobin (Poland).

The case concerns the kidnapping and murder of the applicants' brother and son, Krzysztof Olewnik.

Krzysztof Olewnik was kidnapped in 2001 when he was 25 years old. He was detained and ill-treated until 2003 when he was murdered, despite his family handing over the ransom demanded by the kidnappers via telephone messages and letters containing threats to his life.

His body was eventually recovered in 2006 when one of the kidnappers, named by a witness in 2005, confessed and indicated the burial place.

Ten gang members were ultimately convicted by final judgment in 2010. Their convictions were mainly based on confessions. At their trial they described keeping the victim chained to a wall by his neck and leg. He was also drugged, beaten and poorly fed.

The alleged gang leader and the two other main kidnappers died in detention before or just after their trial. Although their deaths were classed as suicides, after being investigated, they nevertheless led to the resignation of the Minister of Justice and a wave of dismissals in the prosecution and prison services.

In addition to the proceedings against the gang members, there were several other attempts between 2009 and 2013 to clarify the kidnapping and murder.

In particular, the Gdańsk prosecuting authorities brought criminal proceedings against most of those involved in the case, namely the police for abuse of power, the prosecutors for negligence and high-ranking civil servants for inaction. Two of the officers were acquitted because the offences had become time-barred while the other investigations were discontinued.

In 2009 the Sejm also set up a Parliamentary Inquiry Committee, which examined not only the actions of the police and the prosecution service, but also of the public administration bodies and the Prison Service. Its final report in 2011 concluded that "visible sluggishness, errors, recklessness, and a lack of professionalism on the part of the investigators resulted in the failure to discover the perpetrators of the kidnapping, and... ultimately, in (Mr Olewnik's) death." It also explored the possibility that the errors by public officials "had been intentional and ... aimed at covering their tracks, destroying evidence ... and, consequently, that some of them had cooperated with the criminal gang which kidnapped and murdered Krzysztof Olewnik".

An investigation into kidnapping and murder against other unidentified individuals is still ongoing.

Relying in particular on Article 2 (right to life), the applicants allege that the domestic authorities are responsible for their relative's death because they failed to effectively investigate his kidnapping and, ultimately, protect his life and that there was no effective investigation into his murder.

The Court will give its rulings in writing on the following cases, some of which concern issues which have already been submitted to the Court, including excessive length of proceedings.

These rulings can be consulted from the day of their delivery on the Court's online database HUDOC.

They will not appear in the press release issued on that day.

Tuesday 3 September 2019

Name	Main application number
Dobrovitskaya and Others v. the Republic of Moldova and Russia	41660/10
Muhina v. the Republic of Moldova	342/09
Ete v. Turkey	35575/12
Yıldız v. Turkey	66575/12

Thursday 5 September 2019

Name	Main application number
Hasanov and Others v. Azerbaijan	39919/07
Andersone v. Latvia	301/12
Kowalczyk v. Poland	9068/16
Mędrzycki v. Poland	31672/17
Milewski v. Poland	22552/12
Alan v. Turkey	77964/14
Arıkan and Others v. Turkey	24461/09
Avcı v. Turkey	15375/11
Erhas Limited Company v. Turkey	289/11
İnan v. Turkey	2175/13
Karakeçili v. Turkey	48997/11
Osma and Others v. Turkey	73720/14
Özçakmaktaşı v. Turkey	61918/09
Özen v. Turkey	50109/09
S.S. Hasatkent Konut Yapı Kooperatifi v. Turkey	11383/08
Tayari Sadegh v. Turkey	64567/11
Torsun and Others v. Turkey	44411/07
Tuna v. Turkey	2423/15
Yorulmaz v. Turkey	68023/12

Press contacts
echrpress@echr.coe.int | tel: +33 3 90 21 42 08

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)
Denis Lambert (tel: + 33 3 90 21 41 09)
Inci Ertekin (tel: + 33 3 90 21 55 30)
Patrick Lannin (tel: + 33 3 90 21 44 18)

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.