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

Press Release
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Forthcoming judgments and decisions

The European Court of Human Rights will be notifying in writing 14 judgments on Tuesday 4 September 2018 and 53 judgments and / or decisions on Thursday 6 September 2018.

*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 4 September 2018

Tiramavia S.R.L. and Others v. the Republic of Moldova (applications nos. 54115/09, 55707/09 and 55770/09)

The applicant companies, Tiramavia S.R.L., Valan International Cargo Charter S.R.L., and Grixona S.R.L., are three air transport companies incorporated in Moldova.

The case concerns the withdrawal of their air operating certificates in 2007.

In June 2007 the local regulator, the Civil Aviation State Authority (CASA), asked the applicant companies to address irregularities found by an EU safety report. However, on 21 June the CASA proceeded to withdraw all three companies' operating certificates.

It found that some European airports had expressed worries about Tiramavia's aircraft and that the other applicant companies flew to various risky destinations, in spite of a ban imposed on those destinations. It had previously banned Moldovan carriers from flying to Iraq and Afghanistan, although that order was not due to come into effect until July 2007. The courts upheld the CASA's decisions.

The applicant companies complain about the withdrawal of their operating certificates under Article 1 of Protocol No. 1 (protection of property) to the European Convention on Human Rights and about the court proceedings under Article 6 § 1 (right to a fair hearing within a reasonable time) of the Convention.

Ungureanu v. Romania (no. 6221/14)

The applicant, Cristian Cătălin Ungureanu, is a Romanian national who was born in 1972 and lives in Ploiești (Romania).

The case concerns the domestic courts' refusal to decide on rights for the applicant to visit his son during divorce proceedings.

In September 2012 Mr Ungureanu's wife filed for divorce and custody of their son, born in 2006. She and the child moved out a month later. In November 2012 Mr Ungureanu sought an interim court order for either custody or to determine his rights to visit his son during the divorce proceedings.

The courts refused him custody and stated that the law did not allow for access rights to be decided during divorce proceedings. The final decision came in May 2013.

The divorce proceedings ended in November 2016, leading to an order that the child should live with his mother and giving Mr Ungureanu a schedule of visiting rights. The child moved back in with the applicant in February 2018 after the mother decided to move town.

Relying in particular on Article 8 (right to respect for private and family life), Mr Ungureanu complains about not being able to obtain a decision on visiting rights during the divorce proceedings and about the length of those proceedings.

Fatih Taş v. Turkey (no. 5) (no. 6810/09)

The applicant, Fatih Taş, is a Turkish national who was born in 1979 and lives in Istanbul.

The case concerns the criminal proceedings brought against the owner of a publishing company (Mr Taş) for denigrating the Republic of Turkey, on account of the publication of a book entitled *Kayıpsın diyorlar* ("They say you disappeared").

The book, which was published in April 2004, concerned the circumstances surrounding the disappearance of a journalist in south-east Turkey in 1994. The author claimed that the journalist in question had been abducted by village guards and by anti-guerrilla forces while he was in Siverek working on an investigative report. In July 2004, after obtaining authorisation from the Ministry of Justice, the public prosecutor charged Mr Taş with denigrating the Republic. After being ordered to pay a fine of 1,650 Turkish lira, Mr Taş lodged an appeal on points of law with the Court of Cassation, which struck the case out of the list as being time-barred.

Relying on Article 10 (freedom of expression), Mr Taş complains about the criminal proceedings brought against him. Under Article 6 § 1 (right to a fair trial), he also complains that the courts ruling on his case lacked independence and impartiality, on the grounds that the Minister of Justice intervened in the criminal proceedings by authorising the prosecution.

Ömer Güner v. Turkey (no. 28338/07)

The applicant, Ömer Güner, is a Turkish national who was born in 1969 and lives in Aydın (Turkey).

The case concerns Mr Güner's conviction for aiding and abetting a terrorist organisation after he was denied legal assistance, and on the basis of testimony made without a lawyer being present.

Mr Güner, the manager of a hotel at the time, was arrested in July 2002 by counter-terrorism police officers as part of an operation against an illegal organisation, the *Bolşevik Parti–Kuzey Kürdistan/Turkiye* (Bolshevik Party–North Kurdistan/Turkey).

Various left-wing materials were found in his room and he later told police, without a lawyer being present, that he had let two men linked to the Bolshevik Party stay at the hotel and use his car. One of the men, Mehmet Desde, was the applicant in Desde v. Turkey.

Mr Güner was charged in September 2002 with aiding and abetting an illegal organisation. He denied the charges. After various sets of proceedings, he was convicted in March 2006 and sentenced to 10 months' imprisonment and a fine. The court found that the Bolshevik Party could be classed as a terrorist organisation and that he had aided and abetted it. His appeals were dismissed.

Relying in substance on Article 6 §§ 1 and 3 (c) (right to a fair trial and right to legal assistance of own choosing), Mr Güner alleges that he was denied legal assistance in the preliminary investigation stage, that his statements were made under duress and that he was convicted on the basis of testimony made in the absence of a lawyer. He raises a complaint under Article 10 (freedom of expression) to the extent that his conviction was based on the possession of legal books and periodicals.

Yirdem and Others v. Turkey (no. 72781/12)

The applicants, Münüre Yirdem, Derya Şahin Yirdem and Gülay İlter Yirdem, are three Turkish nationals who were born in 1958, 1973 and 1979 respectively and live in Istanbul. The case concerns proceedings relating to the circumstances of the death in hospital of the applicants' relative, Nayim Yirdem. The applicants are the deceased's widow and his two daughters.

In August 2003, three days after being admitted to hospital, Nayim Yirdem died of a cardiac arrest despite doctors' efforts to resuscitate him. An autopsy showed that his death had been caused by a heart attack and stroke resulting from corrosive poisoning with heptane and toluene, two components of organic solvents. According to a report written in August 2005 by the Forensic Medical Institute, these substances had not been present in the hospital.

In April 2006 the public prosecutor charged the medical staff of the hospital's neurology department with negligence in the performance of their duties. In May 2010 the defendants were acquitted by the Criminal Court, which based its decision on the findings of an expert report by the National Health Council, according to which the defendants were not guilty of any professional misconduct and the substance in question had most likely been injected before the patient was admitted to hospital. That judgment was upheld by the Court of Cassation in March 2012.

Relying on Article 2 (right to life), the applicants complain of the death of Naim Yirdem, alleging, among other things, that the domestic authorities failed to establish the origin of the two hydrocarbons found in the deceased's body.

Under Article 6 (right to a fair hearing), they contend that the domestic courts did not give them a fair hearing within a reasonable time, with the result that they were denied an effective remedy.

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.

Ciolacu v. the Republic of Moldova (no. 22400/13)
Dogotar v. the Republic of Moldova (no. 12653/15)
Miron v. the Republic of Moldova (no. 74497/13)
Alkaya v. Turkey (no. 2765/09)
Aydeniz and Others v. Turkey (no. 20815/12 and 141 other applications)
Babayiğit v. Turkey (no. 42728/08)
Çalağan and Others v. Turkey (nos. 46162/07, 21029/08, 41912/08, 53697/08, 38580/09, 44477/09, 60696/09, 3895/10, 46192/11, and 60196/11)
Çelik v. Turkey (no. 25834/09)
Çetin and Gedik v. Turkey (nos. 29899/07 and 33333/08)

Thursday 6 September 2018

Dadayan v. Armenia (no. 14078/12)

The applicant, Garik Dadayan, is an Armenian national who was born in 1954 and lives in Yerevan.

The case concerns criminal proceedings brought against him for aiding and abetting the smuggling of enriched uranium from Armenia to Georgia in 2010.

The two smugglers were prosecuted and convicted in Georgia, while Mr Dadayan was arrested, prosecuted and convicted in Armenia essentially on the basis of the smugglers' witness statements to the Georgian authorities.

During his trial, Mr Dadayan requested that the smugglers be brought before the Armenian trial court for questioning. However, the Georgian authorities refused because the two men's convictions were still open to appeal on points of law.

Mr Dadayan was found guilty in 2011 and sentenced to seven years' imprisonment. The Court of Appeal subsequently upheld Mr Dadayan's conviction, without addressing his complaint about not

being able to cross-examine the smugglers. He also lodged an appeal on points of law, without success.

Relying on Article 6 §§ 1 and 3 (d) (right to a fair trial and right to obtain attendance and examination of witnesses), Mr Dadayan complains that he was not given the opportunity at trial to question the only witnesses whose statements could prove that it had been him who had sold them enriched uranium.

Dimitar Yordanov v. Bulgaria (no. 3401/09)

The applicant, Dimitar Pavlov Yordanov, is a Bulgarian national who was born in 1939 and lives in Sofia. The case concerns his complaint about damage to his property caused by a nearby coalmine.

Mr Yordanov owned a plot of land in the village of Golyamo Buchino. At the end of the 1980s or the beginning of the 1990s, the State decided to create an opencast coalmine near to the village. A number of properties, including Mr Yordanov's, were expropriated. He waited for two years without receiving another plot of land in compensation, promised to him in the expropriation procedure. He therefore cancelled the procedure with the local authorities. He remained in the house, while the mine started operating and gradually expanded.

At its closest, the mine operated within 160-180 metres from his house, with coal being extracted by blasting. Cracks appeared on the walls of the house and his barn and animal pen collapsed. He eventually moved out of his house in 1997, judging it too dangerous to stay. The house has since fallen down and the property remains abandoned.

In 2001 Mr Yordanov brought a tort action against the mining company, seeking compensation for the damage caused to his property. The courts heard witnesses, Mr Yordanov's neighbours, and commissioned expert reports, establishing that serious damage had been caused to his property and that detonations in the nearby mine had been carried out inside the 500 metre buffer area, in breach of domestic law. However, the courts concluded in 2007 that there was no proof of a link between the mining activities and the damage, which could also have been caused by normal wear and tear or shortcomings in the house's construction.

Relying in particular on Article 6 § 1 (right to a fair hearing) and Article 1 of Protocol No. 1 (protection of property), Mr Yordanov alleges that the courts wrongly dismissed his tort claim and that the State failed to protect his property from unlawful mining activities.

Kopankovi v. Bulgaria (no. 48929/12)

The case concerns a Bulgarian family's complaint that property they owned in Kazanlak was expropriated without compensation.

The applicants are Lyudmil Kopankov, Miroslav Kopankov, Stanka Kopankova and Stanislav Kopankov. They are Bulgarian nationals who were born in 1941, 1974, 1941, and 1967, respectively, and live in Kazanlak and Sofia, in Bulgaria.

Stanislav Kopankov, the fourth applicant, co-owned a house in Kazanlak with his grandmother, where he lived with the remaining applicants.

In 1988 the mayor decided to expropriate the property in order to construct a residential building. The decision stipulated that Mr Kopankov and his grandmother would receive two flats in compensation. However, 20 years later they had still not obtained the flats, despite repeatedly petitioning the local authorities.

They therefore turned to the courts to quash the expropriation and restore their property to them. The courts ruled in their favour, but in the meantime the applicants had moved out of the Kazanlak house and the house had been pulled down. They therefore brought a tort action against the local authorities, claiming the part of the property which could not be returned to them, namely the

house and other parts of the property, including trees, the pavement and outbuildings. Their claim was however dismissed in 2012 because general tort provisions did not apply.

Relying in particular on Article 1 of Protocol No. 1 (protection of property), the applicants complain that they have been unable to receive compensation for their expropriated property since 1988.

Kontalexis v. Greece (no. 2) (no. 29321/13)

The applicant, Panagiotis Kontalexis, is a Greek national who was born in 1952 and lives in Athens.

The case concerns the applicant's unsuccessful application to have proceedings before the domestic courts reopened following a judgment by the European Court of Human Rights.

On 24 November 2008 Mr Kontelexis lodged an application with the European Court alleging a violation of his right to a "tribunal established by law", on account of the fact that one of the judges who was due to sit during his retrial had been replaced by a substitute without any reason being given. In a judgment of 31 May 2011 the Court found a violation of Article 6 § 1 of the European Convention.

On 27 December 2011 Mr Kontalexis applied to the Athens Court of Appeal seeking the reopening of the criminal proceedings. He requested the setting-aside of the judgment of the Athens Criminal Court sentencing him to a suspended term of two years' imprisonment. He stressed the European Court's finding that the absence of detailed reasons why the judge had been unable to attend and had suddenly been replaced by a substitute was sufficient to raise doubts as to the transparency of the procedure and the real reasons for the judge's replacement. The Court of Appeal rejected the application on the grounds that the applicant had not sustained any damage as a result of the violation found by the European Court. The Court of Cassation dismissed an appeal on points of law by the applicant on the grounds that the Court of Cassation decision in the first set of proceedings could not be called into question as a result of the Court's judgment of 31 May 2011.

Relying on Article 6 § 1 (right to a fair trial), the applicant alleges that the domestic courts' refusal to order the reopening of the proceedings concerning him constituted a fresh violation of his right to a fair hearing by a tribunal established by law. Relying on Article 46 (binding force and execution of judgments), he contends that the rejection of his application by the Court of Cassation amounted to a refusal to execute the Court's judgment of 31 May 2011.

Just Satisfaction

Mottola and Others v. Italy (no. 29932/07)
Staibano and Others v. Italy (no. 29907/07)

These two cases concern the question of just satisfaction with regard to claims for payment of a retirement pension.

The applicants are Italian nationals and are all doctors who, between 1983 and 1997, worked at the polyclinic of the Federico II University of Naples, initially under fixed-term contracts and subsequently on the basis of permanent contracts. A number of doctors in the same situation applied to the administrative courts to obtain recognition of the existence of a permanent employment relationship between them and the university for the purpose of securing the corresponding social-security entitlements. Their actions proved successful, before both the Regional Administrative Court and the *Consiglio di Stato*. In 2004 the applicants lodged similar applications to those of their colleagues with the Regional Administrative Court. However, the proceedings led to their applications being declared inadmissible. Relying in particular on Article 6 § 1 (right to a fair hearing), the applicants complained that they had not had access to a court in order to obtain recognition of the existence of a public-employment relationship between them and the University of Naples and, consequently, payment of the corresponding pension contributions. Relying on Article 1 (protection of property) of Protocol No. 1, they further complained that they had

been deprived of their pension entitlements for their period of employment as auxiliary doctors, as their administrative application had failed to satisfy the conditions of admissibility.

In two principal judgments delivered on 4 February 2014 the Court found that the rejection of the applicants' request for the University of Naples to pay pension contributions on their behalf had been in breach of Article 6 § 1 and Article 1 of Protocol No. 1.

The Court held that the question of the application of Article 41 (just satisfaction) was not ready for decision and reserved it, inviting the Government and the applicants to submit observations.

It will rule on this issue in the judgments to be delivered on 6 September 2018.

Jansen v. Norway (no. 2822/16)

The applicant, Ms B. Jansen, is a Norwegian national who was born in 1992 and lives in Oslo.

The case concerns her complaint about being denied access to her daughter, who has been taken into care and is in a foster family.

Ms Jansen's daughter, A, was born in 2011. She and the child lived for a short time with her parents, who are Norwegian Roma, until they were thrown out by her father. Over several months she moved in and out of a family care centre.

In June 2012 the Child Welfare Service issued an order to place A in an emergency foster home at a secret address. Ms Jansen was given one hour of supervised contact per week on the grounds of a risk that the child might be abducted. A full care order was issued in December under which Ms Jansen and the child's father were allowed supervised contact of one hour, four times a year. Neither parent was entitled to know A's whereabouts.

After a challenge to the contact decision by Ms Jansen and A's father, the first-instance court decided that it was in the child's best interests for them to not have contact rights at all. That decision was upheld on appeal, but the Supreme Court remitted the case in October 2014.

The second set of contact proceedings led the appeal court to uphold its decision on restricting all contact in April 2015 and in July 2015 Ms Jansen was refused leave to appeal again to the Supreme Court.

The main reason for the courts' restrictions on contact was the danger of A being abducted by Ms Jansen's family, which would be harmful to the child, and the possibility that the secret address of the foster family would be revealed. They also assessed Ms Jansen's parenting skills and her ability to withstand her violent and controlling father. They took account of the family's Roma background, without finding that to be an impediment to restricting contact.

Relying on Article 8 (right to respect for private and family life), Ms Jansen complains about the courts' refusal to grant her legal rights to have contact with A.

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Georgiev v. Bulgaria (no. 35981/07)
Sapundzhiev v. Bulgaria (no. 30460/08)
Uzunova and Seid v. Bulgaria (no. 2866/13)
Buvač v. Croatia (no. 47685/13)
Štitić v. Croatia (no. 16883/15)
Turković and Others v. Croatia (no. 43391/16)

Šedinová v. the Czech Republic (no. 17662/15)
Gorgodze v. Georgia (no. 16446/09)
Klatt v. Germany (no. 63258/17)
Al Mufti v. Greece (no. 33371/15)
Jankov Iliev and Others v. Greece (no. 47724/14)
Pekov and Andreeva v. Greece (no. 36658/17)
X, Y, and Z v. Greece (no. 41227/10)
Merikovy v. Italy (no. 57490/16)
Produttori Sementi Della Val Pusteria S.A.C. and Others v. Italy (nos. 8729/09, 8730/09, 8744/09, 8748/09, 8757/09, 8786/09, 8788/09 and 8789/09)
Navroţki v. the Republic of Moldova (no. 2122/16)
Bogojević v. Montenegro (no. 1409/13)
Bjørnevik v. Norway (no. 20265/14)
Dec and Others v. Poland (no. 70562/10 and 31 other applications)
Siwińska and Others v. Poland (no. 19320/09 and 28 other applications)
Arsovska v. 'the former Yugoslav Republic of Macedonia' (no. 2107/15)
Dimitrieva and Others v. 'the former Yugoslav Republic of Macedonia' (no. 25338/17)
Katoski v. 'the former Yugoslav Republic of Macedonia' (no. 6214/15)
Milenkovski v. 'the former Yugoslav Republic of Macedonia' (no. 51787/16)
Mušarevski v. 'the former Yugoslav Republic of Macedonia' (no. 33783/17)
Ušlinovski v. 'the former Yugoslav Republic of Macedonia' (no. 35242/16)
Ablay v. Turkey (no. 41159/10)
Aktaş and Others v. Turkey (nos. 10460/14 and 42263/14)
Aslan v. Turkey (no. 9385/10)
Damar v. Turkey (no. 30978/11)
Demir v. Turkey (no. 58881/11)
Deniz v. Turkey (no. 47554/11)
Erkan v. Turkey (no. 26130/05)
Gödekoğlu v. Turkey (no. 11524/08)
İpek v. Turkey (no. 65206/10)
Irmak v. Turkey (no. 56234/11)
Kızıl v. Turkey (no. 1858/13)
Koca and Özdemir v. Turkey (no. 31951/05)
Özen v. Turkey (no. 15076/08)
Şeyhmus Yeşiltaş v. Turkey (no. 30804/17)
Tolun v. Turkey (no. 3804/09)
Ulu v. Turkey (no. 57222/12)
Ünsal v. Turkey (no. 40306/09)
Yakıcı v. Turkey (no. 60245/08)
Yenidünya v. Turkey (no. 25357/10)
Zaladin v. Turkey (no. 21356/12)

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)
Somi Nikol (tel: + 33 3 90 21 64 25)

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.