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 17 judgments on Tuesday 5 June 2018 and 63 judgments and / or decisions on Thursday 7 June 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 5 June 2018

Khani Kabbara v. Cyprus (application no. 24459/12)

The applicant, Hani Abdul Khani Kabbara, is a Canadian national who was born in 1984 and lives in Canada.

The case concerns an allegation of police ill-treatment.

On 27 February 2011, Mr Khani Kabbara was arrested by the police in front of a bank in Limassol. He was suspected, among other things, of having withdrawn money with a fake credit card from the bank and was immediately taken to the Limassol central police station. Still on the same day, he was examined by doctors at Limassol General Hospital who found various injuries.

Relying in particular on Article 3 (prohibition of torture and of inhuman or degrading treatment) of the European Convention on Human Rights, Mr Khani Kabbara alleges that he was ill-treated by police officers during his detention at the police station and that no effective investigation was carried out by the national authorities into his complaint.

Sultan v. the Republic of Moldova (no. 17047/07)

The applicant, Alexei Sultan, is a Moldovan national who was born in 1960 and lives in Holercani.

The case concerns the refusal of the Supreme Court of Justice to examine his appeal.

Mr Sultan brought a civil action for damages against the Holercani mayor's office and the local council, seeking payment of his unpaid salary, together with compensation and reimbursement of his court costs.

The Dubăsari District Court dismissed the applicant's action as unfounded. Mr Sultan appealed to the Chișinău Court of Appeal, which dismissed his appeal on the same grounds. He lodged a further appeal with the Supreme Court of Justice, which rejected the appeal without examining it and informed Mr Sultan that the Court of Appeal's decision had become final at the time of its delivery, in accordance with Article 421 of the Code of Civil Procedure.

Relying on Article 6 (right of access to court), the applicant alleges that the refusal of the Supreme Court of Justice to examine his appeal breached his right to a court.

Artur Ivanov v. Russia (no. 62798/09)

The applicant, Artur Germanovich Ivanov, is a Russian national who was born in 1977 and lives in Novocheboksarsk (Russia).

The case concerns Mr Ivanov's complaint that he was not awarded enough compensation in domestic proceedings for a breach of his rights under Article 3 (prohibition of inhuman or degrading treatment).

The domestic courts established that a police officer had punched Mr Ivanov on the ear while he was in custody in April 2007, causing bleeding and rupturing the eardrum.

He was ultimately awarded 20,000 Russian roubles (about 440 euros) in compensation in April 2009, a decision that was upheld in May 2009 after an appeal against the amount by Mr Ivanov. The appeal court explicitly rejected his argument that such compensation should be determined by amounts awarded by the European Court of Human Rights in similar situations.

Relying on Article 3 (prohibition of inhuman or degrading treatment) he complains that he remains a victim of a violation of his Convention rights because the amount of compensation was too low and did not provide him with proper redress. He also raises a complaint under Article 13 (right to an effective remedy) in conjunction with Article 3.

Štvrtecký v. Slovakia (no. 55844/12)

The applicant, Miroslav Štvrtecký, is a Slovak national who was born in 1968 and lives in Senica (Slovakia).

The case concerns Mr Štvrtecký's complaint about being held on remand for more than three and a half years.

He was remanded in custody in October 2006 on charges of extortion committed in cooperation with others. The charges against him were expanded on several occasions. The authorities justified his detention by the risk that he may put pressure on witnesses, tamper with evidence or contact other perpetrators and the risk of reoffending. He was kept in detention throughout the further proceedings, which included the investigation and the trial itself. He was convicted of establishing, masterminding and supporting a criminal group, several acts of extortion, aggravated coercion and fraud and sentenced to 25 years' imprisonment in June 2010.

Mr Štvrtecký complains of excessive length of detention under Article 5 § 3 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial) and of a violation of his rights under Article 5 § 5 (right to compensation).

Amerkhanov v. Turkey (no. 16026/12)
Batyrkhairov v. Turkey (no. 69929/12)

The cases essentially concern the deportation of two asylum-seekers to Kazakhstan.

The applicant in the first case, Samat Amerkhanov, is a Kazakhstani national who was born in 1989 and is currently detained in Atyrau, Kazakhstan. He arrived in Turkey in May 2011. Shortly afterwards he was detained with a view to his deportation because he was considered a national security risk. He was transferred to the Foreigners' Removal Centre in Kumkapı in June 2011. While there, he claimed asylum, and was released in September 2011 pending the outcome of his claim. His asylum claim was however rejected in March 2012 and he was deported to Kazakhstan. After his deportation, he brought proceedings before the administrative courts challenging the rejection of his asylum application and the decision to deport him, without success.

The applicant in the second case, Arman Batyrkhairov, is a Kazakhstani national who was born in 1980 and is also detained in Atyrau. He arrived in Turkey in June 2011. The Kazakh authorities subsequently requested his extradition on terrorism-related charges and he was arrested in January 2012 while trying to leave the country. A month later the domestic courts rejected the extradition request and ordered his release from prison. He was, however, immediately transferred to the Foreigners' Removal Centre in Kumkapı where he was held until his deportation in March 2012. He had in the meantime applied for asylum, but the courts rejected his claim as well as his objection to this decision.

Throughout the asylum/extradition proceedings both applicants claimed before the domestic authorities that they feared ill-treatment or even death if sent back to Kazakhstan.

The applicants bring a number of complaints under Article 3 (prohibition of torture and of inhuman or degrading treatment) and Article 5 §§ 1, 2, 4, and 5 (right to liberty and security) about their deportation to Kazakhstan and detention at the Kumkapı Foreigners' Removal Centre.

In particular, they allege that they were unlawfully deported without any assessment of their asylum claims, despite the risk of them being subjected to torture and other ill-treatment.

As concerns their detention, they allege that it was unlawful, that they had not been informed of the reasons for it, and could not have it reviewed by a court or request compensation under the domestic law. They further complain that they were held in poor conditions at the Foreigners' Removal Centre on account of overcrowding and lack of outdoor exercise.

Lastly, they allege under Article 13 (right to an effective remedy) that they had no effective remedies to complain about most of allegations.

Fatih Çakır and Merve Nisa Çakır v. Turkey (no. 54558/11)

The applicants, Fatih Çakır and Merve Nisa Çakır, a father and daughter, are Turkish nationals who were born in 1979 and 2007 respectively and live in İzmir (Turkey).

The case concerns a car accident which killed their wife and mother.

On 25 October 2008, while Mr Çakır was driving in İzmir with his wife and daughter in the back seat, he lost control of his car when the road curved into a sharp bend. The car dropped into an empty concrete canal. Mr Çakır's wife, Yeşim, died and Ms Çakır was slightly injured.

Mr Çakır brought compensation proceedings against the local authorities, claiming in particular that a damaged crash barrier, which could have prevented the car from dropping into the canal, had not been repaired. However, his claims were rejected in 2011. Relying essentially on a traffic accident report, the administrative courts found that Mr Çakır was responsible for the accident as he had lost control of the car, despite a warning sign about the sharp bend ahead.

Relying on Article 2 (right to life), the applicants complain that the domestic authorities failed to take the necessary safety measures on the road, which had led to the death of their wife and mother. They further allege under Article 6 (right to a fair trial) and 13 (right to an effective remedy) that the ensuing judicial proceedings were inadequate, and did not establish whether the authorities were responsible for the death as the courts based their decisions solely on the traffic accident report. The applicants argue in particular that a technical expert opinion was required to be able to ascertain whether Mr Çakır had lost control of his car as a result of a problem with the road.

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.

Roman Catholic Archdiocese of Vrhbosna v. Bosnia and Herzegovina (no. 40694/13)
A.S. v. Hungary (no. 921/14)
E.B. v. Hungary (no. 41281/13)
Botnari v. the Republic of Moldova (no. 74441/14)
Ceaicovschi v. the Republic of Moldova (no. 37725/15)
Goremîchin v. the Republic of Moldova (no. 30921/10)
Farcaș and Others v. Romania (no. 30502/05)
Iordan v. Romania (nos. 43899/13 and 43903/13)

Sidea and Others v. Romania (no. 889/15 and 38 other applications)
Shakulina and Others v. Russia (nos. 24688/05, 62679/11, 51907/13, 69488/13, 69523/13, and 51480/14)

Thursday 7 June 2018

Rashad Hasanov and Others v. Azerbaijan (nos. 48653/13, 52464/13, 65597/13, and 70019/13)

The applicants, Rashad Zeynalabdin oglu Hasanov, Zaur Araz oglu Gurbanli, Uzeyir Mahammad oglu Mammadli, and Rashadat Fikrat oglu Akhundov Akhundov, are Azerbaijani nationals who were born in 1982, 1987, 1987, and 1984 respectively and live in Lankaran, Khirdalan, Barda, and Baku (all in Azerbaijan).

The case concerns a complaint by the four applicants, who are all civil society activists, that they were detained without a reasonable suspicion that they had committed a criminal offence.

The applicants are members of a civil society non-governmental organisation called NIDA.

In March 2013 NIDA was planning a protest against the deaths of soldiers outside combat situations. Days beforehand the authorities arrested three other members of NIDA and announced, among other things, that they had planned to incite violence at the protest. Narcotics and Molotov cocktails had also been found at two flats.

The authorities subsequently arrested the applicants in March and April and charged them with arms offences, and they were remanded in custody. They appealed against the remand decisions and later rulings to extend their detention. They argued, among other things, that there was no evidence that they had committed an offence.

Relying on Article 5 §§ 1 (c) and 3 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial) the applicants complain of a lack of a reasonable suspicion that they had committed any offences and that the courts failed to provide proper reasons for their continued detention.

They also raise a complaint under Article 18 (limitation on use of restrictions of rights), alleging that their arrest and detention were aimed at punishing them for their political and social activism.

Dimitrov and Momin v. Bulgaria (no. 35132/08)

The applicants, Dimitar Angelov Dimitrov and Ventseslav Tobiev Momin, are Bulgarian nationals who were born in 1965 and 1964 respectively and live in Plovdiv (Bulgaria). The case concerns criminal proceedings resulting in the applicants' conviction for rape.

In March 1998 a young woman lodged a complaint with the police stating that she had been abducted, held captive and raped by Mr Dimitrov and Mr Momin. Criminal proceedings for rape were instigated against a person or persons unknown, and the victim underwent a medical examination. She subsequently informed the authorities on two occasions that she was withdrawing her complaint. However, in May 2000 the public prosecutor formally charged Mr Dimitrov with rape.

In December 2000, during questioning, the victim withdrew her statement and reiterated her original version of the events. She explained that she had retracted her original statement because she had been threatened. She also said that she had cancer. In April 2001 Mr Dimitrov and Mr Momin were both charged with the abduction, false imprisonment and rape of the young woman. In May 2001 they requested separate confrontations with her, but their request was rejected in July 2001. The young woman died of her illness.

In July 2007 the Plovdiv Regional Court found Mr Dimitrov and Mr Momin guilty. They received prison sentences of six years and five and a half years respectively. They lodged appeals on points of law which were dismissed by the Supreme Court of Cassation.

Relying on Article 6 §§ 1 and 3 (d) (right to a fair trial/right to question witnesses), Mr Dimitrov and Mr Momin complain of being convicted on the basis of the statement made by the young woman, whom they had no opportunity to confront and whom they were unable to question.

Novotný v. the Czech Republic (no. 16314/13)

The applicant, František Novotný, is a Czech national who was born in 1942 and lives in Batelov (the Czech Republic).

The case concerns his failed legal efforts to use new DNA evidence to overturn a 1970 court decision on his paternity of a child.

A woman with whom the applicant had had a sexual relationship gave birth to a daughter in 1966. The District Court established that Mr Novotný was the father, relying on witness evidence, the dates of his sexual relationship with the woman and a blood test that was in use at the time. Another man had also had sex with her, but the blood test established that he was not the father.

The applicant took up the case again in 2011 and asked the prosecutor general to use his powers to challenge the paternity decision in court. The prosecutor refused, saying, among other things, that it was not in the best interests of the daughter, by then an adult.

DNA tests in 2012 confirmed that the applicant was not the father. Nevertheless, the prosecutor and the domestic courts relied on the principle of *res judicata* and refused to allow him to initiate proceedings to overturn the 1970 paternity decision.

The applicant complains under Article 8 (right to respect for private and family life) that he was not able to challenge the paternity decision and that the denial of that possibility was a violation of his rights under Article 6 § 1 (access to court). He also alleges discrimination under Article 14 (prevention of discrimination) in conjunction with the other two Articles.

Toubache v. France (no. 19510/15)

The applicants, Mohammed Toubache and Sikina Toubache, are French nationals who were born in 1951 and 1958 respectively and live in Montataire (France). They are the parents of N.T., born in 1987. The case concerns the necessity and proportionality of the use of force by the law-enforcement agencies in the context of the death of the applicants' son, who was shot and killed by a gendarme while travelling in the rear of a vehicle that was being pursued.

On the night of 27 November 2008, following a burglary and the theft of some fuel, a vehicle carrying three men, including N.T., was chased by a gendarmerie patrol. The vehicle refused to stop despite being pursued and despite rounds of Flash-balls being fired, and almost struck the gendarme O.G. on two occasions. After issuing two warnings, O.G. fired six times in the direction of the fleeing vehicle. The following morning N.T.'s body was found at the headquarters of the Montataire fire brigade.

A judicial investigation was instituted against the gendarme in question on a charge of manslaughter. It emerged from the investigation that N.T. had died following the fifth or sixth shot fired by O.G. On 25 January 2013 an order by the investigating judges reclassified the offence as inadvertent and negligent homicide. On 21 July 2013 the Court of Appeal quashed that order on the grounds that O.G. was not criminally responsible and should not be committed for trial. The Court of Appeal found that the gendarme's use of his weapon had been absolutely necessary in order to stop the vehicle. The Court of Cassation dismissed an appeal on points of law by the applicants.

Relying on Article 2 (right to life), the applicants allege that the fatal shooting of their son was not proportionate to the aim pursued.

Kartvelishvili v. Georgia (no. 17716/08)

The applicant, Giorgi Kartvelishvili, is a Georgian national who was born in 1978 and lives in Tbilisi.

The case essentially concerns his allegation that his criminal trial for infringing prison regulations was unfair because the courts refused to examine witnesses on his behalf.

Mr Kartvelishvili was convicted in October 2000 of murder and sentenced to nine years' imprisonment. While serving his sentence, he was also convicted of possessing a penknife, which was prohibited under the prison regulations, and sentenced to a further three years in prison. His conviction was based on statements by prison officers who said that they had found the penknife in his bed when searching his cell, a video-recording of the search and a written record of the search and seizure of the knife.

Before the domestic courts he challenged the search and the assumption that the knife was necessarily his, suggesting that it could have been planted. In order to clarify the matter, he requested that the courts hear his cellmates who had been witnesses to the search. However, the courts refused to examine the men, whom they considered to be untrustworthy as they had criminal convictions, and on appeal increased his sentence to four years. The Supreme Court ultimately rejected his appeal on points of law as inadmissible in February 2008.

Relying on Article 6 §§ 1 and 3 (d) (right to a fair trial and right to obtain attendance and examination of witnesses), Mr Kartvelishvili complains that the courts refused to examine witnesses on his behalf, namely his cellmates, under the same conditions as those called against him, the prison officers.

Relying on Article 3 (prohibition of inhuman or degrading treatment), he also makes a number of complaints with regard to the conditions of his detention, alleging that he contracted tuberculosis in prison and that the medical care he received for it and another disease, hepatitis C, was inadequate.

Association of Academics v. Iceland (no. 2451/16)

The applicant, the Association of Academics (*Bandalag háskólamanna*), is an association of trade unions of university graduates in Iceland.

The case concerns restrictions on the right to strike and compulsory arbitration.

From February 2015 onwards, the Association of Academics represented 18 of its member unions in collective bargaining with their employer, the Icelandic State. In March 2015 the dispute was referred to the State Conciliation and Mediation Officer, to no avail. Meanwhile, the member unions commenced strike actions.

In June 2015, the Parliament passed an Act, prohibiting further strikes and any work stoppages and providing for a binding decision on the union members' employment terms, including wages, taken by an arbitration tribunal appointed especially for this occasion by the Supreme Court.

In the meantime, the Association of Academics challenged the Act before the domestic courts. However, on 13 August 2015, the Supreme Court found against the applicant association.

Relying on Article 11 (freedom of assembly and association), the applicant association alleges in particular that by passing the Act, the State rendered the member unions' right to protect the interest of their members illusory and restricted the rights and freedoms under Article 11 of all the member unions in an unjustified and disproportionate manner. Alternatively, it complains that the Government restricted the rights and freedoms under Article 11 of the member unions that were not, at the time, engaged in collective action.

O'Sullivan McCarthy Mussel Development Ltd v. Ireland (no. 44460/16)

The applicant company, O'Sullivan McCarthy Mussel Development Ltd, is an Irish company engaged in the cultivation of mussels.

The case concerns its complaint that the Irish Government caused it financial losses by the way it complied with European Union environmental legislation.

The company cultivates mussels in Castlemaine harbour in Ireland, involving the fishing for mussel seeds, which are immature mussels, and their subsequent cultivation. In December 2007 the Court of Justice of the European Union found that Ireland had failed to meet its obligations under two EU environment directives by failing to carry out assessments of the impact of aquaculture in protected areas. As part of its steps to comply with the directives, the Government prohibited mussel seed fishing in the harbour in the 2008 season pending the completion of the necessary assessment.

The company alleges that it suffered significant losses owing to those restrictions.

The company and another local operator brought a domestic compensation claim against the Government in February 2009, which was upheld by the High Court in a judgment of 31 May 2013 awarding damages to the applicant company for its losses. However, in February 2016 the Supreme Court upheld an appeal by the State. It was unanimous in overturning the High Court's ruling that the company had had a legitimate expectation of being able to operate its business as planned and rejected by a majority the lower court's decision that the State had shown "operational negligence".

The applicant company complains under Article 1 of Protocol No. 1 (protection of property) and Article 8 (right to respect for private and family life) of the impact on its right to earn a livelihood owing to the temporary prohibition on mussel seed fishing in 2008. It also complains under Article 6 § 1 (right to a fair hearing within a reasonable time) about the length of the domestic compensation proceedings and under Article 13 (right to an effective remedy) in conjunction with Article 1 of Protocol No. 1 in relation to the restrictions on its activities.

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.

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Nana v. Belgium (no. 9317/11)
Trbojević v. Croatia (no. 57228/13)
Polcarová v. the Czech Republic (no. 52256/15)
Maksimov v. Estonia (no. 56920/16)
E.C. v. France (no. 52965/17)
Ider v. France (no. 20933/13)
Parjiani v. Georgia (no. 57047/08)
Tchrelashvili v. Georgia (no. 23919/09)
Demertzis v. Greece (no. 52360/14)
Goia v. Greece (no. 48106/13)
Ninos v. Greece (no. 28453/10)
Symprattonta meletitika grafeia Karakosta-Dokorou v. Greece (nos. 10843/17 and 11017/17)
Á.Á. v. Hungary (no. 11686/14)
Bisogno v. Italy (no. 71818/10)
Bruziches and Benedetti v. Italy (no. 482/10)
Costa Sanseverino di Bisignano v. Italy (no. 58330/16)
De Paola and Others v. Italy (no. 30105/06)
Moretto v. Italy (no. 41380/10)

Oropallo v. Italy (no. 35646/11)
Pecci and Others v. Italy (no. 38122/09)
Potenza and Cofano v. Italy (no. 25728/11)
Propeti and Others v. Italy (no. 42979/09)
Severino v. Italy (no. 52467/14)
Tonno v. Italy (no. 45542/11)
Trunfio and Others v. Italy (no. 1553/12)
Ciornea v. the Republic of Moldova (no. 3077/10)
Miron v. the Republic of Moldova (no. 24804/14)
Petrov v. the Republic of Moldova (no. 5570/07)
Bryske v. Poland (no. 1694/14)
Dzikowski v. Poland (no. 38799/11)
Niedźwiecki v. Poland (no. 18500/17)
Orzechowska v. Poland (no. 11151/08)
Pawłowski v. Poland (no. 80096/12)
Witczak v. Poland (no. 32051/16)
Annear v. Portugal (no. 33561/17)
Popa v. Portugal (no. 41906/17)
Ciorici v. Romania (no. 57838/14)
Isabela Ionescu v. Romania (no. 20262/12)
Petrovai v. Romania (no. 44231/10)
Kazakov v. Russia (no. 16116/13)
H and Others v. Switzerland (no. 67981/16)
Truglia v. Switzerland (no. 4505/12)
Nikoloski v. 'the former Yugoslav Republic of Macedonia' (no. 33874/14)
Sejdiji v. 'the former Yugoslav Republic of Macedonia' (no. 8784/11)
Arik and Others v. Turkey (nos. 4808/10, 4812/10, 4813/10, 5027/10, 5032/10, 5038/10, 5041/10, 5044/10, 5047/10, 5053/10, 5055/10, and 5059/10)
Balak Petrol Otomotiv İnşaat Malzemeleri Turizm Emlakçilik İnşaat Taahüt Gida Tic. Ltd. Şti. v. Turkey (no. 51868/10)
Bayar and Gürbüz v. Turkey (no. 8870/09)
Büyükşahin v. Turkey (no. 52490/08)
Çulha and Others v. Turkey (no. 7023/07 and 22 other applications)
Ercankan v. Turkey (no. 44312/12)
Karakurt v. Turkey (no. 33806/11)
Dzyubynskyy v. Ukraine (no. 63700/11)
Faryab v. Ukraine (no. 6030/16)
Pochtarev v. Ukraine (no. 68356/13)
Uvarov v. Ukraine (no. 56191/09)
Yerokhin v. Ukraine (no. 23026/09)

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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.