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

Press Release
issued by the Registrar of the Court

ECHR 001 (2018)
05.01.2018

Forthcoming judgments and decisions

The European Court of Human Rights will be notifying in writing 23 judgments on Tuesday 9 January 2018 and 98 judgments and / or decisions on Thursday 11 January 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 9 January 2018

Nicholas v. Cyprus (application no. 63246/10)

The applicant, Charalambos Nicholas, is a dual Cypriot and British national who was born in 1951 and lives in Larnaca (Cyprus). The case concerns his complaint that the Supreme Court which examined the appeal proceedings on his dismissal from Cyprus Airways Ltd as a trainee pilot was not impartial.

In 1998 Mr Nicholas brought proceedings for wrongful dismissal and defamation against the airline. His action was dismissed by both the district court (in 2006) and the Supreme Court (in 2010).

Mr Nicholas submits that he subsequently discovered that the son of one of the judges who decided on his case before the Supreme Court was married to the daughter of the managing partner of the law firm representing the airline and that the couple both worked at this law firm. Relying on Article 6 § 1 (right to a fair hearing) of the European Convention on Human Rights, he therefore alleges that the appeal proceedings before the Supreme Court were not impartial.

Bartkus and Kulikauskas v. Lithuania (no. 80208/13)

The case concerns a house bought at auction by Vytautas Bartkus, the first applicant, who then sold it to Stanislovas Kulikauskas, the second applicant. Both applicants are Lithuanian nationals. They were born in 1976 and 1957 respectively and live in Žagarė and Šiauliai (Lithuania).

Mr Bartkus bought the house in 2010 but the former owners refused to vacate the premises. He therefore brought court proceedings in 2011, requesting that the former owners be evicted. The courts found in his favour, and decided to award him 1,000 Lithuanian litai (approximately 289 euros) per month from December 2010 until such time as the former owners were evicted.

The enforcement of the eviction took more than two years because the authorities had to examine several requests by the former owners to postpone the eviction proceedings owing to illness and the fact that two members of their family, one a minor, were living with them who were not on the list of those to be evicted. The eviction eventually took place in November 2013, five months after Mr Bartkus had sold the house to Mr Kulikauskas. Mr Kulikauskas could not, however, then move in because the former owners had left all their furniture and belongings behind. He was thus assigned property manager of what had been left in the house and the former owners were given three months to collect their belongings. As they failed to do so, the belongings were sold at auction in October 2014. All the former owners' subsequent complaints were rejected.

Relying on Article 1 of Protocol No. 1 (protection of property) to the European Convention, both applicants complain that they were prevented from using their house for more than two years during the eviction proceedings. The second applicant, Mr Kulikauskas, also complains that he could not use the house even after the former owners had been evicted.

Britaniškina v. Lithuania (no. 67412/14)

The applicant, Libė Britaniškina, is a Lithuanian national who was born in 1930 and lives in Vilnius. The case concerns her dissatisfaction with the process of restitution of a house and plot of land in Vilnius which had belonged to her husband's grandfather before nationalisation.

Ms Britaniškina's husband applied to have his rights to the house and plot of land restored in 2001. In 2009 the local authorities decided to partly restore a plot of land to him and partly award compensation in the form of securities. Shortly after, however, Ms Britaniškina – her husband having died in the meantime – started court proceedings to complain that the compensation calculated in the form of securities was too low. Her claim was rejected in 2013, and the Supreme Administrative Court upheld this decision on appeal in 2014.

In the meantime, during the court proceedings, the laws on restitution were changed and Ms Britaniškina was informed that she could choose other forms of restitution instead of securities. She was asked to express her preference, but never replied. Most recently, in November 2014, she was informed that she could receive a plot of forest of equivalent value to the property, but she has not apparently replied to this proposal either.

Relying on Article 1 of Protocol No. 1 (protection of property), Ms Britaniškina complains that she was not provided with a new plot of land and that, overall, the restitution process in her case was too long.

Palevičiūtė and Dzidzevičienė v. Lithuania (no. 32997/14)

The applicants, Birutė Palevičiūtė and Ona Dzidzevičienė, are Lithuanian nationals who were born in 1949 and 1950 respectively and live in Vilnius and Varėna (Lithuania). They are sisters. The case concerns a dispute over a plot of land.

They inherited some land from their father in 1996, however, when it had been officially demarcated in 1995 the engineer had failed to note that there was already a building, which did not belong to the applicants, on the land.

A dispute arose and in 2009 a court ordered that a plot including 0.4863 hectares belonging to the applicants should be allocated to the owner of the building. The courts ordered that the applicants be provided with an equivalent amount of land elsewhere. After an appeal upheld the first-instance decision, the domestic court proceedings ended in 2013 when the Supreme Court dismissed several appeals on points of law by the applicants.

The National Land Service asked the applicants in 2014 how they wanted their property rights to be restored, while stating that they could not get the exact same plot of land back. After the applicants complained to a member of Parliament in 2015, the Service also said they could seek compensation.

The applicants continued to ask for the confiscated plot itself and did not lodge an application for compensation. The National Land Service eventually issued a decision in 2017 to restore their rights to the land by paying them 433 euros.

Relying on Article 1 of Protocol No. 1 (protection of property), they complain about being deprived of the plot of land of 0.4863 hectares and that they have not received an equivalent plot.

Tumeliai v. Lithuania (no. 25545/14)

The applicants, Donatas Tumelis and Renata Tumelienė, are two Lithuanian nationals who were born in 1968 and 1972 respectively and live in Vilnius. The case concerns an order to demolish their summer house.

The applicants bought a plot of forest land in 2003. In 2005 Mr Tumelis applied for building permission for the land, having earlier gained court recognition of the fact that there had been

buildings there earlier. The Molėtai municipal authorities issued a building permit and by 2007 a summer house had been constructed and registered as 97% completed. However, in 2011, the authorities received a tip-off about illegal construction and the prosecutor's office began an action to have the building permission withdrawn and the house demolished.

The couple won the case at first instance, however, the appeal court upheld the prosecutor's claim in 2012. The applicants, the municipality which had awarded the building permit and the local environmental protection department lodged an appeal on points of law, but the Supreme Court upheld the demolition order in 2013. Enforcement was ultimately suspended by the domestic court in 2015 pending a decision on the couple's application to the European Court of Human Rights.

Relying on Article 1 of Protocol No. 1 (protection of property), the couple complain that they have been deprived of their right to the enjoyment of their possessions after being ordered to demolish their summer house. They also complain under Article 6 § 1 (right to a fair hearing) that the demolition order violated the principle of legal certainty.

Catalan v. Romania (no. 13003/04)

The applicant, Gabriel Catalan, is a Romanian national who was born in 1970 and lives in Bucharest. The case concerns the dismissal of Mr Catalan from the civil service for publishing certain information in the press.

On 1 September 2000 Mr Catalan was recruited to a position of adviser in the Archives Department by the National Council for the Study of *Securitate* Archives (the "CNSAS"), the *Securitate* being the former political police under the communist regime. On 15 September 2000 he signed a confidentiality agreement.

On 22 March 2001 the national daily *Libertatea* published an article signed by Mr Catalan's brother, entitled "In his youth, T. [the patriarch of the Romanian Orthodox Church then in office] was probably gay". A byline at the top of the page read: "The archives of the former *Securitate* accuse the head of the Orthodox Church of 'unnatural practices' and collaboration with the former political police". The article reproduced, among other things, facsimile extracts from two unpublished documents from 1949 and 1957 in the *Securitate* archives: an internal summary note stating that T. had been a member of the "Legion" (an anti-Semitic fascist movement between the two world wars) and a document containing the transcript of an interview between a *Securitate* officer and an informer who recounted that T. was gay. The article explained that these documents had been made available to the newspaper by Mr Catalan, in his capacity as historian.

On 22 March 2001, in the morning, the CNSAS issued a press release in which it stated that it disapproved of Mr Catalan's allegations. The latter was then invited by his superiors to explain the circumstances of the publication. They wanted to know, in particular, in what capacity he had communicated this information to the press, how he had gained access to the material, and his opinion as to whether he had complied with the applicable legislation – but he refused to answer. In addition, he was summoned by the CNSAS Disciplinary Panel, which dismissed him for misconduct, finding that he had undermined the prestige and authority of the CNSAS. That decision took effect on 26 March 2001. Mr Catalan unsuccessfully challenged his dismissal in the Bucharest Court of Appeal and his appeal to the Supreme Court of Justice was dismissed in June 2003.

After his dismissal, Mr Catalan became a teacher in the national education system and continued to publish articles in the press.

Relying on Article 10 (freedom of expression), Mr Catalan complains about his dismissal on account of the opinions he expressed in the newspaper article of 22 March 2001.

Ghincea v. Romania (no. 36676/06)

The applicant, Marius Cristian Ghincea, is a Romanian national who was born in 1975 and lives in Voluntari (Romania). In charge of registering applications for the restitution of land in Voluntari City Hall, he complains of the unfairness of criminal proceedings brought against him for inciting intellectual forgery.

In 2004 an employee at the City Hall, N.G., gave a statement to the prosecuting authorities that she had antedated the registration of six applications for the restitution of land at Mr Ghincea's request. The prosecutor thus charged N.G. with intellectual forgery and Mr Ghincea with being her accomplice. At trial, however, in 2005 N.G. changed her statements, submitting that Mr Ghincea had only telephoned her to ask her to help an acquaintance. Mr Ghincea denied any involvement in forgery. The lower courts went on to convict N.G., but acquitted Mr Ghincea owing to lack of evidence.

His acquittal was then overturned in 2006 when the prosecutor's officer lodged an appeal on points of law. The appellate court, choosing to rely in particular on N.G.'s statements during the criminal investigation, convicted Mr Ghincea in a final decision of inciting intellectual forgery. He was sentenced to a suspended sentence of six months' imprisonment.

Relying on Article 6 § 1 (right to a fair trial), Mr Ghincea complains that, after being acquitted twice, the appellate court then convicted him of intellectual forgery without hearing him or any of the other witnesses heard by the lower courts and without hearing any new evidence.

Vasile Victor Stanciu v. Romania (no. 70040/13)

The applicant, Vasile Victor Stanciu, is a Romanian national who was born in 1957 and lives in Bucharest. The case concerns his allegation of police brutality.

On 11 December 2011 the police went to Mr Stanciu's home to settle a conflict he was having with a neighbour. He was then taken to the local police station as he had refused to show his identification papers. According to Mr Stanciu, he was beaten on arrival at the police station. He was released the same day and subsequently went to the doctor's. The medical report issued noted that he had injuries consistent with him having been hit with a hard object. A few weeks later Mr Stanciu was fined for refusing to identify himself.

About a month later he lodged a criminal complaint against two police officers accusing them of ill-treatment and seeking compensation. An investigation was launched and the two police officers as well as the neighbour's husband were questioned in September and October 2012. The officers denied having ill-treated Mr Stanciu, stating that they had had to immobilise and handcuff him before taking him to the station as he had been drunk and violent. The neighbour's husband confirmed that Mr Stanciu had been verbally abusive, then immobilised and handcuffed before being taken away by the police, but had not been ill-treated. On the basis of these statements, the prosecuting authorities decided not to initiate criminal proceedings on two occasions, finding that the use of force had not been excessive. Mr Stanciu contested these decisions in court proceedings. However, ultimately in June 2013 the court upheld the prosecutors' decisions.

Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment) and Article 13 (right to an effective remedy), Mr Stanciu alleges that he was ill-treated by the police and that the subsequent investigation into the incident was ineffective. He argues in particular that if he had been aggressive towards the police, charges would have been brought against him; instead he was only issued with a fine.

Stănculeanu v. Romania (no. 26990/15)

The applicant, Andreea-Cornelia Stănculeanu, is a Romanian national who was born in 1975 and lives in Voluntari (Romania). The case concerns her complaint about being held in police custody for 11 hours in the context of a large-scale criminal investigation into money laundering and fiscal fraud.

A suspect in the investigation, Ms Stănculeanu's home was searched early on 4 December 2014. The same afternoon she was taken for questioning at Bucharest police headquarters on the basis of a prosecutor's order to appear, along with about 30 other suspects and/or witnesses. However, she was only actually questioned in the early hours of the morning the next day, after having spent most of the evening being given medical care. She was first seen by an ambulance team, which was called to the police station, and then taken to hospital for emergency treatment. She was guarded at all times in the hospital and was then taken back to the police station. After the questioning, the prosecutor decided to remand her in custody. Her lawyer lodged two complaints with the prosecutor about the remand decision and about her being deprived of her liberty since the previous day. The prosecutor dismissed both complaints and subsequently asked the courts to place Ms Stănculeanu in pre-trial detention. The request was allowed and she was released after spending two months in pre-trial detention. The proceedings against her are still pending.

Relying on Article 5 § 1 (right to liberty and security), Ms Stănculeanu alleges that she was held unlawfully in police custody between 6.15 a.m. on 4 December 2014 – when the search of her house was started – until 1.10 a.m. on 5 December 2014 – when the prosecutor decided to remand her in custody. She also makes a complaint under Article 3 (prohibition of inhuman or degrading treatment) to complain of the conditions of her detention during her pre-trial detention, essentially on account of overcrowding, poor hygiene and inadequate food.

Revtyuk v. Russia (no. 31796/10)

The applicant, Aleksandr Revtyuk, is a Russian national who was born in 1984 and lives in Toksovo (Russia). The case concerns his allegation that the courts dealing with decisions to detain him were not impartial.

In October 2009 Mr Revtyuk was arrested on suspicion of sexual assault on the daughter of a judge of the Vasileostrovskiy District Court in St Petersburg. He was remanded in custody by the judges of the same district court. He unsuccessfully attempted to challenge for bias the entire composition of that court.

Relying on Article 5 § 4 (right to have lawfulness of detention decided speedily by a court), Mr Revtyuk alleges that the decisions to order and extend his pre-trial detention were not taken by an impartial tribunal because of the link between the alleged victim and the judges of the Vasileostrovskiy court.

López Ribalda and Others v. Spain (nos. 1874/13 and 8567/13)

The applicants, Isabel López Ribalda, María Ángeles Gancedo Giménez, María Del Carmen Ramos Busquets, Pilar Saborido Apresa, and Carmen Isabel Pozo Barroso, are five Spanish nationals who were born in 1963, 1967, 1969, 1974, and 1974 respectively and live in Sant Celoni and Sant Pere de Vilamajor (Ms Pozo Barroso) (both in Spain).

The case concerns the covert video surveillance of the applicants at their workplace. At the time of the events the applicants were all working as cashiers for M.S.A., a Spanish family-owned supermarket chain. The video surveillance was carried out by their employer in order to investigate possible theft after the shop manager had noticed some irregularities between the supermarket stock levels and what was actually sold on a daily basis. The employer installed both visible and hidden cameras. The company gave its workers prior notice of the installation of the visible cameras but they were never informed about the hidden ones and were thus never aware that they were

being filmed. In June 2009 all the workers suspected of theft were called to individual meetings where the videos were shown to them. The videos had caught the applicants helping customers and other co-workers steal items and stealing them themselves. The applicants admitted involvement in the thefts and were subsequently dismissed on disciplinary grounds. The videos were used as evidence in the dismissal proceedings before the domestic courts. Three of the five applicants signed a settlement agreement acknowledging their involvement in the thefts and committing themselves not to bring any complaint before labour courts challenging their dismissal, while the employer company committed itself not to initiate criminal proceedings against them. The other two applicants did not sign any settlement agreement. All the applicants brought a complaint before the labour courts contesting the validity of their dismissal.

Relying on Article 8 (right to respect for private life) and Article 6 § 1 (right to a fair trial), the applicants complain about the covert video surveillance and the use in the domestic proceedings of the data that had been obtained. Three of the applicants also complain that the settlement agreements were made under duress owing to the video evidence and should not have been accepted as evidence of the fairness of their dismissals. Lastly, the first applicant also complained under Article 6 § 1 of the unfairness of the proceedings in that the judgments had lacked proper motivation as to her specific circumstances and reasoning leading to the conclusion that her dismissal had been fair.

X v. Sweden (no. 36417/16)

The applicant is a Moroccan national who currently lives in Sweden. He has been granted anonymity by the Court. The case concerns his complaint that he will face torture in Morocco if Sweden deports him. The Court indicated to Sweden under Rule 39 of the Rules of Court in September 2016 that the deportation order should not be carried out until further notice.

The applicant was granted a Swedish residence permit in 2005. In March 2016 the Swedish Security Service applied to the Migration Agency for an order to expel him, saying that he was a national security threat. He applied for asylum and international protection during the Migration Agency's examination of the case, arguing that as the Security Service had labelled him as a terrorist he would risk torture and at least 10 years' prison if deported to Morocco. Although he had never been suspected of any crime in his native country, the Swedish authorities would inform their Moroccan counterparts of the reason for his arrest and expulsion, which could lead to him being ill-treated and held in arbitrary detention as a terrorism suspect.

The Migration Agency granted the Security Service's request and rejected the applicant's asylum application. It did not agree with his arguments that he faced a risk of ill-treatment if he was deported and shared the Security Service's assessment about him. In June 2016 the Migration Court of Appeal agreed with the Migration Agency's assessment and it was then upheld by the Government in September of the same year. The Government also agreed with the Security Service's assessment of the applicant and found that it was reasonable to fear that he might commit or participate in a terrorist offence.

The Government stayed enforcement of the expulsion order on 22 September 2016 after the Court's indication.

Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment), the applicant complains that if Sweden deports him to Morocco he will be considered as a security threat and subjected to ill-treatment.

GRA Stiftung gegen Rassismus und Antisemitismus v. Switzerland (no. 18597/13)

The applicant, GRA Stiftung gegen Rassismus und Antisemitismus (the GRA Foundation against Racism and Anti-Semitism), is a non-governmental organisation which is registered in Switzerland. It

promotes tolerance and condemns racially motivated discrimination. The case concerns the organisation's complaint about a court finding of defamation against it.

In November 2009 it reported on a meeting held in the town of Frauenfeld by the youth wing of the Swiss People's Party, which was held in the run up to a referendum on banning the building of minarets.

After the meeting, the applicant organisation posted an entry on its website in a section called "Chronology – Verbal racism". It cited the party's own report of a speech at the meeting by B.K., the head of the local youth branch of the Swiss People's Party. He was quoted as saying that it was time to stop the expansion of Islam, that "the Swiss guiding culture, based on Christianity, cannot allow itself to be replaced by other cultures", and that the prohibition of minarets would be an expression of the preservation of national identity. The minaret ban was approved in the referendum the same month, leading to a constitutional amendment to implement the result.

In August 2010 B.K. took GRA Stiftung to court over the entry on its website by filing a claim for protection of his personality rights. He applied for an order that the organisation had to withdraw the entry and that it be replaced with the court's judgment. The organisation argued that the entry was a value judgment which could only infringe personality rights if it was unnecessarily hurtful and insulting.

The district court dismissed B.K.'s claim in March 2011 on the grounds that the Internet article had been justified as it had related to a political discussion about a matter of public interest. The judgment was reversed on appeal in November of the same year as the appellate court held that the words "verbal racism" were a mixed value judgment, which could infringe personality rights if based on untruths. It found that B.K.'s speech had not been racist and ordered the organisation to remove the article and replace it with the court's judgment. GRA Stiftung appealed to the Federal Supreme Court, arguing that any interference with B.K.'s personality rights had been justified. One of the organisation's main aims was to inform the public about racist behaviour. To fulfil its role of watchdog it published articles and interviews concerning current events relating to racism and anti-Semitism.

The Federal Supreme Court dismissed the organisation's appeal in August 2012. It found that B.K.'s comments could not be described as verbally racist and that the mixed value judgment which had infringed his personality rights had not been justified by any overriding interest. Even B.K.'s involvement in a political debate, which meant he had to accept a reduced level of protection for personality rights, did not justify disseminating untruths or publishing value judgments that were not based on facts.

Relying on Article 10 (freedom of expression), the applicant organisation complains about the domestic court's finding of an infringement of B.K.'s personality rights. It argues, among other things, that the Federal Supreme Court was wrong to find that the expression "verbal racism" was a mixed value judgment which required proof.

Kadusic v. Switzerland (no. 43977/13)

The applicant, Mihret Kadusic, is a Swiss national who was born in 1982. He is currently detained in Bostadel Prison (Menzingen, Switzerland). The case concerns the ordering of an institutional therapeutic measure, namely a change of punishment after the delivery of the initial judgment and during the term of the ensuing sentence.

In May 2005 Mr Kadusic was convicted of various offences and sentenced to eight years in prison. In addition, the court declared enforceable a 12-month custodial sentence that had been suspended when handed down in 2001. This judgment was essentially upheld on appeal. During his imprisonment Mr Kadusic underwent a number of assessments, which identified, in particular, paranoid and narcissistic personality disorders and a high risk of re-offending.

In July 2010, on the basis of a supplementary report which included the assessment that Mr Kadusic showed no motivation to change his understanding of the offences he had committed and that he did not have the capacity to develop empathy, the sentence execution authority asked the Court of Appeal to ascertain whether the conditions for post-sentence preventive detention or an institutional therapeutic measure were met. At the end of the proceedings, that court ordered an institutional therapeutic measure and suspended the length of the sentence still to be served by Mr Kadusic, who appealed unsuccessfully to the Federal Court.

Relying on Article 5 § 1 (right to liberty and security) and Article 7 (no punishment without law), and on Article 4 of Protocol No. 7 to the Convention (right not to be tried or punished twice), Mr Kadusic complains about the institutional therapeutic measure ordered against him.

Kaiser v. Switzerland (no. 35294/11)

The applicant, Gabriela Kaiser, is a Swiss national who was born in 1964 and lives in Wangen (Canton of Zurich, Switzerland). She has been deaf from birth. The case concerns the refusal of the Swiss authorities to free legal aid and an exemption from court costs to a divorced and unemployed woman (Ms Kaiser) in a dispute over the termination of a lease agreement.

In January 2010 the management company of a building in which Ms Kaiser was renting a flat terminated her lease. Represented by a lawyer, she challenged this decision before the Uster District Court's lease conciliation authority and applied for legal aid and exemption from court costs. The building's management company then cancelled the termination of the lease and Ms Kaiser withdrew her complaint. The conciliation authority therefore closed the proceedings without charging any costs but rejected the request for legal aid. Ms Kaiser appealed, unsuccessfully, to the Uster District Court and to the Federal Court. The two courts each charged her 500 Swiss francs (432 euros) in legal costs.

Relying on Article 6 § 1 (right to a fair hearing / right of access to a court), Ms Kaiser complains that she did not receive legal aid and was not exempted from court fees; she also alleges a breach of the principle of equality of arms, as the other party was represented by property management professionals.

Just Satisfaction

Dilipak and Karakaya v. Turkey (nos. 7942/05 and 24838/05)

The case concerns the question of just satisfaction with regard to a domestic judgment against two journalists, after hearings in their absence, for having written articles that were considered offensive towards a high-ranking dignitary of the army.

In its principal judgment of 4 March 2017 the Court held that there had been a violation of Article 6 (right to a fair hearing / access to court) of the European Convention on Human Rights, and a violation of Article 10 (freedom of expression) of the Convention.

The Court further held that the question of just satisfaction in respect of Mr Dilipak was not ready for decision and reserved it for examination at a later date.

The Court will deal with this question in its judgment of 9 January 2018.

İncin v. Turkey (no. 3534/06)

The applicants are a family of 15 Turkish nationals who were born between 1926 and 1994. Seven of them live in the Mahmur Refugee Camp in Iraq, and five live in Turkey. The case concerns the investigation into the killing of their relative, Kerim İncin, allegedly by the military.

Following severe military clashes the family fled Turkey in 1994 to live with relatives in Iraq.

Hazım İncin, Kerim İncin's son, returned to his village in Turkey in March 2005 and lodged a complaint with the prosecutor concerning the killing of his father, which he had learned about from his fellow villagers. The prosecutor immediately started an investigation. He managed to locate and question a very large number of witnesses and military personnel who had since moved to various parts of the country. It emerged from the witness statements that Kerim İncin, who had returned to his village in Turkey in 1995, had been taken away by soldiers, shot and buried.

Between 2006 and 2009 the prosecutor, having learned that the body was buried in the village cemetery, repeatedly asked the military if he could exhume the body. He was, however, told that it would not be safe, on account of military operations in the area and adverse weather conditions.

Eventually, in 2010 the commander of the military station based in the vicinity was brought to trial on murder charges. He was acquitted in 2014 and the applicants appealed. The appeal proceedings are still pending before the Court of Cassation.

Relying on Article 2 (right to life), the applicants allege that the investigation and trial concerning the killing of their relative have been half-hearted and very slow, despite the authorities being in possession of an abundance of evidence.

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.

Bogosyan v. Russia (no. 47230/11)
Makarskiy v. Russia (no. 41333/14)
Makhlyagin and Belyayev v. Russia (nos. 14784/09 and 51742/11)
Hrustić and Others v. Serbia (nos. 8647/16, 12666/16, and 20851/16)
Drahoš and Others v. Slovakia (nos. 47922/14, 49902/14, 55307/14, 76478/14, 13285/15, 34749/15, 9738/16, and 45303/16)
Adıyaman v. Turkey (no. 24211/08)

Thursday 11 January 2018

Sharxhi and Others v. Albania (no. 10613/16)

The case concerns the demolition of flats and business premises in an Albanian coastal town, Vlora. The applicants are 18 Albanian nationals and one Italian national born between 1939 and 1986.

In August 2010 the local authorities gave permission to build a residential building ("the Jon Residence/the residence") on a plot of land in Vlora. Two of the applicants, by virtue of their ownership of this plot of land, became owners of some of the flats and shops constructed in the residence; the remaining applicants became owners of flats via purchase agreements. Upon completion of the construction works, the majority of the flats and shops were furnished and some of the applicants moved into their flats.

However, on 3 November 2013, without prior notice, the urban construction inspectorate authorities – supported by the police – surrounded the residence and cordoned it off with yellow police tape marked "crime scene – no entry". The applicants were prevented from entering their flats and retrieving their belongings. They were told that the authorities were seizing their residence in order to evaluate the legality of the construction permit and other relevant documents.

The applicants lodged a claim with the administrative courts and, on 7 November 2013, an interim order was issued ordering the authorities to refrain from any actions that could breach the applicants' property rights. In a subsequent decision on the merits of the case in January 2014 the

administrative court found that the authorities' actions carried out on 3 November 2013 had been unlawful.

Despite the interim order, the entire residential building was demolished between 4 and 8 December 2013.

In the meantime, on 27 November 2013 the Government had adopted a decision ordering the expropriation of the applicants' properties in the public interest and the payment of compensation. The applicants, however, challenged the compensation amount on the ground that the expropriation procedure had been carried out in flagrant breach of the law. Those proceedings are still pending before the Supreme Court, which, on 15 January 2015, decided to stay the enforcement of the lower court's decision awarding the applicants 1,580,712,321 Albanian leks (approximately 11,639,800 euros) in compensation.

Relying on Article 6 § 1 (right to a fair trial), Article 8 (right to respect for private and family life and the home) and Article 1 of Protocol No. 1 (protection of property), the applicants complain in particular about the demolition of their properties, including their personal belongings, despite the administrative court's interim order. They further complain under Article 13 (right to an effective remedy) that there was no effective remedy for them to bring these complaints before the domestic courts.

Arzumanyan v. Armenia (no. 25935/08)

The case concerns the detention of the former Minister of Foreign Affairs and leader of a political movement called "Civil Disobedience" for money laundering.

The applicant, Aleksandr Arzumanyan, is an Armenian national who was born in 1959 and lives in Yerevan. He was arrested in May 2007 and placed in detention. The courts ordered his detention on the grounds of the gravity of the offence and the risk of his absconding, obstructing justice or reoffending. They then repeatedly extended his detention on similar grounds, despite Mr Arzumanyan's objections, until his release in September on an undertaking not to leave his residence.

Relying on Article 5 § 3 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial), Mr Arzumanyan complains that the domestic courts failed to sufficiently justify his detention.

Anchev v. Bulgaria (nos. 38334/08 and 68242/16)

The applicant, Haralambi Borisov Anchev, is a Bulgarian national who was born in 1953 and lives in Sofia. He is a lawyer. The case concerns his complaint about the decision to expose him in 2008 for affiliation with the former security services during the communist regime in Bulgaria.

Shortly after the fall of the communist regime in late 1989, the Bulgarian Government decided to close the regime's security service. In the following months, roughly a third of all the organisation's files were secretly destroyed.

After long and tortuous political and legal developments, in 2006 the legislature decided to introduce a system exposing anyone who featured in the surviving files, and in particular those who had taken up important posts in the public sector or in parts of the private sector. The statute[1] providing for such exposure is administered by a special commission elected by the legislature.

Mr Anchev, who held several high-ranking posts in Bulgaria in the 1990s, including Minister of Justice and Deputy Prime Minister for a few months in 1997, was checked by the commission for

[1]. The Access to and Disclosure of Documents and Exposure of the Affiliation of Bulgarian Citizens to State Security and the Intelligence Services of the Bulgarian People's Army Act 2006.

affiliation with the former security services on three occasions, once in 2008 and twice in 2014. The resulting decisions exposed him as having been affiliated from 1982 to 1990 with one of the departments of the former security services which dealt with information and analysis.

Mr Anchev sought judicial review of the 2014 decisions, without success. The courts essentially held that the commission did not have to check whether he had in fact consented to be recruited as a collaborator or assess the nature or extent of his collaboration, the statute simply providing for the exposure of affiliation with the former security services if records were found on him. Exposing his affiliation had therefore been lawful. This conclusion was based on the Supreme Administrative Court's case-law and on a judgment of 2012 by the Constitutional Court finding the provisions of the 2006 statute constitutional.

Mr Anchev's main criticism is that the statutory scheme which exposed his affiliation to the security services did not require an individual assessment of the reliability of the records on him or of his precise role, thus leaving the question of whether he had in fact collaborated unanswered. He relies in particular on Article 8 (right to respect for private life) and Article 13 (right to an effective remedy) to allege that the decisions exposing his affiliation to the security services stigmatised him and caused deep upset to his private and social life. He also alleges under Article 6 § 1 (right of access to court/to a fair trial) that the related judicial review proceedings deprived him of effective access to a court and were unfair.

United Macedonian Organisation Ilinden and Others v. Bulgaria (no. 3) (no. 29496/16)
Yordan Ivanov and Others v. Bulgaria (no. 70502/13)
Kiril Ivanov v. Bulgaria (no. 17599/07)

The first two cases concern complaints about the authorities' refusal to allow the registration of an association in Bulgaria, the United Macedonian Organisation Ilinden ("Ilinden"), in rulings in 2014-16 and 2012-13 respectively. The third complaint concerns the banning of rallies by people who are linked to that group in September 2006 and September 2007.

Ilinden is based in south-west Bulgaria in an area known as the Pirin region. Its organisers aim to achieve the recognition of a Macedonian minority and organise commemorative events at various sites in the region. Among other things, they allege that there have been massacres of the minority in the past and that rights' problems persist. The Court has dealt with similar complaints by the group in the past and found violations of Article 11 (freedom of assembly and association).

In the first of the new applications, the United Macedonian Organisation Ilinden and two of its members complain about the Bulgarian authorities' refusal to register the group as an association in court rulings delivered in 2014 at first-instance and on appeal in 2015. The Supreme Court of Cassation ruled against the admissibility of a further appeal in 2016.

One of the reasons given by the first-instance court was that it found that the stated aims of the association showed that it intended to stir up national and ethnic hatred.

The second complaint has been made by nine Bulgarian nationals, of whom the first two are the chairman and deputy chairman of Ilinden, who are also applicants in the first case.

They complain about an earlier refusal by the authorities to register their group as an association in proceedings which ended after the Supreme Court of Cassation refused to admit an appeal on points of law in 2013.

As well as finding deficiencies in the registration papers, the courts also raised issues with the stated aims of the organisation. In particular, the first-instance court found that its aims were directed against the security of the rest of the country's citizens and would lead to hostile relations between Macedonians who had allegedly faced discrimination and other Bulgarians.

In the third case, Kiril Kostadinov Ivanov complains about the authorities' refusal to allow two rallies, one in September 2006 by the Macedonian Initiative Committee, and one by Ilinden in September 2007. Mr Ivanov, who is the brother of one the applicants in the first two cases, was instrumental in organising both events. The authorities' reasons for refusing to allow the first rally included the fact that it would clash with a concert planned for the same day, particularly because Mr Ivanov's event was to be political in nature. The circumstances of the banning of the September 2007 rally were dealt with in the case of *United Macedonian Organisation Ilinden and Ivanov v. Bulgaria (No. 2)*.

The applicants in all three cases complain under Article 11 (freedom of assembly and association) and Article 14 (prohibition of discrimination). Mr Kiril Ivanov also complains under Article 13 (right to an effective remedy).

Cipolletta v. Italy (no. 38259/09)

The applicant, Aldo Cipolletta, is an Italian national who was born in 1928 and lives in Recanati (Italy). The case concerns her complaint about a liquidation procedure.

On 30 April 1985 the Macerata District Court declared insolvent a cooperative housing company of which Mr Cipolletta claimed to be a creditor. The company was placed in "administrative liquidation" under the management of a liquidator. In September 1986 Mr Cipolletta objected to the list of claims on the ground that his was not included. In a judgment of 17 April 1997, the Macerata District Court found that Mr Cipolletta and the liquidator had signed an agreement recognising the existence of a claim of approximately 129,114 euros and had amended the list of claims accordingly.

According to the information provided to the Court by Mr Cipolletta on 24 December 2010, the liquidation procedure was still pending on that date. Mr Cipolletta did not initiate a "Pinto procedure" on the ground that the Court of Cassation would have considered the so-called "Pinto Act" inapplicable to "administrative liquidation" proceedings.

Relying on Articles 13 (right to an effective remedy) and 14 (prohibition of discrimination), Mr Cipolletta alleges that the length of the "administrative liquidation" proceedings was in breach of the "reasonable time" principle. He also complains that the remedy under the "Pinto Act" was ineffective.

Bencheref v. Sweden (no. 9602/15)

The applicant, Kader Bencheref, was born in 1985 and lived in Växjö, Sweden, until he was expelled to Algeria in 2017.

Mr Bencheref applied for asylum and a residence permit in Sweden in 2006, stating that he was of Moroccan origin and complaining about the conditions in that country. He was arrested on various charges later the same year, including attempted rape and assault, and was later found guilty. After a 2007 court of appeal decision, he was sentenced to three years in prison, expulsion and a 10-year ban on his return.

After his conviction, the migration authorities struck out his asylum application and in September 2008 he was placed in detention pending his expulsion to Morocco. He was subsequently held in detention pending expulsion, apart from a short period in psychiatric care in 2010 and in prison in 2014 after he had been found guilty of molesting detention centre officials and of damaging property. He made several unsuccessful appeals against the detention order.

In October 2016 he informed the Swedish authorities that he was of Algerian rather than Moroccan origin, leading to the enforcement of the expulsion order in February 2017 and his departure for Algeria. Mr Bencheref maintained his application to the Court after his expulsion.

Relying on Article 5 (right to liberty and security), Mr Bencheref complains that his detention had been arbitrary and completely disproportionate given that at the time he had submitted his

complaint he had been in detention since September 2008, without the authorities being able to enforce the expulsion order.

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.

Fidanyan v. Armenia (no. 62904/12)
Papoyan v. Armenia (no. 7205/11)
Sahakyan v. Armenia (no. 46664/10)
Nagiyev and Others v. Azerbaijan (nos. 59591/13, 34151/14, and 51860/14)
Novruzova and Others v. Azerbaijan (nos. 28884/14 and 33892/14)
Aberkan v. Belgium (no. 28529/17)
Harizanov v. Bulgaria (no. 53626/14)
Ezgeta v. Croatia (no. 3048/14)
Macut v. Croatia (no. 44484/15)
Mirić v. Croatia (no. 28571/16)
Soldo v. Croatia (no. 15301/14)
Vilić v. Croatia (no. 59816/12)
Vukelić v. Croatia (no. 6718/13)
Colloredo Mansfeldová v. the Czech Republic (no. 51896/12)
Burjanadze v. Georgia (no. 50365/09)
Paspati v. Greece (no. 4015/13)
Skandalaki v. Greece (no. 10643/13)
Vatikiotis v. Greece (no. 55898/14)
Soltész and Others v. Hungary (no. 66534/11)
Chelbi v. Italy (no. 16285/11)
Dimo and Others v. Italy (nos. 44004/11, 45582/11, 79944/13, and 6354/14)
Balık v. Poland (no. 10531/12)
Baszczyński v. Poland (no. 77103/13)
Bukowski v. Poland (no. 92/12)
Cholewiński v. Poland (no. 28326/11)
Długosz and Others v. Poland (no. 5791/11 and 59 other applications)
Drzyzga v. Poland (no. 47044/14)
Flis v. Poland (no. 10034/09)
Kłodziński v. Poland (no. 26857/10)
Kranas v. Poland (no. 41253/11)
Kuryłek v. Poland (no. 9564/12)
Małek v. Poland (no. 9919/11)
Różnicki and Others v. Poland (no. 42192/11 and 28 other applications)
Siodłowski v. Poland (no. 42530/10)
Wróblewski v. Poland (no. 18827/15)
Wrona v. Poland (no. 68561/13)
Bejenaru v. Romania (no. 49167/13)
Liţă and S.C. Georgiana Import Export S.R.L. v. Romania (no. 46468/12)
Marşavela v. Romania (no. 42937/15)
Safaliu v. Romania (no. 56062/13)
Agishev v. Russia (no. 55673/10)
Astredinova v. Russia (no. 26207/05)
B.T. v. Russia (no. 40755/16)

Barinova v. Russia (no. 6690/11)
Alla Borisenko and Others v. Russia (nos. 6494/05, 8064/06, 58317/08, 54463/10, 7364/11, 11007/11, 11216/11, 35179/11, and 36022/11)
Vladimir Borisenko and Others v. Russia (nos. 2230/06, 14909/09, 45117/09, 32055/10, 10417/12, 10604/12, 10607/12, 14819/12, and 42566/12)
Chekrygina and Others v. Russia (nos. 27274/06, 34716/06, 55051/08, 5546/09, 32134/09, 5069/10, 17904/11, and 57357/11)
Golubev and Others v. Russia (nos. 8811/09, 65750/11, 13392/14, 8025/16, 17041/16, 48415/16, 55254/16, 69555/16, 1182/17, and 3518/17)
Kazanskaya and Others v. Russia (nos. 60465/10, 59544/15, 33047/16, 59778/16, 63563/16, 68818/16, 8505/17, and 9589/17)
Levin and Others v. Russia (nos. 29584/05, 38432/11, 60229/11, 70271/12, 15174/13, 9210/15, 43735/16, 9495/17, and 14039/17)
Lutovinov and Others v. Russia (nos. 14250/08, 54785/16, 7017/17, 8092/17, 13446/17, 13453/17, and 14048/17)
Mokin and Others v. Russia (nos. 49876/16, 52551/16, 54118/16, 54239/16, 54245/16, 54598/16, 57452/16, 75107/16, 78505/16, 79536/16, 6161/17, 6252/17, and 6259/17)
Oganyan and Others v. Russia (nos. 28999/10, 11467/13, and 3482/16)
Pavlov and Others v. Russia (nos. 24715/16, 44246/16, 5600/17, 6690/17, 11771/17, 12052/17, 14416/17, and 16116/17)
Sagatinov and Others v. Russia (nos. 20792/08, 3267/12, and 20326/12)
Salikhova v. Russia (no. 30422/14)
Shatilov and Others v. Russia (nos. 1397/15, 69209/16, 78046/16, 3552/17, 5013/17, 8975/17, 9284/17, 9854/17, 11000/17, and 12698/17)
Stepanenko and Others v. Russia (nos. 66304/09, 35656/10, 70483/10, 32456/11, 52837/12, 7169/14, 18096/14, 19035/14, 42873/15, and 44161/15)
Stepanov and Others v. Russia (nos. 27015/12, 35210/16, 40467/16, 48141/16, 78007/16, 5883/17, and 7590/17)
Strokov and Others v. Russia (nos. 55058/13, 12194/16, 24305/16, 70669/16, 6623/17, 8167/17, 10993/17, and 12700/17)
Stryukov and Others v. Russia (nos. 37632/08, 4811/09, 58232/10, 1018/11, 55313/14, 79690/16, 8727/17, and 10401/17)
Vasilyev and Yurchenko v. Russia (nos. 16143/16 and 78509/16)
Gomol v. Serbia (no. 59690/12)
Stanković v. Serbia (no. 60197/16)
Bencheref v. Sweden (no. 9602/15)
Taseva Petrovska v. 'the former Yugoslav Republic of Macedonia' (no. 73759/14)
Başkaya v. Turkey (no. 53829/10)
Bilici v. Turkey (no. 49025/06)
Bilim v. Turkey (no. 53744/08)
Erdoğan v. Turkey (no. 32985/12)
Karadağ v. Turkey (no. 26427/08)
Nazlıer v. Turkey (no. 33300/10)
Ok and Others v. Turkey (no. 9510/06)
Parlakçi and Others v. Turkey (nos. 39093/09, 39094/09, and 39470/09)
Şahan and Others v. Turkey (nos. 61021/10, 61249/10, 70689/10, 70706/10, and 70733/10)
Sürmeli and Sevin v. Turkey (nos. 29061/06 and 34582/06)
Tanrıyar v. Turkey (no. 55958/08)
Yilmaz and Others v. Turkey (nos. 4390/08, 4395/08, 4417/08, 4760/08, 4781/08, 10433/08, and 10446/08)
Yüce v. Turkey (no. 55560/09)

Bobrenok v. Ukraine (no. 41471/10)
Chaykovskyy and Bidukha v. Ukraine (nos. 10152/10 and 22398/14)
Donskoy v. Ukraine (no. 18251/12)
Ignatyev v. Ukraine (no. 1267/13)
Karington and Others v. Ukraine (nos. 4306/12, 62393/12, 6506/15, 24194/15, 40554/15, 10749/17, and 29880/17)
Kovtun and Goloborodko v. Ukraine (nos. 22540/17 and 27936/17)
Mikhaylov and Others v. Ukraine (nos. 80643/12, 24135/13, 39615/13, 47396/13, 55766/13, 61635/13, 73056/13, 73715/13, 60061/14, 73810/14, and 24675/16)
Nakonechnyy and Others v. Ukraine (nos. 34900/08, 47003/08, 38999/09, 62281/09, 17756/11, 63545/11, 4925/12, 6407/12, 31425/12, 53655/12, and 72474/12)
Sergiyenko and Sachenko v. Ukraine (nos. 78377/13 and 41506/16)
Starenkiy and Rudoy v. Ukraine (nos. 44807/10 and 15752/14)
Varusha and Nikolayenko v. Ukraine (nos. 9486/14 and 10437/14)

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)