



## Forthcoming judgments and decisions

The European Court of Human Rights will be notifying in writing 12 judgments on Tuesday 10 April 2018 and 37 judgments and / or decisions on Thursday 12 April 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](http://www.echr.coe.int))*

### Tuesday 10 April 2018

#### [Bistieva and Others v. Poland \(application no. 75157/14\)](#)

The applicants, Zita Bistieva, a Russian national born in 1976, and her three minor children, born in 2006, 2008, and 2013 respectively, live in Herne (Germany).

The case concerns the family's detention in a centre for aliens in Poland.

Ms Bistieva arrived in Poland with her husband and her first two children in 2012. The husband applied for asylum for himself and the family but the authorities rejected the application in March 2013 and ordered their expulsion. The family fled to Germany, where Ms Bistieva had a third child. The German authorities sent her and the children back to Poland in January 2014 and they were placed in the Kętrzyn aliens centre where Ms Bistieva's husband apparently joined them in February 2014. They were released from the centre in June 2014, eventually moving back to Germany.

Ms Bistieva and her children complain about their detention in the centre under Article 5 § 1 (f) (right to liberty and security), Article 5 § 4 (right to have lawfulness of detention decided speedily by a court) and Article 8 (right to respect for private and family life) of the European Convention on Human Rights.

#### [Brudan v. Romania \(no. 75717/14\)](#)

The applicant, Lucia Brudan, is a Romanian national who was born in 1958 and lives in Suatu (Romania).

The case concerns the length of criminal proceedings brought against her, which began on 23 March 2000 and ended on 18 June 2014.

Ms Brudan, who was suspected of involvement in a fraud case related to petroleum products, was placed in pre-trial detention on 23 March 2000. She was given a suspended prison sentence in March 2003 but the judgment was set aside by the High Court on the grounds that a fresh expert report ought to have been produced. Ms Brudan was subsequently sentenced in May 2008 to a new prison term. That judgment was overturned on appeal. In September 2012 she was convicted of embezzlement. The court noted that a presidential pardon had already been granted in respect of the prison sentence and ordered the termination of proceedings in respect of certain charges which had become time-barred. This judgment was upheld on appeal, but quashed in June 2013 by the High Court, which held that, under a 2006 legislative amendment, the county court which had convicted the applicant did not have jurisdiction. On 3 March 2014 the court of first instance delivered a judgment, noting that several charges had become time-barred or been decriminalised, and ordered that a sum of money be confiscated from Ms Brudan. The judgment became final after the dismissal on 18 June 2014 of an appeal by the applicant.

Relying on Article 6 § 1 (right to a fair trial within a reasonable time), the applicant considers that the criminal proceedings brought against her on 23 March 2000, which were terminated by the judgment of 18 June 2014, exceeded a reasonable time. She also alleges that there is no effective remedy under domestic law enabling her to protest in respect of proceedings exceeding a reasonable time, in breach of Article 13 (right to an effective remedy).

[Leonov v. Russia \(no. 77180/11\)](#)

[Magomadova v. Russia \(no. 77546/14\)](#)

The applicant in the first application is Sergey Leonov, who was born in 1983, while the applicant in the second application is Elita Magomadova, who was born in 1974. Both applicants are Russian nationals and live in Moscow.

The cases concern child residence orders.

After his wife left him in 2009, Mr Leonov applied for a court order in 2010 to have his son live with him. The district court eventually issued a residence order in favour of the mother in April 2011, a decision that was upheld on appeal in June of the same year. During the proceedings, Mr Leonov lodged an objection to the district court judge, alleging that she had stated that according to the established practice a residence order was always made in favour of the mother.

Ms Magomadova split up from her husband in 2010. In 2013, the father took their child, a boy, to Grozny in Chechnya, and she was prevented from visiting him. She applied for a residence order in her favour, but in April 2014 the district court granted one to the father. The decision was upheld on appeal in July 2014. The child was returned to her in 2016 after the father died in a car crash.

Mr Leonov complains under Article 8 (right to respect for private and family life), Article 14 (prohibition of discrimination) taken in conjunction with Article 8, and Article 5 of Protocol No. 7 (equality between spouses). Ms Magomadova relies in her complaint on Article 8 and Article 13 (right to an effective remedy).

[Rubtsov and Balayan v. Russia \(nos. 33707/14 and 3762/15\)](#)

The applicants, Aleksandr Rubtsov and Gagik Balayan, are Russian nationals who were born in 1965 and 1966 respectively and live in Moscow.

The case concerns a rule in Russian law excluding pre-trial detention for those accused of certain business-related offences.

The applicants spent periods of detention on remand between 2013 and 2014. Mr Rubtsov, the indirect owner of a company, was arrested on suspicion of defrauding his business partners. Mr Balayan, the owner of a bank, was arrested on suspicion of transferring money out of his bank through unsecured promissory notes.

They both sought their release, arguing before the courts that, as suspects of offences committed as part of their business activity, their remand in custody was prohibited under Russian law (namely Article 108 § 1.1 of the Code of Criminal Procedure). The courts rejected their argument, finding that their offences had not been committed within the sphere of their business.

Relying on Article 5 (right to liberty and security) they complain that they should not have been placed in custody and that their argument against it was dismissed by the courts without reason. Mr Rubtsov also alleges under Article 5 § 3 that his pre-trial detention was excessively long and unreasonable.

### [Tsvetkova and Others v. Russia \(nos. 54381/08, 10939/11, 13673/13, 69739/14, 70724/14, and 52440/15\)](#)

The applicants, Svetlana Tsvetkova, Aleksandr Bgantsev, Pavel Andreyev, Aleksey Dragomirov, Viktor Torlopov, and Kirill Svetlov are Russian nationals who were born in 1972, 1958, 1989, 1980, 1963, and 1990 respectively and live in Russia.

The case concerns deprivation of liberty in relation to administrative offences.

The applicants were all escorted to police stations on various dates between 2008 and 2015 and held in detention there for different periods of time, ranging from five hours for Ms Tsvetkova to 40 hours for Mr Andreyev, before being released or sentenced to administrative detention.

All the applicants rely in their complaints on Article 5 § 1 (right to liberty and security), while Mr Andreyev, Mr Dragomirov and Mr Torpolov also complain of violations under Article 5 § 5 (right to compensation). Mr Andreyev cites Article 6 § 1 (access to court) while Mr Bgantsev complains in addition under Article 3 (prohibition of inhuman or degrading treatment) in relation to the conditions of his detention and under Article 13 (right to an effective remedy). Mr Svetlov has applied under Article 6 §§ 1, 2, and 3 (b) and (c) (right to a fair trial / presumption of innocence / right to adequate time and facilities for preparation of defence / right to legal assistance of own choosing), and Article 2 of Protocol No. 7 (right of appeal in criminal matters).

### [Vladimirova v. Russia \(no. 21863/05\)](#)

The applicant, Alla Vladimirova, is a Russian national who was born in 1957 and lives in Stavropol (Russia).

The case concerns Ms Vladimirova's grocery retail trade company, Akvilon, and its loss of five tonnes of sugar.

In 2001 Akvilon arranged to sell the batch of sugar to two individuals. However, the transaction went wrong and criminal proceedings were instituted against the individuals on suspicion of misappropriation of Akvilon's property. These proceedings were suspended in 2007 because it could not be established who was responsible. In the meantime in 2005, Akvilon was awarded compensation for pecuniary damage in commercial proceedings. The commercial courts notably found that the investigator in charge of the criminal case had been negligent when leaving the sugar in storage with the individuals accused of the misappropriation. The award was paid in full in 2007.

Relying on Article 1 of Protocol No. 1 (protection of property) and Article 6 § 1 (right to a fair hearing), Ms Vladimirova alleges that the sugar belonging to her company was lost because of the investigator's negligence and that the judgment awarding her company damages remained unenforced for more than two years.

### [Eryiğit v. Turkey \(no. 18356/11\)](#)

The applicants are 7 Turkish nationals who were born between 1956 and 1998 and live in Istanbul.

The case concerns an erroneous prenatal diagnosis.

On 7 November 1997 Hava Eryiğit ("the first applicant"), who was pregnant, was taken to the Süleymaniye Hospital. The medical diagnostic established that she was expecting twins. Ms Eryiğit was transferred to the Şişli Etfal Hospital where, after an ultrasound, doctors reached the same diagnosis. She was ultimately transferred to the Zeynep Kamil Hospital. The following day, on 8 November 1997, Ms Eryiğit gave birth to one baby. The applicants lodged a criminal complaint for the disappearance of a new-born baby.

At the close of a criminal investigation the prosecutor discontinued the proceedings on the grounds that there had been an erroneous diagnosis on account of Ms Eryiğit's excess weight and that there

had never been a twin baby. The Istanbul Administrative Court dismissed the applicants' action on the grounds that there had merely been an error in diagnosis and that such errors occurred frequently. The Supreme Administrative Council set aside that judgment and held that Ms Eryiğit should be awarded damages in respect of the suffering caused by the absence of a second child as diagnosed.

Relying in particular on Article 8 (right to respect for private and family life), the applicants consider that they were not duly compensated, having regard to the damage sustained by their families on account of the disappearance of a second newborn. They also allege that their case was not examined promptly and effectively.

[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.

**Aliyev v. Russia** (no. 35242/07)

**Lesnikovich v. Russia** (no. 17181/09)

**Liu v. Russia** (no. 13311/10)

**Sidorin and Others v. Russia** (no. 41168/07)

Thursday 12 April 2018

[Sakskoburggotski and Others v. Bulgaria \(nos. 38948/10, 55777/12 and 8954/17\)](#)

The case concerns the former King of Bulgaria, his sister and five other members of the royal family, and their attempts to obtain the restitution of former properties of the Crown.

The monarchy was abolished in Bulgaria in 1946. The following year Parliament passed legislation (the 1947 Act) confiscating royal properties, which were then used by the State.

In 1998 the Constitutional Court found that the 1947 Act was contrary to the Constitution and the applicants subsequently sought the return of properties previously used by the royal family. Between 1999 and 2004 all but one of the properties, namely the Krichim estate consisting of a palace, auxiliary buildings and land, was transferred into the possession of the royal family. Further proceedings against the State over the estate were unsuccessful. The authorities in turn brought proceedings against the applicants over all but two of the properties which had been returned to the royal family. The courts eventually found for the State in 2016 as concerned two of the properties – the Saragyol complex, a hunting lodge, and the Sitnyakovo estate, another palace and its surroundings. Most of the proceedings over the remaining properties are apparently still pending.

In the meantime in 2009 Parliament imposed a moratorium on the commercial use and sale of the properties which had been returned to the royal family. This moratorium is still in force.

All seven applicants complain under Article 1 of Protocol No. 1 (protection of property) about the parliamentary decision of 2009, arguing that the indefinite nature of the decision has placed them in a position of uncertainty. They also complain under Article 6 § 1 (access to court) and Article 13 (right to an effective remedy) that they have no legal means at their disposal to challenge such a decision as it was decided by Parliament. Further relying on Article 1 of Protocol No. 1, the former King of Bulgaria and his sister also complain about the domestic courts' decisions refusing to declare them the owners of the Krichim estate while recognising the State as owner of the Saragyol complex and the Sitnyakovo estate.

The first two applicants are the former King of Bulgaria, Simeon Borisov Sakskoburggotski, a Bulgarian national, born in 1937 and living in Sofia, and his sister, Maria-Luisa Borisova Chrobok, a

dual Bulgarian and German national, born in 1933 and living in Banya (Bulgaria). The other five applicants are the remaining heirs of Ferdinand I, who was the King of Bulgaria until his abdication in 1918, and live in France and Germany. They are Ferdinand von Württemberg, a German national, born in 1925 and living in Friedrichshafen, Alexander von Württemberg, a German national, born in 1933 and living in Munich, Eugen von Württemberg, a German national, born in 1930 and living in Frankfurt am Main, Sophie Eudoxie Maria Luise de Württemberg, a German national, born in 1937 and living in Paris, and Margarèthe Luce-Bailly de Chevigny, a German national, born in 1928 and also living in Paris (France).

#### [Goran Kovačević v. Croatia \(no. 34804/14\)](#)

The applicant, Goran Kovačević, is a Croatian national who was born in 1981 and lives in Dubrovnik (Croatia).

The case concerns Mr Kovačević's allegation of police ill-treatment, denial of access to a lawyer and of being forced to make incriminating statements against his co-accused in the trial.

Mr Kovačević was arrested on 21 October 2010. The following day, he confessed during questioning to having sold amphetamines and bought cocaine from one of his co-accused. He repeated his confession to the investigating judge and was released. According to the two reports on his questioning by the police and by the investigating judge, he had sustained minor injuries when resisting the police during his arrest, as confirmed by a doctor. He had also been advised of his right to remain silent and to hire a lawyer. He had, however, refused to hire a lawyer of his own choosing and had signed both reports without objections.

He eventually hired a lawyer in December 2010 and his case went to trial in January 2011. Six months later, at the end of the trial, he stated that he had been beaten both during his arrest and at the police station. He also retracted his confession about buying cocaine, alleging that it had been made under duress. The trial court, dismissing these allegations as lacking credibility, found Mr Kovačević guilty and sentenced him to two years in prison. His conviction was upheld by the Supreme Court in 2012 and his sentence reduced to one year. His constitutional complaint was dismissed as ill-founded in 2013.

Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Kovačević alleges being ill-treated during his stay in the police station and there being no effective response on the part of the domestic authorities in that respect. He also alleges under Article 6 §§ 1 and 3 (c) (right to a fair trial and right to legal assistance of own choosing) that his trial was not fair because he had been denied access to a lawyer and pressured into making incriminating statements against his co-accused.

#### [Chim and Przywieczerski v. Poland \(nos. 36661/07 and 38433/07\)](#)

The applicants, Janina Irena Chim and Tytus Dariusz Przywieczerski, are Polish nationals who were born in 1950 and 1946 and live in Warsaw (Poland) and St. Petersburg (Florida, United States of America) respectively.

The case concerns the applicants' trial and conviction for various offences related to the running of the State-run Fund for the Service of Foreign Debt (FOZZ).

Ms Chim was deputy director general of the FOZZ, while Mr Przywieczerski was the managing director and chairman of the board of a company which had dealings with it. After being indicted in January 1998, both Ms Chim and Mr Przywieczerski were convicted in March 2005 of misappropriation of FOZZ funds and other offences. They were given prison sentences and fines. On appeal, they alleged that the trial court judge had been appointed unlawfully as the correct procedure for selecting him had not been followed, and that he had not been impartial. They noted in particular that he had been involved as an advisor in Parliament's drafting of legislation on extending time-limits to prosecute offences. The draft bill made direct reference to the FOZZ case.

The appeal court in January 2006 partially quashed the convictions. Further proceedings included a partial overruling of the appeal court decision by the Supreme Court in February 2007, which also rejected arguments by the applicants about the judge's lack of impartiality. In February 2009 the Constitutional Court upheld one of its own previous rulings that the time-limit legislation was constitutional and that the passage of the bill had not affected the judicial determination of the FOZZ case.

The applicants complain under Article 6 § 1 that the trial judge was assigned in violation of domestic law, that he was not impartial and that there was legislative interference in the criminal proceedings.

### [Bektashi Community and Others v. 'the former Yugoslav Republic of Macedonia' \(nos. 48044/10, 75722/12, and 25176/13\)](#)

The applicants are the Bektashi Community, a religious association, and two of its members, Mr E. Brahimaj, an Albanian national, and Mr A. Sulejmani, a Macedonian national. They both live in 'the former Yugoslav Republic of Macedonia', in Tetovo and Gostivar. Mr E. Brahimaj holds the highest position in the hierarchy of the community.

The case concerns their complaint that, when new legislation entered into force in 2007, the domestic courts refused to allow the association to retain its status as a religious organisation and to accept its fresh application for registration.

The applicant association operated as an officially recognised religious organisation from 1993. When new legislation on the legal status of churches, religious communities and groups entered into force in 2007, the association requested that the registration court recognise its continuing legal status. Its request was however refused on a formal ground, namely it had not been registered prior to 1998, but only listed in 2000. It then made a fresh application for registration under the new legislation, but in 2010 this request was also refused, mainly because the courts found that its name and doctrinal sources were identical to those of another already registered religious organisation and that this could create confusion among believers.

Relying on Article 9 (freedom of thought, conscience, and religion), Article 11 (freedom of assembly and association) and Article 14 (prohibition of discrimination), the applicants complain about the domestic courts' decisions refusing to recognise the association as a religious organisation or to register it anew. They also rely on Article 6 § 1 (right to a fair hearing) to complain that no oral hearing was held in either the recognition or registration proceedings.

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**Salifov v. Azerbaijan** (no. 28727/07)

**Poplaz v. Germany** (no. 51742/15)

**Burgyán and Others v. Hungary** (nos. 42497/13, 57067/13, 57982/13, 60038/13, 72551/13, 80069/13, 57260/14, 63811/14, 44737/16, and 51336/17)

**Filiczky v. Hungary** (nos. 1995/14, 28210/14, 31448/14, 34464/14, 51360/14, 57594/14, 59019/14, 62336/14, 63814/14, 65977/17, and 65983/17)

**Grabarics Építőipari Kft v. Hungary** (no. 69985/13)

**Gyuricza and Others v. Hungary** (nos. 79747/13, 63806/14, 67100/14, 72793/14, 16411/15, 17793/15, 21703/15, and 27040/15)

**Jáger and Szukicsné Tatai v. Hungary** (nos. 68103/14 and 76872/14)

**Kincses and Others v. Hungary** (nos. 29499/13, 76211/13, 613/14, 3185/14, 37562/14, and 60761/16)  
**Unseen ehf. v. Iceland** (no. 55630/15)  
**Jamal v. Norway** (no. 19096/15)  
**Chilu and Arhip v. Romania** (nos. 4244/16 and 44403/16)  
**Negrea and Others v. Romania** (nos. 45335/14, 50339/15, 10465/16, and 25128/16)  
**S.C. Jakotrans S.R.O. and Kopál v. Romania** (no. 34888/12)  
**Timiș v. Romania** (no. 16945/16)  
**Antonov v. Russia** (no. 46486/09)  
**Bozhkov and Others v. Russia** (nos. 17071/05, 5951/08, 15622/09, 18297/11, 17115/15, and 62983/16)  
**Dzhabrailov and Shibashov v. Russia** (nos. 44585/11 and 3374/17)  
**Khakimov and Others v. Russia** (nos. 7521/05, 30342/06, 12626/10, 16330/10, 16332/10, 62880/10, 33655/11, and 782/12)  
**Kryzhanovskiy v. Russia** (no. 27173/16)  
**Kurochkin and Others v. Russia** (nos. 42163/10, 17221/17, 22603/17, 23912/17, and 35874/17)  
**Moskaleva and Others v. Russia** (nos. 40621/11, 14051/12, 40193/14, and 40196/14)  
**Naumov and Others v. Russia** (nos. 30777/06, 34080/11, 65253/11, 75524/11, 7845/13, 44012/16, and 45865/16)  
**Ovchinnikov and Others v. Russia** (nos. 45430/16, 65844/16, and 26227/17)  
**Podmarkov v. Russia** (no. 43744/09)  
**Prokopyev v. Russia** (no. 31478/17)  
**Samulevich v. Russia** (no. 11693/07)  
**Verbnyak and Others v. Russia** (nos. 16971/09, 58395/10, and 75566/10)  
**Çüven and Others v. Turkey** (nos. 33262/13, 6020/16, 34066/16, 34073/16, 34080/16, 34085/16, and 35384/16)  
**Kaya and Others v. Turkey** (no. 9342/16)  
**Drozdov v. Ukraine** (no. 2593/09)  
**Polovych v. Ukraine** (no. 23730/11)  
**Solovyov v. Ukraine** (no. 26618/14)  
**Zhytlobud - BK, TOV v. Ukraine** (no. 74864/12)

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