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 21 judgments on Tuesday 10 July 2018 and 69 judgments and / or decisions on Thursday 12 July 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 10 July 2018

Ščensnovičius v. Lithuania (application no. 62663/13)

The applicant, Anton Ščensnovičius, is a Lithuanian national who was born in 1980 and is detained in Pravieniškės Correctional Facility (Lithuania) for participation in an armed criminal organisation and drugs offences.

The case concerns the length and conditions of his detention on remand.

Mr Ščensnovičius was arrested in February 2010 and, given the seriousness of the crimes he was suspected of, his previous convictions and the risk of him absconding and/or interfering with the investigation, the courts authorised his detention on remand. This detention was repeatedly extended on essentially the same grounds until February 2014 when he was placed under house arrest.

He was subsequently convicted in May 2014 and sentenced to eight years' imprisonment and a fine. His sentence was increased to 12 years on appeal. However, on examining his appeal on points of law, the Supreme Court reduced the 12-year sentence by six months because of the delays in the criminal proceedings and the long duration of his detention on remand.

In administrative proceedings, Mr Ščensnovičius lodged two separate claims for compensation because of inadequate conditions of detention on remand, notably due to overcrowding. The courts awarded him 3,389 euros (EUR) for the period of his detention from February 2010 to May 2013 and EUR 1,437 for the period from May 2013 to February 2014.

Relying on Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights, Mr Ščensnovičius alleges that, even though he was awarded compensation for inadequate conditions of detention, the sums were inadequate. Also relying on Article 5 § 3 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial), he alleges that the time he spent in detention on remand was excessive.

X v. the Netherlands (no. 14319/17)

The applicant, Mr X, is a Moroccan national who was born in 1988 and is currently in the Netherlands.

The case concerns his possible expulsion from the Netherlands to Morocco.

He left Morocco in 2012 and went to stay with family in the Netherlands, overstaying his tourist visa. In 2014 he was arrested on suspicion of planning terrorist attacks in the Netherlands and placed in police custody. In June 2016 he was convicted of preparing terrorist offences and sentenced to 12 months' imprisonment.

In the meantime, he had applied for asylum, claiming that he would be at risk of being detained and ill-treated if he were removed to Morocco where he was considered a terror suspect. His application was rejected in July 2016, the Netherlands authorities finding that he had not made out a plausible case. In particular he was not being searched for by the Moroccan authorities, nor had he been charged with any criminal offences there. His fears were based on general reports and assumptions. The courts upheld this decision and rejected the applicant's appeal in February 2017.

The Dutch authorities scheduled the applicant's removal to Morocco in March 2017. However, his deportation was stayed on the basis of an interim measure granted by the European Court of Human Rights under Rule 39 of its Rules of Court, which indicated to the Dutch Government that he should not be deported for the duration of the proceedings before it.

Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment), the applicant alleges in particular that, as a known terror suspect, he belongs to a group systematically exposed to torture and/or ill-treatment in Morocco. He alleges that the Moroccan authorities must be aware of his conviction for a terrorism offence in the Netherlands and his links to a dismantled terrorist cell in Morocco, because he was personally named in a Moroccan judgment convicting nine members of the cell.

Abdulkadyrov and Dakhtayev v. Russia (no. 35061/04)

The case concerns the applicants' being ill-treated while in police custody, the lack of a proper investigation into their allegations, the fact that the evidence obtained from the ill-treatment was used to convict them, as well as the applicants' being allocated to remote penal facilities for serving their sentences.

Mr Abdulkadyrov and Mr Dakhtayev were arrested in September 2002 in the Chechen capital Grozny. They allege that during several days each of unrecorded detention they were forced to confess to being members of an illegal armed group and to the murder of several people, including police officers and military servicemen. The ill-treatment included being beaten with truncheons, receiving electric shocks while they had gas masks or bags on their head, and threats of rape and blackmail.

They were convicted in May 2004 and given sentences of 25 years' imprisonment, which were reduced slightly on appeal. The domestic courts based their verdicts on the applicants' confessions and dismissed their complaints of ill-treatment and of not being able to examine prosecution witnesses at the trial. They were subsequently sent to serve their sentences in correctional colonies that are more than 3,000 km from their home region.

Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment), the applicants complain of ill-treatment by the police and of the lack of a proper investigation. They also complain that their trial was unfair under Article 6 §§ 1 and 3 (d) (right to a fair trial and right to obtain attendance and examination of witnesses), and about being sent to serve their sentences so far away from their relatives under Article 8 (right to respect for private and family life).

Kumitskiy and Others v. Russia (no. 66215/12)

The applicants, Aleksey Kumitskiy, Igor Glushchenko, Sergey Volchkov, Rustam Akhmadiyev, and Fedor Nikolayev, are five residents of Russia who were born in 1983, 1972, 1970, 1988, and 1986 respectively.

The case concerns their complaints about police entrapment.

The five applicants were all convicted of various drugs-related offences, with the final domestic decisions being handed down between March 2012 and April 2015. They allege, among other things, that they were pressured into selling the drugs in question and that there was a lack of incriminating information.

Relying on Article 6 § 1 (right to a fair trial) the applicants complain principally that they were convicted unfairly of drugs offences which they were incited to commit and that their allegation of entrapment was not properly examined in the domestic proceedings.

Vasilevskiy and Bogdanov v. Russia (nos. 52241/14 and 74222/14)

The applicants, Aleksandr Vasilevskiy and Yan Bogdanov, are Russian nationals who were born in 1973 and 1981 respectively and live in Blagoveshchensk and the Novgorod Region (both in Russia).

The case concerns the applicants' complaints about a negligible amount of compensation for wrongful imprisonment.

Mr Vasilevsky, released from prison in June 2007, was awarded the equivalent of 3,320 euros for being held in jail for 472 days longer than he should after the sentencing courts did not take account of the time he had spent in pre-trial detention.

Mr Bogdanov was sentenced to 12 years in prison in 2006 for supplying drugs, but the sentence was reduced in 2013 to six years and he was released after the courts found the police had incited some of the offences. He sought compensation for 119 days in custody beyond his due release date. In March 2014 he was awarded the equivalent of 1,576 euros, which was further reduced to 324 euros by a higher court in July of the same year.

Both applicants complain about the low level of their award under Article 5 § 5 (right to compensation).

Bakır and Others v. Turkey (no. 46713/10)
İmret v. Turkey (no. 2) (no. 57316/10)

Both cases concern complaints brought by 13 Turkish nationals about their criminal convictions for participating in demonstrations.

The applicants in the first case are 12 Turkish nationals born between 1954 and 1987. Ten of the applicants live in Turkey, one lives in France, and one lives in Switzerland. The applicant in the second case, Abdulcelil İmret, is also a Turkish national. He was born in 1958 and lives in Batman (Turkey).

Four of the applicants in the first case and the applicant in the second case were convicted, under Articles 220 § 7 and 314 of the Criminal Code, of membership of an illegal armed organisation. Following their participation in various demonstrations, they were found to have "knowingly and willingly" aided, respectively, the MLKP (Markist-Leninist Communist party) and the PKK (Kurdish Workers' Party).

The other eight applicants in the first case were convicted under another law, namely section 7(2) of the Prevention of Terrorism Act (Law no. 3713), of disseminating propaganda in favour of the MLKP.

In convicting the 12 applicants in the first case in 2008, the courts concluded that they had participated in demonstrations in 2005 and 2006 which, although authorised by the authorities, were used as a front by legal civil society organisations such as the ESP (the Socialist Platform of the Oppressed) and the SGD (Socialist Youth Association) for promoting the MLKP. The courts found in particular that, during the demonstrations, the applicants had carried banners and pennants for the ESP and/or the SGD, worn clothes with "ESP" written on them and had red ribbons pinned on their arms. They had also chanted slogans.

Mr İmret, on the other hand, was convicted in 2006 of attending ten public meetings over the preceding year which the courts considered illegal because they had been organised by the People's Democratic Party (DEHAP) in line with the PKK's instructions. The courts found that Mr İmret, at the time leader of the Batman branch of DEHAP, was therefore responsible for the illegal demonstrations and that he had also made speeches praising PKK leader, Abdullah Öcalan. They rejected his argument that he had attended the meetings in his role as a local political leader to prevent clashes, specifically at the request of the security forces.

The Court of Cassation upheld the judgments in both cases.

Between 2009 and 2012 all the applicants in the first case, except one, served prison sentences ranging from one year and eight months (for the propaganda offence) and between six and seven years (for the offence of being a member of an illegal organisation). Mr İmret, the applicant in the second case, served a sentence of five years, two months and 15 days.

Relying on Article 10 and Article 11, all the applicants complain that their criminal convictions and sentences for attending demonstrations constituted an unjustified interference with their right to freedom of expression and to freedom of assembly. In particular, the applicants in the first case allege that they had no way of knowing that participating in lawful and peaceful demonstrations would lead to their prosecution, while the applicant in the second case alleges that his conviction and lengthy sentence were part of Government policy to put pressure on his political party.

Fondation Zehra and Others v. Turkey (no. 51595/07)

The applicants are the Zehra Cultural and Educational Foundation (*Zehra Eğitim Vakfı*), which had its registered office in Istanbul at the relevant time, and six Turkish nationals, Gıyasettin Bingöl, Yasin Yıldırım, Hüseyin Daşkın, Zekeriya Özbek, Cesim Yıldırım and Abdullah Şahin, who were born between 1950 and 1966 and live respectively in Bursa, Istanbul, Eskişehir, Istanbul, Van and Diyarbakır (Turkey).

The case concerns the dissolution of the applicant foundation and the cessation of its activities between 2005 and 2013. The foundation, which was set up in 1989 in order to promote social, cultural and economic cooperation between its members and contribute to scientific, social and economic development in Turkey, was dissolved in 2005. The domestic courts considered, among other findings, that the actual, undeclared aim of the foundation was to disseminate the vision of Said Nursi (who was born in 1976 and died in 1960 in Turkey), namely the creation of a Kurdish State based on Sharia law, and to publicly defend his teachings as an opponent of the republican regime and advocate of a theocratic State.

In 2014, at the request of the founding members who were still alive, the foundation was re-entered in the register of foundations on the basis of a new Law. A total of 22 properties out of the 25 that had been confiscated from it were returned to the foundation. The three remaining properties had been placed at the disposal of other public services in the meantime.

Relying on Article 11 (freedom of assembly and association), the applicants complain of the dissolution of the applicant foundation, the cessation of its activities between 2005 and 2013 and the failure to return three properties to it in 2013. They also rely on Articles 6 (right to a fair hearing) and 13 (right to an effective remedy) and on Article 1 of Protocol No. 1 (protection of property) to the Convention.

İshak Sağlam v. Turkey (no. 22963/08)

The applicant, İshak Sağlam, is a Turkish national who was born in 1966 and lives in Diyarbakır (Turkey).

The case concerns criminal proceedings brought against him for membership of Hizbullah.

A lawyer practising in Diyarbakır, Mr Sağlam was questioned by the prosecuting authorities in April 2000 on suspicion of membership of an illegal organisation, Hizbullah. He was subsequently arrested and detained on remand.

He was ultimately convicted in April 2006 and sentenced to six years and three months' imprisonment. In convicting him, the courts relied on information obtained from a computer disk found by the security forces in a house belonging to Hizbullah, and written statements by other alleged members of the group. The latter claimed that Mr Sağlam had been a recruiter for Hizbullah, giving courses to new members and being in charge of certain cells.

Mr Sağlam appealed, arguing that the trial court had failed to hear evidence from the two witnesses against him and had not given him the possibility to put questions to them, despite his requests. The judgment was however upheld by the Court of Cassation in November 2007.

Relying in particular on Article 6 §§ 1 and 3 (c) and (d) (right to a fair trial / right to legal assistance of own choosing / right to obtain attendance and examination of witnesses), Mr Sağlam makes a number of complaints about the criminal proceedings, alleging that they were too long and unfair because he had not been given legal assistance during his questioning, could not cross-examine the witnesses against him during his trial and had not had access to the other incriminating evidence against him, namely the computer disk.

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.

Cucu and Others v. the Republic of Moldova (nos. 7753/13, 75188/13, and 76511/14)
Iurcovschi and Others v. the Republic of Moldova (no. 13150/11)
Mătăsaru and Savițchi v. the Republic of Moldova (no. 43038/13)
Altun and Others v. Turkey (no. 54093/10)
Arslan and Others v. Turkey (no. 3752/11)
Çeki v. Turkey (no. 50070/10)
Çiftçi v. Turkey (no. 51586/10)
Dündar and Aydınkaya v. Turkey (no. 37091/11)
Erdem v. Turkey (no. 25014/10)
Görmüş v. Turkey (no. 40528/11)
Keskin v. Turkey (no. 16887/09)
Özcan v. Turkey (no. 4728/07)

Thursday 12 July 2018

Kamenova v. Bulgaria (no. 62784/09)

The applicant, Yordanka Kamenova, is a Bulgarian national who was born in 1942 and lives in Montana (Bulgaria).

The case concerns Ms Kamenova's complaint of the lack of a court decision on her request for compensation for the death of her daughter.

Ms Kamenova's daughter died in a traffic accident in 1997. A lorry driver was prosecuted and convicted in 1999 but the judgment was quashed and remitted for a fresh investigation in 2000. The driver was convicted in a second set of proceedings in 2002. Ms Kamenova brought a compensation claim against the driver and his employer in 2001, during the second set of criminal proceedings.

The courts awarded damages to the relatives of people who had died in the accident in 2004, but the award to Ms Kamenova was quashed in 2006 as being out of time as the appeal court found that she should have brought her claim during the first set of criminal proceedings against the driver. The courts also rejected a civil claim by Ms Kamenova, brought in 2007, as it was outside the five-year time-limit for such actions.

Relying on Article 6 § 1 (access to court), Ms Kamenova complains that the domestic courts never decided on her compensation claim.

Allegre v. France (no. 22008/12)

The applicant, Claudette Allègre, is a French national who was born in 1936 and lives in Aix-en-Provence.

The case concerns the applicant's complaint that she was unable to bring a private prosecution in the criminal courts against the Atomic Energy Commission's Research Centre (CEA).

In March 1994 Mrs Allègre's husband, who was an engineer with the CEA, died in an accidental explosion. During the investigation Mrs Allègre joined the proceedings as a civil party. No individual or entity was charged despite the requests to that effect made by the civil parties during the investigation.

On 13 July 2005, eleven years after the opening of the investigation, the investigating judge made an order finding that there was no case to answer. Neither Mrs Allègre nor the other civil parties appealed.

On 1 February 2006 Mrs Allègre brought a private prosecution against the CEA in the criminal court for unintentional homicide.

On 13 March 2007 the Aix-en-Provence Criminal Court declared the private prosecution admissible. The CEA and the public prosecutor appealed against that ruling and contested the admissibility of the private prosecution. The Aix-en-Provence Court of Appeal overturned the judgment. Mrs Allègre lodged an appeal on points of law. The Court of Cassation quashed the Court of Appeal judgment and referred the case back to the same Court of Appeal sitting in a different composition. In a fresh judgment of 2 November 2009 the Court of Appeal again overturned the first-instance ruling and declared the private prosecution against the CEA inadmissible. Mrs Allègre lodged a further appeal on points of law, which was dismissed on 11 October 2011.

Relying on Article 6 § 1 (right to a fair hearing), the applicant complains of her inability to bring a private prosecution and present her case to a court. She maintains that the exercise of this remedy has been effective since the *Botrans* ruling and that the Court of Cassation judgment of 11 October 2011 represented an unforeseeable change in the case-law.

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

Beckers v. Belgium (no. 63713/17)
Tariki v. Belgium (no. 44759/14)
Vuerinckx v. Belgium (no. 25503/10)
Dimov v. Bulgaria (no. 49128/09)
Gee and Petzev v. Bulgaria (no. 33535/13)
Petrov and Others v. Bulgaria (nos. 63852/11, 79200/13, and 3959/16)
Pilicheva v. Bulgaria (no. 45537/09)
Mateljan v. Croatia (no. 64855/11)
Todorović v. Croatia (no. 52577/15)
Abdulla and Others v. Greece (no. 62732/16)
Daoukopoulos v. Greece (no. 44711/16)
Kaliakoudas v. Greece (no. 40892/16)
Philis v. Greece (no. 244/16)

Janics v. Hungary (no. 65016/12)
Kolompár v. Hungary (no. 9978/15)
Nemes v. Hungary (no. 76901/14)
Bongi and Others v. Italy (nos. 310/16, 971/16, and 2657/16)
D'Acunto and Pignataro v. Italy (no. 6360/13)
De Biase and Others v. Italy (no. 15505/13 and 77 other applications)
De Filippo and Others v. Italy (nos. 68870/12, 68884/12, 11389/13, 11414/13, 12314/13, 13337/13, 13352/13, 21331/13, 21350/13, 21354/13, 50338/13, 51929/13, 79079/13, and 3019/14)
Buzu v. the Republic of Moldova (no. 51107/12)
Veretca v. the Republic of Moldova (no. 70671/12)
Bartoszewski v. Poland (no. 11991/17)
Grodzki v. Poland (no. 67425/12)
Karpiuk v. Poland (no. 62697/16)
Oleksa v. Poland (no. 47580/13)
Stodolski v. Poland (no. 61513/15)
Wołosowicz v. Poland (no. 11757/15)
Cazan and Others v. Romania (nos. 53702/15, 1478/16, 1874/16, 12916/16, 19325/16, 19872/16, 20182/16, 21633/16, 23222/16, 23497/16, 31945/16, and 36659/16)
Ciocan v. Romania (no. 36016/15)
Codreanu and Usturoi-Pavel v. Romania (nos. 25840/15 and 49947/15)
Hanyecz and Others v. Romania (nos. 983/16, 8402/16, 14263/16, 15794/16, 25954/16, 30168/16, 31442/16, 34086/16, 47367/16, and 58797/16)
Ioniţă and Others v. Romania (nos. 3558/16, 9536/16, 14383/16, 14641/16, 15801/16, and 27499/16)
Irod and Others v. Romania (nos. 43653/15, 54978/15, 225/16, 1198/16, and 8377/16)
Rădulescu v. Romania (no. 19579/17)
Roșu and Others v. Romania (nos. 29141/14, 31069/15, 47316/15, 48690/15, 54386/15, 61706/15, 61758/15, 3568/16, 8629/16, 10362/16, 13042/16, 16966/16, 19740/16, 27774/16, 28176/16, 30329/16, 32922/16, 39102/16, 44684/16, 45059/16, 45144/16, 50883/16, 51377/16, and 74333/16)
Rusu and Others v. Romania (nos. 57991/15, 484/16, 1417/16, 7484/16, 11412/16, 14133/16, 15423/16, 20974/16, 21676/16, 26357/16, and 42087/16)
Ivanov and Others v. Russia (nos. 57362/16, 33497/17, 33979/17, and 42354/17)
Kalinkina and Others v. Russia (no. 33067/04)
Nemtsev and Others v. Russia (nos. 53323/17, 56223/17, and 71910/17)
Sinyushkin and Others v. Russia (nos. 39041/15, 33868/17, 47454/17, 49467/17, 51883/17, and 53181/17)
Sordiya v. Russia (no. 50462/16)
Suprunenko v. Russia (no. 8630/11)
Dolovac v. Serbia (no. 15101/13)
Mijatović and Pršić v. Serbia (nos. 13697/15 and 24855/15)
Tot v. Serbia (no. 3890/18)
Harabin v. Slovakia (no. 18006/14)
Akar v. Turkey (no. 38593/10)
Bakırçay Murat Petrol Turizm İnşaatçılık San. ve Tic. LtD. Ştİ. v. Turkey (no. 27374/11)
Baş v. Turkey (no. 66448/17)
Baydar v. Turkey (no. 25632/13)
Güler v. Turkey (no. 62170/17)
Gülmezoğlu v. Turkey (no. 26162/11)
Gutsfeld v. Turkey (no. 56914/09)
Güven v. Turkey (no. 47713/12)

Karip v. Turkey (no. 47118/10)
Kartal v. Turkey (no. 23394/10)
Nergiz v. Turkey (no. 40695/10)
Öğretmenoğlu v. Turkey (no. 39890/10)
Önal v. Turkey (no. 5463/06)
Özer v. Turkey (no. 6012/07)
Pasvanoğlu v. Turkey (no. 66569/13)
Sede Petrol Ürünleri Sanayi Ve Ticaret LtD. Ştİ. v. Turkey (no. 36821/10)
Sede Petrol Ürünleri Sanayi Ve Ticaret LtD. Ştİ. v. Turkey (no. 36825/10)
Taşpınar and Çağdaş v. Turkey (no. 16672/12)
Yeşilova v. Turkey (no. 20556/10)
Yüksel v. Turkey (no. 3664/10)

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