



Forthcoming judgments and decisions

The European Court of Human Rights will be notifying in writing 20 judgments on Tuesday 13 February 2018 and 33 judgments and / or decisions on Thursday 15 February 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 13 February 2018

[Pihoni v. Albania \(application no. 74389/13\)](#)

The applicant, Petri Pihoni, is an Albanian national who was born in 1983 and lives in Pogradec (Albania).

The case concerns his allegation that he sustained a head injury when the police intervened in a public brawl.

According to Mr Pihoni, on 6 August 2012 he stepped in to calm down an altercation between a relative of his and another man in one of the main streets of Pogradec and got caught up in the police intervention to stop the brawl. He says that the police beat him with rubber truncheons. A few days later Mr Pihoni lodged a criminal complaint against the police officers. During the ensuing investigation, he consistently claimed that the police had used excessive force against him, whereas the police officers claimed the opposite, stating that Mr Pihoni had been involved in the fight and already had the head injury before their intervention. In May 2013, the prosecuting authorities took a final decision to stay the investigation. They referred the case file to the Ministry of the Interior for further action. No other investigative steps have been taken since then.

Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment) of the European Convention on Human Rights, Mr Pihoni alleges that the police used excessive force against him and that the authorities failed to conduct an effective investigation into the incident.

[Galea and Others v. Malta \(no. 68980/13\)](#)

The case concerns a complaint brought by six Maltese nationals about the expropriation of their property without compensation.

They all own land in Zabbar (Malta) which was expropriated in 1965 in order to build a local civic centre and service roads. They were not offered any compensation until 2010, when the Commissioner of Land made them an offer of 13,000 euros for the taking of their land. In 2013 they were awarded 10,000 euros in respect of non-pecuniary damage following constitutional redress proceedings. The applicants have, to date, not received the amount offered, and have refused to collect the award made by the Constitutional Court.

Relying in particular on Article 1 of Protocol No. 1 (protection of property) to the European Convention, the applicants contest the argument that the expropriation was carried out in the public interest. In particular, the planned use of the expropriated land had changed in 1972 when it was decided to build a snack bar to serve the civic centre and surrounding square. They argue that this was not necessary as they themselves had been renting the property to a third person as a snack bar before the expropriation. They also complain that it took 45 years for them to have access to a court to challenge the decisions with regard to their property and to receive an offer of compensation.

The applicants are Miriam Galea, Grace Borg, Emanuel Cassar, Joseph Cassar, Annemarie Despott, and Carmen Zammit. They were born in 1946, 1950, 1953, 1947, 1981, and 1943 respectively and live in Zabbar and Marsaskala in Malta.

[Andrey Smirnov v. Russia \(no. 43149/10\)](#)

The applicant, Andrey Smirnov, is a Russian national who was born in 1992 and lives in Tver (Russia).

The case concerns his pre-trial detention and limits on parental visits during the detention period.

Mr Smirnov was remanded in custody in November 2009 on suspicion of assaulting another schoolboy and found guilty of attempted murder in March 2010. Throughout his detention the number of parental visits per month was limited to two; the investigator refused one of the applications for a parental visit; and all visits took place under the supervision of a warden, with Mr Smirnov and his parents being separated by a glass partition.

Mr Smirnov complains under Article 5 § 3 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial) and Article 8 (right to respect for private and family life).

[Butkevich v. Russia \(no. 5865/07\)](#)

The case concerns a journalist's arrest during an "anti-globalisation" protest in 2006 when he was covering the G8 Summit in St Petersburg.

The applicant, Maksim Butkevich, is a Ukrainian national who was born in 1977 and lives in Kiev.

According to Mr Butkevich, he was arrested on 16 July 2006, even though he had not been taking part in the protest and had complied with a police order to switch off his camera. He was then taken by force to a police station, where an offence report was drawn up. Charged with the administrative offence of disobeying a lawful order of the police (under Article 19.3 of the Code of Administrative Offences), he was brought before a judge the same evening. He was convicted as charged and sentenced to three days' detention, which was reduced to two days on appeal. He was released on 18 July 2006.

Relying on Article 5 § 1 (right to liberty and security), he alleges that his arrest was unlawful and that there was a six-hour delay in releasing him on 18 July 2006. Further relying on Article 6 § 1 (right to a fair trial by an impartial tribunal), he alleges that the administrative-offence proceedings were not impartial and lacked procedural safeguards and guarantees. Lastly, he complains under Article 10 (freedom of expression) that he was arrested, detained and convicted despite the fact that he had repeatedly told the police that he was a journalist. He alleges that this breached his freedom to cover a large event organised by the Government, including the related protests.

[Ivashchenko v. Russia \(no. 61064/10\)](#)

The applicant, Yuriy Ivashchenko, is a Russian national who was born in 1983 and lives in Krasnodar (Russia).

The case concerns the copying of data from his laptop and other storage devices by Russian customs officials.

In August 2009 Mr Ivashchenko, a photojournalist, was stopped for checks by Russian customs officers as he returned from Abkhazia, where he had been preparing an article. An officer decided to carry out an inspection of his bags and equipment on the grounds that he might be carrying extremist material. Thirty-four folders were eventually copied from his laptop and transferred to DVDs. Mr Ivashchenko states that personal correspondence was also copied. The DVDs were handed over to him in November 2011 after a criminal forensics expert found that there was no extremist material in the files. Mr Ivashchenko challenged the customs officials' acts in court but his complaint was dismissed at first-instance and on appeal.

Mr Ivashchenko complains that the customs officers' actions in examining and copying the data violated his rights under Article 8 (right to respect for private and family life, the home and the correspondence) and Article 10 (freedom of expression). He also complains under Article 13 (right to an effective remedy) in conjunction with Articles 8 and 10 about the courts' review of his complaint.

[Portu Juanenea and Sarasola Yarzabal v. Spain \(no. 1653/13\)](#)

The applicants, Igor Portu Juanenea and Martin Sarasola Yarzabal, are Spanish nationals who were born in 1978 and 1977 respectively. They are imprisoned in Cordoba and Jaén (Spain).

The case concerns allegations of ill-treatment sustained by Mr Juanenea and Mr Yarzabal when they were arrested in January 2008 by members of the Civil Guard special anti-terrorist unit, as well as at the beginning of the time during which they were being held in police custody incommunicado. In 2010 the two men were convicted of the car bombing of Terminal 4 of Madrid-Barajas airport on 30 December 2006, which killed two people and marked the end of a ceasefire declared by the terrorist organisation ETA a few months previously.

Relying on Article 3 (prohibition of torture and inhuman or degrading treatment) and Article 6 § 1 (right to a fair trial) of the European Convention, Mr Juanenea and Mr Yarzabal complain, firstly, of having suffered torture and ill-treatment during their arrest and the beginning of the time they were held in police custody incommunicado, and secondly, about the acquittal of the Civil Guard officers whom they consider responsible for the alleged ill-treatment.

[Adıgüzel and Others v. Turkey \(no. 65126/09\)](#)

The applicants are 29 Turkish nationals born between 1957 and 1983 and living in Kars (Turkey).

The case concerns a demonstration organised by the Confederation of Trade Unions of Public Sector Workers (KESK) in 2009 in order to read out a press statement denouncing the arrest of 35 trade-union members.

During the demonstration, the police intervened to disperse the people present. The applicants – five of whom claim to have been mere bystanders rather than demonstrators – were taken into police custody and then brought before a judge, who ordered their release. They were prosecuted for violation of the Law on Assemblies and Demonstrations. They were acquitted at the close of the proceedings.

Relying on Article 10 (freedom of expression) and Article 11 (freedom of assembly and association), 22 applicants complain about the dispersal of the demonstration by the police and the criminal proceedings brought against them. Relying on Article 5 (right to liberty and security), the applicants also complain of their unlawful arrest and police custody.

[Aydoğan and Dara Radyo Televizyon Yayıncılık Anonim Şirketi v. Turkey \(no. 12261/06\)](#)

The applicants are Türkan Aydoğan and DARA Radyo-Televizyon Yayıncılık Anonim Şirketi. Ms Aydoğan is a Turkish national who was born in 1962 and lives in Mardin (Turkey). She is the President of the Administrative Board of DARA Radyo-Televizyon Yayıncılık Anonim Şirketi, a Turkish broadcasting company based in Mardin (Turkey).

The case concerns proceedings relating to a request for a national security clearance certificate for the partners and directors of the applicant company, which was intending to broadcast Kurdish-language TV programmes.

In August 2000 the Prime Minister's Office informed the applicant company that its request for a security clearance certificate for its partners and directors would be re-examined subject to the replacement of three members of its board of directors, including Ms Aydoğan, before September 2000. However, the Prime Minister's Office refused to inform the applicant company of the reasons

for its decision owing to the confidentiality of security clearance certificate enquiries. The applicant company appealed against that decision, but the appeal was dismissed by the administrative courts.

Relying on Articles 10 (freedom of expression), 11 (freedom of assembly and association), 13 (right to an effective remedy) and 14 (prohibition of discrimination), the applicants complain that their request for a national security certificate as a precondition for obtaining broadcasting authorisation was rejected under a decision, the reasons for which they were unable to ascertain and which they were unable to challenge effectively before the domestic courts.

[Seferi Yılmaz v. Turkey \(nos. 61949/08, 38776/09, and 44565/09\)](#)

The applicant, Mr Seferi Yılmaz, is a Turkish national who was born in 1962 and lives in Hakkari (Turkey).

The case concerns the publication of three articles in the *Hürriyet* and *Yeniçağ* daily newspapers concerning Mr Yılmaz. The articles alleged that he had been involved in a bomb attack in the town of Şemdinli (Turkey) in 2005 and that he had been a member of the illegal armed organisation, the PKK (Kurdistan Workers Party). A photograph of Mr Yılmaz and a transcription of some of his telephone conversations were also published.

Mr Yılmaz claimed damages from the newspapers in question, but his claims were dismissed. He also lodged a complaint against the editor-in-chief of *Hürriyet* and the authors of the two articles published by it, but the case was dropped.

Relying on Article 6 § 2 (presumption of innocence) and Article 8 (right to respect for private and family life), Mr Yılmaz complains that the impugned articles infringed his personality rights and damaged his honour, allegedly setting him up as a target for a section of society. Mr Yılmaz further alleges that documents covered by the investigation were deliberately transmitted to the press by the authorities in order to present him as being guilty.

[Ulay v. Turkey \(no. 8626/06\)](#)

The applicant, Soner Ulay, is a Turkish national who was born in 1984 and lives in Gebze (Turkey).

The case concerns the fairness of the proceedings in which he was convicted for murder.

Mr Ulay was found guilty of murder and robbery in 2004. His conviction was essentially based on a confession he had made during a reconstruction of events carried out at the pre-trial stage. Throughout the proceedings before the domestic courts he repeatedly denied his previous statements, alleging that he had confessed in the absence of a lawyer and only because of coercion. His appeal was rejected and he was ultimately sentenced to 21 years' imprisonment in 2007.

He relies 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), complaining that he was convicted on the basis of a confession made in the absence of a lawyer, that he was coerced into making such self-incriminatory statements and that he could not have witnesses on his behalf examined.

[Tsezar and Others v. Ukraine \(nos. 73590/14, 73593/14, 73820/14, 4635/15, 5200/15, 5206/15, and 7289/15\)](#)

The applicants, Lyubov Tsezar, Mykolay Tsezar, Svitlana Karlyuk, Kateryna Vanina, Tetyana Chernovol, Tetyana Vysla and Anatoliy Vyslyy, are Ukrainian nationals who were born in 1954, 1952, 1964, 1926, 1952, 1960, and 1956 respectively and live in Donetsk (Ukraine).

The case concerns their complaint that they were not able to bring cases about a suspension of pension payments and other benefits before a court.

After the outbreak of a conflict with separatist armed groups in eastern Ukraine in April 2014, the Government suspended payments of pensions and social benefits to people living in areas which were outside Government control. The areas included settlements of the Donetsk and Luhansk regions. In September 2014 the jurisdiction of the courts in Donetsk was relocated to Government-controlled territory.

Some of the applicants continued to receive their pensions until June 2014 and some to August of that year. In June 2015, the first and second applicants registered with the Labour and Social Security Department of a neighbouring Government-controlled area. They had their social benefits reinstated and back-dated.

The sixth applicant registered with a social security office in Kyiv in September 2015 but did not apply for reinstatement of her benefits. None of the other applicants applied for the reinstatement of benefits in Government-controlled areas. The Government stated that the sixth and seventh applicants had travelled to Government-controlled territory in October 2015.

The applicants rely on Article 6 § 1 and/or Article 13 (right to an effective remedy) to complain of lack of access to a court. They also complain about the suspension of the benefits under Article 1 of Protocol No. 1. Some of the applicants raised an issue under Article 14 (prohibition of discrimination) in conjunction with Article 6 and Article 1 of Protocol No. 1 about discrimination based on their place of residence.

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.

Prigală v. Republic of Moldova (no. 36763/06)
Sobieski-Camerzan v. Republic of Moldova (no. 3792/05)
Kešelj and Others v. Montenegro (no. 33264/11)
Mskhiladze v. Russia (no. 47741/16)
Tyutina and Others v. Russia (nos. 3380/10 and 33725/10)
Zelik and Kel v. Russia (nos. 16088/06 and 41644/09)
Belek and Özkurt v. Turkey (no. 8) (no. 10758/09)
Erden v. Turkey (no. 54901/10)
Zengin and Çakır v. Turkey (no. 57069/09)

Thursday 15 February 2018

Just Satisfaction

Ghedir and Others v. France (no. 20579/12)

The case concerns the issue of just satisfaction following the judgment delivered by the Court on 16 July 2015 relating to alleged ill-treatment during an arrest by SNCF (French national railway company) security officers and the police.

The Court unanimously found that there had been a violation of Article 3 (prohibition of inhuman or degrading treatment) as regards the treatment inflicted on the applicant, and no violation of Article 3 in respect of the manner in which the investigations had been conducted. Noting that the investigations had uncovered a number of contradictory and disturbing facts, the Court, in particular, considered that the French authorities had not provided any satisfactory and cogent explanation for the injuries to the applicant, whose symptoms had appeared while he was under the

control of the police officers. The Court therefore concluded that there was a sufficient body of evidence for a finding of a violation of Article 3.

Since the question of the application of just satisfaction was not ready for decision, the Court adjourned it to a later date. It will adjudicate that question in the judgment to be delivered on 6 February 2017.

[İldem and Others v. Turkey \(no. 17820/11\)](#)

The applicants, Erol Volkan İldem, Fevzi Oğuz Arslan and Cengiz Kahraman, were born in 1982, 1975 and 1974 respectively and live in Istanbul.

The case concerns alleged ill-treatment by the security forces during an arrest.

On 25 April 2001 an identity check in the Bahçelievler district of Istanbul led to a confrontation between Mr İldem and Mr Arslan and the security forces. There was a chase, altercations broke out and Mr İldem killed a passer-by who had attempted to control him. Mr Kahraman was arrested the next day after a chase and further altercations.

On 27 December 2007, following twenty hearings, an Istanbul court acquitted a number of officers who had been charged with ill-treating the applicants.

Relying on Article 3 (prohibition of torture and inhuman or degrading treatment), the applicants allege that they were tortured while in police custody. They also submit that unsatisfactory medical examinations were conducted on them. Relying on Article 6 (right to a fair trial), they complain of the length and lack of fairness of the criminal proceedings brought against the police officers. Relying on Article 13 (right to an effective remedy) read in conjunction with Article 3, they complain of the lack of an effective remedy to file an action for damages.

[S.A. v. Turkey \(no. 62299/09\)](#)

The applicant, Mr S.A., is a Turkish national who was born in 1963 and lives in Eskişehir.

The case concerns a circumcision operation carried out on his son which the applicant considers to have been unsuccessful.

On 12 September 2003 S.A.'s son, who was then 11 years old, underwent circumcision in a hospital at his father's request. S.A. submits that the incision made during the operation was larger than necessary. He lodged a claim for compensation with the administrative court. The court took cognisance of the findings of a medical expert and concluded that there had been no negligence attributable to the authorities. The Council of State upheld the judgment on appeal.

Relying on Article 12 (right to marriage), the applicant complains of a violation of his son's physical integrity owing to the impact of the postoperative complications which he suffered.

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Lechner v. Austria (no. 60331/13)

'ASBL Chambre syndicale des médecins des provinces du Hainaut, de Namur et du Brabant wallon' and Gillis v. Belgium (no. 55047/10)

Homan and Others v. Belgium (nos. 52961/09, 52975/09, 53054/09, and 53235/09)

Hristoskov v. Bulgaria (no. 50760/09)

Cîșlaru and Others v. the Republic of Moldova (no. 40799/09)

Said Good v. the Netherlands (no. 50613/12)

Wysowska v. Poland (no. 12792/13)
Kovalev and Others v. Russia (nos. 5918/13, 25181/14, and 25324/14)
Kozyreva v. Russia (no. 36040/04)
Nadolinskiy and Others v. Russia (nos. 42011/07 and 40048/09)
Shikunov v. Russia (no. 23211/04)
Stepin v. Russia (no. 57884/13)
Oddone and Others v. San Marino (nos. 26581/17, 26582/17, 26583/17, and 31024/17)
Mojsejová v. Slovakia (no. 65504/14)
Aksoy and Others v. Turkey (no. 12370/10)
Aksu v. Turkey (no. 44697/07)
Akyüz v. Turkey (no. 3670/09)
Demir v. Turkey (no. 34460/08)
Dinçer v. Turkey (no. 21591/04)
Erdoğan v. Turkey (no. 21297/11)
Güven v. Turkey (no. 6591/06)
İbrahimhakkioğlu v. Turkey (no. 23395/09)
İlhan v. Turkey (no. 42563/08)
İşlek and Others v. Turkey (nos. 52134/09 and 54642/09)
İşsever v. Turkey (no. 35112/05)
Köseoğlu v. Turkey (no. 46239/09)
Özsel Ecza Depolari Tic. ve Pazarlama A.Ş. v. Turkey (no. 33595/08)
Sezer and Others v. Turkey (no. 1971/10)
Uludağ and Others v. Turkey (no. 32686/09)
Volfovych v. Ukraine (no. 52193/09)

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.