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 18 judgments on Tuesday 16 February 2021 and 17 judgments and / or decisions on Thursday 18 February 2021.

*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 16 February 2021

Vermeersch v. Belgium (application no. 49652/10)

The applicant, Franck Vermeersch, is a Belgian national. He is a farmer.

In this application Mr Vermeersch complains of the dismissal by the domestic courts of his action for damages against the State on the grounds of statutory limitation. He submits that both the law and case-law regarding statutory limitation of claims against the State are unclear and unforeseeable, and that the Court of Cassation was excessively formalistic in dismissing his supplementary pleadings.

In 1991 Mr Vermeersch applied for a permit to extend his pig farm. That application was only partly allowed (in 1996), and Mr Vermeersch therefore lodged an action for annulment with the *Conseil d'État*. The latter court found for the applicant in 2004.

In 2005 Mr Vermeersch lodged an action for damages against the State, claiming a total of 368,470 euros (EUR). The civil courts dismissed his action on the grounds that it was statute-barred pursuant to Article 2262bis of the Civil Code and section 100 of the Laws on Public Accounts. The courts stated, in particular, that an action for annulment before the *Conseil d'État* had no suspensive or interruptive effect, in accordance with Articles 2246 to 2250 of the Civil Code; that under established case-law there was no need to await the outcome of an action for annulment before bringing an action for damages according to the ordinary rules on liability in tort; and that, therefore, the limitation period for the action for damages had started running on 1 January 1996, whereas Mr Vermeersch had lodged his action for damages in January 2005.

Relying on Article 6 (right to a fair trial) of the European Convention on Human Rights, Mr Vermeersch alleges that the applicable rules regarding the statutory limitation of claims against the State are unclear and unforeseeable. He also complains that the Court of Cassation was excessively formalistic on the matter of the admissibility of his supplementary pleadings.

Behar and Gutman v. Bulgaria (no. 29335/13)

The applicants, Gabriela Aron Behar and Katrin Borisova Gutman, are Bulgarian nationals who were born in 1972 and 1968 respectively and live in Plovdiv (Bulgaria). They are of Jewish ethnicity.

The case concerns the dismissal of an application for a court order that they took against a journalist and politician, seeking an apology for anti-Semitic remarks and that he refrain from such remarks in the future.

Relying on Article 8 (right to respect for private and family life), Article 14 (prohibition of discrimination), and Article 13 (right to an effective remedy) of the European Convention, the applicants complain of the dismissal of their claim against the politician, and that they were denied an effective remedy with which to complain of the dismissal of their claim.

Budinova and Chaprazov v. Bulgaria (no. 12567/13)

The applicants, Kremena Goshova Budinova and Vasil Stoyanov Chaprazov, are Bulgarian nationals who were born in 1970 and 1945 respectively and live in Sofia. They are of Roma ethnicity.

The case concerns the dismissal of a claim under anti-discrimination legislation against a journalist and politician, seeking an apology for anti-Roma remarks and that he refrain from such remarks in the future.

Relying on Article 8 (right to respect for private and family life), Article 14 (prohibition of discrimination), Article 6 § 1 (right to a fair trial) and Article 13 (right to an effective remedy), the applicants complain of the dismissal of their claim against the politician and that the dismissal of the politician's views as "facts" legitimised racism.

Meng v. Germany (no. 1128/17)

The applicant, Salina Meng, is a German national who was born in 1964 and lives in Frankfurt am Main (Germany).

The case concerns the applicant's conviction for the murder of her husband for profit with a certain G.S. During her trial, the presiding judge had previously been judge rapporteur in separate proceedings against G.S. alone.

Relying on Article 6 § 1 (right to a fair trial), the applicant complains that the bench that convicted her of murder was not impartial.

Gawlik v. Liechtenstein (no. 23922/19)

The applicant, Lothar Gawlik, is a German national who was born in 1967 and lives in Kassel (Germany).

The case concerns a doctor who raised suspicions that euthanasia was taking place in his hospital and who was later dismissed.

The applicant, a general and internal medicine specialist, was from 1 June 2013 the deputy chief physician of the department for internal medicine at the Liechtenstein National Hospital. He came across information showing that four patients had died there following the administration by a Dr H. of morphine. He concluded that the deaths had been euthanasia.

The applicant on 11 September 2014 complained to the prosecutor's office (he did not go through the hospital's complaints system first). The police took several investigative steps. Much media attention followed.

An internal report was drawn up, endorsing the treatment given by H., later endorsed by an external report. The applicant was suspended on 26 September 2014. On 17 October 2014 he was dismissed without notice, with failure to go through the hospital's internal complaints system cited.

In 2014 a criminal investigation into H. was opened and then discontinued. In 2016, criminal proceedings against the applicant were also discontinued.

The applicant took an action against the hospital, seeking 600,000 Swiss francs (CHF) in damages. In 2017 that action was dismissed, the court holding that the hospital could no longer be expected to employ the applicant in good faith. That judgment was overturned on appeal, with CHF 125,000 being awarded to the applicant. However, the Supreme Court then quashed the appellate judgment in 2018.

The applicant lodged a constitutional complaint, citing Article 10 of the Convention among other provisions. The Constitutional Court ruled that the right to freedom of expression applied in the relationship between the applicant and the Liechtenstein National Hospital. Although the court

accepted that the applicant regarded himself as a whistle-blower, it considered that he had not tested his suspicions before going public. The court dismissed the complaint.

Relying on Article 10 (freedom of expression), the applicant complains that his dismissal without notice from his post for lodging a criminal complaint breached his rights.

Stichting Landgoed Steenbergen and Others v. the Netherlands (no. 19732/17)

The applicants, Stichting Landgoed Steenbergen, Hermine Sofia Maria van Veen, Walter Henricus Franciscus Vendel and Andreas Bottema, are a Dutch foundation and three Dutch nationals respectively. The latter three applicants were born in 1963, 1962 and 1961 respectively and live in Wapenveld (the Netherlands). The applicant foundation is also registered in Wapenveld.

The case concerns the online notification of a draft decision and decision regarding an application to expand services at a motocross track.

On 27 September 2013 the management of a local motocross track applied for a permit to expand its opening hours and activities. The Province of Gelderland published an online notice of intention to grant the application, which it then did on 27 January 2014 having received no objections. Notification of the decision was also published online only.

The applicants first became aware of that decision on 4 November 2014, and soon appealed to the Administrative Jurisdiction Division of the Council of State, arguing, among other things, that online notification did not constitute a suitable manner of publication. The appeal was ruled out of time. The court ruled that publishing on the Internet constituted suitable publication to conform with the law, the Convention, and case-law. The court noted, in particular, that the Electronic Notification Ordinance, which provided for Internet notification, had already entered into force.

Relying on Articles 6 § 1 (right to a fair trial) and 8 (right to respect for private and family life) of the European Convention, the applicants complain, in particular, that giving notice of the draft permit decision and the permit decision online only impinged on their right of access to a court, as they were unaware of both the draft decision and the decision.

Buliga v. Romania (no. 22003/12)

The applicant, Ionel Petrică Buliga is a Romanian national who was born in 1984 and lives in Giera (Romania).

The case concerns the fairness of minor-offence proceedings against the applicant, including calling of witnesses.

Relying on Article 6 (right to a fair trial), the applicant complains that the criminal proceedings against him had been unfair.

Negulescu v. Romania (no. 11230/12)

The applicant, Valentina Claudia Negulescu, is a Romanian national who was born in 1973 and lives in Prahova (Romania).

The case concerns the fairness of minor-offence proceedings against the applicant, including cross-examination of witnesses.

Relying on Article 6 (right to a fair trial), the applicant complains that the criminal proceedings against her had been unfair.

Tikhonov and Khasis v. Russia (nos. 12074/12 and 16442/12)

The applicants, Nikita Tikhonov and Yevgeniya Khasis, are Russian nationals who were born in 1980 and 1985 respectively.

In May 2011 they were sentenced to life imprisonment (Mr Tikhonov) and 18 years' imprisonment (Ms Khasis) for the murder in January 2009 in Moscow of Mr Stanislav Markelov, a lawyer and human-rights activist, and Ms Anastasia Baburova, a journalist. They are detained in Sosnovka and Partsa (Republic of Mordovia, Russia) respectively.

The applicants allege that the court which conducted the criminal proceedings against them was not impartial. They base their allegations, in particular, on statements made by members of the jury to the media and at one of the hearings.

They rely on Article 6 § 1 (right to a fair trial/right to an independent and impartial tribunal) and Article 6 § 2 (presumption of innocence).

Budak v. Turkey (no. 69762/12)

The applicant, İbrahim Halil Budak, is a Turkish national who was born in 1985 and lives in İzmir (Turkey).

The case concerns the search of the applicant's house on suspicion of membership of an illegal organisation, and the criminal proceedings and conviction that followed, with the applicant alleging unlawfully obtained evidence.

Relying on Article 8 (right to respect for private and family life), Article 6 §§ 1 (right to a fair trial) and Article 3 (d) (right to obtain attendance and examination of witnesses), the applicant complains, in particular, that the search of his home lacked a legal basis on account of the absence of two attesting witnesses as provided by Article 119 § 4 of the Code of Criminal Procedure, and that his trial was unfair owing to the use of unlawful and unreliable evidence.

İltümür Ozan and Others v. Turkey (no. 38949/09)

This application was lodged by four applicants, all Turkish nationals who were born between 1960 and 1984. Three of them live in Istanbul and one in Bursa (Turkey).

The applicants in this case complain that they were arrested after handing out tracts in Gaziosmanpaşa (a district of Istanbul), informing shopkeepers about a new social security bill and inviting them to a press conference on the matter. The events took place on 28 February 2008.

On 29 February 2008 the applicants filed a complaint against the police officers in question for ill-treatment and abuse of authority during their arrest and police custody. That complaint led to a discontinuance decision in May 2008.

Furthermore, the authorities commenced criminal proceedings against two of the applicants, accusing them of resisting arrest and injuring the police officers by throwing stones at them. The applicants were acquitted in December 2012.

The applicants rely on numerous articles of the Convention, including Article 3 (prohibition of inhuman or degrading treatment), Article 10 (freedom of expression) and Article 11 (freedom of assembly and association).

V.C.L. and A.N. v. the United Kingdom (nos. 77587/12 and 74603/12)

The applicants, Mr V.C.L. and Mr A.N., are Vietnamese nationals who were born in 1994 and 1992 and live in Middlesex (UK) and London respectively.

The case concerns two Vietnamese youths who police officers discovered working on cannabis farms. They were arrested and convicted of drugs-related offences.

On 6 May 2009 V.C.L. was discovered by police during a drugs raid in Cambridge. During his police interview, the applicant stated that he was 15 years old and had been smuggled into the UK by his

adoptive father. He had been met my two men who had taken him to the cannabis farm and put him to work there. He was charged with production of a controlled drug following the raid.

The courts assessed his age as 17 (although it was later accepted that he had in fact been 15). Although concerns had been raised by social services and an NGO that he might have been a victim of trafficking, on 20 August 2009 he pleaded guilty to production of drugs. He was sentenced to 20 months in a young offenders' institution.

On 21 April 2009 the police entered residence in London following reports of a burglary. They discovered there a large cannabis farm, along with A.N. and several other Vietnamese nationals. During a police interview he gave his year of birth as 1972 (it is, in fact, 1992, a fact which was later accepted by the courts). He stated that after arriving in the UK he had met some Vietnamese people who had looked after him. He had been taken to the cannabis farm where he had been put to work without pay.

A.N. was charged with production of a controlled drug, and on the advice of his lawyer he pleaded guilty in July 2009. He was given an 18-month detention and training order.

Later, a social worker from the National Society for the Prevention of Cruelty to Children National Child Trafficking Advice and Information Line considered that there was strong evidence that A.N. had been a victim of child trafficking.

Both applicants were granted permission to appeal out of time. They argued, among other things, that as victims of human trafficking they should not have been prosecuted. On 20 February 2012, the Court of Appeal found that victims of trafficking did not automatically acquire immunity from prosecution. In any case, it reasoned that the UK's obligation under international law to provide for the possibility of not punishing victims of trafficking could be achieved by prosecutors exercising their discretion not to prosecute in appropriate cases. This would require a judgment to be made by the prosecutor based on all the available evidence. The applicants' appeals were dismissed because in each case the court found that the decision to prosecute had been amply justified and had not been an abuse of process. V.C.L.'s sentence was however reduced to 12 months' detention and A.N.'s to a four-month detention and training order.

The applicants were refused leave to appeal to the Supreme Court. A second appeal by V.C.L. was also unsuccessful, with the Court of Appeal stating that "the decision to prosecute [had been] amply justified".

Relying on Articles 4 (prohibition of forced labour) and 6 § 1 (right to a fair trial), the applicants complain, in the main, of a failure on the part of the authorities to protect them in the aftermath of their trafficking, that the authorities failed to conduct an adequate investigation into their trafficking (V.C.L.), and of the fairness of their trial.

Thursday 18 February 2021

Azizov and Novruzlu v. Azerbaijan (nos. 65583/13 and 70106/13)

The applicants, Mammad Rasim oglu Azizov and Shahin Ibrahim oglu Novruzlu, are Azerbaijani nationals.

The case concerns the applicant's detention pending trial and the extension of those detention periods.

Relying on Article 5 § 3 (liberty and security) and Article 18 (limitation on use of restrictions of rights) in conjunction with Article 5 § 3, the applicants complain that the courts failed to justify their pre-

trial detention or provide reasons for ordering its extension, and of and that their rights had been restricted for reasons other than those set out in the Convention.

P.M. and F.F. v. France (nos. 60324/15 and 60335/15)

The applicants, Mr P.M. and Mr F.F., two brothers, are French nationals who were born in 1982 and 1978.

The case concerns the injuries sustained by the two applicants during their arrest in Paris on 1 January 2007, in a state of inebriation, for damaging private property, and during their police custody.

At 6 a.m. on 1 January 2007 P.M. and F.F. were arrested in a drunken state in the 11th arrondissement of Paris for acts of vandalism against private property. After being arrested and searched, they were transferred to the local police station and then to the Saint Antoine Hospital. The duty doctor examined them, and, noting their state of inebriation, refused to admit them to hospital. At 7.45 p.m. they were placed in a security cell. Their custody was notified at 2.20 and 3 p.m. respectively. At 2.40 and 3.20 p.m. the police officer in charge ordered a medical examination, and the applicants were taken to the Hôtel-Dieu Hospital and examined by a doctor, who drew up a medical certificate for each of them, noting their injuries. P.M. and F.F. were granted temporary-unfitness-for-work certificates on the basis of those injuries. The applicants were released from police custody at 4.50 p.m. on the same day.

On 11 January 2007 P.M. and F.F. lodged a complaint with the State Prosecutor for assault by public servants, serious bodily harm and cruel, inhuman and degrading treatment.

On 24 January 2007 the *Inspection Générale des Services* (IGS) was invited to initiate an investigation on the instructions of the judicial authority. The IGS interviewed the applicants, the police officers present in the police station, and also the doctor and the nurse who had examined the applicants at hospital on the day of the events.

On 25 May 2007 the public prosecutor's office decided to discontinue the case on the grounds that the offence had not been properly made out. On 4 March 2008 the applicants were heard by the French National Security Ethics Commission (CNDS), which had been brought in by a Seine-Saint-Denis MP on 23 March 2007 following a complaint by the applicants concerning the circumstances of their arrest.

In its opinion of 18 November 2008, the CNDS concluded that the police officers had used force to control the applicants, adding that it had not been able to substantiate the allegations of violence. It found no breach of security ethics, but emphasised that keeping an arrestee in a prone position ("ventral decubitus") for a prolonged period could, under certain circumstances, lead to cardio-respiratory arrest, and that the use of that technique should be strictly regulated.

On 17 March 2008 P.M. and F.F. lodged a civil-party complaint in criminal proceedings for deliberate acts of violence having caused total unfitness for work equal to or less than eight days, jointly committed by public servants in the performance of their duties or in relation to these.

On 15 May 2012 the investigating judge issued a discontinuance decision. The applicants appealed. The Investigations Division of the Paris Court of Appeal upheld the decision.

On 1 October 2013 the applicants lodged an appeal on points of law against the latter judgment. On 27 May 2015 the Court of Cassation dismissed that appeal.

On 13 April 2018 the Paris Criminal Court sentenced P.M. and F.F. to three months' imprisonment, suspended, for vandalism, resistance and rebellion, committed jointly. They were also found civilly liable to pay compensation to several police officers involved in their arrest on account of the injuries and insults they had sustained. The applicants and the public prosecutor's office appealed against that judgment.

Relying on Article 3 (prohibition of torture and inhuman or degrading treatment), the applicants complain that they were injured during their arrest and police custody, and that the domestic authorities provided no cogent explanations concerning the origin of their injuries. They also complain about the judicial decisions given, and consider that the investigation conducted by the authorities was ineffective.

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.

Tuesday 16 February 2021

Name	Main application number
Caraman v. the Republic of Moldova	49937/08
Dronic v. the Republic of Moldova	28650/05
Ialtexgal Aurica S.A. v. the Republic of Moldova	16000/10
Nord-Universal S.R.L. v. the Republic of Moldova	29096/06
Kuznetsova v. Russia	60946/14
Mansurov and Others v. Russia	4336/06

Thursday 18 February 2021

Name	Main application number
Samadov v. Armenia	36606/08
Fayzov v. Azerbaijan	48475/12
Ganiyeva and Others v. Azerbaijan	62490/09
Georgian Young Lawyers' Association v. Georgia	2703/12
Mikiashvili and Others v. Georgia	18865/11
Oleg Cojocaru v. the Republic of Moldova	5154/08
A.S. v. Russia	23872/19
Khramov v. Russia	64343/13
Stepanov and Glazkov v. Russia	55084/17
Kartal v. Turkey	21773/09
Öztürk v. Turkey	43522/18
Tuğrul v. Turkey	46083/14
Brenko and Others v. Ukraine	29361/18
Pastrama v. Ukraine	54476/14
Zelyk v. Ukraine	24233/09

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Press contacts
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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.