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 13 judgments on Tuesday 16 April 2019 and 26 judgments and / or decisions on Thursday 18 April 2019.

*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 April 2019

Csonka v. Hungary (application no. 48455/14)

The applicant, Zsolt Csonka, is a Hungarian national who was born in 1988 and lives in Szigetvár-Becefa (Hungary).

The case concerns his allegation that he was ill-treated by the police when taken in for questioning about theft of timber.

According to the police record, Mr Csonka waived his right to counsel and immediately confessed to the theft during his questioning on 4 February 2013.

A few days later, however, he initiated proceedings alleging that he had been ill-treated in order to make him confess. He testified to the investigating authorities that police officers had slapped him in the face, kicked him in the chest and punched him in the stomach. The police officer in charge of the questioning denied the allegations.

The prosecuting authorities discontinued the investigation in November 2013 because they could not conclude beyond reasonable doubt that Mr Csonka had been injured while in police custody.

The authorities rejected his complaint against this decision, finding that there was no need for further investigation.

The investigation against Mr Csonka for theft was discontinued in December 2013 because he had withdrawn his confession and his brother had provided him with an alibi.

Relying on Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights, Mr Csonka complains that he was ill-treated in police custody and that the investigation into his allegations was neither effective nor thorough.

Bjarni Ármannsson v. Iceland (no. 72098/14)

The applicant, Bjarni Ármannsson, is an Icelandic national who was born in 1968 and lives in Frederiksberg, Denmark. He was the CEO of one of Iceland's largest banks, *Glitnir*, from September 1997 to April 2007.

The case concerns his conviction for aggravated tax offences which allegedly violated the principle of *ne bis in idem*.

In July 2009 the Directorate of Tax Investigation began an audit of Mr Ármannsson to examine whether he had declared profits from selling shares he had received when he had stepped down as the CEO of Glitnir. In January 2012 the Directorate for Internal Revenue sent him a notification letter which stated that his taxes for the tax years of 2007 to 2009 had been re-assessed. In May 2012, it found that, based on the audit report and taking into account the applicant's objections, he had failed to declare significant capital income received from 2006 to 2008. It therefore re-assessed his

taxes and imposed a 25% surcharge. Mr Ármannsson paid the taxes and the surcharge. The Directorate of Internal Revenue's decision became final in August 2012.

In March 2012 the Directorate of Tax Investigation reported the matter to the Special Prosecutor. Mr Ármannsson's lawyer protested and argued that the deadline to object to the tax reassessment had not expired and that the referral was ill-founded. In December 2012 the Special Prosecutor, however, indicted Mr Ármannsson for failing to declare income in his tax returns of 2007 to 2009. The District Court convicted him of these charges in June 2013 and sentenced him to six months' imprisonment, suspended for two years, and the payment of a fine of 38,850,000 Icelandic *Krónur* (ISK; approx. 241,000 euro). He appealed against the District Court´s judgment. In May 2014 the Supreme Court rejected his request to dismiss the case and upheld his conviction. His sentence was increased to eight months' imprisonment, again suspended for two years, and the fine was reduced to 35,850,000 ISK.

Relying on Article 4 of Protocol No. 7 (right not to be tried or punished twice) to the European Convention, Mr Ármannsson complains that, through the imposition of tax surcharges and the subsequent criminal trial and conviction for aggravated tax offences, he was tried and punished twice for the same offence.

Lingurar v. Romania (no. 48474/14)

The case concerns a raid in 2011 by 85 police and gendarmes on the Roma community in Vâlcele (Romania).

The applicants, Aron Lingurar, Ana Maria Lingurar, Aron Lingurar, and Elena Lingurar, are Romanian nationals who were born in in 1949, 1994, 1985, and 1957 respectively and live in Vâlcele. They are all Roma.

According to the applicant family, several police officers and gendarmes wearing special intervention clothing, including balaclavas, broke down their front door during the raid in the early hours of 15 December 2011, dragged them out of bed and beat them. The two male family members were further abused in the yard, then taken to the local police station for questioning. They were released the same day with a fine for illegally cutting timber. The family went to the local hospital after the raid for treatment of abdominal and chest pain, and bruising. Medical reports for three of the applicants concluded that their injuries could have been caused by them being hit with hard objects.

In 2012 the family lodged a criminal complaint accusing the law-enforcement authorities of violence. After an initial investigation concluded that there was not enough evidence to prosecute, the courts ordered the prosecuting authorities to carry out further enquiries, and in particular to justify the applicants' injuries. The new investigation concluded that the male applicants must have been injured when the police had had to use force to immobilise them, while the women applicants' injuries could be explained by "behaviour specific to Roma", namely pulling their own hair and slapping themselves on their faces. The prosecutor also noted that most of the inhabitants of Vâlcele were known for breaking the law and being aggressive towards the police.

The courts finally dismissed the applicants' complaints about the prosecutors' decisions in 2014. They considered the prosecutors' explanations for the applicants' injuries to be plausible and found that the police officers had not used excessive force.

Both the prosecuting authorities and the courts dismissed the applicants' allegations that it was a systematic practice in the area for the police to attack the Roma community.

Relying on Article 3 (prohibition of inhuman or degrading treatment) and Article 14 (prohibition of discrimination), the applicant family complain that they were ill-treated by the police, that the investigation into their allegations was ineffective and that the authorities' justification for the raid was racist.

Bokova v. Russia (no. 27879/13)

The applicant, Olga Vladimirovna Bokova, is a Russian national who was born in 1959 and lives in Moscow.

The case concerns the seizure and subsequent transfer of a house belonging to Ms Bokova – who had acquired it by inheritance – in the context of criminal proceedings in which her husband was charged with fraud and subsequently convicted.

Ms Bokova alleges a breach of her rights under Article 1 of Protocol No. 1 to the Convention (protection of property) and Article 13 (right to an effective remedy).

Alparslan Altan v. Turkey (no. 12778/17)

The applicant, Alparslan Altan, is a Turkish national who was born in 1968 and lives in Ankara (Turkey). He is a former member of the Turkish Constitutional Court and is currently in detention. The case concerns his detention following the attempted *coup d'état* of 15 July 2016.

During the night of 15 July 2016 a group of individuals belonging to the Turkish armed forces, calling themselves the "Peace at Home Council", staged an attempted military coup. The national authorities blamed the network linked to Fetullah Gülen, a Turkish citizen living in Pennsylvania (United States of America) and considered to be the leader of an organisation known as FETÖ/PDY ("Gülenist Terror Organisation/Parallel State Structure"). On 20 July 2016 the government declared a state of emergency. The following day the Turkish authorities gave notice to the Secretary General of the Council of Europe of a derogation from the Convention under Article 15.

The Government stated that during and after the attempted coup the prosecuting authorities had opened criminal investigations in respect of the persons involved in the putsch and others linked to FETÖ/PDY, including members of the judiciary. On 16 July 2016 approximately 3,000 judges, including two members of the Constitutional Court and over 160 judges of the Court of Cassation and the Supreme Administrative Court, were taken into police custody and subsequently detained. In addition, arrest warrants were issued in respect of thirty judges of the highest courts who were considered to have fled. On 16 July 2016, in the context of the criminal investigation opened by the Ankara public prosecutor's office, Mr Altan was arrested and taken into police custody on the instructions of the public prosecutor.

On 20 July 2016 Mr Altan appeared before a judge together with thirteen other individuals suspected of attempting to overthrow the constitutional order and membership of FETÖ/PDY. Mr Altan denied all the charges against him. On the same day the judge ordered that Mr Altan and the other suspects be placed in pre-trial detention.

On 4 August 2016 the Constitutional Court, sitting as a full court, dismissed Mr Altan from office. It found, on the basis of Article 3 of Legislative Decree no. 667, that it was apparent from "information obtained through social contacts" and from "the consensus that had developed over time" among the members of the Constitutional Court that the applicant had links to the organisation in question and that he was no longer fit for office.

On 9 August 2016 a judge dismissed an appeal by Mr Altan against the detention order. The applicant made several applications for provisional release which were dismissed by the competent magistrate's courts.

In a summary judgment of 6 March 2019 the Court of Cassation, 9th Criminal Division, sentenced Mr Altan to eleven years and six months' imprisonment for membership of an armed terrorist organisation. Two further individual appeals by Mr Altan are currently pending before the Constitutional Court.

The applicant complains of being placed in pre-trial detention in an arbitrary manner, in breach of domestic law (Law no. 6216). He alleges that there was no concrete evidence of reasonable

suspicion that he had committed a criminal offence warranting his placement in pre-trial detention. He argues that the domestic courts did not give sufficient reasons for the decisions ordering his detention and alleges a violation of Article 5 (right to liberty and security) in that regard.

Kamoy Radyo Televizyon Yayıncılık ve Organizasyon A.Ş. v. Turkey (no. 19965/06)

The applicant company, Kamoy Radyo Televizyon Yayıncılık ve Organizasyon A.Ş., is a media company based in Ankara.

The case concerns court rulings in a newspaper name trademark protection dispute with another company.

In court proceedings which lasted from 2002 to 2005 before the Istanbul Intellectual Property Court and the Court of Cassation, the applicant company lost a trademark protection dispute with another company over the use of the name *Vatan* for a newspaper.

In particular, the domestic courts relied on section 31(2) of the Turkish Patent Institute Act, which came into force in November 2003, during the proceedings, to reject the applicant company's complaint. That law stated that those who published periodicals could not be prevented from doing so under trademark law, specifically Legislative Decree no. 556 on the Protection of Trademarks.

Separately, the Constitutional Court in 2008 annulled section 31(2) of the Patent Institute Act, finding that it did not conform to property rights guaranteed by the Constitution.

In 2004 the other company began its own trademark proceedings, which led in 2006 to the applicant company's trademark registration for the name *Vatan* being annulled.

Relying on Article 1 of Protocol No. 1 (protection of property), the applicant company complains that its use of its property was unlawfully restricted because of the retroactive application of legislation which protected the other party in the first set of trademark proceedings.

Bondar v. Ukraine (no. 18895/08)

The applicant, Mykhaylo Bondar is a Ukrainian national who was born in 1960. He died in 2012 and his mother continued the application on his behalf.

The case concerns his allegation that he was tortured into confessing to a murder and that the criminal proceedings against him were unfair.

Mr Bondar was arrested in August 2003 on suspicion of murder. He confessed, but was released when a judge found that there was not enough evidence against him.

During the ensuing investigation one witness stated that he had seen Mr Bondar in the victim's backyard, with blood on his hands, around the time of the murder, while three other witnesses said that he had confessed to them. The investigation was suspended in 2004 because the perpetrator could not be identified.

The investigation was however resumed in 2007 and Mr Bondar was arrested again when new evidence came to light from another witness, O. O. stated that Mr Bondar had confessed to the murder to her when they had been living in the same village.

Mr Bondar was brought to trial and convicted of murder in 2008. He was sentenced to 13 years' imprisonment. The trial court relied on the pre-trial statements from the five witnesses and from their cross-examination in court.

Mr Bondar appealed in cassation, arguing in particular that O. had retracted her testimony in a letter to the trial court saying she had been put under pressure from an investigator. O. later took back her retraction and the court refused to recall her as a witness. The Supreme Court upheld the trial court's judgment and Mr Bondar's request in 2009 to reopen the proceedings was also unsuccessful.

Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment), Mr Bondar complains that he was tortured by the police and that the investigation into the matter was ineffective. Relying on Article 6 §§ 1 and 3 (d) (right to a fair trial and right to obtain attendance and examination of witnesses), he alleges that the proceedings against him were unfair because the courts relied on his confession, obtained under duress, and failed to recall O. as a witness.

Editorial Board of Grivna Newspaper v. Ukraine (nos. 41214/08 and 49440/08)

The applicant company, the Editorial Board of *Grivna* Newspaper, is based in Kherson (Ukraine) and publishes *Grivna*, a regional newspaper.

The case concerns defamation proceedings brought by a judge against the applicant company following *Grivna's* publication of two critical articles about him in 2006.

Both articles focused on Parliament delaying the judge's lifetime appointment following accusations of corruption. The first covered the parliamentary debate about the allegations of misconduct. The second reported on the defamation claim the judge had brought about the first article, and suggested that he had been involved in an attack on an aggrieved litigant.

The courts found the articles insulting and harmful to the judge's reputation rather than informative. In the first the courts took issue in particular with a suggestion that a relative at the Supreme Court had helped to make him "feel more confident", with a photograph presenting him "in a certain light" taken without his consent, and with quotes from a report on the judge's alleged network of persons of influence. The court also concluded, among other things, that the second article's allegations about the aggrieved litigant had not been based on "incontrovertible facts".

The courts' decisions were upheld on appeal and the applicant company had to pay the equivalent of 148 euros (EUR) in court fees in respect of the first article and EUR 7,450 in compensation in respect of the second.

During the proceedings concerning the first article the Supreme Court reassigned the case to another region following a request by the applicant company in which it expressed doubts about the impartiality of the first-instance judge. This reassignment came, however, to late because the judge in question had already delivered the judgment.

Relying on Article 6 § 1 (right to a fair hearing), the applicant company complains in particular that the trial judge examining its case was not impartial. It also complains under Article 10 (freedom of expression) about the domestic court decisions holding it liable for defamation.

Thursday 18 April 2019

B.A.A. v. Romania (no. 70621/16)

The applicant, Mr B.A.A., is a German national who was born in 1978 and lives in London.

The case concerns a warrant for Mr B.A.A.'s arrest in Romania during an investigation into him and his father, well-known business men, for corruption.

In 2014 the prosecuting authorities started an investigation into Mr B.A.A. for allegedly giving bribes to judges and embezzlement, while his father was indicted with corruption.

In 2016 the courts granted the prosecutor's request to order Mr B.A.A.'s arrest and pre-trial detention, finding that there was a reasonable suspicion of corruption. They based this decision on evidence, including witness statements, official documents and recordings of telephone conversations, indicating that the applicant had apparently tried to bribe judges in order to obtain preferential treatment for companies in which he and his father had financial interests and committed embezzlement.

In that decision the courts also concluded that the applicant had absconded and that it was not therefore possible to envisage a more lenient measure than detention. They noted in particular that the authorities had tried to notify the applicant, in Monaco and in London, by email and by telephone, to no avail.

The Romanian authorities issued a European Arrest Warrant against the applicant and he was eventually arrested in London in 2018. According to the latest information, he is still in detention pending extradition awaiting an appeal hearing on his case by the High Court of England and Wales.

Relying in particular on Article 5 (right to liberty and security), Mr B.A.A. complains about the warrant for his arrest, arguing that there had been no real need to arrest him two years after the start of the investigation and the courts had not examined whether it was possible to impose a less strict measure. He also alleges under Article 18 (limitation on use of restrictions on rights) taken together with Article 5 that the Romanian authorities had ordered his arrest as a means to eliminate his family's companies from the market.

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.

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Name	Main application number
Baltic Master Ltd. v. Lithuania	55092/16
Miliukas v. Lithuania	10992/14
Timar and Others v. Romania	26856/06
Rebechenko v. Russia	10257/17
Alakhverdyan v. Ukraine	12224/09

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Name	Main application number
Ifandiev v. Bulgaria	14904/11
Kliba v. Croatia	30375/16
Šimundić v. Croatia	22388/16
Vladić v. Croatia	34664/12
Kallipolitou v. Greece	49031/12
Bíró v. Hungary	15359/14
Kádár and Others v. Hungary	84052/17
Daktaras v. Lithuania	43154/10
Bąkowski v. Poland	48493/11
Beller v. Poland	6992/11
Borysławski v. Poland	13606/13
Chilimoniuk and Others v. Poland	43756/12

Name	Main application number
Izdebski v. Poland	10727/17
Karpiński v. Poland	62243/15
A.K. v. Poland	6068/12
Nysztal v. Poland	33286/15
Rudzis v. Poland	60347/10
Słomka v. Poland	36275/15
Wysoczański v. Poland	27560/15
Nedelcu v. Romania	37043/16
Picabea Ugalde v. Spain	3083/17
Vybornova v. Russia	34839/11
Oryekhov v. Ukraine	51651/10
Vidanov v. Ukraine	13249/11
Yeremeyev v. Ukraine	64766/12

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