



Forthcoming judgments and decisions

The European Court of Human Rights will be notifying in writing 20 judgments on Tuesday 16 October 2018 and 90 judgments and / or decisions on Thursday 18 October 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 16 October 2018

[Könyv-Tár Kft and Others v. Hungary \(application no. 21623/13\)](#)

The applicant companies, Könyv-Tár Kft, Suli-Könyv Kft and Tankönyv-Ker Bt were all active in the sale and distribution of text books to schools.

The case concerns the operation of the school text book distribution market.

In 2011 and 2012 Parliament passed legislation to centralise the management of schools, which had been under the control of the local authorities. New laws also introduced a new system for buying and distributing school text books via a central body, Könyvtárellátó Kiemelten Közhasznú Nonprofit Kft (the Non-profit Library Supplier Limited Liability Company; "Könyvtárellátó".)

After the new system was introduced, Könyvtárellátó took over the procurement and distribution of books. The applicant companies submit that the laws centralised and monopolised the market, meaning they were effectively barred from what was their exclusive or main field of activity.

Relying on Article 1 of Protocol No. 1 (protection of property) to the European Convention on Human Rights, the applicant companies complain that the creation of a State monopoly in the schoolbook distribution market deprived them of the peaceful enjoyment of their possessions.

The applicant companies also raise complaints under Article 13 (right to a remedy) of the Convention in conjunction with Article 1 of Protocol No.1, under Article 6 (right to a fair trial), and under Article 14 (prohibition of discrimination) in conjunction with Article 1 of Protocol No.1.

[Akelienė v. Lithuania \(no. 54917/13\)](#)

The applicant, Aldona Akelienė, is a Lithuanian national who was born in 1935 and lived in Kalvarija (Lithuania). She died on 8 April 2017.

The case concerns the applicant's complaint about the investigation into the murder of her son and the authorities' failure to enforce a prison sentence against the killer.

The applicant's son, R.A., was reported missing in July 1994. The police opened a criminal investigation in August of the same year and eventually questioned a man called A.G. in connection with R.A.'s alleged murder. After false testimony that R.A. and another missing man had been seen alive, the police suspended the case in November 1994.

Almost 10 years later, the police received information that A.G. could have been involved in the disappearance of R.A. and the other man. They opened a criminal investigation in January 2005 and in June decided to charge A.G. with the murder of the two men. A.G., who had disappeared and was believed to be abroad, was eventually arrested in March 2006 in Vilnius. He was detained pending trial, but was released in November 2006 under an order not to leave his place of residence.

A.G. was at first acquitted, in February 2009, but in November 2012 the appeal court found him guilty of the murder of R.A. and another man and sentenced him to 14 years' imprisonment. However, by the time the police came to take A.G. into custody to serve his sentence he had absconded. The Government later established that he had been given refugee asylum in Russia.

Relying in substance on Article 2 (right to life) of the Convention, the applicant complained that the criminal proceedings against her son's killer had taken too long and that they had recklessly failed to apply a remand measure before sentencing him, which had allowed him to escape justice.

[Dainelienė v. Lithuania \(no. 23532/14\)](#)

The applicant, Dalia Regina Dainelienė, is a Lithuanian national who was born in 1944 and lives in Vilnius.

The case concerns the impartiality of a panel of judges, which refused to allow Ms Dainelienė's appeal against her conviction of property embezzlement to be heard by Lithuania's Supreme Court.

The charges against the applicant, brought in 2009, were dropped in 2011. Following the prosecutor's successful appeal later that same year, Ms Dainelienė was found guilty in 2013. After a failed appeal to the Court of Appeal, she lodged an appeal on points of law with the Supreme Court. In 2014, a three-judge selection panel refused to examine this appeal.

Relying on Article 6 § 1 (right to a fair trial), the applicant complains that her case was not examined fairly by an impartial tribunal because the chair of the selection panel was the father of the prosecutor in the embezzlement proceedings against her.

[Lingurar and Others v. Romania \(no. 5886/15\)](#)

The applicants, Augustin Lingurar, Trandafir Lăcătuş and Minerva Covaci, are Romanian nationals who were born in 1976, 1986 and 1985 respectively. They belong to the Roma ethnic group and live in Cluj-Napoca. The case concerns two police operations against the Roma community in Pata Rât.

In the course of 2005 the police received an increasing number of complaints of theft. Following an investigation, they organised an initial operation in the Pata Rât community on 5 November 2005. Police officers recovered a number of stolen objects and made two arrests. As a result of the discovery of stolen goods and evidence indicating that other suspects were living among the Roma community, the Cluj County Police Inspectorate (IPJ) approved the organisation of a large police operation in Pata Rât on 8 November 2005. The operation began on that date at 6 a.m. and ended at 10 a.m. The applicants refused to leave their houses and were forcibly removed from them. At the close of the operation the police officers set light to the camp.

On 21 December 2005 the applicants lodged a criminal complaint against all of the police officers and gendarmes involved in the operations of 5 and 8 November 2005. They accused them of misconduct on account of verbal violence, assault, threats and destruction by fire.

On 22 October 2008 the Cluj Court of Appeal discontinued the proceedings in respect of all the charges; this was confirmed on 7 April 2009.

The applicants lodged an appeal with the High Court of Cassation and Justice. It upheld the appeal and noted, among other points, that certain steps in the preliminary investigation had been carried out by military prosecutors who did not meet the requirements of independence in relation to the gendarmes who were involved in the events. It sent the file back to the public prosecutor's office. That office carried out some of the requested investigative acts, then discontinued the proceedings.

On 9 May 2012 the Oradea Court of Appeal set aside the order discontinuing the proceedings, on the ground that not all of the investigative acts requested by the High Court had been carried out, and sent the case back to the public prosecutor's office. On 27 June 2013 that office again issued a finding that there was no case to answer in respect of all the police officers and gendarmes in

question. The applicants then submitted a complaint about this decision to the Oradea Court of Appeal. By a final judgment of 5 June 2014, the appeal court dismissed the complaint and upheld the order discontinuing the proceedings.

Relying on Article 3 (prohibition of inhuman or degrading treatment), the applicants complain that they were subjected to ill-treatment by State officials during the events of 5 and 8 November 2005 and that no effective investigation was carried out into their complaint. They submit that there was a breach of their right to respect for their private and family life and their home on account of the allegedly illegal search conducted by the authorities, and rely on Article 8 (right to respect for the home). Lastly, relying on Article 14 (prohibition of discrimination) taken together with Articles 3 and 8, they allege that they have been discriminated against on account of their ethnic origin.

[Barkanov v. Russia \(no. 45825/11\)](#)

The applicant, Vitaliy Dmitriyevich Barkanov, is a Russian national who was born in 1947 and lives in Stavropol (Russia).

The case concerns restrictions imposed by the Russian authorities between 2008 and 2017 on the use of a helicopter belonging to Mr Barkanov.

In 2008 the Federal Security Service (FSB), which suspected Mr Barkanov of fraudulently taking possession of helicopters and then selling them illegally, inspected the hanger where the applicant's helicopter was stored and placed seals on the door. According to Mr Barkanov, his helicopter was also placed under seal. The officers also seized the original versions of the helicopter's navigation certificate and registration document, and copies of other documents. The seals were removed from the hanger 15 days later and an employee was instructed to take personal responsibility for preserving the helicopter. The file was then transferred to the Interior Ministry so that an investigator could decide whether or not to open a criminal investigation against Mr Barkanov. On five occasions an investigator issued a decision refusing to open a criminal investigation on the grounds that the elements constituting an offence had not been made out.

In 2010 Mr Barkanov lodged a complaint alleging theft, arguing that several parts of his helicopter, particularly two engines, had disappeared. The investigation, which was opened in 2010, was discontinued in 2016 on the basis that criminal prosecution had become time-barred. Furthermore, Mr Barkanov requested, unsuccessfully, that a criminal prosecution be opened against the FSB officers for abuse of office and assault. He also lodged two applications with the administrative courts, one against the FSB and its staff and the other claiming compensation for the damage allegedly sustained. Lastly, he requested the return of his helicopter and the seized documents. The Interior Ministry replied that its officials had never removed or seized the helicopter and the documents, as these measures could not be taken prior to the opening of a criminal investigation against Mr Barkanov. The applicant was ultimately invited to recuperate the documents related to his helicopter in May 2017.

Relying on Article 1 of Protocol No. 1 (protection of property) to the Convention, Mr Barkanov complains that since his helicopter was placed under seal and handed over to a third party for preservation, and the relevant documents were seized, he has been unable to use it. He also alleges that certain helicopter parts were stolen while the aircraft was under the authorities' control. Relying on Article 13 (right to an effective remedy), he alleges that he had no effective remedy available to him in order to recover his property.

[Zhidov and Others v. Russia \(nos. 54490/10, 1153/14, 2680/14, and 31636/14\)](#)

The applicants, Viktor Zhidov, Valentina Kastornova, Yevdokiya Vdovina, Vladimir Vdovin, Lyudmila Kosenko and Yuliya Tikhonova, are six Russian nationals who were born between 1944 and 1984 and live in Russia.

The case concerns judicial decisions ordering the demolition of buildings belonging to the applicants, at their expense and without compensation, on the grounds that they were situated near gas and oil pipelines. For this reason, the buildings in question were classified as illegal constructions by the domestic courts.

Relying on Article 1 of Protocol No. 1 (protection of property), the applicants allege that there has been an interference with their right to peaceful enjoyment of their property, in that their dwellings were classified as illegal constructions by the Russian courts and they were ordered to demolish them. Relying on Article 6 (right to a fair hearing) and Article 8 (respect for private and family life), one of the applicants also complains that he did not receive a fair hearing and that he was forcibly evicted from his house.

[Visy v. Slovakia \(no. 70288/13\)](#)

The applicant, Stephan Visy, is an Austrian national who was born in 1964 and lives in Vienna. He is a businessman associated with a major Austrian financial and industrial group.

The case concerns electronic storage media which was seized from Mr Visy's office in Bratislava, returned to his lawyer three years later and then immediately re-seized.

The Slovakian prosecuting authorities originally seized the material in 2009 at the request of the Austrian authorities who suspected Mr Visy of being involved in fraud, breach of confidence and insider trading. In 2010 the Slovakian Constitutional Court found however that the warrant for the search and seizure had not covered Mr Visy's office. The seizure of any items had therefore been unlawful and they had to be returned. In 2012, the items were returned to Mr Visy's lawyer, but were immediately seized again with reference to a fresh letter rogatory from the Austrian prosecution service.

Mr Visy lodged a series of requests and complaints with the Slovakian prosecuting authorities, without success. They rejected in particular his argument that he had not been able to confer with his lawyer because the items had been returned and re-seized within such a short space of time, finding that it had been his choice not to take part in person in the handover of the items.

The Constitutional Court dismissed a fresh complaint in 2013, finding that its review was limited to issues of constitutionality as opposed to lawfulness.

Mr Visy alleges in particular that the re-seizure in 2012 of his business-related information, including legal advice protected by lawyer-client privilege, breaches his rights under Article 8 (right to respect for private and family life, the home and the correspondence) and Article 13 (right to an effective remedy).

[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.

Zahirović and Others v. Bosnia and Herzegovina (nos. 4954/15, 7294/15, 7311/15, 7356/15, 7419/15, 7434/15, and 10758/15)

Siroki v. Hungary (no. 33193/14)

Tamašauskas and Radzevičius v. Lithuania (nos. 8797/16 and 29486/17)

Chicheanu v. Romania (no. 30400/15)
Darius-Doinel Pop v. Romania (no. 71908/14)
Kozma v. Romania (no. 22342/08)
Mateescu v. Romania (no. 30462/15)
Nicoleta-Lorena Giurcanu and Others v. Romania (nos. 30365/15, 30392/15, and 30410/15)
Foks v. Russia (no. 5582/12)
Makhloyev v. Russia (no. 66320/09)
Shatokhin v. Russia (no. 50236/06)
Shkitskiy and Vodoratskaya v. Russia (nos. 27863/12 and 66513/12)
Tkachuk v. Russia (no. 2335/09)

Thursday 18 October 2018

[Thiam v. France \(no. 80018/12\)](#)

The applicant, Mr Thiam, is a Mauritanian national who was born in 1978. The case concerns criminal proceedings brought against the applicant, which the former President of the French Republic, Mr Sarkozy, applied to join as a civil party.

In September 2008 the Société Générale bank lodged a criminal complaint against a person or persons unknown for forgery, uttering forged documents, and fraud, following complaints by Mr Nicolas Sarkozy, the then President of the Republic, about banking operations conducted on his account. In October 2008 the public prosecutor began a judicial investigation in respect of fraud within an organised gang. During the investigation Mr Sarkozy applied to join the proceedings as a civil party. In June 2009 the investigating judge committed Mr Thiam and six other persons for trial before the criminal court. They were accused of having obtained telephone accounts, mobile phones and the payment of subscriptions using banking information pertaining to a third party.

Before the court, the applicant claimed that Mr Sarkozy's application to join the proceedings as a civil party was inadmissible. In July 2009 the court found the applicant guilty of the charges against him and sentenced him to one year's imprisonment. It held that Mr Sarkozy's application to join the proceedings as a civil party was admissible on the basis of the right of access to a court, but deferred its decision on his claim for damages. In January 2010 the Versailles Court of Appeal varied the judgment and sentenced the applicant to eight months' imprisonment. In respect of the civil action, it ordered the applicant to pay compensation to Mr Sarkozy. The applicant appealed on points of law.

In June 2012 the plenary Court of Cassation found that the President of the Republic, in his status as victim, was entitled to exercise the rights of a civil party during his term of office. It considered that the defendant had not shown that he had suffered from a breach by the French institutions of his right to a fair trial, since the mere fact that judges were appointed by the President of the Republic did not render them subordinate to him, and each party had been able to present its arguments and discuss those of the opposing party throughout the preliminary investigation and the oral proceedings before the court, then before the court of appeal. The Court of Cassation quashed in part the appeal court judgment and remitted the case.

In January 2014 the Versailles Court of Appeal altered the sentence imposed on the applicant and sentenced him to ten months' imprisonment, suspended.

Relying on Article 6 §§ 1 and 3 (d), the applicant alleges that the fact that the President of the Republic joined the proceedings as a civil party breached the principle of equality of arms and infringed the right to an independent and impartial court.

[Annen v. Germany \(no. 6\) \(no. 3779/11\)](#)

The applicant, Klaus Günter Annen, is a German national who was born in 1951 and lives in Weinheim (Germany). He is a campaigner against abortion.

The case concerns Mr Annen's criminal conviction for insult.

Mr Annen published a press release online in December 2007, criticising stem-cell research and a group of scientists researching at the University of Bonn. He mentioned one professor by name and compared the research to experiments on humans under the Nazi regime.

In November 2008 the domestic courts found that Mr Annen had insulted the professor by comparing the scientist to doctors conducting experiments on humans in concentration camps and sentenced him to 30 daily fines of 15 euros each. His appeals against that conviction were ultimately dismissed by the Court of Appeal in February 2010.

Relying on Article 10 (freedom of expression), Mr Annen complains that his criminal conviction for insult interfered with his freedom of expression without being justified by the protection of the professor's personality rights. His press release sought to contribute to a public debate and not to personally attack the professor. In the applicant's view the domestic courts had not taken full account of the fact that the professor acted as a spokesperson for the scientists and was therefore already part of the public debate.

[Kvyatkovskiy v. Russia \(no. 6390/18\)](#)

The applicant, Mr Viktor Bronislavovich Kvyatkovskiy, is a Russian national who was born in 1971 and lives in Moscow. The case concerns the domestic courts' decision to demolish two buildings constructed by the applicant.

In 2009 the Leninskiy district authorities (Moscow Region) issued two building permits for the construction of individual houses on two plots of agricultural land which had been joined within a cooperative farming association. In November 2012 Mr Kvyatkovskiy purchased the two plots and registered his property rights in the unified land register. In 2013 he had two three-floor buildings constructed on the land and registered his title to them. In 2016 the authorities noted that the buildings constructed by the applicant were made up of several dwellings, although the building permits had been issued for the construction of individual houses, and that no agricultural activity was being carried out on the plots of land.

In November 2016 the authorities brought proceedings against Mr Kvyatkovskiy. On 20 February 2016 the court found that the building permits had been issued for the construction of individual houses, while the buildings erected were hotel-type constructions comprising several apartments. It added that the buildings had been erected on plots of agricultural land that had not been designated for dwellings of that type, in flagrant violation of the land-use and planning regulations. The court held that the buildings were illegal constructions and ordered that they be demolished at the applicant's expense. The Moscow Regional Court upheld the judgment, and an appeal on points of law by Mr Kvyatkovskiy was dismissed.

Relying on Article 6 § 1 (right to a fair hearing) and Article 1 of Protocol No. 1 (protection of property), the applicant complains about the fact that the domestic courts ordered him to demolish his buildings.

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Masis Ayvazyan v. Armenia (no. 46245/08)
Voskerchyan v. Armenia (no. 28739/09)
Benzinska pumpa Šabanović Benz DOO v. Bosnia and Herzegovina (no. 42563/17)
Čaluk and Others v. Bosnia and Herzegovina (no. 3927/15 and 63 other applications)
Đurković Obućina v. Bosnia and Herzegovina (no. 1820/18)
Karašin v. Bosnia and Herzegovina (no. 7416/15)
Škandro v. Bosnia and Herzegovina (no. 7422/15)
Georgiev v. Bulgaria (no. 60770/15)
Nikolov v. Bulgaria (no. 62585/09)
Vladimirov v. Bulgaria (no. 58043/10)
Vrbanić v. Croatia (no. 5917/16)
Schneider v. Germany (no. 61595/15)
Kontos v. Greece (no. 18407/13)
Vasiliou v. Greece (no. 49253/11)
Alslys Data Hungary Kft v. Hungary (no. 45128/13)
Hajdú and Others v. Hungary (nos. 40993/17, 42018/17, and 73421/17)
Homola and Others v. Hungary (nos. 55000/14, 58824/14, 59023/14, 59971/14, 72798/14, 76261/14, 78061/14, 78141/14, 78172/14, and 6211/15)
Szomolya and Others v. Hungary (nos. 6244/15, 9935/15, 14150/15, 14155/15, 14457/15, 20495/15, 40722/15, and 14313/16)
Takács and Others v. Hungary (nos. 68087/12, 75152/12, 29641/13, 39217/13, and 70721/14)
Záveczky and Others v. Hungary (nos. 61968/13, 73705/13, 79090/13, 42613/14, 44707/14, 45368/14, 46447/14, 48293/14, 53202/14, and 53472/14)
Bordini and Others v. Italy (no. 3471/04 and 88 other applications)
Cernea and Voicu v. the Netherlands (nos. 62318/16 and 34414/17)
Cüzdan v. the Netherlands (nos. 6315/08 and 9597/12)
Burża v. Poland (no. 15333/16)
Dybek v. Poland (no. 62279/16)
Jachowicz v. Poland (no. 36402/11)
Połowniak v. Poland (no. 61118/13)
Seredyński v. Poland (no. 61811/14)
Stenzel v. Poland (no. 48033/11)
Walasek v. Poland (no. 33946/15)
Zhernin v. Poland (no. 2669/13)
Brito Barreira Guedes v. Portugal (no. 42439/17)
Flor Lemus v. Portugal (no. 15729/15)
Adam v. Romania (no. 30474/15)
Angelescu and Others v. Romania (nos. 76285/14, 40634/15, 45485/15, 7479/16, 7836/16, 8381/16, 14331/16, 19753/16, and 20042/16)
Babu v. Romania (no. 23359/06)
Boarnă v. Romania (no. 47709/15)
Bodnariuc v. Romania (no. 54658/14)
Cazac v. Romania (no. 71635/14)
Dimcea v. Romania (no. 3763/14)
Diță and Coricică v. Romania (nos. 29507/15 and 18582/16)
Domokos and Others v. Romania (nos. 58377/15, 6301/16, 14392/16, 15809/16, and 36086/16)
Ene v. Romania (no. 18991/16)
Falub and Others v. Romania (nos. 61482/14, 62807/15, and 9077/16)
Hasan v. Romania (no. 40211/15)
Hoisan v. Romania (no. 39023/16)
Kanis v. Romania (no. 26603/14)

Mlădinescu v. Romania (no. 27515/06)
Netu v. Romania (no. 39483/15)
Şain and Chifu v. Romania (nos. 77/16 and 79677/16)
Savu v. Romania (no. 77684/16)
Staicu and Others v. Romania (nos. 30440/15, 30445/15, and 30453/15)
Ştefan and Others v. Romania (nos. 53765/14, 36020/15, 41227/15, 10747/16, and 23456/16)
A.M.K. v. Russia (no. 40831/16)
Cherkashen and Others v. Russia (nos. 57301/09, 11133/11, 11587/12, 48121/13, and 4732/14)
Chistyakov v. Russia (no. 41120/14)
Chukavin and Others v. Russia (no. 30744/06)
Ganichev v. Russia (no. 56261/15)
Ivakin and Others v. Russia (nos. 45414/09, 47156/09, 47660/09, 52016/09, 54261/09, 18116/10, 25381/10, 32565/10, 32610/10, 35788/10, 52220/10, 53385/10, 56603/10, 56845/10, and 58853/10)
Lutsenko v. Russia (no. 40508/13)
Matas v. Russia (no. 5956/13)
Mavrunichev and Others v. Russia (nos. 27862/06, 31312/06, 19842/07, 26055/07, 31927/10, 38697/10, 10221/11, 33747/12, 72777/12, 15359/13, and 22457/13)
Moroşanu v. Russia (no. 40125/08)
Popov and Others v. Russia (nos. 10093/06, 26702/06, 3344/07, 19677/07, 20681/07, 26513/07, 32207/07, 33783/07, 41823/07, 26663/08, 27663/08, 43369/08, 53982/08, 61834/08, 6070/09, 9243/09, 22248/09, 25486/09, 32673/09, and 38526/09)
Safronov and Others v. Russia (nos. 27368/06, 28915/08, and 38095/12)
Saidgadzhiev and Akhmedov v. Russia (no. 11053/12)
Sapegin and Others v. Russia (nos. 52152/08, 55692/12, 27001/15, and 14410/16)
Shestakov and Others v. Russia (nos. 41969/05, 7873/08, 24755/08, 32927/10, 49120/10, 49151/10, 49361/10, and 42424/14)
Sibgatullin v. Russia (no. 44728/12)
Bajić v. Serbia (no. 41198/17)
Kaić v. Serbia (no. 42147/16)
Matović v. Serbia (no. 33104/16)
Nišević Tadić v. Serbia (no. 64232/16)
Perišić v. Serbia (no. 21173/15)
Petrović v. Serbia (no. 46469/17)
Planinčić and Others v. Serbia (no. 57890/15)
Stevanović and Others v. Serbia (nos. 7694/17, 28939/17, and 34615/17)
Uhrín and Others v. Slovakia (nos. 78586/17, 3325/18, and 7378/18)
Jelen and Rifelj v. Slovenia (no. 45483/13)
Stojanović v. Slovenia (no. 17915/16)
Abedinov v. “the former Yugoslav Republic of Macedonia” (no. 44027/16)
Ajruli v. “the former Yugoslav Republic of Macedonia” (no. 2213/15)
Kosturski v. “the former Yugoslav Republic of Macedonia” (no. 40411/15)
Skerlevska v. “the former Yugoslav Republic of Macedonia” (no. 54372/15)
Stojčev v. “the former Yugoslav Republic of Macedonia” (no. 71744/14)
Maxbet Entertainment Group PLC and Maxbet TOV v. Ukraine (no. 67122/09)
Smirnov v. Ukraine (no. 20316/13)

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