



Forthcoming judgments and decisions

The European Court of Human Rights will be notifying in writing 20 judgments on Tuesday 17 January 2023 and 31 judgments and / or decisions on Thursday 19 January 2023.

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 17 January 2023

[Künsberg Sarre v. Austria \(applications nos. 19475/20, 20149/20, 20153/20, and 20157/20\)](#)

The applicants, Maximilian Künsberg Sarre, Michaela Künsberg Sarre, Nikolaus Künsberg Sarre and Thomas Martin Künsberg Sarre, are all related to each other (two brothers and the wife and child of one of them) and are Austrian nationals who were born in 1975, 1969, 2001 and 1969 respectively. The first applicant lives in Perchtoldsdorf, Austria; the others live in Fellbach, Germany.

The case concerns the removal of a part of the surname of the applicants, after long periods of previously accepted use, namely the prefix “von”, in 2017-18 under the Abolition of Nobility Act of 1919 and its implementing provisions, and the refusal to issue a new identity card with the surname bearing the prefix “von” to one of the applicants.

Relying on Article 8 (right to private and family life) of the European Convention on Human Rights, the applicants complain about a violation of their right to their name. Under Article 14 (prohibition of discrimination) read in conjunction with Article 8, the applicants also complain of discriminatory treatment in so far as other prefixes in surnames such as “van”, “de” and “von der” were excluded from the scope of application of that Act and its implementing provisions.

[Daraibou v. Croatia \(no. 84523/17\)](#)

The applicant, Abdeljalil Daraibou, is a Moroccan national who was born in 1992 and lives in Morocco.

The case concerns a fire that broke out in a detention centre, in which three detained migrants died and the applicant, also a detained migrant, suffered severe injuries. The police officers who were responsible for detainees' safety were absolved from blame after a number of criminal enquiries, but one infraction was found in disciplinary proceedings. Instead, suspecting that the applicant had started the fire together with the other (deceased) migrants, the authorities opened a criminal investigation against him. That investigation was terminated because the applicant was, in the meantime, expelled from Croatia to Morocco.

Relying on the substantive and procedural aspects of both Articles 2 (right to life) and 3 (prohibition of inhuman or degrading treatment) of the European Convention, the applicant complains that the State was responsible for failing to prevent the fire in the detention centre. He further maintains that no effective investigation was carried out in that respect.

[Axel Springer SE v. Germany \(no. 8964/18\)](#)

The applicant, Axel Springer SE, is a publishing house registered in Berlin. It publishes, amongst other things, the daily newspaper *Die Welt*.

The case concerns a court decision ordering the Axel Springer company to publish a correction to a newspaper article in October 2013 about a political official in the political party *die Linke*, and her connection to the former German Democratic Republic's ruling party (*Sozialistische Einheitspartei Deutschlands* (SED)).

The applicant company complains that being ordered to publish the rectification violated its freedom of expression under Article 10 of the Convention.

[Hoppen and trade union of AB Amber Grid employees v. Lithuania \(no. 976/20\)](#)

The applicants, Haroldas Hoppen and trade union of AB Amber Grid employees, are, respectively, a Lithuanian national who was born in 1968 and lives in Kaunas (Lithuania), and a trade union established in 2017 and based in Vilnius.

The case concerns Mr Hoppen's dismissal from his post as a head of department from the company AB Amber Grid (a natural gas company) in June 2019. He had at the time been elected as a deputy head of the trade union and was involved in the negotiation of a collective bargaining agreement on behalf of the union members with the company.

Relying on Article 6 § 1 (right to a fair trial), Article 10 (freedom of thought, conscience and religion), Article 11 (freedom of assembly and association), Article 14 (prohibition of discrimination), and Article 4 § 2 (prohibition of forced labour), the applicants complain, in particular, that Mr Hoppen's dismissal was based on discrimination owing to his union activity, and that it harmed the applicant trade union's freedom of association.

[Valaitis v. Lithuania \(no. 39375/19\)](#)

The applicant, Jonas Valaitis, is a Lithuanian national who was born in 1999 and lives in Klaipėda (Lithuania).

The case concerns an allegation of homosexual hate speech.

On 15 January 2018 the applicant published an essay on the Internet portal of a major daily newspaper, *lytas.lt*, mentioning a finalist of a televised singing competition, who had publicly come out as homosexual. Many comments were posted in reply, insulting both the applicant and homosexuals, going so far as to suggest that homosexuals should be burnt in Auschwitz.

Following initial refusals by the authorities to initiate a criminal investigation into incitement to hatred and discrimination, a criminal investigation was opened but then discontinued as the comments were not considered to have constituted a crime. However, following appeals, and the judgment *Beizaras and Levickas v. Lithuania* (no. 41288/15, 14 January 2020), the pre-trial investigation was re-opened. It was eventually suspended, essentially because not all of the authors of the comments could be identified and/or convicted.

Relying on Article 13 (right to an effective remedy), the applicant complains that the Lithuanian authorities did not take measures to protect homosexuals from hate speech.

[Machina v. the Republic of Moldova \(no. 69086/14\)](#)

The applicant, Tatiana Machina, is a Moldovan national who was born in 1985 and lives in Chişinău. Since receiving an injury to her spinal cord in 2003, she has suffered from spastic paraplegia – muscle weakness and stiffness affecting the lower limbs.

The case concerns her medical care while serving a custodial sentence from February 2011 to July 2016, during which she was also diagnosed as having contracted the hepatitis C virus. It also concerns the various and essentially fruitless complaints she made to the authorities, seeking an order for the conditions of her detention to be improved and an acknowledgement that her rights were being violated.

Relying on Article 3 (prohibition of inhuman or degrading treatment), the applicant complains that she received inadequate medical care whilst in prison. She also complains of the absence of an effective remedy under Article 13.

[Minasian and Others v. the Republic of Moldova \(no. 26879/17\)](#)

The applicants, Eleonora Minasian and her three minor children, are Georgian nationals who were born in 1984, 2002, 2009 and 2012, respectively, and live in Tbilisi.

In 2017 the applicants tried to illegally cross from Moldova to Romania, allegedly fleeing persecution in Georgia. The case concerns the authorities' decision to detain the children pending their mother's expulsion from Moldova, and the length of their detention. The applicants were released from custody in May 2017 and left the country in March 2018.

Relying on Article 5 § 1 (f) (right to liberty and security) and Article 6 § 3 (right to a fair trial), the applicants complain of their allegedly unlawful detention, and their inability to participate in the detention proceedings.

[Cotora v. Romania \(no. 30745/18\)](#)

The applicant, Mihaela-Elisabeta Cotora, is a Romanian national who was born in 1960 and lives in Craiova, Romania. She is a judge and President of the Craiova Court of Appeal.

The case concerns disciplinary proceedings against her which resulted in the imposition of a disciplinary sanction in the form of a salary reduction.

Relying on Article 6 § 1 (right to a fair hearing by an independent and impartial tribunal), she alleges that the High Court of Cassation and Justice did not carry out a "sufficient review" to cure the flaws in the disciplinary proceedings in which the Judicial Disciplinary Board of the National Council of Judges and Prosecutors had issued its decision of 31 October 2016. She also complains that the Judicial Disciplinary Board refused to consider some of the evidence she sought to adduce.

Thursday 19 January 2023

[Khural and Zeynalov v. Azerbaijan \(no. 2\) \(no. 383/12\)](#)

The applicants, *Khural* (*Xural*) and Avaz Tapdig oglu Zeynalov, are, respectively a Baku newspaper and an Azerbaijani national, who was born in 1970 and lives in Baku. Mr Zeynalov is the editor-in-chief of *Khural*.

In 2010 two articles were published in *Khural*, which were critical of, among other things, the executive director of the State Media Support Fund, Mr V.S. The case concerns the civil-defamation proceedings initiated by Mr V.S. in response, and the resulting court decision ordering the publication of an apology and the payment of damages.

Relying on Article 10 (freedom of expression) the applicants complain, in particular, of the civil-defamation proceedings and the resulting penalties.

[Zayidov v. Azerbaijan \(no. 3\) \(no. 60824/08\)](#)

The applicant, Ganimat Salim oglu Zayidov, is an Azerbaijani national who was born in 1963 and lives in France. He is the editor of *Azadlig* (*Azadliq*), an opposition-leaning newspaper, and member of an opposition political party, the Popular Front Party of Azerbaijan (*Azərbaycan Xalq Cəbhəsi Partiyası*).

The case concerns the trial of the applicant for deliberate infliction of moderate harm to health and hooliganism following a fracas outside the then offices of *Azadlig* in which a man was allegedly injured. The applicant was convicted and sentenced to six months' imprisonment. He was later pardoned by the President of Azerbaijan in 2010.

The applicant's pre-trial detention was the subject of *Zayidov v. Azerbaijan* (no. 11948/08), in which the Court found a violation of Article 5 § 3 (right to liberty and security) of the Convention due to the lack of relevant and sufficient reasons to justify the detention.

Relying on Article 6 §§ 1 and 3 (d) (right to a fair trial), the applicant complains that he was convicted on the basis of unreliable and fabricated evidence, that he was not able to challenge that evidence or to adduce evidence in his favour. Furthermore, he alleges that he was not able to examine certain prosecution witnesses and that their judgment in his case was not adequately reasoned.

[Pagerie v. France \(no. 24203/16\)](#)

The applicant, David Pagerie, is a French national who was born in 1988 and lives in Verrières-en-Anjou. Following the Saint-Denis and Paris attacks of 13 November 2015, a national state of emergency was declared, and France notified the Secretary General of the Council of Europe that it intended to exercise its right of derogation under Article 15 of the Convention. A curfew order was subsequently made in respect of the applicant under the State of Emergency Act. In addition to a period of incarceration, the applicant was under curfew for a total of more than 13 months.

The applicant relies on Articles 8 (right to respect for private and family life), 9 (right to freedom of thought, conscience and religion) and 14 (prohibition of discrimination) of the Convention and on Article 2 of Protocol No. 4 (freedom of movement). He submits in particular that his curfew order lacked a sufficiently foreseeable legal basis and was disproportionate.

Since the case began, he has also raised similar complaints regarding the individual administrative control and monitoring order to which he was later made subject.

[Machalikashvili and Others v. Georgia \(no. 32245/19\)](#)

The applicants, M. Machalikashvili, E. Machalikashvili, N. Machalikashvili, and A. Margoshvili, are Georgian nationals who were born in 1968, 1949, 1989, and 1971 respectively and live in the village of Duisi (Georgia).

The case concerns an anti-terrorism operation carried out against the so-called "Islamic State" in Georgia by the State Security Service. Following one of the arrest operations, the applicants' relative, T.M., who was suspected of providing material support to a group associated with the "Islamic State", died in hospital, having been shot while allegedly trying to detonate a grenade following his arrest. The applicants themselves were allegedly subjected to physical and verbal abuse.

Relying on Article 2 (right to life), Article 3 (prohibition of inhuman and degrading treatment), and Article 13 (right to an effective remedy), the applicants complain, in particular, of the use of unnecessary lethal force by the security forces, of the lack of an effective investigation into the death, and of being treated in a degrading manner by security forces during the special operation.

[Domenech Aradilla and Rodríguez González v. Spain \(nos. 32667/19 and 30807/20\)](#)

The applicants, Mercè Domenech Aradilla and Encarnación Rodríguez González, are Spanish nationals who were born in 1986 and 1960 and live in Caldes de Montbui and Salt (Spain) respectively.

The case concerns the refusal to grant survivor's pensions to the two applicants. Ms Domenech Aradilla's partner died in 2013 after five years of living together. Ms Rodríguez González's partner died in 2014, after having lived together since 2008. There was no legal requirement to register the partnerships two years prior to the death of one of the partners at the time their respective partners died. However, this requirement entered into force shortly afterwards, when the applicants' applications for a survivor's pension were still pending. The domestic authorities considered that the new requirement was applicable in their case, and the survivor's pension was denied to them by the National Institute of Social Security.

Relying on Article 1 of Protocol No. 1 (protection of property) and Article 6 § 1 (right to a fair trial), the applicants complain of the refusal to grant them survivor's pensions, and of the lack of legal certainty in how the relevant regulations were implemented.

[Korotyuk v. Ukraine \(no. 74663/17\)](#)

The applicant, Oksana Viktorivna Korotyuk, is a Ukrainian national who was born in 1986 and lives in Kyiv.

The case concerns a book written by Ms Korotyuk – *Scientific and Practical Commentary to the Law of Ukraine on Notaries* – being made available for paid download on a textbook website without her consent. She complained to the police in 2013 and the investigation is apparently still ongoing.

Relying on Article 6 (right to a fair trial) and 13 (right to an effective remedy), and Article 1 of Protocol No. 1 (protection of property), Ms Korotyuk complains of a lack of an effective investigation into the illegal downloading of her book and of the State's failure to protect her intellectual property.

[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 17 January 2023

Name	Main application number
Kirakosyan v. Armenia	50609/10
Pejkić v. Croatia	49922/16
Ouş v. the Republic of Moldova	1836/16
Lupu and Others v. Romania	3107/19
A.Y. and Others v. Russia	29958/20
Ashirov and International Memorial v. Russia	25246/07
Dalabayev and Magaramov v. Russia	13927/21
OOO Mediafokus v. Russia	55496/19
Bulut v. Türkiye	2441/13
Çiçekler v. Türkiye	37637/18
Erenler and Others v. Türkiye	53310/10
Sedat Bayram v. Türkiye	54611/11

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Name	Main application number
Llagami and Others v. Albania	65774/14
Agazade v. Azerbaijan	12328/12
Mehtiyev v. Azerbaijan	42845/10
J.Č. v. Croatia	11504/18
Tepavac v. Croatia	14028/20
Agarwal v. the Czech Republic	44870/19
Papanikolaou v. Greece	45794/19

Name	Main application number
R.B. v. Hungary	48444/18
Muhedinova v. North Macedonia	2500/16
Ibrahim v. Norway	41803/22
Borkowska and Others v. Poland	5815/22
Żołnacz v. Poland	27476/15
BRD - Groupe Société Générale S.A. v. Romania	8968/14
Cîrstoiu v. Romania	59120/19
Dobrilă v. Romania	8115/15
Enescu v. Romania	59819/18
Nistor v. Romania	63384/13
Oros and Bîrțoiu v. Romania	13091/17
Pongracz v. Romania	26588/18
Răducan v. Romania	83460/17
Selamet v. Romania	78458/14
Horzum v. Türkiye	4475/18
Kılıç and Others v. Türkiye	63400/16
Orhan v. Türkiye	38358/22
Saracoğlu v. Türkiye	11273/22

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Press contacts

echrpess@echr.coe.int | tel.: +33 3 90 21 42 08

We would encourage journalists to send their enquiries via email.

Tracey Turner-Tretz (tel.: + 33 3 88 41 35 30)

Denis Lambert (tel.: + 33 3 90 21 41 09)

Inci Ertekin (tel.: + 33 3 90 21 55 30)

Neil Connolly (tel.: + 33 3 90 21 48 05)

Jane Swift (tel.: + 33 3 88 41 29 04)

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.