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 nine judgments on Tuesday 18 February 2020 and 45 judgments and / or decisions on Thursday 20 February 2020.

*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 18 February 2020

Makdoudi v. Belgium (application no. 12848/15)

The applicant, Montassar Makdoudi, is a Tunisian national who was born in 1989 and lives in Monastir (Tunisia).

Mr Makdoudi complains about a removal measure issued against him by the Belgian authorities together with a 10-year ban on residence on account of his conviction for various offences committed in Belgium, and the national authorities' refusal to take into account the fact that he is the father of a child with Belgian nationality.

Mr Makdoudi allegedly arrived in Belgium in 2008. He was arrested in 2009, and then sentenced in 2010 to 42 months' imprisonment. He served his sentence until December 2012. In the meantime, in 2011 he officially acknowledged paternity of a girl with Belgian nationality, born on 15 March 2010. A ministerial deportation order was issued against him in 2011, followed by several orders to leave the country, the last of which was issued in June 2016; Mr Makdoudi returned to Tunisia on 27 July 2016.

Relying on Article 5 § 4 (right to a speedy decision on the lawfulness of detention) of the European Convention on Human Rights, Mr Makdoudi complains that the remedies he used to challenge the lawfulness of his detention in a closed centre for aliens pending removal (from 15 May to 11 September 2014) did not enable the domestic courts to take a final decision on this matter.

Relying on Article 8 (right to respect for private and family life) and Article 13 (right to an effective remedy) of the European Convention, he complains about his removal to Tunisia coupled with the ban on residence, and the national authorities' refusal to take his paternity into account. He also alleges that no effective remedy was available to him.

Černius and Rinkevičius v. Lithuania (nos. 73579/17 and 14620/18)

The applicants, Irmantas Černius and Andrejus Rinkevičius, are Lithuanian nationals who were born in 1977 and 1960 respectively and live in Vilnius.

The case concerns the national courts' refusal to reimburse the applicants' legal costs incurred during administrative litigation.

In 2015 the applicants, who were managers of a company providing security services in Lithuania and Latvia, were fined 500 euros (EUR) each by the State Labour Inspectorate for failing to publicly display employees' work schedules. The applicants challenged the fines in court and won.

When the law firm which had represented them in the labour disputes billed them EUR 1,169 and EUR 837, respectively, the applicants brought new court proceedings seeking compensation for pecuniary damage owing to the costs of their legal representation. The lower courts dismissed their claims as unfounded and they appealed, arguing that they would have been better off paying the

fine than choosing to defend their rights in court, which had led to greater financial loss for them in the long run. The Supreme Administrative Court ultimately upheld the lower courts' decisions, finding that the labour inspectorate's actions had not been unlawful.

The applicants complain about the national courts' refusal to award them legal costs after successful litigation and allege that they were placed in a worse situation than if they had chosen not to defend their rights in court. The Court will examine the case under Article 6 § 1 (right to a fair hearing) of the European Convention.

Cînța v. Romania (no. 3891/19)

The applicant, Marcel-Dan Cînța, is a Romanian national who was born in 1965 and lives in Baia Mare (Romania).

The case concerns court-ordered restrictions on the applicant's contact with his daughter.

In July 2018 the applicant sought a court order from Baia Mare District Court for his daughter, who was four at the time, to either live with him during proceedings for divorce from his wife or for him to have regular contact with her at his home. Both he and his former wife had had psychiatric problems, although at the time of the divorce the applicant's wife was no longer registered as suffering from a mental illness.

In September 2018 the court allowed the applicant to have contact from 6 p.m. to 8 p.m. on Tuesdays and Thursdays, only in public places and in the mother's presence. The child was to live with her mother and the applicant was to pay maintenance.

The court based its decision on medical evidence, which showed that the applicant had a chronic mental illness, as well as statements from the mother, who complained that he had been physically and psychologically aggressive because of his condition. Other relatives involved in the child's care, and the daughter herself were also questioned by the court.

On appeal to Maramureş County Court, the applicant argued that the lower court had relied exclusively on his illness, in a subjective and partial manner. He had never been violent towards his daughter or his wife. The County Court dismissed his appeal, finding that the medical evidence, witness statements, correspondence and the applicant's attitude towards the child's mother justified the restrictions on his contact rights.

Relying on Article 8 (right to respect for private and family life), the applicant complains about the limited time allowed for contact with his daughter and the conditions placed on it. Under Article 14 (prohibition of discrimination) taken together with Article 8, he complains that he was discriminated against on the grounds of his health, notably his mental illness, in the setting of the contact rights.

Jidic v. Romania (no. 45776/16)

The applicant, Stelian Jidic, is a Romanian national who was born in 1964 and lives in Bucharest.

The case concerns his complaint that a more lenient new law was not used when punishing him for a drink-driving offence.

In November 2013 the Bucharest police began criminal proceedings against the applicant for drink-driving after a traffic accident the previous year. Mr Jidic, a professional driver, admitted to drinking, getting behind the wheel of his car, and hitting a friend with the car by accident.

Bucharest District Court convicted him of drink-driving in October 2015 and applied Article 336 § 1 of the new Criminal Code, which had come into force in February 2014, as the most lenient in his case. He was given a 10-month prison sentence, and its imposition was postponed for two years, without any driving ban.

On appeal by the prosecutor, Bucharest Court of Appeal quashed the judgment. It accepted the prosecution's argument that his sentence was not appropriate for the seriousness of his offence. In February 2016 it sentenced him to three years and four months in prison, including a three-month reduction for admitting his crime, with additional penalties. Both measures were later suspended for seven years. It also imposed a supervision period, which included a ban on driving.

In its judgment the appeal court applied the previous law, Article 87 § 1 of Government Ordinance no. 195/2002, as the most lenient in the circumstances of his case owing to the conditions to be met for suspending a sentence.

Mr Jidic complains about the length of the proceedings under Article 6 § 1 (right to a fair trial within a reasonable time) and Article 13 (right to an effective remedy). Relying on Article 7 (no punishment without law), he complains that the appeal court breached the principle of the retrospective application of the more lenient criminal law.

Marilena-Carmen Popa v. Romania (no. 1814/11)

The applicant, Marilena-Carmen Popa, is a Romanian national who was born in 1960 and lives in Bucharest.

The case concerns criminal proceedings against the applicant for forgery.

The applicant was a notary who practised until September 2010.

In November 2003 she authenticated a contract for the sale of land between two companies, one of which was represented by E.C. In 2005 the prosecutor's office charged the applicant with continuous acts of forgery, asserting that she had falsified several contracts and had authenticated some of them in the absence of the signatories, including that of November 2003.

The Court of Appeal acquitted the applicant after hearing evidence from witnesses, including E.C., and examining a forensic report on the signatures on the November 2003 contract. The court held that although the report confirmed that the signature on the contract was not E.C.'s, there was no other evidence to rebut the defendant's statement that E.C. had been present at the signing.

The prosecution appealed and in 2010 the Court of Cassation amended the charge to one of a single act of forgery regarding the November 2003 contract, of which it convicted her. The applicant maintained her statement that all the contracts had been signed by the parties in her presence but the court found that the forensic report confirming E.C.'s testimony was decisive.

The applicant was sentenced to six months' imprisonment, stayed conditionally with a probation period of three years. The final judgement was modified to correct obvious errors, but the court did not change the probation period.

The applicant lodged an extraordinary application for annulment of the final judgement. She notably argued that the Court of Cassation had changed the legal classification of the charge against her without giving her a chance to express her views on that issue or testify directly. Moreover, it had imposed a longer probation period on her than was legally allowed.

Relying on Article 6 (right to a fair trial) and Article 7 (no punishment without law), the applicant complains that the proceedings against her were unfair and that her sentence was heavier than that allowed by law.

Kungurov v. Russia (no. 70468/17)

The applicant, Timofey Kungurov, is a Russian national who was born in 1978 and lives in St Petersburg (Russia).

The case concerns the authorities' refusal to allow his wife and children to visit him in prison.

Mr Kungurov was convicted in November 2016 of conspiracy to commit fraud, sentenced to 18 months in jail and taken to the SIZO-1 remand prison. The following month he asked the trial judge to allow visits from his wife and children, but the judge refused.

In a letter to the applicant the judge referred to section 18 of the Defendants' Detention Act, the fact that the applicant's wife was a witness in a criminal case, and that the judgment against him had not yet become final. Nor was there a provision in law for visits to jails by minors.

Relying on Article 8 (right to respect for private and family life), the applicant complains about the refusal of the prison visits. Under Article 13 (right to an effective remedy) taken in conjunction with Article 8, he complains that there was no way to have that refusal reviewed.

Pavlova v. Russia (no. 8578/12)

The applicant, Dina Pavlova, is a Russian national who was born in 1974 and lives in Naberezhnyye Chelny (Russia).

The case concerns a ban on her visiting her husband in prison while he was on trial for armed robbery and organised crime.

Ms Pavlova made a series of requests to see her husband in a remand prison in Kazan where he had been transferred just before the opening of his trial in October 2010. However, the trial court judge, who, as the authority in charge of the case against her husband, had the discretion under domestic law to grant or refuse prison visits, replied that they would only be granted after judgment in his case. These decisions were upheld by the President of the Supreme Court of Tatarstan, with reference to the particular circumstances of the case, such as the nature of the charges against her husband and the need to ensure safety.

Ms Pavlova was allowed to see her husband again in March 2013.

Relying on Article 8 (right to respect for private and family life) and Article 13 (right to an effective remedy), Ms Pavlova complains about the restriction on visiting her husband in prison for the entire three and a half years of his trial and the lack of judicial review of the decisions rejecting her applications for prison visits.

Thursday 20 February 2020

Nasirov and Others v. Azerbaijan (no. 58717/10)

The applicants, Famil Zakir oglu Nasirov, Amina Talat gizi Mammadova, Gulnaz Mahammadali gizi Hasanova, Salatin Ali gızı Iskandarova, Shafiga Mahammad gizi Mammadova, Rahima Amikishi gizi Huseynova, and Aygul Novruz gizi Nasirova, are Azerbaijani nationals who were born in 1984, 1952, 1962, 1951, 1940, 1963, and 1984 and live in Baku, Lankaran and Gadabay (all in Azerbaijan).

The case concerns complaints of interferences with their rights while they were preaching as Jehovah's Witnesses.

All the applicants were taken to police stations after they had preached door to door in three separate incidents in 2010: the first two applicants in March 2010 in Baku; the third, fourth and fifth in Aghstafa in April 2010; and the sixth and seventh in Sumgayit in May 2010.

All the applicants, except the second applicant, were fined 200 Azerbaijani manats (about EUR 200 at the time) by first-instance courts in those cities respectively for distributing literature which had not been approved for import.

Their appeals, in which the applicants relied on various Articles of the European Convention, had slightly different outcomes.

In the first applicant's case the appeal court upheld the first-instance decision, finding that the books he had been distributing had been allowed only for the internal purposes of the religious organisation in question at its registered legal address. The appeal court sent the second applicant's case back for fresh consideration, after which the first-instance court again found her guilty but discontinued the proceedings as time-barred without applying a penalty and ordered the return of the confiscated books.

In the third, fourth and fifth applicants' case, the appeal court ordered that all the books, except "What does the Holy Book really teach?" be returned to the Jehovah's Witnesses' headquarters in Baku. It held that the particular title they had been distributing had been banned by the Committee and that the remaining ones were allowed only for internal use at the organisation's headquarters.

The appeal court quashed the first-instance decisions in the sixth and seventh applicants' case and found that although they had possessed books banned by the Committee, the evidence had not proved that they had been distributing them. The court discontinued the proceedings and ordered the confiscated property to be returned to them.

The third, fourth, fifth, sixth and seventh applicants complain under Article 5 § 1 (right to liberty and security) of the Convention that their arrest and detention were unlawful.

All the applicants complain of a violation of Article 9 (freedom of thought, conscience, and religion) while the seventh applicant raises a complaint under Article 8 (right to respect for home) over the police search of an apartment. In addition, the applicants complain of violations of Article 10 (freedom of expression), and Article 14 (prohibition of discrimination) in conjunction with Article 9.

Religious Community of Jehovah's Witnesses v. Azerbaijan (no. 52884/09)

The applicant community, the Religious Community of Jehovah's Witnesses, was registered by the Ministry of Justice of Azerbaijan on 22 December 1999.

The case concerns an import ban on several Jehovah's Witnesses texts.

In June 2008 the State Committee for Work with Religious Associations banned the import of some of the applicant community's religious literature, arguing that the titles in question contained passages which were hostile towards other religions and beliefs.

The applicant community, relying on the provisions of the Constitution and the Convention on freedom of worship and freedom of expression, took the Committee to court to have its decision declared unlawful and for it to be quashed.

However, the first-instance court upheld the Committee's ban, basing its conclusions on an expert report which examined three titles, "Worship the Only True God", "What Does the Bible Really Teach?" and "What Is the Purpose of Life?". The court found that the books' content undermined mutual understanding, tolerance and reciprocal respect between communities of various faiths.

Further appeals by the applicant community were dismissed, with the Supreme Court handing down a final decision in June 2009.

The applicant community complains about the refusal to allow the import of religious literature under Article 9 (freedom of religion), Article 10 (freedom of expression), and Article 14 (prohibition of discrimination) in conjunction with Articles 9 and 10.

M.A. and Others v. Bulgaria (no. 5115/18)

The applicants, Mr M.A., Mr. A.N., Mr Y.M., Mr S.H., and Mr A.A., are Chinese nationals who were born in 1983, 1994, 1991, 1994, and 1989 respectively. They are Uighur Muslims from the Xinjiang Uighur Autonomous Region in China.

The case concerns their intended expulsion on national security grounds to China, where they would allegedly be at risk of death or ill-treatment.

All the applicants arrived in Bulgaria in July 2017 from Turkey, where they had been living since leaving China on various dates between 2013 and 2015. The applicants subsequently applied for asylum but the State Refugees Agency rejected their applications in December 2017, decisions which the Haskovo Administrative Court upheld in January 2018.

The court found that the applicants had not shown that they had been persecuted in their country of origin, within the meaning of the Asylum and Refugees Act, or that they were at risk of any such persecution. The applicants had also made assumptions on the risk they faced, based on widely-known facts about the situation in the region they were from. It had not been shown that any problems the applicants had had with the authorities before leaving China had been due to their ethnicity or religion.

In parallel, the head of the State Agency for National Security in January 2018 ordered the applicants' expulsion on national security grounds. Applications by them for judicial review of that decision were dismissed by the Supreme Administrative Court in May 2019. In decisions made available by the Government on the second, third and fourth applicants, the Supreme Administrative Court concluded that the State Agency for National Security had convincingly shown that they could pose a threat to Bulgaria's national security owing to, among other things, links with the East Turkistan Islamic Movement (ETIM), which was considered to be a terrorist group.

The World Uighur Congress, the International Uighur Human Rights and Democracy Foundation, Amnesty International and several members of the European Parliament have asked Bulgaria not to remove the applicants. In January 2018 the Court indicated to the Bulgarian Government that the applicants should not be removed while the proceedings before the Court were ongoing.

Relying on Article 2 (right to life), Article 3 (prohibition of torture and of inhuman or degrading treatment), and Article 13 (right to an effective remedy), the applicants complain that if returned to China they will face persecution, ill-treatment and arbitrary detention and could even be executed. They also complain of a lack of a remedy under the Asylum and Refugees Act.

Y v. Bulgaria (no. 41990/18)

The applicant, Ms Y, is a Bulgarian national who was born in 1964 and lives in Haskovo (Bulgaria).

The case concerns the authorities' efforts to investigate the applicant's allegations of rape and, in particular, whether they failed to follow an obvious line of inquiry revealed by DNA evidence.

Ms Y alleges that she was raped on the outskirts of Sofia on 10 July 2013 when on a trip to see a friend.

She called the police and an investigation was opened straight away. The police collected physical evidence from both the scene of the rape and the applicant (clothes and swabs). She was rapidly given a medical examination, which confirmed non-consensual vaginal penetration.

She was formally interviewed the next morning and gave a description of her alleged assailant, which enabled the police to identify a potential suspect, Mr X, a man who lived in lodgings a few hundred metres from the scene of the rape. She then picked him out in an identity parade. Mr X denied being the assailant however, maintaining that he had been at home in his lodgings at the time of the assault.

Five months later the results of the DNA tests threw up a second potential suspect, Mr Z, a construction worker who also lived near the rape scene. The investigator questioned Mr Z who denied having any sexual contact with the applicant.

The prosecuting authorities decided to suspend the investigation in 2016 and then again in 2018, finding that although the applicant's allegations of rape were credible, it was impossible to identify the assailant or to establish with any degree of certainty that an offence had been committed. They cast doubt in particular over her identification of Mr X as she had eyesight problems and found that, in any case, he had an alibi which had been corroborated by his partner, a friend and his lodging's caretaker. Nor was there any physical evidence putting him at the scene of the rape. DNA traces from the applicant's briefs had, on the other hand, been recovered which belonged to Mr Z, but that was not sufficient evidence to implicate him as the applicant had not named him as her assailant.

In 2019 the applicant sought judicial review of the decision to suspend the investigation, without success.

The applicant complains that the investigation into the rape has been dragging on since July 2013 without the authorities identifying or bringing to justice her assailant. The Court will examine the case under Article 3 (prohibition of inhuman or degrading treatment) and Article 8 (right to respect for private life).

Krebs v. Germany (no. 68556/13)

The applicant, Reiner Krebs, is a German national who was born in 1979.

The case concerns his complaint that a court hearing his appeal against sentence in one case declared him guilty of crimes in further pending criminal proceedings.

Mr Krebs was found guilty in August 2010 of fraud and forgery after ordering documents and services through the Internet under a false name and using someone else's bank account details for payment. He was given a prison sentence of 10 months, with no suspension on probation.

On appeal against the sentence, the Weiden Regional Court held hearings. In one of them, the court heard testimony from a police officer who was investigating new charges of fraud against the applicant, allegedly committed after his first sentence.

The appeal court upheld the 10-month sentence with no probation, stating in particular that it was convinced of Mr Krebs's guilt of the further offences the police were investigating.

Mr Krebs appealed on points of law, arguing that the Regional Court had breached his right to be presumed innocent. His appeal was unsuccessful, as was a complaint about being denied the right to be heard. He was convicted in August 2012 on further counts of fraud and forgery and given a global sentence of one year and six months' imprisonment for both sets of crimes.

In July 2013 the Federal Constitutional Court declined to consider a complaint by the applicant about his initial 10-month sentence.

Relying in particular on Article 6 § 2 (presumption of innocence), the applicant complains about the Regional Court's statements on his being guilty of further offences of fraud.

Vlastaris v. Greece (no. 43543/14)

The applicant, Mr Nikolaos Vlastaris, is a Greek national who was born in 1939 and lives in Athens.

The case concerns an expropriation order concerning the applicant's property and granting compensation, which has not been executed.

Mr Vlastaris owns a 1,154 sq. m plot of land, containing an old family home, a garden and professional premises, located on the territory of Aigaleo municipality. The Aigaleo municipal council took the decision, published in the Official Gazette in May 1992, to create a green space. By a decision of 6 June 1995, the relevant Athens body with responsibility for planning matters identified fourteen owners of adjacent properties who, in addition to the municipality, were to pay compensation to the applicant. On 30 April 2010 the Athens Court of Appeal assessed the final

amount of compensation, fixing it, according to the applicant, at EUR 1,264,327.48, of which EUR 799,200 were to be paid by the owners of the adjacent plots of land and EUR 465,127.48 by Aigaleo municipality. However, the compensation was not paid within the eighteen-month period laid down by the law, with the result that the expropriation had to be considered as having automatically lapsed.

On 24 February 2012 Mr Vlastaris asked the municipality to proceed with the expropriation, so that he could receive the compensation sums determined by the court of appeal. His request was dismissed. He subsequently filed several complaints about non-payment of the compensation.

Relying on Article 1 of Protocol No. 1 (protection of property), the applicant complains that he did not receive compensation for the expropriation of his land, despite the fact that the amount he was to receive had been determined by the Athens Court of Appeal.

Zelčs v. Latvia (no. 65367/16)

The applicant, Ringolds Zelčs, is a Latvian national who was born in 1971 and lives in Riga.

The case concerns the applicant's complaint that he was detained unlawfully in a police car while officers drew up administrative offence drink-driving charges and that he was denied a fair trial.

In November 2015 police officers placed Mr Zelčs in their car. They drew up an administrative-detention report and two administrative-offence reports, one for driving in reverse under the influence of alcohol and the other for causing an accident while driving in reverse as his car had hit another vehicle. He disagreed with the offence reports and stated in a written record that his wife had been behind the wheel at the time. He was released from the police car after slightly less than two hours.

In February 2016 Riga City Ziemeļu District Court found that the applicant had committed the offence of driving a vehicle in reverse gear while under the influence of alcohol, giving him five day's administrative custody, a fine of EUR 850, and a two-year driving ban. The court delivered its verdict after hearing testimony from the applicant, his wife, the police officers, and the couple whose vehicle had been hit.

On appeal, Mr Zelčs raised the argument that he had been detained unlawfully: there had been no grounds to detain him under Article 252(1) of the Code of Administrative Offences because the administrative-offence reports had been drawn up at the scene, he had not been taken anywhere, his identity had been known and there had been no need to prevent the continuation of an administrative offence. He had been placed in the police car with no rights to get out of it or to communicate with others. He also argued that the evidence from the other couple and the police officers was unreliable and should not have been admitted.

In June 2016 Riga Regional Court upheld the first-instance judgment, finding that the applicant's liability had been established on the basis of all the evidence in the case, including the witness testimony, the police officers' reports and the alcohol test taken at the time. It dismissed his claims of breaches of procedure by the police officers.

The applicant complains that his administrative detention on 20 November 2015 in the police car was unlawful and thus contrary to Article 5 § 1 (right to liberty and security). He also alleges a violation of Article 6 §§ 1 and 3 (d) (right to a fair trial and right to obtain attendance and examination of witnesses) because in particular he was not able to question the police officers a second time during the administrative-offence proceedings against him.

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 18 February 2020

Name	Main application number
Ojog and Others v. the Republic of Moldova	1988/06
Oprea and Others v. the Republic of Moldova and Russia	36545/06

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Name	Main application number
Bagirov v. Azerbaijan	41832/15
Guliyev v. Azerbaijan	32370/10
Gunel Bashirli and Rashad Bashirli v. Azerbaijan	59502/13
Gurbanova and Pashayeva v. Azerbaijan	26553/08
Huseynov and Abuzarova v. Azerbaijan	15436/14
Jafarzade v. Azerbaijan	2515/11
Mirzayev and Kazimov v. Azerbaijan	66539/14
Valiyev and Aliyev v. Azerbaijan	12982/14
Mimbenga v. Belgium	54634/18
Livančić and Others v. Bosnia and Herzegovina	15313/15
Pramenković and Others v. Bosnia and Herzegovina	44114/16
Vučenović and Malkoč v. Bosnia and Herzegovina	17760/16
Balogh and Others v. Hungary	10263/16
Derényi and Others v. Hungary	54204/18
Qing and Others v. Hungary	68402/13
Cioccoloni and Others v. Italy	26709/15
Impellizzeri and Others v. Italy	30742/07
Senes v. Italy	48365/11
Babkaitis v. Lithuania	49419/18
Daktaras v. Lithuania	48303/16
Gliaubertai v. Lithuania	67467/17
Bulmaga and Spînu v. the Republic of Moldova	16313/15
S.C. Pan-Doragro S.R.L. v. the Republic of Moldova	21273/14
Ţugui v. the Republic of Moldova	48287/13
Voloc and Others v. the Republic of Moldova	38292/08
Chirică and Others v. Romania	19595/06
Gîndac v. Romania	64404/16
Vasiljević and Drobnjaković v. Serbia	43987/11
Z.H. v. the Netherlands	45582/18
Aktaş v. Turkey	59857/16
Dilan Petrol Ltd. Şti. v. Turkey	12376/10
Erdoğan v. Turkey	30364/08
Kılıçaslan and Soğukpınar v. Turkey	81535/12
Orak v. Turkey	48997/09
Özbaş v. Turkey	47370/08
Antonenko and Others v. Ukraine	45009/13

Name	Main application number
Chepelenko and Others v. Ukraine	15117/17
Povarov v. Ukraine	7220/19

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