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 17 judgments on Tuesday 19 March 2019 and 25 judgments and / or decisions on Thursday 21 March 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 19 March 2019

Bigović v. Montenegro (application no. 48343/16)

The applicant, Ljubo Bigović, is a Montenegrin national who was born in 1976. He is currently serving a 30-year prison sentence in Spuž (Montenegro) for, among other things, the aggravated murder of a high-ranking police investigator.

The case concerns his complaints about his detention, including poor conditions and inadequate medical care.

Mr Bigović was arrested in February 2006 and placed in detention because of the risk of him absconding. His detention was extended during the next four years and seven months for the same reason. After that, the courts considered, in addition, that his release would seriously breach public order and peace. He was ultimately convicted in 2012, and this decision was upheld on appeal by the Supreme Court in 2015.

Throughout his detention he has suffered from various illnesses, including ulcerative colitis, cataracts, problems with his knees and depression. He has been examined and treated by both prison doctors and external specialists, has been prescribed medication and a special diet and has had surgery.

He unsuccessfully applied for release on numerous occasions, primarily for health-related reasons, while complaining about the length and lack of review of his pre-trial detention as well as the reasons for it, inadequate medical care and poor conditions in detention. He made the same complaints when appealing against his convictions before the courts and lastly before the Constitutional Court, also without success.

Relying on Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights, he complains about the conditions of his detention. He alleges, in particular, overcrowding, a semi-partitioned toilet in his cell and only one hour's outdoor exercise per day. He further submits that he developed his illnesses in detention and that the medical care he has received has been inadequate.

He makes a number of other complaints about his detention under Article 5 §§ 1 (c), 3 and 4 (right to liberty and security) of the European Convention. He notably alleges that his detention was not regularly reviewed and was therefore unlawful, that it was too long and insufficiently justified and that the courts did not decide on his applications for release in good time.

Høiness v. Norway (no. 43624/14)

The applicant, Mona Høiness, is a Norwegian national who was born in 1958 and lives in Oslo (Norway).

The case concerns the domestic courts' refusal to impose civil liability on an Internet forum host after vulgar comments about Ms Høiness had been posted on the forum.

Ms Høiness, who is a well-known lawyer, instigated in May 2011 civil proceedings before the Oslo City Court against the Hegnar Media AS company and Mr H., an editor working for the Internet portal *Hegnar Online*, for defamation. She stated that her honour had been infringed because of sexual harassment in comments made anonymously in *Hegnar Online*'s forum, which was incorporated into Hegnar Media AS. The defendants argued that they had not been aware of the comments and that they had been removed as soon as they had become aware of them. In January 2012 the City Court ruled in favour of the defendants. It held that the three comments in question had not amounted to unlawful defamation as they had been incapable of offending either Ms Høiness's honour or reputation. It also awarded the defendants litigation costs of 225,480 Norwegian kroner (NOK – approximately 24,650 euros (EUR)).

Ms Høiness appealed. The High Court held in October 2013 that Ms Høiness's claim for compensation could in any event not succeed unless the defendants had acted with sufficient culpability. In that regard it noted, amongst other things, that there were "warning buttons" on the website, which readers could click on in order to react to comments. The High Court also upheld the City Court's decision on litigation costs and awarded the defendants NOK 183,380 (approximately EUR 20,050). Ms Høiness appealed but leave to appeal to the Supreme Court was refused.

Ms Høiness complains that the Norwegian authorities, by not sufficiently protecting her right to protection of her reputation and requiring her to pay litigation costs to the extent seen in her case, violated Article 8 (right to respect for private life).

E.B. v. Romania (no. 49089/10)

The applicant, Ms E.B., is a Romanian national who was born in 1973 and lives in Mica (Romania).

The case concerns her complaint that her allegation of rape was not investigated properly.

Ms E.B. alleges that in May 2008 she met a man, unknown to her at the time but who was later identified as T.F.S., as she was walking home. He eventually threatened her with a knife and then raped her. The following day she went to the local police and lodged a criminal complaint. The police questioned T.F.S., who denied rape and said he had had consensual sex with the applicant.

In January 2009 the prosecutor's office attached to the Târnăveni District Court decided against opening criminal proceedings on the grounds that T.F.S.'s actions had not constituted a crime. However, in May of that year the District Court referred the case back to the prosecutor's office and ordered it to take various investigatory steps.

The prosecutor appealed against that decision in October 2009 and in February 2011 the Mureş County Court allowed the appeal and rejected the applicant' s complaint with final effect.

The court found, among other things, that a forensic report on Ms E.B. did not support her allegation as it did not show any injuries specific to rape in the genital area and that there was no date for injuries to her arm. It found other investigatory measures, such as a confrontation between Ms E.B. and T.F.S., to be unnecessary.

Relying on Article 3 (prohibition of inhuman or degrading treatment), Article 6 § 1 (right to a fair trial) and Article 13 (right to an effective remedy), the applicant complains that the Romanian authorities failed to investigate her allegation of rape properly and breached their duty to provide effective legal protection against sexual abuse. The authorities also failed to protect her as a victim of crime.

Prebil v. Slovenia (no. 29278/16)

The applicant, Andrej Prebil, is a Slovenian national who was born in 1974 and lives in Ljubljana.

The case concerns Mr Prebil's complaint about court proceedings dismissing him from his position as a supervisory board member of company A.

In May 2014 the P. company, which held a 91.42% share in the A. company, filed a motion to deprive Mr Prebil and another supervisory board member of their membership. They had allegedly been involved in a scuffle between board members, preventing one of them from leaving a session in order to maintain the required quorum. Company P. argued that their conduct was unacceptable and constituted a well-founded reason for them to be dismissed immediately, without notifying them and without holding a hearing.

In June 2014 the Ljubljana District Court upheld the motion. It found that the conduct of the two supervisory board members had been harmful to the A. company's functioning and that the decision should therefore be effective immediately.

Mr Prebil lodged an appeal, arguing that he had been unlawfully denied the opportunity to participate in the proceedings. Shortly afterwards, company P. informed the court that company A. had appointed two new members to replace Mr Prebil and the other supervisory board member. In January 2015 the Ljubljana Higher Court rejected Mr Prebil's appeal, finding that he could not have had any legal interest in the outcome of the proceedings, because even if he had succeeded in the appeal proceedings he could not have obtained reinstatement in his previous position.

In November 2015 the Constitutional Court decided not to accept Mr Prebil's constitutional complaint.

Relying in particular on Article 6 § 1 (right to a fair hearing), Mr Prebil complains that he was unable to participate in the proceedings which had deprived him of his supervisory board membership.

Just Satisfaction

İpseftel v. Turkey (no. 18638/05)

The applicant, Eftaliya İpseftel, is a Turkish national who was born in 1976 and lives in Athens (Greece).

The case concerns Ms İpseftel's inability to recover a property which she inherited from her father and which had been entered in the land register as belonging to the State Treasury. In its principal judgment of 26 May 2015 the Court held that the deprivation of property without compensation had been contrary to Article 1 of Protocol No. 1 (protection of property) to the Convention. It considered that the question of the application of Article 41 (just satisfaction) was not ready for decision and reserved it for examination at a later date. The Court will rule on that question in its judgment of 19 March 2019.

Mart and Others v. Turkey (no. 57031/10)

The applicants, Selçuk Mart, Yusuf Bayraktar and Selver Orman, are Turkish nationals who were born in 1982, 1983 and 1981 respectively.

The case concerns criminal proceedings which resulted in the conviction of the three applicants for disseminating propaganda in favour of an illegal organisation (the MLKP, the Marxist-Leninist Communist Party). The applicants allege that they were convicted of acts which, in their view, came within the scope of their right to freedom of expression and freedom of assembly.

In July 2004 the Ankara public prosecutor charged the applicants with the offence of membership of an illegal organisation. In February 2007 the Ankara Assize Court sentenced them to two years and six months' imprisonment, reclassifying the facts as disseminating propaganda in favour of the illegal organisation, the MLKP, which was likely to incite others to violence (section 7(2) of Law no. 3713). The Assize Court considered, among other points, that the applicants were readers of the periodicals *Atılım* and *Özgür Gençlik* – which the court considered to be official organs of the MLKP, in view of

their editorial line and the articles they published, their target readership and the persons who distributed them – and that the applicants had participated in meetings and demonstrations organised by those periodicals.

The Assize Court also noted that during the demonstrations the applicants had chanted slogans in favour of the MLKP; had carried placards of organisations that the court considered to be sub-branches of the MLKP; had covered their faces with scarves in accordance with the MLKP's instructions; and had waved the flags and banners of that organisation and portraits of its members.

The Assize Court also found that when the security forces had intervened the applicants had attacked them with stones and sticks. Finally, the Assize Court held that the acts in question had been aimed at publicly demonstrating the strength of the MLKP and imposing its violent methods on the population. The acts had thus amounted to disseminating propaganda in favour of the MLKP, an illegal organisation, and promoting violence. Mr Mart and Ms Orman served their sentences while Mr Bayraktar's was suspended.

The applicants complain of being convicted of acts which, they allege, came within the scope of their rights under Articles 10 (freedom of expression) and 11 (freedom of assembly and association). They also complain of the manner in which the domestic courts assessed the evidence and applied the criminal law, and allege that the courts gave inadequate reasons for their decisions.

Zülfikari and Pekcan v. Turkey (nos. 6372/05 and 52543/07)

The applicants, Kazım Zülfikari and Gökhan Pekcan, are Turkish nationals who were born in 1948 and 1963 and live in Istanbul and Ankara.

The case concerns the applicants' complaint of being deprived of their property after a bank in which they owned shares was taken over by the State.

Both applicants owned shares in a bank called Yaşarbank. In December 1999 the authorities decided to transfer management, control and the shares of the bank to the Savings Deposit Insurance Fund after it was found that the bank's liabilities far outstripped its assets. The main shareholders of the bank, including Yaşar Holding, challenged the transfer of the bank to the Fund, but the courts upheld the authorities' decision.

Mr Zülfikari and Mr Pekcan also began separate proceedings for the annulment of the decision to transfer the bank to the Fund, but their actions were dismissed. The final decision in Mr Zülfikari's case was handed down in April 2004 while that in Mr Pekcan's was delivered in May 2007.

Relying on Article 1 of Protocol No. 1 (protection of property) to the Convention, the applicants complain that they were deprived of their property as a result of Yaşarbank being transferred to the Fund.

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.

Veromej v. Lithuania (no. 15121/11)
Da Cerveira Pinto Nadais de Vasconcelos v. Portugal (no. 36335/13)
Flămînzeanu v. Romania (no. 3) (no. 56443/11)
Olindraru v. Romania (no. 1490/17)
Zamfir v. Romania (no. 47826/14)
OOO Gastronom v. Russia (no. 47386/17)
Skripkin v. Russia (no. 12255/11)
Nikolić v. Serbia (no. 41392/15)

Ocak v. Turkey (no. 33675/04) – Just satisfaction
M.T. v. Ukraine (no. 950/17)

Thursday 21 March 2019

Just Satisfaction

Akhverdiyev v. Azerbaijan (no. 76254/11)

The case concerns the question of just satisfaction with regard to Mr Akhverdiyev's forced relocation and the demolition of his house for a new construction project.

In its principal judgment of 29 January 2015 the Court held that there had been a violation of Article 1 of Protocol No. 1 (protection of property) to the Convention.

The Court further held that the question of just satisfaction was not ready for decision and reserved it for examination at a later date.

The Court will deal with this question in its judgment of 21 March 2019.

O.S.A. and Others v. Greece (no. 39065/16)

The applicants, O.S.A., M.A.A., A.M. and A.A.S., are Afghan nationals who were born in 1967, 1990, 1982 and 1968 respectively.

The case concerns the applicants' conditions of detention in the Vial centre on the island of Chios, and the issues of the lawfulness of their detention, the courts' review of their case, and the information provided to them.

On 21 March 2016 the four applicants arrived on Chios with their families. They were arrested and placed in the Vial centre for the reception, identification and registration of migrants. On the same day the Chios chief of police ordered the applicants' detention. On 24 March 2016 he ordered their expulsion and the extension of their detention pending expulsion for a maximum six-month period. Those orders, written in Greek, were served on the applicants the same day.

On 4 April 2016 the applicants stated their intention to apply for asylum. On 22 April and 7 May 2016 the police commissioner for the North Aegean decided to suspend the applicants' expulsion until consideration of their asylum applications was complete. The applicants were issued with receipts valid as temporary registration certificates, and the order prohibiting them from leaving the island of Chios was lifted. As the third and fourth applicants did not report to the competent authorities on the date set for the registration of their asylum applications, their applications were archived.

Relying on Article 5 § 4 (right to a speedy decision on the lawfulness of detention), the applicants complain they were unable to obtain a judicial decision on the lawfulness of their detention. Under Article 5 § 2 (right to be informed promptly of the charges), they complain that they did not receive any information on the reasons for their detention. Relying on Article 5 § 1 (right to liberty and security), they allege that their detention was arbitrary. Lastly, under Article 3 (prohibition of inhuman or degrading treatment), the applicants complain of the conditions of detention in the Vial centre.

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.

Amrahov v. Armenia (no. 49169/16)
Khudunts v. Azerbaijan (no. 74628/16)
Chaaban and Others v. Belgium (no. 57273/16)

Turex Ltd v. Georgia (no. 22398/10
Raiffeisen Bank Zrt. and Raiffeisen Lízing Zrt. v. Hungary (no. 28270/15)
Sopron Bank Burgenland Zrt. v. Hungary (no. 56131/15)
Ujlaki and Piskóti v. Hungary (no. 6668/14)
Augustė v. Lithuania (no. 65717/14)
Perliński v. Poland (no. 59131/11)
Bah v. Portugal (no. 36158/18)
Podelean v. Romania (no. 19295/12)
Puchea v. Romania (no. 53631/16)
Schmidts v. Romania (no. 39693/06)
Gribov and Others v. Russia (nos. 22690/17, 22694/17, 23203/17, 32568/17, and 32569/17)
PTP Spin Komerc doo v. Serbia (no. 51112/16)
Živojinović v. Serbia (no. 78886/16)
M.G. and Others v. Slovenia (no. 16126/17)
Rau and Others v. Slovenia (no. 47001/14)
E.A. v. Switzerland (no. 15730/17)
Güzüpek v. Turkey (no. 51181/10)
Bigun v. Ukraine (no. 30315/10)
Burgazly v. Ukraine (no. 41920/09)
Tokar v. Ukraine (no. 45494/10)

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