EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Press Release
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ECHR 391 (2018)
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Forthcoming judgments and decisions

The European Court of Human Rights will be notifying in writing 14 judgments on Tuesday 27 November 2018 and 48 judgments and / or decisions on Thursday 29 November 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 27 November 2018

Alekseyev and Others v. Russia (application no. 14988/09 and 50 other applications)

The case concerns the refusal of Russian authorities to grant permission for public events promoting lesbian, gay, bisexual and transgender (LGBT) rights.

The case brings together 51 applications brought by seven Russian nationals. They are Nikolay Alekseyev, Irina Alekseyeva, Kirill Nepomnyashchiy, Aleksey Kiselev, Sofya Mikhaylova, Yaroslav Yevtushenko, and Irina Fedotova. They live in Moscow, Shushenskoye (Krasnoyarskiy region), Gryazi (Lipetskiy Region), Kemerovo, Sonchino (Voronezh Region), and Luxembourg.

At various points between 2009 and 2014, the applicants all submitted notices to local authorities informing them of their intention to hold public rallies on the issue of LGBT rights. In each instance the local authorities rejected the proposed date and location of the rally. The domestic courts, to whom every applicant appealed, upheld these decisions; in each case the result of the appeal was delivered after the proposed date of the rally.

Relying on Article 11 (freedom of assembly and association), Article 13 (right to an effective remedy) and Article 14 (prohibition of discrimination) of the European Convention on Human Rights, the applicants complain about the Russian authorities' refusal to allow public LGBT events.

Nurmiyeva v. Russia (no. 57273/13)

The applicant, Larisa Vitalyevna Nurmiyeva, is a Russian national who was born in 1970 and lives in Shadrinsk (Kurgan region, Russia).

The case concerns the refusal by the Russian judicial authorities to compensate Ms Nurmiyeva for the cost of work to rebuild a car park following the removal by the authorities of the slabs used to pave it, in the context of a theft investigation.

In 2005 Ms Nurmiyeva began work on a car park whose surface was paved with concrete slabs. In 2007 a criminal investigation was opened against persons unknown for the theft of slabs belonging to the company Tsentr. In 2009 an investigator ordered that 60 slabs be removed from Ms Nurmiyeva's car park, and that they be handed over, for conservation, to Tsentr.

The following year the decision to remove the slabs was set aside as unlawful, on the grounds that the investigator had not verified Ms Nurmiyeva's statement that those particular slabs were unrelated to the criminal case. The investigation was subsequently discontinued on the grounds that the facts did not amount to an offence. Ms Nurmiyeva was informed that she could apply to the courts for restitution of the "unlawfully removed" slabs. However, she was unable to obtain their return as Tsentr had in the meantime resold them.

Ms Nurmiyeva then applied to the courts for compensation in an action against the Ministry of the Interior, claiming a sum corresponding to the cost of rebuilding the car park. The commercial court

allowed this action in part, considering that the State was liable for the loss of the slabs, and ordered that Ms Nurmiyeva be paid a sum corresponding to the average price of 60 used slabs. It dismissed, however, the compensation claim related to the cost of rebuilding the car park, holding that the latter was moveable rather than immovable property. Ms Nurmiyeva appealed unsuccessfully against that decision. Her appeal on points of law was also dismissed.

Relying on Article 1 of Protocol No. 1 (protection of property) to the Convention, Ms Nurmiyeva complains about the courts' refusal to grant her compensation claim in respect of the costs of rebuilding her car park.

Popov and Others v. Russia (no. 44560/11)

The applicants are four families, including 12 Russian nationals and one Ukrainian national, born between 1969 and 2009 and living in Moscow.

The case concerns the domestic courts' decisions to evict the female applicants from rooms they were sharing in a State-owned dormitory building with the male applicants, who are their husbands, and their children.

The male applicants were workers for the security service of the Ministry of Finance in the 1990s and were provided with accommodation by their employer in rooms in its dormitory building in Moscow. They were registered as living there on a temporary basis. The men's wives moved into the rooms after their marriages between 2002 and 2005. The couples had children between 2003 and 2009.

In 2007 the Federal Treasury, which took over the building in 2001, began court proceedings to evict the female applicants from the rooms they occupied with their families. In September of that year the Simonovskiy District Court of Moscow ordered their eviction. Among other reasons, it cited the fact that the accommodation was aimed at temporary occupation, that the women had never had official permission to live there, and the husbands did not have tenancy agreements.

The eviction order was never carried out, but in 2009 the Treasury began new proceedings to have the women removed. The women brought a counterclaim to have their right to live in the rooms recognised. The local authorities intervened on their behalf, opposing the eviction order. The courts again ordered their eviction, which has not so far been carried out. In 2011, in a separate set of proceedings, the courts recognised the male applicants' right to occupy the rooms, but they were not given social tenancies.

The adult female applicants complain under Article 8 (right to respect for private and family life and the home) of an alleged violation of the right to respect for their home. All the applicants complain under the same provision of a violation of the right to respect for their private and family life.

Kılıcı v. Turkey (no. 32738/11)

The applicant, Kadri Kılıcı, is a Turkish national who was born in 1962 and lives in Istanbul (Turkey). He is a member of the Tüm Bel-Sen trade union, which was founded in 1990 by civil servants from various local authorities.

The case concerns a demonstration at which Mr Kılıcı was wounded following the firing of rubber bullets by police when dispersing the demonstrators.

In March 2009 about 200 members of various trade unions, including Mr Kılıcı's union, gathered in Beyoğlu (Istanbul) and moved towards Haliç, a neighbouring district, where the 5th World Water Forum was being held, in order to express, through a statement to the press, their disagreement with the commercialisation and privatisation of water.

The police asked those participating in the walk to Haliç not to continue and instead to make their statement in Beyoğlu, in order not to disrupt the traffic. According to Mr Kılıcı, the demonstrators made their statement and, while they were dispersing, the police intervened violently. During their

intervention, Mr Kılıcı was injured by a rubber bullet. According to the police reports on the incident, as the demonstrators were dispersing certain individuals blocked the routes and headed towards the forum venue; some of them threw objects at members of the police rapid intervention team. Again according to the police reports, the members of the intervention team initially reacted by protecting themselves with their shields, and then used water cannons.

On the day following the incident Mr Kılıcı lodged a complaint with the Beyoğlu public prosecutor. He stated that, immediately after the demonstrators had read out their statement, the police had attacked them with truncheons, sprayed them with tear gas and fired rubber bullets at them. He stated that he had been hit in the back by one of the bullets and had inhaled tear gas. On the same day Mr Kılıcı was examined at the Beyoğlu Forensic Medicine Institute. Redness and bruising were found on his back, and it was noted that the wound could be treated by simple medical care. In August 2010 the prosecutor decided to discontinue the proceedings. In November 2010 the Bakırköy Assize Court dismissed an appeal lodged by Mr Kılıcı.

Relying on Articles 3 (prohibition of inhuman or degrading treatment) and 13 (right to an effective remedy), Mr Kılıcı complains of a disproportionate and unjustified use of force by the police officers and of the lack of an effective investigation. He also complains about the fact that he was injured by a rubber bullet and inhaled tear gas. Lastly, he alleges that the police struck the demonstrators with truncheons.

Mikail Tüzün v. Turkey (no. 42507/06)

The applicant, Mikail Tüzün, is a Turkish national who was born in 1960 and lives in Istanbul.

The case concerns a compensation claim he brought before the courts when he was hit and injured by a car in 1995 while on duty as a traffic control officer.

Mr Tüzün made an initial request to the Ministry of the Interior for 25,000 Turkish liras (TRY) in respect of pecuniary and non-pecuniary damage.

The Ministry refused and he brought a claim before the Istanbul Administrative Court. The court ordered an expert report which indicated Mr Tüzün's pecuniary damage as TRY 157,077. However, when the court handed down its decision in 2006, it awarded him the amount he had initially requested.

Relying in particular on Article 6 § 1 (access to court), Mr Tüzün complains that it was impossible for him under domestic law to claim the entire compensation amount determined by the expert in the course of the domestic proceedings.

Soytemiz v. Turkey (no. 57837/09)

The applicant, Hakan Soytemiz, is a Turkish national who was born in 1971 and lives in Çorum (Turkey).

The case concerns the police removing Mr Soytemiz's officially appointed lawyer when the latter reminded him of his right to remain silent and advised him not to answer a certain question or respond in a certain way.

On 17 March 2004 Mr Soytemiz was arrested on suspicion of aiding and abetting an illegal organisation, the TDP (Turkish Revolutionary Party). The day after he agreed to a defence lawyer, A.E.D., representing him. During the police interview, A.E.D. intervened alleging that the police officers were recording phrases that had not been said by Mr Soytemiz and reminded him his right to remain silent.

The police officers took A.E.D. out of the interview room allegedly under threat and would not allow him to represent the applicant any more. According to Mr Soytemiz the police officers then coerced

him into signing self-incriminating statements which he had made while his lawyer was present, by indicating that they would involve his brother in the case if he refused to sign.

On 20 March 2004 at the request of the police, a new lawyer was appointed for Mr Soytemiz. On the same day, the police resumed the interview and took additional statements from Mr Soytemiz in the presence of his new lawyer. The applicant once again denied his affiliation to an illegal organisation, but stated that M.K. had stayed at his house on several occasions.

On 29 March 2004 the public prosecutor filed a bill of indictment against Mr Soytemiz, charging him with aiding and abetting an illegal organisation. Subsequently, he was remanded in custody. At a hearing held on 24 November 2004 the applicant gave evidence in the presence of his lawyer and denied the charges against him, arguing that he had not aided any member of an armed organisation. He denied his statements to the police, stating that they had frequently recorded things he had not said, as a result of which his lawyer had confronted them and had then been removed from the interview. He also maintained that the police had added to his statements the fact that he had passed the identity information of his brother to M.K.

On 16 March 2006 the Erzurum Assize Court acquitted Mr Soytemiz, finding that there was insufficient evidence to convict him. However, the judgment was quashed by the Court of Cassation in November 2006. The case was accordingly remitted to the Erzurum Assize Court. On 26 January 2007 the forthcoming hearing date was served on the secretary of the applicant's lawyer. At a hearing held on 24 December 2007 Mr Soytemiz made his final submissions to the Erzurum Assize Court. The court notified him that the next hearing would take place on 27 December 2007. It then convicted the applicant as charged on 27 December 2007 and sentenced him to three years' imprisonment in the absence of both him and his lawyer. The court relied on his partial confession, the false identity card drawn up in his brother's name, the arrest and identification reports. The court held that the applicant had harboured a member of an illegal organisation, M.K., and had provided him with the identity information of his brother. It further noted that in February 2004 police officers had arrested M.K. at the airport in possession of a false identity card in Mr Soytemiz's brother's name. In his appeal, the applicant alleged that he had not been notified of the hearing date and argued that he had been convicted on the basis of abstract police statements obtained under coercion. The Court of Cassation still upheld his conviction.

Relying on Article 6 § 3 (c) (right to a fair trial and right to legal assistance of own choosing) the applicant complains that the police had unlawfully removed his officially appointed lawyer and had coerced him into making incriminatory statements in the absence of that lawyer which had later been used by the trial court to convict him. He also alleges under Article 6 § 1 that neither he nor his lawyer had been notified of the hearing date and consequently they had not been given an opportunity to discuss the reversal decision of the Court of Cassation or to make final submissions before the conviction.

Urat v. Turkey (nos. 53561/09 and 13952/11)

The applicants, Cemal and Ahmet Urat, are brothers. They are Turkish nationals and were born in 1964 and 1962 respectively. They live in Mardin (Turkey).

The case concerns their dismissal from their posts as primary school teachers.

In 2000 the brothers had criminal proceedings brought against them on suspicion of membership of Hizbullah, an illegal organisation, when their CVs were discovered in the organisation's safe house in Istanbul. The charges were subsequently reclassified to aiding and abetting an illegal organisation, and were discontinued in 2007 because the five-year prosecution period had expired.

In the meantime, disciplinary proceedings were brought against them and they were suspended from their positions. Following an investigation, the Supreme Disciplinary Council dismissed them in 2001.

The applicants challenged their dismissals before the administrative courts, without success. They both argued in particular that dismissing them without a final conviction infringed the presumption of innocence. As concerns Cemal Urat, in 2005 the courts considered that he had committed a disciplinary offence by giving his profile to Hizbullah and by attending its lessons and meetings. As concerns Ahmet Urat, in 2008 the courts stated that certain elements in his criminal file demonstrated that he had been a member of Hizbullah.

Relying on Article 6 § 2 (presumption of innocence), both applicants complain that they were dismissed from their jobs despite the fact that they were never convicted. The first applicant also complains under Article 6 § 1 (right to a fair hearing) that the administrative proceedings were unfair, alleging in particular that the decision of 2005 lacked adequate reasons.

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.

Ruzhnikov v. Russia (no. 2223/14)
Sakhnovskiy v. Russia (no. 39159/12)
Stanivuković and Others v. Serbia (nos. 10921/16, 28653/16, 34867/16, and 54956/16)
Kľačanová v. Slovakia (no. 8394/13)
Alkaya v. Turkey (no. 70932/10)
Gürbüz v. Turkey (no. 41982/10)
Talu v. Turkey (no. 63465/12)

Thursday 29 November 2018

F.J.M. v. the United Kingdom (no. 76202/16)

The applicant, F.J.M., is a British national who was born in 1970 and lives in Abingdon (the UK). She suffers from mental health problems.

The case concerns a possession order against the applicant after the landlords, who are also her parents, defaulted on their mortgage payments.

In May 2005 the applicants' parents bought a house with a mortgage, pledging the house as security. The applicant lived there, paying rent to her parents under an assured shorthold tenancy.

However, the parents fell into arrears on the mortgage payments and in 2012 the mortgagee sought a possession order to bring the applicant's tenancy to an end.

The applicant challenged the possession order before the domestic courts, without success. The courts, ultimately the Supreme Court in 2016, found that she was not entitled to require the courts to carry out a balancing exercise with regard to the competing interests involved in her case. In particular, the Supreme Court made it clear that, if a residential tenant could require a court to conduct such a balancing exercise before making a possession order, the impact on the private rental sector would be wholly unpredictable and potentially very damaging.

Relying on Article 8 (right to respect for private and family life and the home), the applicant complains in particular that the UK courts refused to carry out a balancing exercise between her rights as a tenant not to lose her home and the mortgagee's right to be repaid.

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Ghambaryan v. Armenia (no. 44143/12)
Popov v. Armenia (no. 46049/14)
Baduashvili v. Georgia (no. 18720/08)
Danelia v. Georgia (no. 56610/11)
Oragvelidze and Others v. Georgia (no. 65517/09)
Blazakis v. Greece (no. 8941/12)
Fourtounis and Roïdakis v. Greece (nos. 31689/17 and 31699/17)
Nikas v. Greece (no. 29744/12)
SINTRA ABEEX v. Greece (no. 50707/11)
Tzanavaras v. Greece (no. 68463/16)
Jovmir v. the Republic of Moldova (no. 22917/09)
Lungu v. the Republic of Moldova (no. 53695/12)
Orłowski v. Poland (no. 18877/12)
Pawełkowicz v. Poland (no. 59460/12)
Przybylski and Others v. Poland (no. 31757/12 and 86 other applications)
Rakowski v. Poland (no. 34934/14)
Szubrych v. Poland (no. 74228/12)
Szyprowska v. Poland (no. 64909/16)
Todorski v. Poland (no. 11575/13)
Zalewski v. Poland (no. 19447/12)
Gorovaya and Others v. Russia (no. 10421/07)
Ismailov and Others v. Russia (nos. 36534/05, 11800/06, 23625/06, and 47641/06)
Stroganova and Others v. Russia (no. 51391/07)
Voronova v. Russia (no. 8125/12)
Bihorac Hajdaragić v. Serbia (no. 34929/16)
Malik v. Serbia (no. 28969/15)
ALMEDIA spol. s r.o. v. Slovakia (no. 55631/12)
Ukropec v. Slovakia (no. 60039/13)
Padilla Navarro v. Spain (no. 34302/16)
Church of Real Orthodox Christians and Ivanovski v. 'the former Yugoslav Republic of Macedonia' (no. 35700/11)
Stavropegic Monastery of Saint John Chrysostom v. 'the former Yugoslav Republic of Macedonia' (no. 52849/09)
Apaki v. Turkey (no. 53743/11)
Ayaydın v. Turkey (no. 42902/11)
Aydemir v. Turkey (no. 36554/10)
Aydın v. Turkey (no. 20419/07)
Batı v. Turkey (no. 63985/09)
Demir and Others v. Turkey (no. 1540/06 and 103 other applications)
Istanbul Süryani Katolik Vakfı v. Turkey (no. 42873/06)
Özen v. Turkey (no. 61157/11)
Özkan v. Turkey (no. 54190/08)
Radyo Boylam Yayin Tanitim Sanayii ve Ticaret Anonim Şirketi and Radyo Boylam Yayincilik Tanitim San. ve Tic. A.Ş. v. Turkey (nos. 47273/10 and 48380/10)
Resuloğlu v. Turkey (nos. 13945/05, 42571/08, and 50874/10)
Serin and Others v. Turkey (no. 38441/09)

Yeni Güneşli Çelikler Petrol Nakliyat Gıda Ticaret ve Sanayi Limited Şirketi v. Turkey (no. 56027/08)
Yılmaz v. Turkey (no. 38663/07)
Yorum Radyo Televizyon Yayıncılık Hizmetleri Anonim Şirketi v. Turkey (no. 58904/14)
Grabovskiy v. Ukraine (no. 4442/07)

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