



## Forthcoming judgments and decisions

The European Court of Human Rights will be notifying in writing 21 judgments on Tuesday 27 February 2018 and 58 judgments and / or decisions on Thursday 1 March 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](http://www.echr.coe.int))*

### Tuesday 27 February 2018

#### [Mockutė v. Lithuania \(application no. 66490/09\)](#)

The applicant, Neringa Mockutė, is a Lithuanian national who was born in 1973 and currently lives in Vilnius.

The case concerns her right to privacy and right to religious freedom during her involuntary hospitalisation.

In 2003 Ms Mockutė suffered a breakdown, and was forcibly admitted to Vilnius Psychiatric Hospital, where she was diagnosed with acute psychosis and remained for 52 days. During this time a documentary was aired on national television. It featured Ms Mockutė's doctor, mother and sister, referred to the centre where she practiced meditation of the Osho religious movement, and discussed Ms Mockutė using a pseudonym. In 2006 she brought a successful civil claim against the hospital for, among other things, unlawful deprivation of liberty, violation of private life, and violation of freedom of religion. However, the following year the appeal court overturned the findings on privacy and religious freedom and reduced the amount awarded to Ms Mockutė for damages.

Relying on Article 8 (right to respect for private and family life) of the European Convention on Human Rights, Ms Mockutė complains that the psychiatric hospital revealed highly personal and sensitive confidential information about her private life to journalists and to her mother. Further relying on Article 9 (right to freedom of thought, conscience and religion) of the European Convention, she also alleges that she was prevented from practising her religion on account of a restrictive hospital environment and the unsympathetic approach of her doctors.

#### [Guja v. the Republic of Moldova \(no. 1085/10\)](#)

The applicant, Iacob Guja, is a Moldovan national who was born in 1970 and lives in Sestaci (Republic of Moldova).

The case concerns his allegation that he continues to be victimised as a whistle-blower, despite a previous ruling by the European Court of Human Rights (ECHR) in his favour.

In 2003, whilst employed as Head of the Press Department at the Prosecutor General's Office, Mr Guja discovered that a high-ranking politician had been pressurising the Prosecutor General over matters involving police misconduct. Mr Guja sent evidence of this to a newspaper, who published an article. He was dismissed from his position. His plea for reinstatement failed domestically, and he brought an application to the ECHR in 2004. In February 2008 the ECHR Grand Chamber found that his dismissal had infringed his right to freedom of expression guaranteed by Article 10 of the European Convention on Human Rights. Enforcement of the ECHR judgment is currently pending before the Committee of Ministers, the executive arm of the Council of Europe.

Following the ECHR judgment of 2008, the domestic courts ordered Mr Guja's reinstatement in his former position. However, ten days after his reinstatement he was given a dismissal order based on domestic law linked to the appointment of a new Prosecutor General. His challenge to this new dismissal has since failed in the domestic courts.

Relying again on Article 10 (Freedom of expression), Mr Guja complains that there was no proper reinstatement, and that this latest dismissal, and the rejection of his challenge to the new dismissal, amount to a retaliation for his whistle-blowing back in 2003 and to a deliberate failure by the State to comply with the ECHR's original judgment of February 2008.

#### [Cerne v. Romania \(no. 43609/10\)](#)

The applicant, Remus Florinel Cernea, is a Romanian national who was born in 1974 and lives in Bucharest. At the time of the events Mr Cernea was Executive Chair of the ecology party, *Partidul Verde*.

The case concerns Mr Cernea's complaint regarding his inability to stand as a candidate in the parliamentary by-election held on 17 January 2010 to fill a vacant seat in a Bucharest constituency. The electoral bureau rejected his candidature on the basis of Law no. 35/2008, as amended by Law no. 323/2009 less than one year before the by-election, on the grounds that *Partidul Verde* was not represented in Parliament. Mr Cernea appealed unsuccessfully to the domestic courts against that decision.

Relying on Article 14 (prohibition of discrimination), read in conjunction with Article 3 of Protocol No. 1 (right to free elections) to the Convention, Mr Cernea complains that he was prevented from standing as a candidate in the parliamentary by-election of 17 January 2010.

#### [Agit Demir v. Turkey \(no. 36475/10\)](#)

The applicant, Agit Demir, is a Turkish national who was born in 1996 and lives in Şırnak (Turkey).

The case mainly concerns the pre-trial detention of Mr Demir, who was a minor (aged approximately 13) at the relevant time, for participating in a demonstration staged in December 2009 in protest at the conditions of detention of Abdullah Öcalan, head of the illegal armed organisation the PKK (Workers' Party of Kurdistan), and for throwing stones at the security forces during the demonstration.

Mr Demir was placed in pre-trial detention on 19 January 2010 and was released on 13 April 2010. Criminal proceedings were instituted against him, resulting in a suspended sentence of one year and 15 days' imprisonment for disseminating propaganda on behalf of a terrorist organisation and participating in a violent demonstration.

Relying on Articles 5 (right to liberty and security) and 13 (right to an effective remedy), Mr Demir complains of his placement in pre-trial detention, of the length of his detention and of the lack of an effective remedy by which to appeal against it.

Under Article 10 (freedom of expression), he complains of his conviction for participation in a demonstration in support of Abdullah Öcalan (head of the illegal armed organisation the PKK).

Relying on Articles 3 (prohibition of inhuman or degrading treatment), 6 (right to a fair trial), 7 (no punishment without law), 8 (right to respect for private and family life) and 14 (prohibition of discrimination), and on Article 2 of Protocol No. 1 (right to education), Mr Demir complains of being placed as a minor in a prison designed for adults, of the severe psychological distress he suffered as a result, and of the fact that his schooling was interrupted.

#### [Sinkova v. Ukraine \(no. 39496/11\)](#)

The applicant, Anna Sinkova, is a Ukrainian national who was born in 1991 and lives in Kyiv.

The case concerns her arrest and detention for three months for frying eggs on the flame of the Tomb of the Unknown Soldier in Kyiv in 2010. At the time, she belonged to an artistic group known for its provocative public performances. She later posted a video of the scene on the Internet, with the explanation that she had been protesting against the waste of precious natural gas.

She was found guilty in 2012 of desecrating the Tomb of the Unknown Soldier and given a three-year suspended prison sentence. She did not serve any of this sentence. However, before her conviction, she had spent three months in pre-trial detention, notably from 29 March 2011 to 30 June 2011.

She makes a number of complaints under Article 5 §§ 1, 3, and 5 about her arrest and subsequent detention (right to liberty and security). In particular she argues that there was no legal basis for her arrest, that her detention from 29 May to 17 June 2011 was not covered by any judicial decision, that the entirety of her pre-trial detention was not justified and that, under the existing domestic legislation, she could not claim compensation for unlawful detention. Lastly, she complains under Article 10 (freedom of expression) that her conviction breached her right to express the view that the funds used to maintain flames on such memorials would be better spent on improving war veterans' living conditions.

[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.

**Terge v. Hungary** (no. 3625/15)

**Petkevičiūtė v. Lithuania** (no. 57676/11)

**Vella v. Malta** (no. 73182/12)

**Rajak v. Montenegro** (no. 71998/11)

**Hulpe and Others v. Romania** (nos. 24838/10, 66252/11, 32758/13, 49385/13, and 57813/13)

**Isaykin v. Russia** (no. 53048/10)

**M.K. v. Russia** (no. 35346/16)

**Shatokhin v. Russia** (no. 50236/06)

**Shvedov and Others v. Russia** (nos. 7148/06, 41469/06, 21040/07, 37536/07, 39173/07, 55811/07, 27533/08, 33308/09, 54226/09, 18562/10, 18654/10, 68152/10, 14024/11, 62664/11, 73986/11, 25114/12, and 5510/13)

**Aydemir v. Turkey** (no. 21163/08)

**Aydoğan v. Turkey** (no. 55828/08)

**Işık v. Turkey** (no. 49009/09)

**Kışlakçı and Others v. Turkey** (no. 40164/05)

**Mağın v. Turkey** (no. 58593/09)

**Sertkaya v. Turkey** (no. 37315/10)

**Taş v. Turkey** (no. 30811/11)

Thursday 1 March 2018

[T.C.E. v. Germany](#) (no. 58681/12)

The applicant, T.C.E. , is a Nigerian national who was born in 1975 and lives in Germany.

The case concerns the authorities' refusal to grant T.C.E. a residence permit despite his argument that he has a daughter in Germany, with whom he enjoyed family life within the meaning of the European Convention.

T.C.E. arrived in Germany, for a second time, in October 2000. His daughter, a German national, was born the same month. In May 2002 he was sentenced to eight years in jail for drug trafficking and in March 2003 a court refused to extend his residence permit and ordered his expulsion to Nigeria on his release. However, after his release in July 2009 he was granted exceptional leave to remain ("*Duldung*") and in September of that year he applied for a residence permit based on family ties.

After two rounds of administrative and lower court proceedings, the Bavarian Administrative Court of Appeal denied his right to a residence permit. It based its decision in particular on the fact that there was a final expulsion decision against him and that he did not have a valid passport, which was a condition to be granted such a permit. In September 2012 the Nigerian Embassy in Germany refused to issue a passport to T.C.E. while proceedings before the European Court of Human Rights were still in progress. He has remained in Germany.

Relying on Article 8 (right to respect for private and family life), T.C.E. complains about the domestic authorities' refusal to issue him a residence permit.

### [Bonnaud and Lecoq v. France \(no. 6190/11\)](#)

The applicants, Francine Bonnaud and Patricia Lecoq, are French nationals who were born in 1968 and 1969 and live in Tourcoing. They began living as a couple in 1989 and separated in 2012. The case concerns their application for joint exercise of parental responsibility.

In June 2006 the applicants applied to the courts for joint parental responsibility in relation to their respective children, by means of mutual delegation of responsibility. The two children had been born in Belgium as a result of medically assisted reproduction. The application was dismissed by the Court of Appeal and that judgment was upheld by the Court of Cassation.

Relying on Article 14 (prohibition of discrimination) read in conjunction with Article 8 (right to respect for private and family life), the applicants allege that the refusal of their application to delegate parental responsibility was based on their sexual orientation and entailed an unjustified and disproportionate difference in treatment.

### [Chatzistavrou v. Greece \(no. 49582/14\)](#)

The applicant, Maria Chatzistavrou, is a Greek national who was born in 1970 and lives in Chalkida. She was allegedly assaulted on 3 December 2008 as she left the Criminal Court, by a police officer who was on duty and responsible for maintaining order in the court. She lodged a complaint against him, against a passer-by who had witnessed the incident and against the proprietor of the newspaper kiosk outside the court, and applied to join the proceedings as a civil party.

Relying on Article 3 (prohibition of inhuman or degrading treatment) and Article 6 § 1 (right to a fair hearing), she alleges that the police officer subjected her to inhuman and degrading treatment, causing her serious injury. She also contends that the court examined the case in a superficial manner, committed serious errors and disregarded decisive evidence.

### [Calancea and Others v. the Republic of Moldova \(no. 23225/05\)](#)

The applicants, Sofia Calancea, Petru Calancea and Serghei Cocieru, are Moldovan nationals who were born in 1960, 1957 and 1971 respectively and live in Codru. The case concerns the presence of a high-voltage power cable which crosses the land of Mr and Mrs Calancea and their neighbour, Mr Cocieru.

Relying on Article 6 § 1 (right to a fair hearing), the applicants complain of the District Court's refusal to order an expert report, the fact that their case was examined by the Court of Appeal in the absence of their lawyer and of a lack of reasons for the domestic courts' decisions. Under Article 8 (right to respect for private and family life and the home), they allege that the State authorities failed to fulfil their positive obligations. Lastly, relying on Article 1 of Protocol No. 1 (protection of

property), they contend that the presence of a high-voltage cable above their land infringes their right to the peaceful enjoyment of their possessions.

### **Selami and Others v. ‘the former Yugoslav Republic of Macedonia’ (no. 78241/13)**

The applicants are a Macedonian family who live in “the former Yugoslav Republic of Macedonia”. The case concerns the compensation proceedings for the unlawful detention and ill-treatment of their husband and father, Mr S. Selami, by the police in 2002. He died in 2011 during these proceedings and one of his sons (and sole successor), Nedžmi Selami, continued the proceedings on his behalf. The entire family, namely Mr S. Selami’s widow and three children, also participated in the proceedings in their own name.

In the compensation proceedings the domestic courts established that the police had taken Mr S. Selami on 26 August 2002 to Skopje for questioning about his alleged involvement in the killing of two policemen. He had been severely beaten and hospitalised the same day with skull, neck and rib fractures. Following surgery to his head, he remained in a coma for two weeks. The civil courts concluded that Mr S. Selami had been wrongly detained from 19 September 2002 to 10 December 2002 when he was released on health grounds. They also found that he had been subjected to serious ill-treatment and awarded compensation amounting to 9,800 euros. They dismissed the compensation claim that Mr S. Selami’s heirs had submitted in their own name.

In 2003, the criminal proceedings against Mr S. Selami for being a member of a terrorist group which organised attacks on the police had been discontinued.

The applicant family complain that the compensation awarded by the domestic courts for the unlawful detention and ill-treatment of their husband and father was too low. They also complain about the dismissal of the compensation claim which they had made in their own name. The case will be examined under Article 3 (prohibition of torture and of inhuman or degrading treatment) and Article 5 § 5 (right to liberty and security / right to compensation).

### **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.**

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**Krauss v. Austria** (no. 40607/12)

**Porosnicu Danut v. Belgium** (no. 4474/16)

**Parazajder v. Croatia** (no. 50049/12)

**Chessa v. France** (no. 76186/11)

**Chatziantoniou and Others v. Greece** (no. 79112/13)

**Michopoulou and Vasilakis v. Greece** (nos. 40094/13 and 61747/13)

**Patriku v. Greece** (no. 15819/16)

**Vasiliadis v. Greece** (no. 2055/15)

**Bottazzi v. Italy** (no. 9091/16)

**Califano v. Italy** (no. 36016/14)

**Curte v. Italy** (no. 27258/16)

**Grasso v. Italy** (no. 36981/11)

**Sagliano v. Italy** (no. 48339/12)

**Tuccillo v. Italy** (no. 26071/13)

**Abu Aziz v. the Republic of Moldova** (no. 13951/15)

**Casap v. the Republic of Moldova** (no. 50891/08)

**Marținiuc v. the Republic of Moldova** (no. 52040/16)

**Mătășaru v. the Republic of Moldova** (no. 3168/10)

**Neicovcen and Moscolo v. the Republic of Moldova** (no. 55364/09)

**Backović v. Montenegro** (no. 65191/16)  
**Zogović v. Montenegro** (no. 60117/10)  
**Gowin v. Poland** (nos. 64055/13 and 7192/14)  
**Lipnicki v. Poland** (no. 25875/11)  
**Olejniczak v. Poland** (no. 76980/12)  
**Stępień v. Poland** (no. 19228/07)  
**A.D. v. Portugal** (no. 57789/17)  
**Balaşcău v. Romania** (no. 5667/13)  
**Biteş v. Romania** (no. 43775/12)  
**Lungu v. Romania** (no. 24188/14)  
**Bidenko v. Russia** (no. 24297/04)  
**Frolova v. Russia** (no. 61624/08)  
**Saitova v. Russia** (no. 51732/10)  
**Salnikov and Others v. Russia** (nos. 25292/10, 23731/12, 2509/13, and 33769/14)  
**Yezdakov and Others v. Russia** (nos. 5721/04, 34646/06, 16222/07, 40417/07, 27571/08, 18507/09, 58026/09, 36462/12, and 73418/13)  
**Yushkevich and Krechetov v. Russia** (nos. 27356/05 and 55086/10)  
**Adıgüzel v. Turkey** (no. 7442/08)  
**Aykurt v. Turkey** (no. 45288/07)  
**Bağımsız Turizm İş Sendikası v. Turkey** (no. 60206/08)  
**Çetinkaya v. Turkey** (no. 8700/07)  
**Eroğlu v. Turkey** (no. 3114/07)  
**Genç and Others v. Turkey** (no. 48376/11)  
**Gültekin v. Turkey** (no. 58389/09)  
**Hanbayat and Others v. Turkey** (no. 6940/07)  
**Kalay v. Turkey** (no. 32881/11)  
**Kaşıkcı v. Turkey** (no. 67842/11)  
**Radio Vatan Yayıncılık A.Ş. v. Turkey** (no. 46172/10)  
**Şahinler v. Turkey** (no. 33304/09)  
**Vergili v. Turkey** (no. 64967/09)  
**Yapan v. Turkey** (no. 36459/06)  
**Litvinyuk v. Ukraine** (no. 55109/08)  
**Yeremenko v. Ukraine** (nos. 52410/09 and 3746/10)  
**Djalo v. the United Kingdom** (no. 17770/10)  
**Gare-Simmons v. the United Kingdom** (no. 71358/12)

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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.