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 12 judgments on Tuesday 28 August 2018, six judgments and / or decisions on Thursday 30 August 2018 and two judgments on Friday 31 August 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 28 August 2018

Somorjai v. Hungary (application no. 60934/13)

The applicant, Gábor Somorjai, is a Hungarian national who was born in 1939 and lives in Vác (Hungary).

The case concerns lengthy proceedings concerning the applicant's pension rights and his complaint that the domestic authorities did not take due account of European Union legislation on the issue.

Mr Somorjai was awarded a disability pension in 1995, based upon periods of service in both Hungary and Austria. After Hungary's entry into the EU in 2004, when his pension was about 250 euros a month, he requested a review of the allowance, based on EU social security legislation. The pension was raised to about 449 euros in September 2006. He appealed against that decision, saying the pension had been based solely on work done in Hungary for a low level of pay and that a work period in Austria had not been taken into account separately.

His pension was again raised slightly in January 2007, to 452 euros. He appealed against that decision and asked the court for the referral of a question to the Court of Justice of the European Union for a preliminary ruling about the correct interpretation of the EU social security legislation concerned. That appeal was dismissed in October 2007. Subsequent litigation, including proceedings before pension tribunals and courts, dealt with his further complaints of the domestic authorities' failure to properly apply EU rules on pensions.

The litigation ended with a *Kúria* ruling of June 2013, which essentially upheld earlier pension authority and labour court decisions which had confirmed his pension at 465 euros a month, limiting payment to the period since March 2005.

Relying on Article 6 § 1 (right to a fair hearing within a reasonable time) of the European Convention on Human Rights, the applicant complains that the domestic authorities and, in particular, the *Kúria* did not take due account of the EU law provision which should have governed his case and which placed certain obligations on national courts on references for preliminary rulings, including an obligation on national courts of last instance to provide reasons for not making a reference. He complains about the length of the proceedings under the same provision.

Seychell v. Malta (no. 43328/14)

The applicant, Anthony Seychell, is a Maltese national who was born in 1961 and is detained at the Corradino Correctional Facility (Paola, Malta).

The case concerns Mr Seychell's complaint about the discretion of the Attorney General to decide in which court to try someone accused of drugs offences, which had an impact on which punishment bracket would apply.

The applicant was arrested in 2004 and tried in 2008 for the cultivation and possession of cannabis which was not for his sole use. He was tried in the Criminal Court and he was sentenced to 12 years' imprisonment and a fine of 25,000 euros, which was confirmed on appeal in March 2009.

In November 2010 he filed a constitutional complaint under Article 6 § 1 (right to a fair trial) of the European Convention about, among other things, the discretion of the Attorney General as public prosecutor to decide in which court to try an accused. Following the Strasbourg Court's judgment in *Camilleri v. Malta* of January 2013, which found a violation owing to that discretion, the applicant asked to add a complaint under Article 7 (no punishment without law) of the Convention to his earlier application.

In February and March 2013 the Civil Court (First Hall) in its constitutional competence first rejected his application to add a complaint under Article 7 and then rejected his other claims, also considering that it was not necessary to determine the complaint concerning the Attorney General's discretion under Article 6. The Constitutional Court rejected an appeal by the applicant in December 2013.

Relying on Article 7, the applicant complains about the Attorney General's discretion to determine the trial court, which can lead to heavier penalties for the accused if the trial takes place in the Criminal Court.

Cabral v. the Netherlands (no. 37617/10)

The applicant, Euclides Cabral, is a Netherlands national who was born in 1987 and lives in Rotterdam (the Netherlands).

The case concerns the applicant's complaint that he was tried and convicted of a supermarket robbery without being able to examine a key witness.

Mr Cabral was convicted in August 2006 of, among other crimes, a supermarket hold-up. A key piece of evidence for the conviction was the testimony of an accomplice, which had also incriminated Mr Cabral. The accomplice later withdrew his statement, but was not believed by the court.

Relying on his own privilege against self-incrimination, the accomplice refused to answer any questions put by the defence in the appeal proceedings, which ended in March 2008 by upholding the first-instance judgment. The Supreme Court dismissed an appeal on points of law by the applicant in January 2010.

Relying on Article 6 §§ 1 and 3 (d) (right to a fair trial and right to obtain attendance and examination of witnesses), Mr Cabral complains that he was convicted "solely or to a decisive extent" on the basis of statements made to the police by a witness who was allowed to refuse to give evidence under cross-examination by the defence.

Revision

Dickmann and Gion v. Romania (nos. 10346/03 and 10893/04)

The case concerns a request for revision of a 2017 judgment by the European Court of Human Rights with regard to legislation on property restitution in Romania after the fall of the communist regime.

The applicant in the first case is Dora Dickmann, an Israeli and Romanian national, who was born in 1932 and died in 2003. The proceedings were continued by her husband, Jean Dickmann, who lived in Tel Aviv (Israel). The applicants in the second case are Mariana Gion, a Romanian and German national, born in 1943 and living in Essen, Germany, and her husband Helmut-Ion Gion, a German national, who was born in 1941 and died in 2004. The proceedings have been continued by his heirs, Mariana Gion and Nicolette Monica Gion.

In its judgment of 24 October 2017, the Court held that there had been a violation of Article 1 of Protocol No. 1 (protection of property) to the European Convention on Human Rights on account of

the applicants' inability to obtain restitution of their nationalised properties or to secure compensation. The Court made awards of just satisfaction to the applicants.

However, the Government informed the Court in March 2018 that they had learned that Mr Dickmann, who had pursued the application of his deceased wife, had himself died in March 2016. They accordingly requested revision of the judgment within the meaning of Rule 80 of the Rules of Court in so far as the just satisfaction awards were concerned, as they had been unable to enforce that part of the judgment as Mr Dickmann had died before it had been adopted.

The Court will examine this request in its judgment of 28 August 2018.

Alikhanovy v. Russia (no. 17054/06)

The applicants, Ibragim Alikhanov, Muslimat Alikhanova, and Tamara Alikhanova, are Russian nationals who were born in 1930, 1936, and 1976 respectively and live in the villages of Ruguzh and Gurik, in the Republic of Dagestan, Russia. The case concerns their allegation that their son and husband, Amirkhan Alikhanov, born in 1974, was abducted at a police checkpoint and subsequently killed.

On approaching the checkpoint on 23 December 2004 Amirkhan Alikhanov telephoned his brother to say he was on his way. However, he never arrived. His brother received a call during the night requesting a ransom, which he informed the law-enforcement authorities about the next day.

The brother also went early the following day to the checkpoint and was told by police officers that Mr Alikhanov had been stopped by officers from the Dagestan Organised Crime Unit, forced into one of their vehicles and taken in the direction of Makhachkala, the capital of Dagestan.

The prosecuting authorities opened an investigation shortly afterwards and questioned the brother and other relatives. In the following weeks and months they also questioned traffic police officers on duty at the checkpoint during the abduction and police officers from the Organised Crime Unit, who all denied knowing anything about the matter.

In the meantime, at the end of March or early April, the applicant family had learned of the discovery of six bodies in a forest near Zamay-Yurt (in the Chechen Republic), allegedly shot by federal forces during a special operation. The applicants had gone there and recovered clothes belonging to their relative which they then gave to the authorities. However, a forensic expert examination was inconclusive as there was not enough DNA on the clothing. The family made a request to the authorities to exhume the bodies for a post-mortem, but received no response.

The investigation has been suspended and resumed on a number of occasions and is currently still ongoing, without having identified those responsible.

The Government argue that the investigators have not found evidence to prove that law-enforcement officers were involved in the abduction and presumed death of the applicants' relative, and, in any case, his body has never been found.

Relying on Article 2 (right to life) and Article 5 (right to liberty and security), the applicants allege in particular that Russian law-enforcement officers abducted and killed their relative and that the authorities' investigation into their allegations has been ineffective. Under Article 3 (prohibition of inhuman or degrading treatment), they allege profound mental suffering because of the abduction, killing and failure to carry out a proper investigation. Lastly, they allege that there were no effective remedies at national level for their complaints under Article 13 (right to an effective remedy), in conjunction with Articles 2, 3 and 5.

Ibragim Ibragimov and Others v. Russia (nos. 1413/08 and 28621/11)

The applicants are Ibragim Salekh Ogly Ibragimov, a Russian national; the Cultural Educational Fund "Nuru Badi", a publisher based in Moscow; and, the United Religious Board of Muslims of the

Krasnoyarsk Region, a religious association. Mr Ibragimov is the chief executive officer of the second applicant.

The case concerns anti-extremism legislation in Russia and a ban on publishing and distributing Islamic books.

In 2007 and 2010 the Russian courts ruled that books by Said Nursi, a well-known Turkish Muslim theologian and commentator of the Qur'an, were extremist and banned their publication and distribution. The applicants had either published some of Nursi's books or had commissioned them for publication and were third parties in the proceedings.

The courts found in particular, under the Suppression of Extremism Act of 2002, that Nursi's books incited religious discord and constituted propaganda on the superiority of the Muslim faith. In their decisions, they rejected all evidence submitted by the applicants explaining that Nursi's texts belonged to moderate, mainstream Islam.

Relying on Article 9 (freedom of religion) and Article 10 (freedom of expression), the applicants complain in particular about the ban on the distribution of Islamic books they had published or commissioned for publication, because they were extremist.

Khodyukevich v. Russia (no. 74282/11)

The applicant, Galina Nikolayevna Khodyukevich, is a Russian national who was born in 1955 and lives in Orenburg.

The case concerns allegations of unlawful detention of the applicant's son, his ill-treatment by police officers resulting in his death, and a lack of an effective investigation in that regard.

In September 2008 the applicant's son, Alexey Alchin, was arrested and taken to the police station following an altercation. The police officers stated that they had interviewed Mr Alchin while he was drunk but had not used force against him and had not noticed any injuries to his body. The applicant maintains that her son insisted on being released and had an altercation with some police officers, who struck him on the head. According to the applicant, he was then dragged outside onto the pavement. Mr Alchin was found unconscious by passers-by and was taken to hospital, where he died a few days later.

The day after the arrest an investigator from the same police station ordered the opening of a criminal investigation. In the course of the investigation Mr Alchin's wife confessed to having beaten her husband while they were both under the influence of alcohol; however, she retracted her statement a few weeks later. An autopsy carried out in October 2008 showed that the victim's death had been caused by a blow from a hard object. In March 2014 Mrs Alchin reiterated her confession of her own accord and was charged. After an investigation during which various witnesses were questioned and the forensic medical evidence was examined, the investigator classified Mrs Alchin's actions as use of excessive force in self-defence, and discontinued the proceedings in August 2014 as being time-barred. He also decided that the police officers in question had no case to answer, finding that the offence had been committed by the victim's wife. In October 2014 the Orenburg Regional Court ordered the sum of 100,000 Russian roubles to be paid to the applicant in compensation for the excessive length of the criminal investigation into her son's death.

Relying, in particular, on Article 2 (right to life) and Article 3 (prohibition of inhuman or degrading treatment), the applicant alleges that her son was the victim of ill-treatment, that the assault in question was the cause of his death and that no effective investigation was carried out into the matter. Under Article 13 (right to an effective remedy), Mrs Khodyukevich complains that the domestic investigation was ineffective. Relying on Article 5 (right to liberty and security), she complains of her son's arrest, alleging that it breached his right to liberty and security.

Savva Terentyev v. Russia (no. 10692/09)

The applicant, Savva Sergeyevich Terentyev, is a Russian national who was born in 1985 and lives in Steiermark (Austria).

The case concerns the applicant's conviction for inciting hatred after making insulting remarks about police officers in a comment under a blog post.

The blog post was about a February 2007 police raid on the offices of a newspaper which was in opposition to the authorities in Russia's Komi Republic. The blog post was written in reaction to a critical press release on the police's actions by a non-governmental organisation, the Memorial Human Rights Commission, in Komi.

Mr Terentyev wrote a comment under the blog post, saying, among other things, that police officers were "cops" who were "only lowbrows and hoodlums" and that every Russian town should have an oven "like at Auschwitz" to burn "infidel cops".

He was convicted in July 2008 of incitement to hatred and violent acts against police officers. The Supreme Court of the Komi Republic dismissed his appeal in August 2008. It rejected the applicant's arguments that the first-instance court had accepted too loose a definition of the notion of a social group. It also found that his words had not been aimed at criticism of law-enforcement bodies but at publicly calling for violence against police officers.

Relying on Article 10 (freedom of expression), Mr Terentyev complains that his criminal conviction for a comment on the Internet violated his rights.

Vyacheslav Korchagin v. Russia (no. 12307/16)

The applicant, Vyacheslav Viktorovich Korchagin, is a Russian national who was born in 1977 and lives in Liski (Voronezh Region, Russia). The case concerns his allegation that he was not notified of administrative offence proceedings brought against him.

Mr Korchagin started a business in 2009 which he extended to running food stands in 2013. After an inspection in 2014, an official from the consumer protection authorities informed him on his mobile telephone that administrative offence proceedings would be brought against him for not complying with regulations on stored food products. He was acquitted at first instance, but was found guilty on appeal in 2015 and given a fine.

He applied for a cassation review of the appeal decision, arguing that he had not been notified of the trial and appeal hearings, either via post at his actual residence or by telephone. However, the cassation court upheld the appeal decision, concluding that he had been notified by mail at one of the addresses where he had registered his business, but had avoided being served with the court notifications. Therefore he must have been aware of the time and place of the appeal hearing. He could also have kept track of the progress of his case via official sources such as the appeal court's website. He lodged a cassation appeal before the Supreme Court of Russia, without success.

Relying on Article 6 § 1 (right to a fair trial), Mr Korchagin alleges that the proceedings against him were unfair because he was not notified of hearings in his case, either before the first-instance court or on appeal.

Grujić v. Serbia (no. 203/07)

The applicant, Boško Grujić, is a Serbian national who was born in 1963 and lives in Nova Pazova (Serbia).

The case concerns the applicant's efforts to enforce court orders for contact with his two children.

Mr Grujić lived with his two children, a daughter and son, and their mother until 2001, when the parents separated. In January of that year the local social care centre gave custody of the children to the mother and allowed Mr Grujić to have visits every other weekend and during school holidays.

In August 2005 he applied to a court for sole custody and in December 2005 the court issued an interim contact order, which was similar to the old one and which was to be in place for the duration of the custody proceedings. Those proceedings were ended by the court in September 2008, a decision that was upheld by the district court in December of the same year.

From January 2006 Mr Grujić tried to enforce the interim contact order of December 2005. He met various hurdles, including the fact that his daughter would not go with him for meetings and the mother refusing to allow the son to go on his own on those occasions.

The social services and courts arranged various meetings between the parents and the father and the children to discuss the situation, and bailiffs always attended when the father tried to enforce his contact rights. Ultimately, the first-instance court dealing with the case terminated the interim enforcement proceedings in November 2011 and Mr Grujić was ordered to pay costs. That decision was confirmed by another court in December 2015, which was upheld on appeal in December 2016.

Mr Grujić complains that the Serbian authorities failed to take effective steps to enforce the interim contact order of December 2005. The Court will consider the complaint under Article 8 (right to respect for private and family life).

Vizgirda v. Slovenia (no. 59868/08)

The applicant, Danas Vizgirda, is a Lithuanian national who was born in 1980 and lives in Ljubljana.

The case concerns the applicant's complaint that he was not provided with interpreting and translation into a language which he understood during criminal proceeding against him in Slovenia.

Mr Vizgirda was arrested and prosecuted in 2002 for taking part in the robbery of a bank in Slovenia. A Lithuanian, he was provided with a Russian interpreter and Russian translations of documents throughout the proceeding against him, including the police enquiry, indictment and trial. In July 2002 he and three other Lithuanians were convicted of robbery and acquiring unlawfully gained property, a stolen car, and he was sentenced to just over eight years in prison. His appeal was dismissed.

Subsequently, in February 2003 the applicant complained to the domestic courts that, among other things, he did not understand Russian well, that the first-instance court had ignored his statement to that effect, and that his right to use his own language in the criminal trial had been violated.

His complaint was ultimately dismissed by both the Supreme Court, in January 2006, and the Constitutional Court in July 2008. Both superior courts found that he had never before raised a complaint during the criminal proceedings about not being able to understand Russian, that he had had the assistance of counsel, with whom he had also communicated via the Russian language, that he had participated in his trial and that his right to a fair trial had not been violated.

Relying in particular on Article 6 §§ 1 and 3 (a) and (e) (right to a fair trial / right to be informed promptly of the accusation against him/her / right to an interpreter) Mr Vizgirda complains that he did not have a fair trial because he did not understand the language of the proceedings or the interpreting provided. He also raises complaints under Article 5 § 2, and Articles 13 and 14, read together with Article 6.

S.J.P. and E.S. v. Sweden (no. 8610/11)

The applicants, Ms S.J.P., a Swedish national, and Mr E.S., an Iranian national, were born in 1969 and 1964 respectively and live in Sandnes (Norway).

The case concerns the applicants' complaint about their children, A, B and C, being taken into care and the limits placed on their contact with them.

After C's birth in February 2007, staff at the neo-natal unit in Linköping in Sweden, where the baby was being treated, contacted the local social services to express their concern about the mother's ability to look after the child. They also expressed worries about the situation of the rest of the family, reporting that A and B had been noisy and unruly during a visit and that the first applicant had been aggressive when staff had mentioned they would contact social services.

Ultimately, the social services decided in September 2007 to take the children into care. However, the care order was cancelled as the family had in the meantime gone to Iran, staying there until October 2008, when they moved to Norway.

In May 2009 the Norwegian authorities began an investigation into the family after A reported that he and B had been beaten by their father. The family disappeared, the Norwegian authorities contacted their Swedish counterparts and the family were stopped at Stockholm Airport on their way to Iran. The children were taken into care, a decision that was subsequently upheld by the Administrative Court of Appeal in December 2009. In April 2011 that court also upheld earlier decisions to keep the children in care.

The courts also placed restrictions on the applicants' access to the children, who were placed in foster homes. At the outset, there was a total prohibition on contact but this was eventually lifted and the latest order, issued in April 2015, allowed them contact rights of six hours every other month.

Relying on Article 8 (right to respect for private and family life), the applicants complain about the authorities' decisions to place their children in care and keep them there and about the restrictions on their contact rights.

Thursday 30 August 2018

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.

Imbras v. Lithuania (no. 22740/10)
Breijer v. the Netherlands (no. 41596/13)
Orbulescu v. the Netherlands (no. 1704/17)
P.N. v. the Netherlands (no. 10944/13)
Eliseev and Ruski Elitni Klub v. Serbia (no. 8144/07)
Lázaro Laporta v. Spain (no. 32754/16)

Friday 31 August 2018

Engelhardt v. Slovakia (no. 12085/16)
Balogh and Others v. Slovakia (no. 35142/15)

The two cases concern proceedings for the restitution of land which have lasted 25 years and 13 years respectively and are still ongoing.

In the first case, the applicant is Július Engelhardt. He is a Czech national who was born in 1969 and lives in Bílovice nad Svitavou (the Czech Republic).

His legal predecessor made a land restitution claim in 1992 and the applicant later assumed his position. The Land Office concerned issued a partial decision in 1997 and further rulings between 1999 and 2015, but the proceedings have yet to finish.

The applicant twice went to court to force the Land Office to accelerate its decision-making procedures and began Constitutional Court complaints. A Regional Court eventually allowed his actions by ordering the Land Office to accelerate the proceedings and, in 2015, also by fining it 1,000 euros. The Constitutional Court in 2012 awarded him 2,000 euros in compensation over an initial 2012 decision by the Regional Court to dismiss his case.

In the second case, the 51 applicants, who were born between 1921 and 1980 and live in Slovakia, were part of a group of 126 people who in 2004 sought the restitution of land. Their claim was dismissed by the Land Office in 2010 on the grounds of a lack of standing, a decision that was upheld on appeal by a court. The Supreme Court quashed the appeal ruling in 2014 and remitted the case to the lower court, which is still considering it. In 2015 the Constitutional Court dismissed a complaint by the applicants about the length of the proceedings before both the Land Office and the court dealing with the applicants' appeal against the 2010 administrative decision.

The applicants in both cases complain about the length of the proceedings on their land restitution claims and the lack of an effective remedy in that regard under Article 6 § 1 (right to a fair hearing within a reasonable time) alone and in conjunction with Article 13 (right to an effective remedy).

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