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

Press Release
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ECHR 359 (2019)
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Forthcoming judgments and decisions

The European Court of Human Rights will be notifying in writing ten judgments on Tuesday 29 October 2019 and 33 judgments and / or decisions on Thursday 31 October 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 29 October 2019

Baralija v. Bosnia and Herzegovina (application no. 30100/18)

The applicant, Irma Baralija, is national of Bosnia and Herzegovina who was born in 1984. She lives in Mostar, one of the largest cities in Bosnia and Herzegovina, and is president of the local branch of the political party *Naša stranka*.

The case concerns Ms Baralija's complaint that she cannot vote or stand in local elections.

In November 2010 the Constitutional Court of Bosnia and Herzegovina declared unconstitutional certain provisions of the Election Act 2001 regulating elections of city councillors. It found that the arrangements for voting based on those provisions failed to ensure equal suffrage for the voters of Mostar, in particular as concerned the boundaries of constituencies and the allocation of councillors to each constituency. It gave the relevant authorities six months to harmonise the provisions with the Constitution of Bosnia and Herzegovina.

The judgment has, however, still not been enforced. In 2012 the Constitutional Court adopted a ruling on the non-enforcement and, as a result, the relevant provisions of the Election Act lost their legal validity. Local elections could not therefore be held in Mostar in the last cycles, meaning that the current mayor of Mostar has only had a "technical mandate" since 2012.

Relying on Article 1 of Protocol No. 12 (general prohibition of discrimination) to the European Convention on Human Rights, Ms Baralija alleges that the non-enforcement of the Constitutional Court's judgment has prevented her from voting or standing in local elections, and that this amounts to discrimination on the grounds of her place of residence.

Stankūnaitė v. Lithuania (no. 67068/11)

The applicant, Laimutė Stankūnaitė, is a Lithuanian national who was born in 1986.

The case concerns complaints by the applicant about care decisions related to her daughter and delays in reuniting them.

In late 2008 the applicant was accused by her former partner D.K. of being complicit in the sexual molestation of their daughter, born in 2004 while the couple were still together. The resulting investigation into the charges was eventually discontinued in November 2010 with no action taken against the applicant.

In the meantime in October 2009 care proceedings for the daughter resulted in a temporary guardianship order being issued in favour of D.K.'s sister N.V., the applicant only having supervised contact with the girl. The order was issued after D.K. had fled the law-enforcement authorities after two people, suspects in the molestation case, were shot and killed in Kaunas. D.K. was eventually found dead in April 2010.

After the investigation into the applicant was dropped, a decision that was upheld by a court, the applicant applied to have her daughter returned to her and in December 2011 her request was granted. The court carried out an examination of the circumstances, noting that the criminal charges against the applicant had been dropped and taking account of the Strasbourg Court's case-law on the best interests of the child.

Despite the court order, the involvement of bailiffs and a fine, N.V. refused to hand the child over. The authorities therefore attempted forcible removals: one such attempt was unsuccessful as supporters of D.K.'s and N.V.'s family had surrounded the house where the daughter was living and prevented the handover. Finally in May 2012 a bailiff and the police took the child and returned her to the applicant, despite the presence of a large crowd.

Relying on Article 8 (right to respect for private and family life) and Article 6 § 1 (right to a fair trial) of the European Convention, the applicant complains about the initial temporary care order and the fact that her daughter was not returned to her even though the criminal investigation was discontinued. She also complains about the delays in the actual return of her daughter after the court order in her favour.

Pisică v. the Republic of Moldova (no. 23641/17)

The applicant, Nelea Pisică, is a Moldovan national who was born in 1981 and lives in Ialoveni (Republic of Moldova).

The case concerns her complaint that the authorities failed to ensure that she had access to her three children who had been taken from her by her ex-husband against her wishes.

Ms Pisică had three sons with P., in 2003 and 2007. In 2012 P. started being aggressive and she left the family home with the children.

During proceedings for custody of the children, between July 2013 and November 2015, Ms Pisică complained nine times to various authorities that P. was manipulating the children and turning them against her. Despite several protection orders issued in the course of those proceedings, barring P. from contacting the children, he took them to his home and refused to return them to their mother.

Several psychological reports were drawn up in 2014, showing that the children's attitude to their mother had changed and finding that P.'s alienation of the children from their mother constituted emotional abuse. The local welfare authorities' recommended that the children be separated temporarily from both parents for psychological assistance, but there was never any follow up.

Ms Pisică was eventually awarded custody of her two younger sons in June 2015. However, the judgment could not be enforced because of strong opposition from the children.

There were new custody proceedings in 2018 and the courts decided that the two younger children were to live with P. The courts found that the change of custody was in the children's best interests because of their strong ties to their father.

Relying on Article 8 (right to respect for private and family life), Ms Pisică complains that the authorities failed to reunite her with her children, despite the judgment in her favour, or to take any action against the father's emotional abuse.

Akvardar v. Turkey (no. 48171/10)

The applicant, Rıfat Namık Akvardar, is a Turkish national who was born in 1940 and lives in Istanbul (Turkey).

The case concerns a dispute concerning the expropriation of plots of land located in Bahçelievler (Antalya) which had belonged to deceased relatives of Mr Akvardar, at a time when legal proceedings concerning title to that land were still pending.

Relying on Article 1 of Protocol No. 1 (protection of property) to the Convention, Mr Akvardar complains, in particular, that he has not been able to obtain the compensation due to him for the expropriation. He also argues that the expropriation did not pursue a public-interest aim, as hotels had been built on the land in question.

Just Satisfaction

Dürrü Mazhar Çevik and Münire Asuman Çevik Dağdelen v. Turkey (no. 2705/05)

The applicants, Dürrü Mazhar Çevik and Münire Asuman Çevik Dağdelen, are Turkish nationals.

The case concerned the annulment of the applicants' title deeds. In its judgment on the merits of 14 April 2015, the Court found that there had been a violation of Article 1 of Protocol No. 1 (protection of property) to the Convention. The Court held that the question of the application of Article 41 (just satisfaction) of the Convention was not ready for decision and reserved it for examination at a later date. The Court will rule on this matter in its judgment of 29 October 2019.

Hatice Çoban v. Turkey (no. 36226/11)

The applicant, Hatice Çoban, is a Turkish national who was born in 1965 and lives in Ankara. At the material time, she was a member of the board of the Party for a Democratic Society (DTP, *Demokratik Toplum Partisi*).

The case concerns the criminal conviction of Ms Çoban for propaganda in favour of a terrorist organisation on account of a speech she had given during a "World Peace Day" demonstration held by the DTP.

In 2007 Ms Çoban was charged with disseminating propaganda in favour of a terrorist organisation on account of the speech she had given.

In 2008 the Assize Court sentenced Ms Çoban to a prison term of two years and one month. It considered, in particular, that Ms Çoban had supported a statement by the PKK (Kurdistan Workers' Party, an illegal armed organisation); that she had called for the Turkish Republic to enter into talks with the PKK and had indicated that the PKK was engaged in an honourable campaign for identity and freedom in the name of the Kurds; and that she had said that this terrorist organisation had to exist and that its members should never surrender to the security forces.

Ms Çoban appealed on points of law. She alleged, among other points, that the police officers who had monitored the demonstration had not recorded her whole speech in their report; that, not having recorded her intervention, they had distorted her words; and that in any event they could not have legally monitored the demonstration and taken notes in the absence of a judge's decision. Moreover, Ms Çoban argued that the version of her speech reported in the press diverged from that recounted by the police, and that the Assize Court had not sought to elucidate this divergence or to obtain recordings of her speech. Lastly, she explained that the speech had concerned the need to resolve the Kurdish problem by democratic and peaceful means. Her appeal was rejected.

In 2014 the Assize Court, pursuant to a new law, decided to stay the execution of her sentence, which had not yet begun.

Relying in particular on Article 10 (freedom of expression), Ms Çoban complains about her conviction, arguing that the criminal proceedings were unfair and that they breached her right to freedom of expression.

Just Satisfaction

Silahyürekli v. Turkey (no. 16150/06)

The applicant, Ahmet Emin Silahyürekli, is a Turkish national who was born in 1957 and lives in Nişantaşı (Istanbul). The case concerns his acquisition of about 15 hectares of land on the island of Aşırlı. He had the land registered under his name in the land register. In April 2003 the Treasury

brought proceedings to annul Mr Silahyürekli's title to the land and have it registered as belonging to it. In June 2004 the court found in favour of the Treasury. Relying on Article 1 of Protocol No. 1 (protection of property), Mr Silahyürekli complained that the confiscation of his land in this way had violated his right under that Article to the peaceful enjoyment of his possessions.

In its judgment of 26 November 2013 the Court found a violation of Article 1 of Protocol No. 1 and held that the question of the application of Article 41 (just satisfaction) was not ready for examination.

The Court will deal with this question in its judgment of 29 October 2019.

Thursday 31 October 2019

Ulemek v. Croatia (no. 21613/16)

The applicant, Dušan Ulemek, is a Croatian national who was born in 1982.

The case concerns the applicant's complaint about the conditions of his detention in two prisons and of a lack of effective domestic remedies.

In March 2010 Mr Ulemek was given a prison sentence of 18 months for aiding and abetting robbery. He spent 27 days in Zagreb Prison in May-June 2011 and the rest of his sentence in Glina Prison before being released on parole in September 2012.

He complained about the conditions of his detention in Glina Prison while still incarcerated. Among other things, he alleged overcrowding, a lack of facilities, the poor organisation of activities, that he had been harassed by other prisoners, and that he had been kept isolated. His complaints were dismissed by the prison's governor, a sentence-execution judge and the appeal court.

On his release he began proceedings for compensation for the allegedly inadequate conditions of his detention in both prisons. His claim was rejected at first instance, on appeal and by the Constitutional Court.

Relying on Article 3 (prohibition of inhuman or degrading treatment), the applicant complains about the conditions of his detention in both prisons. He also alleges under Article 13 (right to an effective remedy) that the available remedies for his complaints of inadequate conditions of detention were not effective. He also raises complaints under Article 8 (right to respect for private and family life and Article 6 § 1 (right to a fair hearing).

Papageorgiou and Others v. Greece (nos. 4762/18 and 6140/18)

The case concerns compulsory religious education in Greek schools.

The applicants are five Greek nationals, parents and children, who live on the small Greek islands of Milos and Sifnos. The first three applicants are Petros Papageorgiou and Ekaterini Berdologlou and their daughter, Maria Rafaella Papageorgiou; the fourth and fifth applicants are Rodopi Anastasiadou and her daughter Smaragda Raviolou.

Under the Greek Constitution and other legislative texts, such as the Law on Education and various ministerial decisions, religious education is mandatory for all schoolchildren at primary and secondary level.

In July 2017 the applicants asked the Supreme Administrative Court to annul two recent ministerial decisions establishing the religious education programme for the 2017/18 school year. At the time Maria Rafaella Papageorgiou was in the third and final grade of Milos General High School, while Smaragda Raviolou was in the fourth grade of Sifnos primary school.

The applicants asked to have their case examined under an urgent procedure before the start of the new school year but the Supreme Administrative Court dismissed their requests for lack of importance.

Nor did that court ever adjudicate on their case because the initial hearing scheduled kept on being adjourned until September 2018, by which time the school year had already finished.

In their applications the applicants extensively argued that the procedure for exemption from religious classes was contrary to the European Convention.

Before the Strasbourg Court, the applicant parents complain that if they wanted to have their daughters exempted from religious education, they would have had to declare that they were not Orthodox Christians. Furthermore, they complain that the school principal would have had to verify whether their declarations were true and that such declarations were then kept in the school archives. They rely on Article 8 (right to respect for private and family life, the home and the correspondence), Article 9 (freedom of thought, conscience, and religion), Article 14 (prohibition of discrimination) and Article 2 of Protocol No. 1 (right to education).

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 29 October 2019

Name	Main application number
Bychkov v. Russia	48741/11
Novaya Gazeta and Borodyanskiy v. Russia	42113/09
Poddubnyy v. Russia	77185/11

Thursday 31 October 2019

Name	Main application number
Mammadguliyev v. Azerbaijan	5117/10
Mehdiyev v. Azerbaijan	59090/12
Mirenić-Huzjak and Jerković v. Croatia	72996/16
Vučina v. Croatia	58955/13
Mesplede v. France	28050/16
Schlick-Labe v. Germany	39562/18
Simonis v. Germany	22906/18
Gizori and Others v. Greece	58688/17
Korasidis and Others v. Greece	40384/16
Palias and Saleptsis v. Greece	4454/19
Hadobás v. Hungary	21724/19
Kolozsy v. Hungary	57326/18
Kovács v. Hungary	41309/15
Szabó and Others v. Hungary	62631/14
Szabó v. Hungary	26599/15

Name	Main application number
La Posta v. Italy	5425/10
Montuori v. Italy	20227/08
Fjodorovs v. Latvia	47018/11
Nevedomskas v. Lithuania	41918/18
Suchininas v. Lithuania	49412/18
Neagul v. Portugal	49724/15
Mateciuc v. Romania	38845/16
Dubinkin v. Russia	9549/18
Tokareva and Others v. Russia	4294/09
Kryezi v. Switzerland	73694/14
Aydoğan v. Turkey	42224/06
Endakçi v. Turkey	1326/12
Su and Others v. Turkey	13817/08
Taylan v. Turkey	40888/07
Uludağ v. Turkey	53022/15
Mazur v. Ukraine	59550/11

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