



## Forthcoming judgments and decisions

The European Court of Human Rights will be notifying in writing 19 judgments on Tuesday 30 January 2018 and 33 judgments and / or decisions on Thursday 1 February 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 30 January 2018

#### [Edina Tóth v. Hungary \(application no. 51323/14\)](#)

The applicant, Edina Tóth, is a Hungarian national who was born in 1975 and lives in Csobánka (Hungary).

The case concerns the abduction of her two-year-old son by her husband in 2004. She did not see her son again until he was 11 years old. He was at last located in 2014 following the apprehension of her, by that time, ex-husband in Budapest.

In the intervening years, she had been granted a divorce and was awarded custody of her son. However, the decision was not enforced, despite her bringing a number of proceedings both at the domestic and international level, essentially because her ex-husband's whereabouts were unknown.

Relying on Article 8 (right to respect for family life) of the European Convention on Human Rights, Ms Tóth alleges a disruption to her family life because the Hungarian authorities failed to assist her in being reunited with her son.

#### [Sekmadienis Ltd. v. Lithuania \(no. 69317/14\)](#)

The applicant company, Sekmadienis Ltd., is a limited liability company established under Lithuanian law with its registered office in Vilnius.

The case concerns the company's complaint about being fined for advertising clothes using references to Jesus and Mary.

In late 2012 the company ran a clothing advertisement campaign using a male and female model with halos, the man in jeans and with tattoos, and the female with a white dress and a string of beads. The ads were followed by the captions, "Jesus, what trousers!", "Dear Mary, what a dress!" and "Jesus and Mary, what are you wearing!".

Following complaints received by the State Consumer Rights Protection Authority, the company was fined in 2013 for publishing advertisements which were contrary to public morals, in breach of national advertising law. The company's subsequent complaint to the regional administrative court was dismissed, as was an appeal to the Supreme Administrative Court. An application by that court's President to reopen proceedings was refused.

The applicant company relies on Article 10 (right to freedom of expression) of the European Convention, alleging that the fine for breach of public morals could not be considered necessary in a democratic society.

### [Etute v. Luxembourg \(n° 2\) \(no. 18233/16\)](#)

The applicant, Joseph Etute, is a Nigerian national who was born in 1970 and is currently detained in Schrassig Prison in Luxembourg. The applicant alleges that he was unable to appeal against a decision revoking his release on licence.

In November 2010 Mr Etute was sentenced to thirty months' imprisonment for a drugs offence. On 22 February 2013 he was granted release on licence with effect from 4 March 2013. On 29 October 2015 the investigating judge ordered the applicant's detention in connection with a further drugs offence. On 4 November 2015 the Attorney-General's representative revoked the applicant's release on licence on the grounds that he no longer complied with the conditions that had been imposed on him.

Relying on Article 5 § 4 (right to a speedy review of the lawfulness of detention), the applicant complains that he was unable to appeal against the decision revoking his release on licence.

### [Cassar v. Malta \(no. 50570/13\)](#)

The applicants, Albert Cassar and Mariella Cassar, are two Maltese nationals who were born in 1945 and 1951 respectively and live in Sliema (Malta).

The case concerns their complaint about not being able to live in a house they own because there is a tenant there whom the law does not allow them to evict and that the amount of controlled rent they receive is too low.

The Cassars bought the property in 1988, when it was already under the controlled rent laws. It has 14 rooms and four double bedrooms and was inhabited at the time of purchase by an elderly couple under a lease. The applicants expected to move in after the couple's death, but in 2003 the couple's daughter, by then in her late 60s, took up the tenancy and has lived in the house since, paying 466 euros a year in rent. The applicants took rented accommodation elsewhere. They argue that a realistic rental value for their property would be several thousand euros a month. Their complaints about the tenancy of their house and the level of rent were rejected in domestic proceedings.

The applicants rely on Article 1 of Protocol No. 1 (protection of property) to the Convention, complaining that they have suffered an excessive individual burden. They also complain under Article 14 (prohibition of discrimination) in conjunction with Article 1 of Protocol No. 1.

### [Pavlovici v. the Republic of Moldova \(no. 5711/03\)](#)

The applicant, Vladimir Pavlovici, is a Moldovan national who was born in 1951 and lives in Chişinău. The case concerns the failure to enforce a final judgment in his favour.

In 1940 the Soviet authorities deported the applicant's grandparents and in 1946 nationalised the buildings belonging to them. Mr Pavlovici's grandfather was rehabilitated posthumously in 1989. In March 1996 the applicant's father, in his capacity as legal successor, applied to the courts for restitution of the properties. Mr Pavlovici continued with the proceedings following his father's death.

On 18 June 2002 a final judgment was given ordering the restitution of the properties to the applicant. However, the Supreme Court of Justice allowed an appeal by the Prosecutor General and remitted the case to the first-instance court. On 24 December 2004 the court found in Mr Pavlovici's favour. That judgment remains unenforced to date.

Relying on Article 6 § 1 (right to a fair hearing), the applicant maintains that the doubt cast on the final judgment in his favour breached the principle of legal certainty. Under Article 6 § 1 and Article 1 of Protocol No. 1 (protection of property), he alleges that the failure to enforce the final judgment in his favour infringed his right of access to a court and his right to the peaceful enjoyment of his possessions.

### [Brajić and Others v. Montenegro \(no. 52529/12\)](#)

The applicants are six Montenegrin nationals who were injured parties in criminal proceedings where the defendant was found guilty.

The case concerns their complaint that the appeal they brought in 2009 about the legal costs in those criminal proceedings has never been ruled on.

Relying on Article 6 § 1 (access to court), they allege in particular that the Court of Appeal's failure to rule on their appeal amounts to a denial of access to court.

The applicants are Pava Brajić, Zoranka Ajković, Jelena Brajić, Kastro Brajić, Lindita Vučić, and Nada Zlatičanin. They were born in 1931, 1972, 1948, 1965, 1970, and 1964 respectively, and live in Golubovci (Montenegro).

### [Barabanov v. Russia \(nos. 4966/13 and 5550/15\)](#)

### [Polikhovich v. Russia \(nos. 62630/13 and 5562/15\)](#)

### [Stepan Zimin v. Russia \(nos. 63686/13 and 60894/14\)](#)

All three cases relate to detention and prosecution after a protest on 6 May 2012 in Moscow against allegedly rigged presidential elections. After a peaceful march, a meeting began at Bolotnaya Square, where clashes broke out between the demonstrators and the police.

The applicant in the first case, Andrey Barabanov, is a Russian national who was born in 1990 and lives in Moscow. Mr Barabanov was arrested on 28 May 2012 on suspicion of taking part in acts of mass disorder and committing acts of violence against the police after taking part in the protest. He was held in pre-trial detention until his conviction in February 2014. He was sentenced to three years and seven months in prison, a judgment that was upheld on appeal in June of the same year.

The applicant in the second case, Aleksey Polikhovich, is a Russian national who was born in 1990 and lived in Moscow until his arrest. Mr Polikhovich, who was present at Bolotnaya Square, was arrested in July 2012. He was detained until February 2014, when he was found guilty of taking part in acts of mass disorder and assault on a police officer. He was sentenced to three years and six months in prison. The verdict was upheld on appeal in June of the same year.

The applicant in the third case, Stepan Zimin, is a Russian national who was born in 1992 and lives in Uzlovaya, Tula region (Russia). He was arrested on 8 June 2012 for taking part in acts of mass disorder and using violence against the police at Bolotnaya Square. He was held in detention until his conviction on 21 February 2014, when he was sentenced to three years and six months in jail. He appealed unsuccessfully in June 2014.

Relying on Article 3 (prohibition of inhuman or degrading treatment), all three applicants complain about being held in glass cabins and metal cages during their trial and the appeal. Mr Polikhovich and Mr Zimin also complain under Article 3 about the conditions of their detention.

In addition, they make a number of other complaints under Article 5 (right to liberty and security), Article 6 (right to a fair trial), Article 10 (freedom of expression), Article 11 (freedom of assembly and association) and Article 18 (limitation on use of restrictions on rights).

### [Revision](#)

### [Silášová and Others v. Slovakia \(no. 36140/10\)](#)

The case concerns a request for the revision of a judgment of the European Court of Human Rights with regard to a complaint by 20 Slovak nationals about the limited rent they were entitled to for the compulsory letting of their land.

The applicants argued in particular that the rent which they had been entitled to obtain under the Allotment Act as in force until 31 March 2011 had been disproportionately low and had been

determined with blatant disregard to the land's actual value. After that date, an amendment had entered into force which had adjusted the rent payable to a level commensurate with the market rent.

In a [judgment](#) delivered on 28 June 2016, the Court held that there had been a violation of Article 1 of Protocol No. 1 (protection of property) to the Convention and awarded EUR 67,030 in total in respect of pecuniary damage, EUR 200 to each of the applicants in respect of non-pecuniary damage, and EUR 2,000 to the applicants jointly in respect of costs and expenses.

On 3 April 2017 the Government informed the Court that one of the applicants (Ms Jolana Dorčíková) had died in 2013, before the judgment had been adopted, and requested a revision of the judgment of 28 June 2016 under the Court's Rules.

The Court will consider this request in its judgment of 30 January 2018.

### [Enver Şahin v. Turkey \(no. 23065/12\)](#)

The applicant, Enver Şahin, is a Turkish national who was born in 1988 and lives in Diyarbakır (Turkey). The case concerns the inability of the applicant, who is paraplegic, to gain access to a university building for the purposes of his studies, owing to the lack of suitable facilities.

In 2005 Mr Şahin was seriously injured in an accident which left his lower limbs paralysed, and had to suspend his studies. In 2007 he requested that the faculty adapt the university premises so that he could resume his studies. The faculty replied that the adjustments in question were not possible in the short term, and offered to appoint someone to assist the applicant on the premises. Mr Şahin refused.

Relying on Article 2 of Protocol No. 1 to the Convention (right to education) and on Article 14 (prohibition of discrimination) of the Convention, Mr Şahin complains that he was obliged to give up his studies because of the refusal of his request for the facilities to be adapted. Under Article 8 (right to respect for private and family life) read in conjunction with Article 14, he alleges that being assisted by another person would have made him dependent on that person and deprived him of his privacy.

### [Boyets v. Ukraine \(no. 20963/08\)](#)

The applicant, Tatyana Boyets, is a Ukrainian national who was born in 1955 and lives in Kharkiv (Ukraine).

In her case before the Court, Ms Boyets complains in particular about the fact that she was unable to examine a prosecution witness in court during her bribery trial.

Ms Boyets, who worked in a passport office, was charged with incitement to bribery and fraud in February 2004. She was found guilty and fined in February 2006, a verdict that was upheld on appeal. During the domestic proceedings she complained in particular that she had not been able to examine the woman who had made the bribery allegation and who had cooperated with the police.

Ms Boyets complains under Article 6 §§ 1 and 3 (d) (right to a fair trial and right to obtain attendance and examination of witnesses), Article 2 of Protocol No. 4 (freedom of movement), and Article 13 (right to an effective remedy).

### [Korniychuk v. Ukraine \(no. 10042/11\)](#)

The applicant, Yevgen Korniychuk, is a Ukrainian national who was born in 1966 and lives in Kyiv.

The case concerns his complaint about his arrest and ensuing detention for 54 days during an investigation into abuse of office.

In February 2009 Mr Korniychuk, Deputy Minister of Justice at the time, sent a letter to Naftogaz Ukrainy, a State-owned gas company, telling it that it could extend a contract with a law firm without a bidding procedure. The prosecuting authorities later found that he had bypassed the Ministry of Justice in signing the letter and that the extension of the contract had caused considerable losses to the State budget.

Mr Korniychuk was charged with exceeding his powers leading to serious consequences. He was arrested on 22 December 2010 and then held in temporary detention from 24 to 30 December. After this, he was placed in pre-trial detention on the grounds that he might abscond or interfere with witnesses. All his appeals against his arrest and detention were dismissed until 15 February 2011, when the investigator released him under an obligation not to abscond. He was amnestied in December 2011.

Mr Korniychuk makes a number of complaints under Article 5 §§ 1 and 3 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial) and Article 18 (limitation on use of restrictions on rights) taken in conjunction with Article 5. He alleges in particular that his arrest – without a judicial warrant – and subsequent detention were unlawful and arbitrary and that his pre-trial detention from 30 December 2010 to 15 February 2011 was not sufficiently justified.

#### [Makarenko v. Ukraine \(no. 622/11\)](#)

The applicant, Anatoliy Makarenko, is a Ukrainian national who was born in 1964 and lives in Kyiv.

The case concerns Mr Makarenko's complaint about his detention during an investigation into neglect of duty while he was head of the customs service.

In February 2009 Mr Makarenko signed an order for the customs clearance of 11 billion cubic metres of gas, which an international arbitration panel later found had been taken in breach of contract from a Russian-Ukrainian gas transport company.

Mr Makarenko was charged with neglect of duty leading to serious consequences for signing the order. He was held in detention from June 2010 until July 2011, when the Court of Appeal freed him under an obligation not to abscond. He was found guilty of the charges in July 2012 and was given a suspended sentence of four years' imprisonment. He was cleared of criminal responsibility in 2014.

He complains under Article 5 §§ 1 (c) and 3 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial,) and Article 18 (limitation on use of restrictions on rights) taken in conjunction with Article 5.

[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.

**Aksoy v. Turkey** (no. 37546/08)

**Aymelek v. Turkey** (no. 15069/05)

**Kaplan v. Turkey** (no. 13807/08)

**Koçhan v. Turkey** (no. 3512/11)

**Yigin v. Turkey** (no. 36643/09)

Thursday 1 February 2018

[Hadzhieva v. Bulgaria \(no. 45285/12\)](#)

The applicant, Dzheren Hadzhieva, is a dual Turkmen and Russian national who was born in 1988 and lives in Varna (Bulgaria).

The case concerns her complaint that the authorities left her on her own with no assistance when her parents were arrested in 2002. She was 14 years old at the time.

Before the family's move to Bulgaria in 2001, Ms Hadzhieva's father had been deputy chairman of the Turkmen central bank and later a member of an opposition political movement. In 2002, the Turkmen authorities charged her parents with embezzlement and requested their extradition. The Bulgarian police took them into custody in December but they were released again after about two weeks.

In 2006 Ms Hadzhieva brought a damages claim against the authorities for leaving her on her own during the whole period of her parents' detention. The claim was ultimately dismissed in January 2012.

Ms Hadzhieva complains under Article 8 (right to respect for private and family life and the home) and Article 13 (right to an effective remedy) in conjunction with Article 8.

[M.A. v. France \(no. 9373/15\)](#)

The applicant is an Algerian national who was born in 1976 and is currently in Algeria.

The case concerns the applicant's expulsion to Algeria after being convicted of preparing terrorist acts.

Having been involved in Islamist movements in Algeria, the applicant left his country of origin in 1999 and travelled to Spain and then France. In 2006 he was sentenced to seven years' imprisonment and was made the subject of a permanent exclusion order from French territory for involvement in a conspiracy to prepare acts of terrorism.

In April 2010, while the French authorities were attempting to enforce the exclusion order, the applicant lodged a request with the Court for an interim measure under Rule 39 of the Rules of Court. The Court indicated to the Government that they should not deport the applicant to Algeria for the duration of the proceedings. M.A. was released and made the subject of a compulsory residence order. On 1 July 2014 the Court declared his application (no. 21580/10) inadmissible and the interim measure was lifted. The applicant then lodged an asylum application, which was rejected on 17 February 2015. He was informed on 20 February and was taken straight away to Roissy with a view to his removal. The applicant's lawyer lodged a fresh request for interim measures with the Court. The Court acted on the request the same day, indicating to the Government not to remove the applicant before 25 February. However, by the time the police received the necessary instructions, the doors of the airplane had already closed with the applicant on board. On his arrival in Algeria the applicant was taken into police custody and was then charged and placed in pre-trial detention. According to the information received by the Court, he is still being detained.

The applicant contends that his removal to Algeria exposed him to a serious risk of treatment contrary to Article 3 (prohibition of torture and inhuman or degrading treatment). He alleges that, in handing him over to the Algerian authorities notwithstanding the interim measure indicated by the Court, the French Government failed to comply with their obligations under Article 34 (right of individual petition). Lastly, the applicant relies on Article 8 (right to respect for private and family life) and on Article 3 in respect of his wife and children.

### Meslot v. France (no. 50538/12)

The applicant, Damien Meslot, is a French national who was born in 1964 and lives in Belfort. The case concerns his conviction for contempt of court. Mr Meslot was a Member of Parliament for the Territoire de Belfort *département* until 2017.

In June 2007, at a public meeting held during an election campaign, Mr Meslot stated, among other things, that he had no respect either for the prosecutor L. or for Judge D., claiming that they had turned into political representatives who had exceeded their remit and brought the judiciary into disrepute. The applicant went on to state as follows: “They prefer to wage war on right-wing MPs rather than tackling thugs. ... We’ve had enough of ... leftie judges who go against the will of the people and obstruct the work of the police”. This statement was transmitted by the radio station Radio France Bleu Belfort and reproduced in part by the daily newspaper *Le Pays*. Mr Meslot was convicted of contempt of court.

The applicant alleges that his conviction was contrary to Article 10 (freedom of expression) of the Convention.

### M.K. v. Greece (no. 51312/16)

The applicant, M.K., is a Romanian national who was born in 1968 and lives in France.

The case concerns the inability of the applicant, who is the mother of two children, to exercise custody of one of her sons despite a decision by the Greek courts awarding her permanent custody. Her ex-husband, who lives in Greece, has refused to hand over the child to her.

Relying on Article 8 (right to respect for private and family life), the applicant complains that the Greek authorities did not uphold the judgments in her favour given by the Greek and French courts regarding the custody of her son. She further alleges that they refused to facilitate the child’s return to France and failed to act on the complaints she lodged against her ex-husband for child abduction.

### V.C. v. Italy (no. 54227/14)

The applicant, V.C., is an Italian national who was born in 1997.

The applicant, who was a minor at the time, was in a distressing and dangerous situation caused by alcohol and drug dependence and contact with prostitution networks. She allegedly worked as a prostitute for two individuals who were found guilty and convicted by the Italian courts. She was also allegedly subjected to gang rape; two individuals are currently being tried for this offence in the criminal courts.

Relying on Articles 3 (prohibition of torture and inhuman or degrading treatment), 8 (right to respect for private and family life) and 13 (right to an effective remedy), V.C. complains that the Italian authorities did not take all the necessary steps to protect her as a minor and a victim of a prostitution network, and that she did not have a remedy in domestic law by which to complain of the alleged violations.

### Asani v. ‘the former Yugoslav Republic of Macedonia’ (no. 27962/10)

The applicants, Ramiz Asani and Naim Asani, are Macedonian nationals who were born in 1979 and 1984. They are currently serving life sentences.

The case concerns their complaint that they were unable properly to cross-examine key witnesses at their trial and conviction for murder in 2008.

The applicants were arrested in 2007 after a shooting the previous year at a café in Skopje involving the use of machine guns. Three children were killed and six people were seriously injured. Two witnesses, given anonymity over fears for their safety, identified the applicants as the perpetrators, but the defence team was only allowed to submit written questions to them during the trial. The



trial court also admitted an incriminating pre-trial statement from another key witness, who failed to appear at the trial despite being summoned. The trial court verdict of a life sentence handed down in June 2008 was upheld by the Skopje Court of Appeal and the Supreme Court.

The applicants rely on Article 6 §§ 1 and 3 (d) (right to a fair trial and right to obtain attendance and examination of witnesses).

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**Adigozalov and Agasiyev v. Azerbaijan** (no. 56754/14)  
**Izzat Oglu and Bashirli v. Azerbaijan** (nos. 24504/11 and 69422/13)  
**Khalilov v. Azerbaijan** (no. 11923/15)  
**Majidova and Others v. Azerbaijan** (nos. 62480/13 and 44463/14)  
**Mammad Valiyev v. Azerbaijan** (no. 53143/13)  
**Rzayev v. Azerbaijan** (no. 8954/09)  
**Kirov and Others v. Bulgaria** (no. 57214/09)  
**Europa-Trust S.A. v. the Republic of Moldova** (no. 42044/05)  
**Bulatović v. Montenegro** (no. 46600/12)  
**Srdanović v. Montenegro** (no. 76592/14)  
**A.L. v. Russia** (no. 18095/11)  
**Amirkhanyan v. Russia** (no. 25439/14)  
**Gasarov v. Russia** (no. 6427/05)  
**Grishin v. Russia** (no. 55988/11)  
**Kiyan v. Russia** (no. 27405/09)  
**Political Party People for Democracy and Justice v. Russia** (no. 52293/08)  
**Rezvanov v. Russia** (no. 40179/08)  
**Rudnev v. Russia** (no. 4772/09)  
**Savin v. Russia** (no. 69018/14)  
**Shvetsov and Chebykin v. Russia** (no. 50816/06)  
**Günana v. Turkey** (no. 45385/09)  
**Günay v. Turkey** (no. 44601/09)  
**Kahveci v. Turkey** (no. 21903/05)  
**Peker v. Turkey** (no. 41829/09)  
**Turğut v. Turkey** (no. 759/13)  
**Radchenko v. Ukraine** (no. 39555/07)  
**Svintsitska and Others v. Ukraine** (nos. 71082/12, 62002/15, and 404/16)

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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.