



Judgments and decisions of 20.02.2020

The European Court of Human Rights has today notified in writing 14 judgments¹ and 31 decisions²: seven Chamber judgments are summarised below;

seven Committee judgments, concerning issues which have already been submitted to the Court, and the 31 decisions, can be consulted on [Hudoc](#) and do not appear in this press release.

The judgments in French below are indicated with an asterisk ().*

Nasirov and Others v. Azerbaijan (application no. 58717/10)

The applicants, Famil Zakir oglu Nasirov, Amina Talat gizi Mammadova, Gulnaz Mahammadali gizi Hasanova, Salatin Ali gizi Iskandarova, Shafiga Mahammad gizi Mammadova, Rahima Amikishi gizi Huseynova, and Aysel Novruz gizi Nasirova, are Azerbaijani nationals who were born in 1984, 1952, 1962, 1951, 1940, 1963, and 1984 and live in Baku, Lankaran and Gadabay (all in Azerbaijan).

The case concerned complaints of interferences with their rights while they had been preaching as Jehovah's Witnesses.

All the applicants were taken to police stations after they had preached door to door in three separate incidents in 2010: the first two applicants in March 2010 in Baku; the third, fourth and fifth in Aghstafa in April 2010; and the sixth and seventh in Sumgayit in May 2010.

All the applicants, except the second applicant, were fined 200 Azerbaijani manats (about EUR 200 at the time) by first-instance courts in those cities respectively for distributing literature which had not been approved for import.

Their appeals, in which the applicants relied on various Articles of the European Convention on Human Rights, had slightly different outcomes.

In the first applicant's case the appeal court upheld the first-instance decision, finding that the books he had been distributing had been allowed only for the internal purposes of the religious organisation in question at its registered legal address. The appeal court sent the second applicant's case back for fresh consideration, after which the first-instance court again found her guilty but discontinued the proceedings as time-barred without applying a penalty and ordered the return of the confiscated books.

In the third, fourth and fifth applicants' case, the appeal court ordered that all the books, except "What does the Holy Book really teach?" be returned to the Jehovah's Witnesses' headquarters in Baku. It held that the particular title they had been distributing had been banned by the Committee and that the remaining ones were allowed only for internal use at the organisation's headquarters.

The appeal court quashed the first-instance decisions in the sixth and seventh applicants' case and found that although they had possessed books banned by the Committee, the evidence had not

¹ Under Articles 43 and 44 of the Convention, Chamber judgments are not final. During the three-month period following a Chamber judgment's delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Under Article 28 of the Convention, judgments delivered by a Committee are final.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution

² Inadmissibility and strike-out decisions are final.

proved that they had been distributing them. The court discontinued the proceedings and ordered the confiscated property to be returned to them.

The third, fourth, fifth, sixth and seventh applicants complained under Article 5 § 1 (right to liberty and security) of the European Convention that their arrest and detention had been unlawful.

All the applicants complained of a violation of Article 9 (freedom of thought, conscience, and religion) of the Convention.

Violation of Article 5 § 1 - in respect of the third, fourth, fifth, sixth and seventh applicants

Violation of Article 9 - in respect of all the applicants

Just satisfaction: 103 euros (EUR) to the first applicant and EUR 96 to each of the third, fourth, and fifth applicants in respect of pecuniary damage; EUR 3,000 to each of the applicants in respect of non-pecuniary damage.

Religious Community of Jehovah's Witnesses v. Azerbaijan (no. 52884/09)

The applicant community, the Religious Community of Jehovah's Witnesses, was registered by the Ministry of Justice of Azerbaijan on 22 December 1999.

The case concerned an import ban on several Jehovah's Witnesses texts.

In June 2008 the State Committee for Work with Religious Associations banned the import of some of the applicant community's religious literature, arguing that the titles in question contained passages which were hostile towards other religions and beliefs.

The applicant community, relying on the provisions of the Constitution and the Convention on freedom of worship and freedom of expression, took the Committee to court to have its decision declared unlawful and for it to be quashed.

However, the first-instance court upheld the Committee's ban, basing its conclusions on an expert report which examined three titles, "Worship the Only True God", "What Does the Bible Really Teach?" and "What Is the Purpose of Life?". The court found that the books' content undermined mutual understanding, tolerance and reciprocal respect between communities of various faiths.

Further appeals by the applicant community were dismissed, with the Supreme Court handing down a final decision in June 2009.

The applicant community complained about the refusal to allow the import of religious literature in particular under Article 10 (freedom of expression).

Violation of Article 10

Just satisfaction: EUR 3,000 for non-pecuniary damage and EUR 42.56 for costs and expenses

M.A. and Others v. Bulgaria (no. 5115/18)

The applicants, Mr M.A., Mr. A.N., Mr Y.M., Mr S.H., and Mr A.A., are Chinese nationals who were born in 1983, 1994, 1991, 1994, and 1989 respectively. They are Uighur Muslims from the Xinjiang Uighur Autonomous Region in China.

The case concerned their intended expulsion on national security grounds to China, where they would allegedly be at risk of death or ill-treatment.

All the applicants arrived in Bulgaria in July 2017 from Turkey, where they had been living since leaving China on various dates between 2013 and 2015. The applicants subsequently applied for asylum but the State Refugees Agency rejected their applications in December 2017, decisions which the Haskovo Administrative Court upheld in January 2018.

The court found that the applicants had not shown that they had been persecuted in their country of origin, within the meaning of the Asylum and Refugees Act, or that they were at risk of any such persecution. The applicants had also made assumptions on the risk they faced, based on widely-known facts about the situation in the region they were from. It had not been shown that any problems the applicants had had with the authorities before leaving China had been due to their ethnicity or religion.

In parallel, the head of the State Agency for National Security in January 2018 ordered the applicants' expulsion on national security grounds. Applications by them for judicial review of that decision were dismissed by the Supreme Administrative Court in May 2019. In decisions made available by the Government on the second, third and fourth applicants, the Supreme Administrative Court concluded that the State Agency for National Security had convincingly shown that they could pose a threat to Bulgaria's national security owing to, among other things, links with the East Turkistan Islamic Movement (ETIM), which was considered to be a terrorist group.

The World Uighur Congress, the International Uighur Human Rights and Democracy Foundation, Amnesty International and several members of the European Parliament have asked Bulgaria not to remove the applicants. In January 2018 the Court indicated to the Bulgarian Government that the applicants should not be removed while the proceedings before the Court were ongoing.

Relying in particular on Article 2 (right to life) and Article 3 (prohibition of torture and of inhuman or degrading treatment) the applicants complained that if returned to China they would face persecution, ill-treatment and arbitrary detention and could even be executed.

Violation of Article 2 - should the second, third and fourth applicants be removed to China

Violation of Article 3 - should the second, third and fourth applicants be removed to China

Interim measure (Rule 39 of the Rules of Court) - not to remove the applicants - still in force until such time as the present judgment becomes final or until further notice.

Y v. Bulgaria (no. 41990/18)

The applicant, Ms Y, is a Bulgarian national who was born in 1964 and lives in Haskovo (Bulgaria).

The case concerns the authorities' efforts to investigate the applicant's allegations of rape and, in particular, whether they had failed to follow an obvious line of inquiry revealed by DNA evidence.

Ms Y alleges that she was raped on the outskirts of Sofia on 10 July 2013 when on a trip to see a friend.

She called the police and an investigation was opened straight away. The police collected physical evidence from both the scene of the rape and the applicant (clothes and swabs). She was rapidly given a medical examination, which confirmed non-consensual vaginal penetration.

She was formally interviewed the next morning and gave a description of her alleged assailant, which enabled the police to identify a potential suspect, Mr X, a man who lived in lodgings a few hundred metres from the scene of the rape. She then picked him out in an identity parade. Mr X denied being the assailant however, maintaining that he had been at home in his lodgings at the time of the assault.

Five months later the results of the DNA tests threw up a second potential suspect, Mr Z, a construction worker who also lived near the rape scene. The investigator questioned Mr Z who denied having any sexual contact with the applicant.

The prosecuting authorities decided to suspend the investigation in 2016 and then again in 2018, finding that although the applicant's allegations of rape were credible, it was impossible to identify the assailant or to establish with any degree of certainty that an offence had been committed. They

cast doubt in particular over her identification of Mr X as she had eyesight problems and found that, in any case, he had an alibi which had been corroborated by his partner, a friend and his lodging's caretaker. Nor was there any physical evidence putting him at the scene of the rape. DNA traces from the applicant's briefs had, on the other hand, been recovered which belonged to Mr Z, but that was not sufficient evidence to implicate him as the applicant had not named him as her assailant.

In 2019 the applicant sought judicial review of the decision to suspend the investigation, without success.

The applicant complained that the investigation into the rape had been dragging on since July 2013 without the authorities identifying or bringing to justice her assailant. The Court examined the case under Article 3 (prohibition of inhuman or degrading treatment) and Article 8 (right to respect for private life).

Violation of Article 3

Violation of Article 8

Just satisfaction: EUR 7,000 for non-pecuniary damage

Krebs v. Germany (no. 68556/13)

The applicant, Reiner Krebs, is a German national who was born in 1979.

The case concerned his complaint that a court hearing his appeal against sentence in one case declared him guilty of crimes in further pending criminal proceedings.

Mr Krebs was found guilty in August 2010 of fraud and forgery after ordering documents and services through the Internet under a false name and using someone else's bank account details for payment. He was given a prison sentence of 10 months, with no suspension on probation.

On appeal against the sentence, the Weiden Regional Court held hearings. In one of them, the court heard testimony from a police officer who was investigating new charges of fraud against the applicant, allegedly committed after his first sentence.

The appeal court upheld the 10-month sentence with no probation, stating in particular that it was convinced of Mr Krebs's guilt of the further offences the police were investigating.

Mr Krebs appealed on points of law, arguing that the Regional Court had breached his right to be presumed innocent. His appeal was unsuccessful, as was a complaint about being denied the right to be heard. He was convicted in August 2012 on further counts of fraud and forgery and given a global sentence of one year and six months' imprisonment for both sets of crimes.

In July 2013 the Federal Constitutional Court declined to consider a complaint by the applicant about his initial 10-month sentence.

Relying in particular on Article 6 § 2 (presumption of innocence), the applicant complained about the Regional Court's statements on his being guilty of further offences of fraud.

Violation of Article 6 § 2

Just satisfaction: EUR 5,000 for non-pecuniary damage and EUR 3,750 for costs and expenses

Vlastaris v. Greece (no. 43543/14)*

The applicant, Nikolaos Vlastaris, is a Greek national who was born in 1939 and lives in Athens.

The case concerned an expropriation order concerning the applicant's property and granting compensation, which had not been executed.

Mr Vlastaris owns a 1,154 sq. m plot of land, containing an old family home, a garden and professional premises, located on the territory of Aigaleo municipality. The Aigaleo municipal council took the decision, published in the Official Gazette in May 1992, to create a green space. By a decision of 6 June 1995, the relevant Athens body with responsibility for planning matters identified fourteen owners of adjacent properties who, in addition to the municipality, were to pay compensation to the applicant. On 30 April 2010 the Athens Court of Appeal assessed the final amount of compensation, fixing it, according to the applicant, at EUR 1,264,327.48, of which EUR 799,200 were to be paid by the owners of the adjacent plots of land and EUR 465,127.48 by Aigaleo municipality. However, the compensation was not paid within the eighteen-month period laid down by the law, with the result that the expropriation had to be considered as having automatically lapsed.

On 24 February 2012 Mr Vlastaris asked the municipality to proceed with the expropriation, so that he could receive the compensation sums determined by the court of appeal. His request was dismissed. He subsequently filed several complaints about non-payment of the compensation.

Relying on Article 1 of Protocol No. 1 (protection of property), the applicant complained that he had not received compensation for the expropriation of his land, despite the fact that the amount he was to receive had been determined by the Athens Court of Appeal.

Violation of Article 1 of Protocol No. 1

Just satisfaction: The Court held that the respondent State should proceed to restoring Mr Vlastaris's property rights to his plot of land, urban block 985. Alternatively, and failing such restoration, Greece must pay Mr Vlastaris EUR 620,020.30 for pecuniary damage. The Court also awarded Mr Vlastaris EUR 20,000 for non-pecuniary damage.

Zelčs v. Latvia (no. 65367/16)

The applicant, Ringolds Zelčs, is a Latvian national who was born in 1971 and lives in Riga.

The case concerned the applicant's complaint that he had been detained unlawfully in a police car while officers drew up administrative offence drink-driving charges and that he had been denied a fair trial.

In November 2015 police officers placed Mr Zelčs in their car. They drew up an administrative-detention report and two administrative-offence reports, one for driving in reverse under the influence of alcohol and the other for causing an accident while driving in reverse as his car had hit another vehicle. He disagreed with the offence reports and stated in a written record that his wife had been behind the wheel at the time. He was released from the police car after slightly less than two hours.

In February 2016 Riga City Ziemeļu District Court found that the applicant had committed the offence of driving a vehicle in reverse gear while under the influence of alcohol, giving him five day's administrative custody, a fine of EUR 850, and a two-year driving ban. The court delivered its verdict after hearing testimony from the applicant, his wife, the police officers, and the couple whose vehicle had been hit.

On appeal, Mr Zelčs raised the argument that he had been detained unlawfully: there had been no grounds to detain him under Article 252(1) of the Code of Administrative Offences because the administrative-offence reports had been drawn up at the scene, he had not been taken anywhere, his identity had been known and there had been no need to prevent the continuation of an administrative offence. He had been placed in the police car with no rights to get out of it or to communicate with others. He also argued that the evidence from the other couple and the police officers was unreliable and should not have been admitted.

In June 2016 Riga Regional Court upheld the first-instance judgment, finding that the applicant's liability had been established on the basis of all the evidence in the case, including the witness testimony, the police officers' reports and the alcohol test taken at the time. It dismissed his claims of breaches of procedure by the police officers.

The applicant complained that his administrative detention on 20 November 2015 in the police car had been unlawful and thus contrary to Article 5 § 1 (right to liberty and security). He also alleged a violation of Article 6 §§ 1 and 3 (d) (right to a fair trial and right to obtain attendance and examination of witnesses) because, in particular, he had not been able to question the police officers a second time during the administrative-offence proceedings against him.

Violation of Article 5 § 1

No violation of Article 6 §§ 1 and 3 (d)

Just satisfaction: The Court held that the finding of a violation constituted in itself sufficient just satisfaction for the non-pecuniary damage sustained by Mr Zelčs.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court's press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHR CEDH](https://twitter.com/ECHR_CEDH).

Press contacts

echrpess@echr.coe.int | tel: +33 3 90 21 42 08

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Denis Lambert (tel: + 33 3 90 21 41 09)

Inci Ertekin (tel: + 33 3 90 21 55 30)

Patrick Lannin (tel: + 33 3 90 21 44 18)

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.