



Forthcoming judgments and decisions

The European Court of Human Rights will be notifying in writing two judgments on Tuesday 3 November 2020 and 52 judgments and/ or decisions on Thursday 5 November 2020.

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)

Thursday 5 November 2020

Šekerija v. Croatia (no. 3021/14)

The applicant, Dubravko Šekerija, is a Croatian national who was born in 1975 and lives in Dubrovnik.

The case concerns the applicant's complaint that criminal proceedings against him on drug-related charges were unfair.

In July 2011 Mr Šekerija was found guilty of purchasing and selling large quantities of cocaine. He was sentenced to eight years' imprisonment. The trial court relied on witness testimony from three individuals who confessed to buying cocaine from the applicant, giving similar descriptions as to his *modus operandi*. It also relied on one of those witnesses testifying to having seen the applicant use a grey hydraulic press for drugs, which had been seized during a search of the applicant's house.

The first-instance court gave no credibility to the applicant's defence, namely that the witnesses against him were mentally unstable and had made their incriminating statements out of revenge or to retrieve property sold to his family. It also rejected his arguments that the police had put one of the witnesses under protection in order to control him, while another witness had incriminated him under police duress. Lastly, it refused to admit any further statements from witnesses proposed by the defence, finding that the facts were sufficiently established and no further evidence was necessary.

Mr Šekerija appealed against this judgment to the Supreme Court, contesting in particular a statement in the first-instance judgment which, he alleged, showed that judges had read the minutes of police interviews with potential witnesses and the fact that one of the witnesses' statements to the investigating judge had been read out at the trial before he had given testimony in open court. The applicant also complained that the trial court had been biased against him, using emotional and subjective wording when fixing his sentence, and had refused to hear witnesses in his favour.

The Supreme Court rejected his appeal in February 2012, ruling that there was nothing to support his arguments that witnesses had falsely testified against him and that any procedural irregularities had not influenced the overall validity of the first-instance judgment. In particular, the applicant's lawyer had been able to thoroughly question the witnesses during the trial. At the same time, it held that the trial court should not have assessed certain circumstances as aggravating when handing down his sentence and reduced it.

The applicant makes a number of complaints under Article 6 §§ 1 and 3 (d) (right to a fair trial/right to obtain attendance and examination of witnesses) of the European Convention on Human Rights, alleging that the criminal proceedings taken as a whole were unfair. He complains in particular about the manner in which the evidence against him was admitted, examined and assessed and the

manner in which the domestic courts dealt with his objections concerning that evidence; and also alleges that the trial court lacked impartiality and failed to hear witnesses proposed by the defence.

[Balaskas v. Greece \(no. 73087/17\)](#)

The applicant, Efstratios Balaskas, is a Greek national who was born in 1962 and lives in Mytilene (Greece). He is a journalist.

The case concerns Mr Balaskas' complaint about his criminal conviction following an article he had written criticising the headmaster of his local high school for posting the view on his personal blog that the massive student uprising of 1973 was "the ultimate lie".

On 17 November 2013, the anniversary of the 1973 Polytechnic School uprising which contributed to the end of the military dictatorship in Greece and now celebrated as a school holiday, the headmaster published an article on his personal blog under the title "The ultimate lie is one: that of the Polytechnic School of 1973".

Mr Balaskas, at the time editor-in-chief of the Lesbos daily newspaper *Empros*, published an article in reaction to the headmaster's blog, referring to him as a "neo-nazi" and "theoretician of the entity 'Golden Dawn'".

Following a criminal complaint filed by the headmaster, the first-instance court ruled that these expressions constituted value judgments, and not facts, which intentionally insulted the headmaster's honour and reputation. He was thus found guilty of insult via the press and given a suspended prison sentence.

All the applicant's subsequent appeals were unsuccessful, ultimately in 2017. Both the Court of Appeal and the Court of Cassation rejected in particular his argument that the expressions at issue had been value judgments based on extensive evidence, namely numerous articles on the headmaster's website concerning the Ayran race and National Socialism and a message in which he called for Greeks to vote for the far-right political party Golden Dawn. The courts considered that the expressions the applicant had used were unnecessary, concluding that he could have employed more decent phrases to exercise his right to inform the public.

Relying on Article 10 (freedom of expression), Mr Balaskas complains that his criminal conviction was disproportionate and that the courts failed to strike a fair balance between his right to inform the public on a matter of historical importance and the headmaster's right to protection of his reputation.

[Panagis v. Greece \(no. 72165/13\)](#)

The applicant, Athanasios Panagis, is a Greek national who was born in 1968. He lives in Corinth (Greece). Between 1999 and 2004 Mr Panagis was a municipal employee at the town hall of Loutraki (Greece).

The case concerns the sentencing of a former employee of Loutraki town hall to six months' imprisonment for forgery and use of forgeries on the ground that he had issued a residence certificate to a Romanian national in return for a sum of money and had forged the latter's signature. The events took place in 2004. The trial culminated in a final conviction in 2013. At the end of the proceedings, Mr Panagis' sentence was not enforced, in accordance with the provisions of a new law (no. 4198/2013) which entered into force in October 2013.

Relying on Article 6 §§ 1 and 3 (d) (right to a fair trial / right to examine witnesses), Mr Panagis complains in particular that he was never given the opportunity at any stage of the proceedings to examine the statements of two prosecution witnesses given at the investigation stage. He also complains about a refusal by the Court of Appeal to take into consideration the sworn statement,

given before a notary in Romania, of one of those witnesses, who had retracted his initial testimony against him.

[Ćwik v. Poland \(no. 31454/10\)](#)

The applicant, Grzegorz Ćwik, is a Polish national who was born in 1968.

The case concerns Mr Ćwik's complaint that proceedings against him for drug-trafficking were unfair. He complains in particular that the courts admitted in evidence an audio cassette of statements obtained through torture by members of a criminal gang.

Mr Ćwik was part of a criminal gang involved in large-scale trafficking of cocaine into Poland. In 1997, when the applicant and another member of the gang, K.G., tried to start operating independently, they failed to account for a large load of cocaine. The gang subsequently abducted K.G. and tortured him to obtain information about the unaccounted for cocaine and money belonging to the gang, recording certain statements on an audio cassette. The police, who had been tipped off by the owner of the house where K.G. was being held, freed the hostage and seized the audio cassette.

Some years later, in 2008, the applicant was convicted of three counts of cocaine-trafficking and sentenced to 12 years' imprisonment. The trial court mainly relied on statements by two members of the applicant's former criminal gang, who had decided to cooperate with the authorities. It also relied, as supplementary evidence, on the transcript of K.G.'s statements taken from the gang's recording, ruling that it confirmed the applicant's involvement in the cocaine business.

In his appeal, the applicant contested, among other things, the trial court's use of the transcript, arguing that the statements had been obtained by torture and were thus inadmissible under the relevant rule of the Code of Criminal Procedure which excluded any evidence obtained by coercion. The Court of Appeal dismissed the challenge, finding that the rule applied exclusively to the authorities conducting the investigation, and did not concern private individuals.

The Supreme Court dismissed the applicant's cassation appeal in 2009 as manifestly ill-founded.

Relying on Article 6 § 1 (right to a fair trial), the applicant alleges that the courts should not have admitted into evidence the transcript of K.G.'s statements obtained as a result of ill-treatment inflicted by members of the criminal gang.

[X and Y v. North Macedonia \(no. 173/17\)](#)

The applicants, X and Y, are Macedonians/citizens of the Republic of North Macedonia, born in 1997 and 2001 respectively and live in Skopje. They state that they are ethnic Roma.

The case concerns allegations of racially motivated police brutality in respect of the applicants, who were minors at the time, and the related investigation.

On 19 May 2014, X and Y were allegedly intercepted by police officers after a woman had been assaulted and her bag stolen near a Roma neighbourhood in Skopje. X was taken to the police station, but was released the next day. He was subsequently admitted to hospital, where he was diagnosed with bruising to his head, neck and chest. Both X and Y alleged that they had been physically attacked by the police near the scene of the robbery, while X alleged that he was also ill-treated in custody.

An internal inquiry was carried out by the Ministry of the Interior into the applicants' complaint that they had been slapped, punched and kicked by police officers. Their complaint was dismissed in July 2014, the Ministry asserting that the police officers had not overstepped their authority.

In September 2014 the applicants also filed a criminal complaint with the public prosecutor against the police officers concerning the incident. The applicants repeatedly requested that the higher

public prosecutor review the work of the first-instance prosecutor, who then, in December 2017, examined Y and the accused police officers. The investigation is however currently ongoing.

In December 2016 the applicants submitted two civil claims regarding ethnic discrimination against the Ministry and the first-instance public prosecutor's office. In November 2017 the court dismissed the claim against the public prosecutor's office, which decision was upheld on appeal in March 2018. There is no further information concerning the claim against the Ministry.

In the meantime, the Ministry had lodged a criminal complaint against X on charges of robbery. Since X's whereabouts were unknown, the court suspended the proceedings in March 2016. In June 2017 the court of first instance ordered an educational measure on X.

Relying in particular on Article 3 (prohibition of torture) of the Convention, the applicants allege that the police ill-treated them and that the State failed to carry out an effective investigation into their allegations. Also relying on Article 14 (prohibition of discrimination), in conjunction with Article 3, and/ or under Article 1 of Protocol No. 12 (general prohibition of discrimination), the applicants argue that both their ill-treatment and the public prosecutor's investigation showed that they were discriminated against on account of their Roma origin.

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 3 November 2020

Name	Main application number
Matyunina v. Russia	38007/14
Parfentyev v. Russia	44376/09

Thursday 5 November 2020

Name	Main application number
Haziye v. Azerbaijan	3650/12
Jafarov and Others v. Azerbaijan	406/12
Sheveli and Shengelaya v. Azerbaijan	42730/11
Tagiyev and Others v. Azerbaijan	66477/12
Akeljić and Others v. Bosnia and Herzegovina	8039/19
Marković and Others v. Bosnia and Herzegovina	1979/19
Mujkanović and Others v. Bosnia and Herzegovina	5489/19
Peštelj and Others v. Bosnia and Herzegovina	23795/19
Zahirović and Others v. Bosnia and Herzegovina	59783/18
Regul EOOD v. Bulgaria	38018/11
Dočkalovi v. the Czech Republic	60496/14
Syndicat National Des Fabricants D'Isolants En Laines Minérales Manufacturées v. France	47499/12

Name	Main application number
Kristbjörn Gunnarsson v. Iceland	27768/17
D.C. v. Italy	17289/20
Onorato v. Italy	51197/13
Sergets v. Latvia	41744/12
I.N. v. the Republic of Moldova	73736/12
Sărăteanu v. the Republic of Moldova	35397/11
Chaloub and Camara v. the Netherlands	7338/16
F.O. and Others v. Italy and the Netherlands	48125/19
Anuțiac and Others v. Romania	37452/15
Chețea and Sandu v. Romania	5593/15
Coev and Others v. Romania	34803/16
Coste v. Romania	26354/15
Dinu v. Romania	42464/16
Furus v. Romania	57572/16
Gîngu v. Romania	42814/16
Iacoviță and Others v. Romania	24907/16
Jidovoiu and Others v. Romania	40930/15
Mavrianopol v. Romania	29226/06
Mihalache and Others v. Romania	33413/16
Nemeti v. Romania	15639/16
Nicola and Carcaleț v. Romania	35430/16
Rusu v. Romania	13487/16
Soare v. Romania	36737/16
Belykh v. Russia	11678/18
Demin and Others v. Russia	52277/11
Kovaleva v. Russia	56335/10
Ogolikhin and Zao Kompleksstroy v. Russia	80961/13
Prokhorova v. Russia	56131/14
Protopopov v. Russia	12000/16
Zhemukhov v. Russia	60210/16
Brković and Others v. Serbia	41561/16
Jakovljević v. Serbia	5158/12
Omerović and Others v. Serbia	72470/16
Savić v. Serbia	75872/17
Baz v. Ukraine	40962/13

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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.