



Forthcoming judgments and decisions

The European Court of Human Rights will be notifying in writing 12 judgments on Tuesday 17 April 2018 and 20 judgments and / or decisions on Thursday 19 April 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 17 April 2018

[Paci v. Belgium \(application no. 45597/09\)](#)

The applicant, Eddy Paci, is an Italian national who was born in 1963 and lives in La Louvière (Belgium).

The case concerns criminal proceedings conducted in Belgium which led to the conviction (accompanied by an eight-year prison sentence) of Mr Paci, an Italian national, for international arms trafficking.

In 2007 Mr Paci was arrested by the Italian authorities under a European arrest warrant issued by a Belgian investigating judge. He was subsequently surrendered to the Belgian authorities on the condition that he was returned to Italy after his hearing by the Belgian authorities, to serve any sentence imposed on him by the Belgian courts. However, he was not actually surrendered to the Italian authorities until 2010, after the completion of the criminal proceedings, to serve the remainder of his sentence in Italy.

Relying on Article 5 § 1 (right to liberty and security) of the European Convention on Human Rights, Mr Paci complains about his detention in Belgium, alleging that the Belgian authorities failed to surrender him to the Italian authorities after his questioning by the Belgian police, as demanded by the Italian Supreme Court of Cassation on his surrender to the Belgian authorities in July 2007.

Relying on Article 6 § 1 (right to a fair trial) of the Convention, Mr Paci complains of the unfairness of the criminal proceedings concerning the offence of arms trafficking on the grounds of the use of phone tapping ordered in another criminal case relating to trade in stolen cars, in which Mr Paci had been involved with others. Mr Paci submits that he was unable to verify the facts or to contest the evidence on which the phone-tapping decision had been taken.

[Pirozzi v. Belgium \(no. 21055/11\)](#)

The applicant, Vittorio Pirozzi, is an Italian national who was born in 1952. He is currently detained in Spoleto Prison (Italy).

The case concerns Mr Pirozzi's detention by the Belgian authorities and his surrender to the Italian authorities under a European arrest warrant (EAW) with a view to enforcing a criminal sentence (14 years' imprisonment) for drug trafficking.

Relying on Article 5 § 1 (right to liberty and security), Mr Pirozzi complains that his arrest by the Belgian authorities had been unlawful. Under Article 6 § 1 (right to a fair trial), he also complains about his surrender to the Italian authorities under an EAW.

[Guliyev and Sheina v. Russia \(no. 29790/14\)](#)

The applicants, Natig Yakhya-Ogly Guliyev, an Azerbaijani national, and Yulia Sheina, a Russian national, were born in 1975 and 1988 respectively. They are a married couple. Ms Sheina lives in Perm (Russia), which is where Mr Guliyev also lived prior to his expulsion in March 2014.

The case concerns Mr Guliyev's removal from Russia despite his argument that he had a family life there.

Mr Guliyev and Ms Sheina began living together in 2004 and later had two children. They concluded a marriage in a mosque in August 2012 after Mr Guliyev had arrived back in Russia under a visa-free agreement. He had permission to stay until early November 2012 and was arrested in December 2013 for failure to renew the permission. He pointed out that he had been injured in a shooting and had not been able to carry out that procedure, but the courts subsequently ordered his expulsion, which was took place in March 2014. A third child was born in July 2014 with a heart condition. The European Court of Human Rights refused in August 2014 to grant the applicants' request for an interim measure to allow Mr Guliyev to return to Russia to visit the child.

Relying on Article 8 (right to respect for private and family life), the applicants complain about Mr Guliyev's expulsion and the five-year re-entry ban that was imposed on him.

[Karachentsev v. Russia \(no. 23229/11\)](#)

The applicant, Sergey Karachentsev, is a Russian national who was born in 1972 and lives in St Petersburg (Russia).

The case concerns his complaint of remand prison overcrowding, about being held in a metal cage during videolink appeals and of procedural flaws in his detention proceedings.

Mr Karachentsev was arrested in June 2010 on suspicion of robbery as part of an organised group and was remanded in custody. In August, October and November 2010 and in February, April, May and June 2011, domestic courts reviewed Mr Karachentsev's detention or dealt with appeals by him against the orders and each time extended the detention period or upheld previous custody orders. The May 2011 decision extended his detention to August of the same year.

The courts dismissed complaints by Mr Karachentsev of a lack of time to consult his lawyer ahead of the August 2010 review of his detention, when he was given two hours to speak with his representative, and that he had been unable to consult his lawyer in confidence at that time. They also rejected his complaint about the absence of his lawyer from a hearing in February 2011, when the lawyer had been ill and he was given a legal-aid lawyer instead. His April and June 2011 appeals against detention were held by videolink from the remand prison, during which he was held in a metal cage. Mr Karachentsev was eventually acquitted of all charges in January 2013.

The applicant complains under Article 3 (prohibition of inhuman or degrading treatment) about the conditions of his detention in St Petersburg's IZ-47/4 remand prison, where he was held between 5 June 2010 and 29 July 2011, and about his confinement in a metal cage during his videolink appeal hearings. He also complains under Article 5 § 3 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial), and Article 5 § 4 (right to have lawfulness of detention decided speedily by a court) about the detention proceedings.

[Just Satisfaction](#)

[Kirillova v. Russia \(no. 50775/13\)](#)

The case concerns the question of just satisfaction with regard to the loss of property title to a flat in Moscow by Natalya Kirillova, a Russian national.

In its [principal judgment](#) of 13 September 2016 the Court held that there had been a violation of Article 1 of Protocol No. 1 (protection of property) to the Convention.

The Court further held that the question of just satisfaction in so far as pecuniary damage was concerned was not ready for decision, and reserved it for examination at a later date. The Court will deal with this question in its judgment of 17 April 2018.

[Uche v. Switzerland \(no. 12211/09\)](#)

The applicant, Magma Uche, is a Swiss/Nigerian binational who was born in 1967 and lives in Gampelen. Having been convicted of drug trafficking, he complains of a breach of the adversarial principle.

In 2002, under suspicion of drug trafficking, Mr Uche's telephone was tapped by the Cantonal Police Department. On 19 November 2004 the Bern-Laupen District Court found him guilty of money laundering and the import, purchase and sale of 4.4 kg of cocaine and 153 g of heroin, and sentenced him to 69 months' imprisonment. His appeals to the Bern Cantonal Supreme Court and the Federal Court were dismissed.

Relying on Articles 6 §§ 1 and 3 (right to a fair trial), the applicant alleges, in particular, breaches of his right to be informed of the nature of and reason for the accusation and of his right to a reasoned judgment.

[Cihangir Yıldız v. Turkey \(no. 39407/03\)](#)

The applicant, Cihangir Yıldız, is a Turkish national who was born in 1947 and lives in Ankara.

The case concerns proceedings relating to the possibility of the allocation of State land to shantytown ("gecekondu") residents, subject to certain conditions. In 1999, Mr Yıldız, who had been living since 1983 in a house built without planning permission on land belonging to the State in a shantytown, applied to the municipality of Çankaya (Ankara) for a certificate of allocation of property, pointing out that he had correctly submitted a similar such request in 1983. His application was rejected. He contested that decision before the administrative courts, which dismissed his appeal on the grounds that he had failed to submit documents attesting his application for allocation of property to the authorities in 1983. Mr Yıldız, who had submitted the said documents for the first time at the appeal stage, alleges that the Supreme Administrative Court disregarded them.

Relying on Article 6 § 1 (right to a fair trial), Mr Yıldız submits that the proceedings which he brought against the authorities' refusal to allocate land to him were unfair. Under Article 1 of Protocol No. 1 (protection of property), he also complains of a violation of his right to respect for his property.

[Ergüdoğan v. Turkey \(no. 48979/10\)](#)

The applicant, Yalçın Ergüdoğan, is a Turkish national who was born in 1953 and lives in Istanbul (Turkey).

The case concerns Mr Ergüdoğan's criminal conviction, under which he was ordered to pay a fine of just over 1,005 euros, with suspended delivery of the judgment, for an article which he had published in the *Birgün* daily newspaper, where he was employed as a columnist at the relevant time (2005).

In 2010 the Beyoğlu Criminal Court found Mr Ergüdoğan guilty of insult via the press, holding that the article had overstepped the bounds of criticism and had infringed, as a whole, the honour, dignity and reputation of the complainants (four individuals, including the President of the BTP party (*For an Independent Turkey*), photos of whom had been published and who had lodged complaints with the public prosecutor's office).

Relying on Article 10 (freedom of expression), Mr Ergüdoğan complains of his criminal conviction.

[Lazoriva v. Ukraine \(no. 6878/14\)](#)

The applicant, Nataliya Lazoriva, is a Russian national who was born in 1966 and lives in Magadan (Russia).

The case concerns the applicant's nephew being adopted by another family, allegedly without due consideration of her wish to become his guardian.

Ms Lazirova was appointed guardian to her sister's daughter, in 2007. In March of that year, the sister had another child, a son. He was eventually placed in care in March 2012 by a court in the Ukrainian town of Chernivtsi, where he lived, and was put up for adoption in July.

Ms Lazirova made telephone calls to the Ukrainian authorities informing them that she wanted to become her nephew's guardian. The authorities in Magadan, where she lived, also sent an official letter to the authorities in Chernivtsi to that end. However, proceedings to adopt the nephew had already been initiated and in October 2012 a court in Chernivtsi placed him with a couple. Ms Lazirova's appeals against the adoption were rejected by the Ukrainian courts.

Ms Lazirova complains about the adoption under Article 8 (right to respect for private and family life) and the adoption proceedings under Article 6 § 1 (access to court).

[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.

Angirov and Others v. Russia (no. 30395/06)

Ostanina v. Russia (no. 22169/11)

Tsukanov and Torchinskiy v. Russia (nos. 35000/13 and 35010/13)

Thursday 19 April 2018

[Hajibeyli and Aliyev v. Azerbaijan \(nos. 6477/08 and 10414/08\)](#)

The applicants, Annagi Bahaduroglu Hajibeyli and Intigam Kamiloglu Aliyev, are Azerbaijani nationals who were born in 1955 and 1962 and live in Baku and Absheron (Azerbaijan) respectively. They are well-known civil society activists and human rights lawyers.

The case concerns their allegation that they were not admitted to the Azerbaijani Bar Association because they had publicly criticised the state of the legal profession in their country.

In 2005 the applicants applied for admission to the Bar under a new law which aimed at reforming the legal profession. At the time they had been practising as lawyers for a number of years on the basis of a special permit issued by the Ministry of Justice. As such, they were allowed under transitional provisions of the new law to be admitted to the Bar without passing a qualification examination, subject to their complying with the requirements to practise as legal counsel. However, the Presidium of the Bar dismissed their applications. They brought proceedings before the domestic courts in the following years, without success.

Relying in particular on Article 10 (freedom of expression), the applicants allege that they were refused admission to the Bar on account of the views they had expressed. In support of their claim, they have submitted extracts from meetings at which the Bar examined their applications and questioned them. They further allege under Article 6 § 1 (right to a fair hearing) that the courts failed to give a reasoned decision in their cases. Mr Aliyev, the second applicant and also the legal representative in this case, complains on his own behalf and on behalf of Mr Hajibeyli, the first

applicant, that in 2014 the authorities seized the entire case file on their applications from his office only to return them two and half months later, in breach of Article 34 (right of individual petition).

[Mammadli v. Azerbaijan \(no. 47145/14\)](#)

The case concerns the arrest and detention of a well-known Azerbaijani civil society activist and human rights defender, Anar Asaf oglu Mammadli. He was born in 1978 and lives in Baku. He has founded several non-governmental organisations specialising in the monitoring of elections, which have either been dissolved or which the authorities have refused to register. These NGOs have regularly criticised the Government for election irregularities.

In December 2013, a few months after one of the non-registered NGO published a report critical of the 2013 presidential elections, Mr Mammadli was arrested and charged with illegal entrepreneurship, large-scale tax evasion and abuse of power. Additional charges were brought against him later on for high-level embezzlement and forgery in public office. The courts ordered his detention at the request of the prosecuting authorities, citing the gravity of the charges and the risk of his re-offending. Despite his repeated requests to be released on bail or placed under house arrest, this detention was extended, essentially on the same grounds, until May 2014 when he was found guilty on all counts and sentenced to five and a half years' imprisonment.

Mr Mammadli's arrest and the criminal proceedings against him were condemned at both domestic and international level, while politicians and public officials from the ruling party in Azerbaijan harshly criticised NGO activists and human rights defenders for contributing to the country's negative image abroad, accusing them of being spies, traitors and foreign agents.

Relying on Article 5 §§ 1 and 3 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial), Mr Mammadli complains that he was arrested and detained without any reasonable suspicion that he had committed a criminal offence and that the courts had not justified the necessity of his continued pre-trial detention. Also relying on Article 5 § 4 (right to have lawfulness of detention decided speedily by a court), he alleges that the courts failed to take into account his arguments in favour of release, namely that he had no criminal record, had a permanent place of residence and that his family were dependent on him. Lastly, he alleges under Article 18 (limitation on use of restrictions on rights) taken in conjunction with Article 5 that his arrest and detention were politically motivated, and were part of a targeted repressive campaign to silence human rights defenders and NGO activists.

[A.S. v. France \(no. 46240/15\)](#)

The applicant is a Moroccan national, Mr A.S., who was born in 1970.

The case concerns the expulsion to Morocco of a Moroccan national convicted in France of conspiracy to carry out terrorist attacks and deprived of his French nationality on the same grounds.

Mr A.S. arrived in France in 1991 and acquired French nationality in 2002. In 2013 he was sentenced to seven years' imprisonment for involvement, in 2007, 2008, 2009 and up to 30 April 2010, in a conspiracy to carry out terrorist acts in Paris, elsewhere in France, in Morocco, in Iran and in Afghanistan. In May 2014 he was deprived of his nationality. During his prison term Mr A.S. submitted an asylum application on the grounds that he feared ill-treatment if he returned to Morocco. His application was rejected on 25 August 2015. An expulsion order had already been issued against him on 14 August 2015. On 21 September Morocco was established as the country of destination of the expulsion. The next day, on the date of his release, the applicant was served with the expulsion order. His lawyer lodged a request for an interim measure with the Court. At 12.05 p.m. on 22 September the Court indicated to the French Government that it should refrain from expelling the applicant until 25 September, but Mr A.S. was expelled to Casablanca at 12.35 p.m. on 22 September.

On arrival in Casablanca Mr A.S. was arrested and remanded in custody, and then placed in preventive detention on 2 October 2015. On 21 December 2016 the National Court on the Right of Asylum dismissed his appeal against the decision rejecting his asylum application. On 10 March 2016 he was sentenced by a Moroccan court to five years' immediate imprisonment, but was released on 21 December 2015 by the Court of Appeal, on the grounds that he had already served his whole sentence in France for the same acts in respect of which he had been tried in Morocco.

The applicant alleges that he was expelled to Morocco despite the risk of his suffering ill-treatment contrary to Article 3 (prohibition of torture and inhuman or degrading treatment). He also complains under Article 3 of his conditions of detention in the Moroccan prisons, and submits that by expelling him to Morocco in breach of the interim measure indicated by the Court, France failed in its obligations under Article 34 (right of individual application). He also relies on Article 8 (right to respect for private and family life), Article 1 of Protocol No. 7 (procedural safeguards relating to expulsion of aliens) and Article 14 (prohibition of discrimination).

[Ottan v. France \(no. 41841/12\)](#)

The applicant, Alain Ottan, is a French national who was born in 1955 and lives in Lunel.

The case concerns a disciplinary sanction imposed on Mr Ottan, who is a lawyer, on the grounds of his statements to the press immediately after an acquittal.

Mr Ottan had been defending the father of a minor who had died during a car chase in the night from 2 to 3 March 2003, after a gendarme had opened fire. On 1 October 2009 the Assize Court acquitted the gendarme. Immediately after the verdict, while leaving the courtroom, Mr Ottan stated the following in relation to the acquittal: "I knew that this was a possibility right from the outset. A white, exclusively white, jury failing which did not represent all the communities [...] the door was wide open to an acquittal."

The Prosecutor General brought disciplinary proceedings. By judgment of 17 December 2010 the Court of Appeal ruled that the facts constituted a breach of the duty of sensitivity and moderation and that "outside the courtroom lawyers are not covered by immunity [...]. Their freedom of speech is no longer assessed by the imperatives of defending their clients, but solely by the normal criteria governing freedom of expression". The Court of Appeal imposed the disciplinary penalty of a warning. The Court of Cassation dismissed the applicant's appeal on points of law.

The applicant alleges that the penalty imposed was contrary to Article 10 (right to freedom of expression).

[Just Satisfaction](#)

[Werra Naturstein GmbH & Co KG v. Germany \(no. 32377/12\)](#)

The case concerns the question of just satisfaction with regard to the applicant company's complaint about inadequate compensation when it had had to stop quarrying limestone due to the construction of a motorway.

In its [principal judgment](#) of 19 January 2017 the Court held that there had been a violation of Article 1 of Protocol No. 1 (protection of property) to the Convention.

The Court further held that the question of just satisfaction was not ready for decision, and reserved it for examination at a later date. The Court will deal with this question in its judgment of 19 April 2018.

[Dimitras v. Greece \(no. 11946/11\)](#)

The applicant, Panayotis Dimitras, is a Greek national who was born in 1953 and lives in Glyka Nera (Greece).

The case concerns his complaint that his criminal action for slander against a Government official was never heard as the official received immunity after being elected to Parliament, there were delays caused by the domestic authorities and the offence eventually became time-barred.

On 1 June 2007 Mr Dimitras lodged a criminal complaint for slander against E.T., the General Secretary of a Government Ministry. He accused E.T. of making false statements to the press about the Greek Helsinki Monitor, a non-governmental organisation of which he is the executive director. However, while the case was still pending, E.T. was elected a Member of Parliament and the court suspended the proceedings until Parliament granted leave to continue the prosecution. In October 2010, about one month after the offence had become time-barred (on 4 September 2010), Parliament ruled that E.T.'s immunity should not be lifted and dismissed the request for leave to continue the criminal proceedings. When E.T.'s parliamentary term came to an end, the case was nonetheless considered by the domestic court, which held on 26 October 2012 that the offence had become time-barred, and ended the criminal prosecution.

Relying on Article 6 § 1 (access to court), Mr Dimitras argues that the authorities knowingly let the statute of limitations expire, resulting in the offence becoming time-barred and a breach of his right of access to court. Further relying on Article 6 § 1 (right to a fair hearing within a reasonable time) and Article 13 (right to an effective remedy), he also complains that the length of the proceedings – more than five years – was excessive and that there was no effective remedy in Greece for him to bring a complaint about that.

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M.T. v. France (no. 61145/16)

Le Bridge Corporation LTD S.R.L. v. the Republic of Moldova (no. 48027/10)

Bakić v. Montenegro (no. 50419/07)

Abdurzakov and Timofeyeva v. Russia (nos. 8967/14 and 68256/14)

Ismogulov v. Russia (no. 60890/08)

Arık v. Turkey (no. 36783/09)

Emin v. Turkey (no. 1001/08)

Karsu and Others v. Turkey (nos. 34971/05, 34974/05, and 1057/06)

Oğur v. Turkey (no. 13748/11)

Sandıkçı v. Turkey (no. 43501/05)

Sarı v. Turkey (no. 3920/10)

Barbarov v. Ukraine (no. 75577/17)

Tkachev v. Ukraine (no. 11773/08)

Yasinsky v. Ukraine (no. 28848/07)

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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.