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

Press Release
issued by the Registrar of the Court

ECHR 071 (2020)
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Judgments of 25 February 2020

The European Court of Human Rights has today notified in writing ten judgments[1]:

three Chamber judgments are summarised below; separate press releases have been issued for two other Chamber judgments in the cases of *Paixão Moreira Sá Fernandes v. Portugal* (application no. 78108/14) and *Y.I. v. Russia* (no. 68868/14);

five Committee judgments, concerning issues which have already been submitted to the Court, can be consulted on *Hudoc* and do not appear in this press release.

The judgments below are available only in English.

Sigríður Elín Sigfúsdóttir v. Iceland (application no. 41382/17)

The applicant, Sigríður Elín Sigfúsdóttir, is an Icelandic national who was born in 1955 and lives in Selfoss (Iceland). She was a manager for Landsbanki Islands hf, which collapsed in 2008 during the global banking crisis.

The case concerned the applicant's allegation that judges deciding on a case against her for financial offences following the Icelandic bank crash had been biased because they had owned shares in her bank.

She was convicted in 2015 by the Supreme Court of fraud by abuse of position and of aiding and abetting in market manipulation. It found in particular that she had caused Landsbanki shareholders financial loss because of her imprudent decisions on granting loans just before the collapse.

After revelations in the media in 2016 that certain Justices of the Supreme Court had owned shares in Icelandic banks before the crash, the applicant applied to have the proceedings against her reopened. She cited in particular three judges who had sat on the panel in her case, E.T., M.S. and V.M.M., alleging that their financial interests had made the proceedings against her be in violation of the Icelandic Constitution and the European Convention on Human Rights.

The applicant's request was accepted in 2019 and the proceedings for the reopening of her case are currently still ongoing.

Relying in particular on Article 6 § 1 (right to a fair trial / access to court) of the European Convention on Human Rights, the applicant argued that Justices E.T., M.S. and V.M.M. could not have been impartial in the proceedings against her because they had suffered significant financial losses as a result of her activities. She also alleged that they had failed to disclose their financial interests, as required by Icelandic law.

Violation of Article 6 § 1 (impartial tribunal)

Just satisfaction: 12,000 euros (EUR) for non-pecuniary damage and EUR 5,000 for costs and expenses

[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

Abukauskai v. Lithuania (no. 72065/17)

The applicants, Feliksas Augėnius Abukauskas and Vladislava Abukauskienė, husband and wife, and their son, Gintaras Abukauskas, are Lithuanian nationals who were born in 1952, 1948, and 1978 respectively. The couple live in the Panevėžys Region, while their son lives in Panevėžys (Lithuania).

The case concerned their complaint about the investigation into an arson attack on their house.

Mr Abukauskas and Mrs Abukauskienė's house caught fire in the early hours of 30 May 2013. The firefighters established that the blaze had been started intentionally and a pre-trial investigation was immediately opened.

It lasted seven months before being suspended because it had not been possible to identify the arsonist. During those seven months the authorities carried out numerous investigative measures, which had included carrying out a forensic examination of the house's debris, arresting a suspect, the applicants' neighbour with whom there was an ongoing conflict, searching his house and taking hand swabs from him as well as the clothes and shoes that he had worn on the day of the fire.

In March 2014 the applicants lodged a complaint with the prosecutor, alleging that the police had lost important evidence by not following the relevant regulations when following their lines of inquiry. The ensuing disciplinary inquiry found that the police had made mistakes, but that this had not necessarily affected the outcome of the investigation.

In 2016 and 2017 the courts dismissed a civil claim by the applicants against the State, finding that one of the main reasons why it had not been possible to identify the arsonist was because of a lack of any traces of flammable liquids on the debris taken from the house. Therefore, even if flammable liquids had been found on the applicants' neighbour, it would not in any case have been possible to link him to the fire. That meant that any shortcomings in the investigative measures had not been significant or decisive.

Relying on Article 1 of Protocol No. 1 (protection of property) to the European Convention, the applicants complained that the criminal investigation into the arson attack on their house, marred by police mistakes and procedural shortcomings, had been ineffective.

No violation of Article 1 of Protocol No. 1

A.S.N. and Others v. the Netherlands (nos. 68377/17 and 530/18)

The applicants in application no. 68377/17 are Mr A.S.N. and Mrs T.K.M., while the applicants in application no. 530/18 are Mr S.S.G., Mrs M.K.G., and Mrs D.K.G. The applicants are Afghan nationals who were born in 1977, 1982, 1974, 1982, and 1947 respectively and live in the Netherlands in Capelle aan den IJssel (A.S.N. and T.K.M.) and Emmen (S.S.G., M.K.G. and D.K.G.).

All the applicants are Sikhs who used to live in Afghanistan. The case concerned their complaint that they would face ill-treatment if removed back to that country.

A.S.N. and T.K.M. are a husband and wife who have also lodged their application on behalf of their two children, who are minors.

The family applied for asylum in the Netherlands in October 2015, telling the Dutch authorities that they had left Afghanistan after T.K.M.'s sister had been kidnapped while on the way to the *Gurdwara* (Sikh temple) and that her brother had received a ransom demand signed by the Taliban and had then himself disappeared. The applicants had started receiving letters demanding to know where the brother was and threatening kidnap and murder if they did not reveal his location.

The applicants came into contact with a man who arranged for them to travel abroad: before leaving T.K.M. and the children had stayed in their house all the time, which they had eventually sold to pay

for their journey. They also alleged that they had been the target of general abuse and threats in Afghanistan because of their religion.

The Dutch authorities rejected both an initial and a renewed asylum application by the applicants, decisions that were upheld in court. The decisions found in particular that the applicants' account of events lacked credibility, that they had failed to show that they had left Afghanistan only recently and that they had not made a plausible case for believing that they feared persecution.

The applicants in application no. 530/18 are a father, mother, two children and the children's maternal grandmother. They applied for asylum in June 2014, telling the authorities that about eight months before leaving Kabul three people had forced their way into their home and that the grandmother's husband had died as a result of being beaten. They had also suffered constant harassment because they were Sikhs. They had decided to leave Afghanistan and had made arrangements with an intermediary.

The Dutch authorities rejected their initial and a renewed asylum application, expressing doubts in particular about whether they had only recently left Afghanistan, which meant in turn that no credence could be given to their account of events. The courts ultimately upheld the authorities' decisions.

The applicants in both applications complained that their removal to Afghanistan would expose them to a real risk of treatment that would violate Article 3 (prohibition of torture and of inhuman or degrading treatment) or Article 2 (right to life) or both taken together.

No violation of Article 3 - in the event of the applicants' removal to Afghanistan

Interim measure (Rule 39 of the Rules of Court) - not to remove the applicants in application no. 530/18 - still in force until such time as the judgment becomes final or until further order.

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