Scan of communicated cases

Cases covered from 16 September – 27 September 2024

KOBOÇI v. ALBANIA (no. 55784/21)

Article 6 § 1 and Article 1 of Protocol No. 1 – demolition of property

SUBJECT MATTER OF THE CASE

The application concerns the demolition of the applicant's property, despite it being registered at the Land Registry and the fact that the Tirana Construction Police accepted the applicant's appeal to the effect that his property would not be demolished, but only the three floors of the same building, owned by other persons.
The applicant complains under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention that the Supreme Court failed to provide any reasons as to why his claim for compensation was dismissed whereas the other owner of the same building was granted compensation for demolishing his part of the same building.

QUESTIONS TO THE PARTIES

1. Did the Supreme Court give sufficient reasons for its decision, as required by Article 6 § 1 of the Convention (see Gorou v. Greece (no. 2) [GC], no. 12686/03, § 37, 20 March 2009; Ştefănică and Others v. Romania, no. 38155/02, §§ 37-38, 2 November 2010; Atanasovski v. the former Yugoslav Republic of Macedonia, no. 36815/03, § 36, 14 January 2010; and Mullai and Others v. Albania, no. 9074/07, § 86, 23 March 2010)? In particular, did it adequately reply to the applicant's complaint that his case had had a different outcome from that of the other owner of the same building, who was compensated for demolishing his part of the property?

2.Has there been a violation of the applicants' right to property contrary to Article 1 of Protocol No. 1 because of the lack of compensation for the demolition of his property (see Sharxhi and Others v. Albania, no. 10613/16, §§ 165-67, 11 January 2018)?

ZEYNALOV v. AZERBAIJAN (no. 29096/21)

Article 6 – allegedly unfair criminal proceedings, alleged violation of the right to a reasoned decision and the principles of equality of arms and adversarial proceedings

SUBJECT MATTER OF THE CASE

The application concerns the criminal proceedings against the applicant who was convicted under Articles 221.3 (hooliganism) and 315 (resistance to or violence against public officials) of the Criminal Code and was sentenced to three years' imprisonment.

Relying on Article 6 of the Convention, the applicant alleges that the criminal proceedings against him were unfair since his right to a reasoned decision was violated and the domestic courts did not respect the principles of equality of arms and adversarial proceedings.

QUESTIONS TO THE PARTIES

Did the applicant have a fair hearing in the determination of the criminal charges against him in accordance with Article 6 § 1 of the Convention? In particular:

(a) Was the applicant's right to a reasoned judgment respected?

(b) Were the principles of equality of arms and adversarial proceedings respected?

The Government are requested to submit copies of all the documents in the case file relating to the domestic proceedings.

IBRAHIM v. AZERBAIJAN (no. 42432/21)

Article 6 of – unfair criminal proceedings as conviction was allegedly based on fabricated and unlawfully obtained evidence

SUBJECT MATTER OF THE CASE

The application concerns the criminal proceedings against the applicant who was convicted under Article 317-2.1 (preparation, storage, transportation or use of prohibited items by a person detained in penal institutions or detention facilities) of the Criminal Code and was sentenced to four months and sixteen days' imprisonment.

Relying on Article 6 of the Convention, the applicant alleges that the criminal proceedings against him were unfair since his conviction was based on fabricated and unlawfully obtained evidence.

QUESTIONS TO THE PARTIES

Did the applicant have a fair hearing in the determination of the criminal charges against him in accordance with Article 6 § 1 of the Convention? In particular:

(a) Was the applicant's right to a reasoned decision respected?

(b) Were the principles of equality of arms and adversarial proceedings respected?

(c) Was the applicant's conviction based on unlawfully obtained evidence?

(d) Was the search, in the course of which the prohibited item (a knife) was found, conducted in accordance with the relevant domestic procedural rules?

(e) Was the applicant afforded an adequate opportunity to contest the evidence against him, and to adduce evidence in support of his line of defence and to have such evidence assessed by the court?

The Government are requested to submit copies of all the documents in the case file relating to the domestic proceedings.

HASANOV v. AZERBAIJAN (no. 27565/21)

Article 6 – unfair criminal proceedings as the conviction was allegedly based on planted evidence and the applicant was deprived of the opportunity to hire a lawyer of his own choice

SUBJECT MATTER OF THE CASE

The application concerns the criminal proceedings against the applicant who was convicted under Article 234.1 (illegal possession of narcotic substances in an amount exceeding that necessary for personal use, without intention to sell) of the Criminal Code and was sentenced to one year's imprisonment.

Relying on Article 6 of the Convention, the applicant alleges that the criminal proceedings against him were unfair since his conviction was based on planted evidence and he was deprived of the opportunity to hire a lawyer of his own choice at the initial stages of the pre-trial investigation.

QUESTIONS TO THE PARTIES

1. Did the applicant have a fair hearing in the determination of the criminal charge against him in accordance with Article 6 § 1 of the Convention (see Layijov v. Azerbaijan, no. 22062/07, 10 April 2014, and Sakit Zahidov v. Azerbaijan, no. 51164/07, 12 November 2015)? In particular:

(a) Was the applicant's right to a reasoned decision respected?

(b) Were the principles of equality of arms and adversarial proceedings respected?

(c) Was the applicant's conviction based on unlawfully obtained evidence?

(d) Was the applicant afforded an adequate opportunity to contest the evidence against him, and to adduce evidence in support of his line of defence and to have such evidence assessed by the court?

2. Was the applicant afforded an opportunity to defend himself through legal assistance of his own choosing as required by Article 6 §§ 1 and 3 (c) of the Convention? In particular, was the applicant's right to be defended by a lawyer of his own choice restricted at the initial stages of the pre-trial investigation?

The Government are requested to submit copies of all the documents in the case file relating to the domestic proceedings.

MAMEDOV v. ESTONIA (no. 39748/23)

Articles 3 and 13 – ill-treatment allegedly suffered by the applicant during the strip search in prison, lack of effectiveness and independence of the subsequent investigation by the domestic authorities

SUBJECT MATTER OF THE CASE

The case concerns the ill-treatment allegedly suffered by the applicant during the strip search he was subjected to in Tartu Prison, as well as the lack of effectiveness and independence of the subsequent investigation by the domestic authorities.

The applicant has been imprisoned in Tartu Prison. On 6 February 2023 he was subjected to a strip search.

According to the applicant he had tried to explain to the prison officer that a complete strip search in front of a male prison officer was not in accordance with his religious beliefs. According to the prison officer in

question the applicant had used rude language, had sworn and yelled at him and "had suddenly turned to face him" after the officer had pointed the applicant towards the wall to perform checks. Subsequently, apparently three other prison officers arrived at the scene and together the officers fixated the applicant on the ground with his hands cuffed. It seems that there were other prison officers who witnessed the scene. According to the materials in the case file, the applicant was subsequently searched.

According to the applicant the prison officers beat him, and, among other injuries, he emerged from the incident with a broken rib. The applicant subsequently added that he had been diagnosed with post-traumatic arthrosis of the joints in his shoulder and linked this injury back to the use of force during his strip search.

The applicant lodged a criminal complaint concerning the manner in which he was strip searched and about the physical force used on him. The prison (where the investigation appears to have been carried out by the prison's own internal control service) and subsequently the prosecutor's office refused to institute criminal proceedings, finding that the use of force had had a legal basis and had not been excessive. The courts dismissed the applicant's subsequent request to be granted State legal aid to appeal against the prosecutor office's refusal, finding that the applicant's case lacked prospects of success.

The applicant has also lodged a claim for damages concerning (in part) the above-described strip search as well as a claim to oblige (kohustamiskaebus) the prison to stop complete strip searches (täielik lahtiriietumisega läbiotsimine). These administrative court proceedings are still pending.

The applicant, invoking Article 3 of the Convention, complains about his strip search as such (which he considers having taken place without legal basis), and about the allegedly excessive use of force. He does not complain about the strip search having been contrary to his religious beliefs in his application to the Court.

He also complains under Article 3 that the investigation of his ill-treatment was not independent and was ineffective, and under Article 13 about not having had an effective remedy in relation to his ill-treatment by the prison officers.

QUESTIONS TO THE PARTIES

1. Has the applicant been subjected to inhuman or degrading treatment, in breach of Article 3 of the Convention, in relation to the strip search that he was subjected to, in particular taking into account the alleged excessive force used on him and the injuries he sustained? Alternatively, has there been a violation of the applicant's right to respect for his private life contrary to Article 8 of the Convention (see Roth v. Germany, nos. 6780/18 and 30776/18, §§ 70-72, 22 October 2020; Dejnek v. Poland, no. 9635/13, §§ 57-77, 1 June 2017; Jaeger v. Estonia, no. 1574/13, §§ 41-48, 31 July 2014; and Iwańczuk v. Poland, no. 25196/94, §§ 58-59, 15 November 2001)?

The parties are asked to clarify what was the exact nature of the applicant's strip search, and – more specifically – whether it included a body cavity search, and what were the injuries sustained by the applicant as a result of the strip search.

2. Having regard to the procedural protection from inhuman or degrading treatment (see Labita v. Italy [GC], no. 26772/95, § 131, ECHR 2000-IV; see also B.Ü. v. the Czech Republic, no. 9264/15, §§ 89-93, 6 October 2022; Bokhonko v. Georgia, no. 6739/11, §§ 72-74, 22 October 2020), was the investigation

in the present case by the domestic authorities in breach of Article 3 of the Convention? In particular, could the investigation be considered to have met the requirement of independence (see Mihhailov v. Estonia, no. 64418/10, § 107 and §§ 127-131, 30 August 2016; Perkov v. Croatia, no. 33754/16, § 62, 20 September 2022; and Premininy v. Russia, no. 44973/04, §§ 94 and 109, 10 February 2011)?

3. Has there been a violation of the applicant's right to an effective remedy under Article 13 in conjunction with Articles 3 and/or 8 of the Convention?

ARO v. FINLAND and 1 other application (nos. 39963/23 and 39984/23)

Article 8 – courts' refusal to make audio recordings of the applicants' testimonies confidential which lead to their testimonies being published on YouTube for defamatory purposes (they were victims in the criminal proceedings in which the accused was eventually convicted of persecution and aggravated defamation for having harassed them, mainly online)

SUBJECT MATTER OF THE CASE

The applicants participated as victims in the criminal proceedings in which the accused was eventually convicted of persecution and aggravated defamation for having harassed them, mainly online. The claim for compensation they lodged against him in those proceedings as injured (civil) parties was granted. The applications concern the domestic courts' refusal to make audio recordings of the applicants' testimonies confidential.

The public was excluded from the parts of the trial which concerned sensitive health issues of the applicants. The District Court ordered that any kind of recording of the trial by the public was prohibited. However, under Finnish law, if a trial is public, district courts always audio record testimonies, which recordings are accessible to the public.

After the first applicant gave her testimony before the District Court, the audio recording of her testimony was published on YouTube, edited and subjected to offensive and derogatory comments.

Both applicants therefore requested that the public be fully excluded from the rest of the trial. They submitted that the audio recording had been published on YouTube by a person who had attended the hearing, who had insultingly reported on the trial in social media and who had publicly stated that she would publish all future audio recordings of their testimonies. They argued that, because of the publication on YouTube and the risk of future online harassment, they would not be able to testify freely if the public were not fully excluded from the rest of the trial.

The District Court held that there were no grounds to order that the remainder of the trial be held in camera but ordered that the audio recordings of the applicants' testimonies be kept confidential.

That decision was overturned by the Court of Appeal and the Supreme Court which held that there was no legal basis in domestic law to make an audio recording of a public trial confidential. The concerns about fairness of the trial and privacy of the victims had not been so severe as to allow the trial court to make the audio recordings confidential without a legal basis.

After the Supreme Court's decision all the applicants' testimonies were published on YouTube, listened to more than 3,000 times and commented on in an offensive and derogatory manner.

Before the Court the applicants complain under Article 8 of the Convention that their right to respect for their private life was violated by the domestic courts' refusal to make the audio recordings of their testimonies confidential even though it was evident that they would be published in social media for defamatory purposes.

QUESTIONS TO THE PARTIES

Was the refusal of the domestic courts to make the audio recordings of the applicants' testimonies confidential in breach of the State's positive obligations arising from Article 8 of the Convention? Did the domestic law provide sufficient possibilities for the applicants to seek protection against online harassment in the given circumstances?

TF and MD v. FRANCE (no. 15290/23)*

Articles 5 and 8 – the placement and continued stay in a specialised care home due to a severe form of autism

SUBJECT MATTER OF THE CASE

The application concerns, firstly, under Article 5 of the Convention, the placement of the first applicant, TF, and his continued stay in a specialised care home (MAS), and, secondly, under Article 8, the alleged violation of the right to respect for the family life of TF and the second applicant, MD, who is acting on her own behalf and on behalf of her son, who has been placed under guardianship and is now of age.

TF, born in 1999, suffers from a severe form of autism diagnosed at the age of 3. His parents separated in 2003 and are now divorced. His father lives in Lyon and his mother, MD, who has remarried, lives in Ireland. TF has been living in an MAS since November 2018.

By a decision of 6 March 2015, confirmed on appeal by a judgment of 19 May 2015, TF's residence was set at his father's, on the grounds that MD was not complying with the judicial, administrative and school decisions concerning TF, which had led in particular to TF being taken out of school.

In September 2015, TF was admitted to a hospital specialising in psychiatry and mental health. When she was discharged, MD took her child to Ireland, and criminal proceedings were brought against her for the abduction of a minor child. In October 2015, a European arrest warrant was issued for MD, but on 26 July 2016, the High Court in Dublin refused to extradite her.

After being acquitted at first instance, the Criminal Appeals Chamber of the Lyon Court of Appeal (CA), in a ruling dated 2 March 2020, sentenced MD to a suspended prison sentence and probation.

By an order dated 7 April 2017, the guardianship judge of the Lyon court of first instance, seized by the public prosecutor, placed TF under court protection and appointed his father as his special trustee.

By a judgment of 23 November 2017, TF was placed under guardianship for a period of 120 months, the exercise of this measure being entrusted to the association 'Groupement la Roche Industries service Messidor' (GRIM), in the light of an expert report drawn up on 8 February 2017 by a psychiatrist. In a judgment of 21 September 2018, the Lyon Court of Appeal upheld the judgment, ruled that there was no need to order a measure to obtain the opinion of TF, who had in the meantime come of age, and dismissed MD's alternative request for a change of guardian.

By order of 5 June 2018, the guardianship judge fixed TF's residence with his father and stayed proceedings on MD's requests for visiting and accommodation rights.In a judgment of 3 May 2019, the CA confirmed this order.

At the same time, in an order dated 20 May 2019, the guardianship judge rejected MD's husband's request for TF to stay with him. On 26 May 2020, a medical assessment found that TF's disorders were manifested by almost impossible verbal or paraverbal communication and by occasional displays of hetero-aggressive behaviour impairing his mental faculties. The expert report also mentioned his dependence and his inability to specify his material situation.

In a judgement dated 30 June 2020, the Litigation Protection Judge, acting as guardianship judge, rejected the application for release submitted by MD and her new husband and maintained TF under guardianship, reappointing the GRIM association as her guardian.

In a judgment of 27 January 2021, the Lyon CA upheld, firstly, the judgment rejecting TF's application for release from guardianship and maintaining the GRIM association as guardian and, secondly, the orders rejecting TF's requests for accommodation and visits to MD and her spouse respectively. On the latter point, the CA held that TF's confinement to an establishment where he could not move around at any time of the day or night and could not leave freely was certainly a deprivation of liberty, but that this situation was the result of his pathology. It added that this deprivation of liberty could not be described as arbitrary, since it was the result of deliberation by the medical profession and all those involved outside the family.

On 30 November 2022, the Court of Cassation dismissed the appeal brought by MD and her husband.

As regards Article 5 §§ 1 and 4 of the Convention, the applicants submitted that TF's placement in an MAS constituted an unlawful deprivation of liberty and that they had no means of challenging the measure. With regard to TF's living conditions in the MAS, they pointed out that it was impossible for him to leave and to meet third parties freely, that he had no financial resources of his own, and that TF had refused to consent to his medical treatment and to his placement there.

From the point of view of Article 8, the applicants submitted that the rejection of their request that TF be allowed to live with or visit his mother infringed their right to private and family life.

QUESTIONS TO THE PARTIES

1. Does the second applicant have locus standi, satisfying the requirements of Article 34 of the Convention, to lodge the present application also on behalf of the first applicant (see Zehentner v. Austria, no. 20082/02, §§ 37-41, 16 July 2009, and Legal Resource Centre on behalf of Valentin Câmpeanu v. Romania [GC], no. 47848/08, §§ 102-103, ECHR 2014)?

2. Was the first applicant deprived of his liberty within the meaning of Article 5 § 1 of the Convention as a result of his placement in a special care home since November 2018?

If so, did he have at his disposal, in accordance with Article 5 § 4 of the Convention, a procedure whereby he could apply to a court to review, at regular intervals, the lawfulness of his placement?

3. Was there a breach of the applicants' right to respect for their private and family life, within the meaning of Article 8 of the Convention, as a result of the first applicant's placement in an MAS? In particular, did the guardianship judge carry out a detailed assessment of the first applicant's overall situation and needs in the light of the available evidence, and did he balance the child's overriding interests against those of his parents?

Was the decision-making process leading to the decisions of the domestic courts fair and did it respect the interests protected by Article 8 of the Convention, bearing in mind that the passage of time may have irremediable consequences and may in practice decide the issue raised (see, among other authorities, Maumousseau and Washington v. France, no. 39388/05, § 83, 6 December 2007, Endrizzi v. Italy, no. 71660/14, § 48, 23 March 2017, and Lacombe v. France, no. 23941/14, § 64, 10 October 2019)?

4. The Government are invited to produce all documents showing to what extent the first applicant was heard in the various proceedings, through a third party if necessary, given the conflict between his parents.

FAID v. FRANCE (no. 316/24)*

Articles 3 and 8 – segregation of a particularly high-profile prisoner, and the detention regime

SUBJECT MATTER OF THE CASE

1. The application concerns the segregation of the applicant, who has been on the list of particularly high-profile prisoners since 2011, and the detention regime to which he is subjected. On the day his application was lodged, the applicant was being held at the Vendin-le-Vieil prison.

2. On 14 April 2018 the Paris Assize Court sentenced the applicant to twenty-five years' imprisonment for organised criminal offences that had led to the death of a municipal policewoman. On 15 January 2019, the Cour d'assises du Nord sentenced him to ten years' imprisonment for his escape on 13 April 2013 from the Lille-Loos-Sequedin prison, where he had been held since 1 July 2011. On 13 March 2020, the Pas-de-Calais Assize Court sentenced him to twenty-eight years' imprisonment for offences also involving organised crime. On 26 October 2023, he was sentenced to fourteen years' imprisonment for his organised gang escape by helicopter from the Réau prison on 1 July 2018. The applicant's sentence is currently due to expire on 1 June 2046.

3. The applicant was placed in solitary confinement on 3 October 2018 by the investigating judge in charge of the case concerning his indictment for hijacking by violence or threat and escape in an organised gang. This judicial isolation was interspersed with short periods of administrative isolation. Since 19 March 2021, the applicant has been placed in administrative segregation. This regime was provided for in article 726-1 of the Code of Criminal Procedure, which has been repealed, and is now set out in article L. 213-8 of the Prison Code, which came into force on 1 May 2022.

4. On 10 June and 7 September 2022, the Minister of Justice extended the applicant's solitary confinement, as a security measure, in order 'to prevent any attempt to escape, having regard to his prison record, his involvement in organised crime, the seriousness of the offences with which he is charged and the need to ensure that he is represented before the judicial authorities, as his criminal record is not final'. It renewed the segregation measure on 7 December 2022, 17 February, 17 May and 4 August 2023. The reasons for the decision of 17 May 2023 were as follows:

> '(...) the applicant is still firmly rooted in organised crime.
>
> Moreover, he does not question the acts for which he was convicted or his escapes.
>
> Accordingly, as a security measure, in order to prevent any risk of the applicant escaping, in view of his prison record, his involvement in organised crime, the seriousness of the criminal acts of which he is accused and the need to ensure that he is represented before the judicial authorities (as his criminal record is not final), keeping the applicant in solitary confinement at the CP is strictly necessary and constitutes the only means of guaranteeing personal safety and preventing any risk of disorder or serious incident in detention'.

5. In an application dated 19 July 2023, the applicant applied to the administrative judge for interim release on the basis of Article L. 521-2 of the Code of Administrative Justice, seeking an order requiring the prison administration to put an end to his conditions of detention, which, in his view, violated his dignity. In particular, he argued that the conditions of his imprisonment violated this provision because of the extremely secure management of his detention, his transfers, his reduced mobility, the restricted access to the telephone, the systematic full searches he was subjected to, the checks of his cell during the night, and the lack of physical and human contact that had a serious impact on his psychological state. He also maintained that the way in which visiting hours were organised seriously infringed on his private and family life.

6. In an order of 24 July 2023, the interim relief judge granted the applicant provisional legal aid and dismissed his claims. The applicant appealed against this order. In his observations before the Conseil d'État, the Minister of Justice described the applicant's detention regime as follows:

> 'the applicant] is subject, on the one hand, to the ordinary law measures applicable to all detainees in France, characterised in particular by the presence of gratings in the cells, control of the bars, searches of the cells and the detainees, and rounds, and on the other hand, to measures specific to the person concerned which are intended, in view of his criminal and prison benefits, to meet the requirements of safeguarding public order and relating mainly to the registration of the person concerned in the register of particularly high-profile prisoners, his placement in solitary confinement, limited access to telephones, access to the visiting room equipped with a separation device with a hygiaphone, full searches, a level 4 escort regime characterised by constant surveillance and increased means of restraint'.

7. In an order dated 24 August 2023, the Conseil d'État rejected the application:

> ' (...) 4. In view of the vulnerability of prisoners and their total dependence on the administration, it is up to the administration, and in particular the directors of prisons, in their capacity as heads of department, to take the appropriate measures to protect their lives and to avoid any inhuman or

degrading treatment in order to guarantee effective compliance with the requirements arising from the principles set out in articles 2 and 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. The right to respect for life and the right not to be subjected to inhuman or degrading treatment constitute fundamental freedoms within the meaning of the provisions of article L. 521-2 of the Code of Administrative Justice. When the failure of the public authority to act creates a clear and imminent danger to the life of persons or exposes them to being subjected, in a clear manner, to inhuman or degrading treatment, thereby seriously and manifestly illegally infringing these fundamental freedoms, the interim relief judge may, under the special procedure provided for by the aforementioned Article L. 521-2, prescribe all measures likely to put an end to the situation resulting from this failure to act. (...)

6. Secondly, it is clear from the investigation conducted before the interim relief judge of the Caen Administrative Court that Mr A... is subject to a particularly strict detention regime, including surveillance measures such as night-time visits to prevent possible disturbances or preparations for escape with violence, frequent searches or the use of a hygiaphone for his visits to the visiting room, and reinforced isolation measures. The administration argued, both in its submissions at first instance and at the hearing before the first judge, that this detention regime was justified by Mr A.'s dangerous profile, due to his multiple convictions, between 2018 and 2021, for a series of repeat offences, including two escapes with violence, the second of which was to be tried before the Paris Assize Court in autumn 2023. These offences and convictions, which are listed in detail in the order under appeal, together with the fact that the person concerned has long been involved in organised crime, led to his inclusion in the list of particularly high-profile prisoners, in accordance with the provisions of article D. 223-11 of the French Prison Code. The investigation before the first judge also established that Mr A. was warned in November 2021 for having communicated with two people not registered on his list of authorised telephone contacts, and for having behaved in an insulting manner towards prison staff.

7. While Mr A... has argued, without being seriously contradicted, that his behaviour has recently improved, it is also clear from the evidence before the first judge that he makes a great many telephone calls, receives regular visits, particularly from his family, has two hours of exercise a day and the opportunity to play sport. Although Mr A... maintains on appeal, as he did at first instance, that his conditions of detention are damaging to his health, and has produced evidence showing that he suffers from certain pathologies, it is also clear from the investigation before the first judge that, in an opinion dated 10 May 2023, the head doctor of the health unit considered that Mr A... had no medical contraindication to the extension of the segregation measure to which he is subject.

8. It follows from all of these elements, all established by the investigation conducted before the interim relief judge of the Caen Administrative Court, on the one hand, that the special conditions of detention of Mr A... are justified by the risk revealed by the criminal acts that gave rise to his multiple convictions, and in particular by the conditions in which his two escapes with violence took place, and are not disproportionate with regard to this risk, and on the other hand, that the situation of Mr A..., and in particular the conditions in which he is being held, are not disproportionate with regard to this risk. A...'s situation, and in particular the health problems he claims to have, are not so serious as to justify an emergency order, pursuant to the powers granted to the administrative judge under article L. 521-2 of the Code of Administrative Justice, for specific measures to mitigate the isolation and surveillance measures imposed on him. (...)

10. It follows from all of the above that Mr A.'s application is manifestly ill-founded and must be rejected, including the submissions based on Article L. 761-1 of the Code of Administrative Justice.

8. Invoking Article 3 of the Convention, the applicant maintained that the detention regime to which he was subjected was not proportionate to the security objectives pursued and that the accumulation of measures to which he was subjected violated his dignity. He also complained of the body-searching regime applied to him and complained of systematic handcuffing by heavily equipped officers, as well as the arrangements put in place during his extractions by hooded, heavily armed individuals, himself hooded and handcuffed along the way.

9. Invoking Article 8 of the Convention, the applicant maintained that the way in which the visiting rooms were organised, in the form of a separation and headphone system, prevented any physical contact with his relatives and discouraged them from coming to see him. He claims that this system prevented him from hugging his dying sister. He also complained that he was subjected to full body searches before and after each visit.

QUESTIONS TO THE PARTIES

In the light of the judgments in Piechowicz v. Poland (no. 20071/07, 17 April 2012), Ramirez Sanchez v. France ([GC], no. 59450/00, ECHR 2006-IX) and Khoroshenko v. Russia ([GC], no. 41418/04, ECHR 2015), was the extension of the applicant's administrative segregation compatible with Articles 3 and 8 of the Convention?

Were the reasons for renewing that extension duly given by the domestic authorities and courts, and were the applicant's particular conditions of detention the subject of a precise proportionality review in the light of the need to guarantee the safety of individuals and prevent the risk of disorder in detention, on the one hand, and the applicant's personality and state of health, on the other?

With regard to Article 3 of the Convention, the parties are invited to comment on the following points: the detention regime applied pursuant to Article L. 213-8 of the Penitentiary Code and the applicant's status as a prisoner of particular concern, body searches and extraction procedures. With regard to article 8 of the Convention, the parties are invited to comment further on the organisation of visiting rooms.

VINNIK v. FRANCE (no. 31554/22)*

Article 6 §§ 1 and 3 – criminal judgment of a Russian national who was sentenced in France; inability to ascertain the authenticity of the original digital evidence (obtained from the US), used for conviction in France

SUBJECT MATTER OF THE CASE

The application concerns the criminal judgment of the applicant, A. Vinnik, who was sentenced in France to five years' criminal imprisonment for aggravated money laundering, ordered to pay a fine of EUR 100 000 and to pay compensation to certain civil parties.

1. The applicant is a Russian national born in 1979 and the father of two children. He was suspected in particular of having distributed ‘ransomware’ and of having laundered the amounts of ransom obtained through the BTC-e cryptocurrency exchange platform in France and the United States as well as in Russia.

2. On 17 January 2017, an indictment against BTC-e and the applicant was issued by a US court. Subsequently, an arrest warrant was issued for him.

3. On 25 July 2017, the applicant was arrested while on holiday in Greece.

4. On 23 January 2020, the applicant was handed over to the French authorities.

5. In a judgment handed down by the Paris Criminal Court on 7 December 2020, the applicant was sentenced to five years' criminal imprisonment for “aggravated money laundering: assistance in an organised gang to falsely justify the origin of the assets or income of the perpetrator of an offence between 1 January 2016 and 25 July 2017”, and ordered to pay a fine of €100,000, in addition to confiscating the seals. The applicant was also ordered to pay compensation to certain civil parties. However, he was acquitted of the thirteen other charges brought against him.

6. In the context of these criminal proceedings, Mr Vinnik applied for a committal order in order to obtain access to the original data extracted from the digital tools in his possession at the time of his arrest. However, the court refused to grant the request on the grounds that the applicant had been aware of the content of the copied data, that no malfunction of the copy had been identified, that he had been able to obtain a copy of the copy, that the request for expert examination of the original data had been refused by the investigating judge and that access to the originals appeared to be random in principle and in time, which was such as to prevent the applicant from being tried within a reasonable time. The court added that the copy handed over by the American authorities under the mutual assistance agreement had been transmitted through diplomatic channels and that the investigators had then worked on copies of that copy, and concluded that there was nothing in the proceedings to suggest that the copies used had been altered.

7. In a judgment of 24 June 2021, the Paris Court of Appeal upheld the judgment of the Paris Criminal Court of 7 December 2020, in particular as regards guilt, the prison sentence and the confiscation of the seals. It also declared that it had ‘no jurisdiction to rule on the claims relating to the legality of the condition of return to which the Greek authorities had subjected [the applicant's] surrender, the risk of inhuman and degrading treatment incurred, and the right to respect for private life and security in the event of extradition to the United States’. It also decided that there was no need to refer a question to the Court of Justice of the European Union for a preliminary ruling, as requested, and refused to grant the request to refer a priority constitutionality question to the French Constitutional Council. It also declared inadmissible the requests for computer and medical expertise. Lastly, it confirmed the judgment in all its civil provisions and added new provisions for certain civil parties.

8. As regards access to the original evidence in particular, the Court of Appeal held first of all that the applicant had been able to challenge the investigations and the minutes and to present any evidence or argument to the contrary in writing or through witnesses. It then noted that the evidence had been seized at the time of the applicant's arrest by the Greek authorities at the request of the American authorities, that the originals had been handed over to the American authorities under the supervision of the Greek authorities, who had a copy, and that the suspicions put forward by the applicant were not based on any

specific evidence, since the defendant's nationality alone was not sufficient to justify them. It added that the US authorities had transmitted data in response to the French authorities' request for judicial assistance in criminal matters, and that provocation to commit an offence organised by foreign authorities, the results of which had been transmitted to the French authorities, could not be accepted. The Court of Appeal went on to note that investigations had been carried out by the French investigators, who had verified the information provided, that no request for a computer expert opinion had been made during the investigation, that the data interfered with each other and that the witnesses heard on this point had not raised any difficulty or question about the reliability of the copies provided by the American authorities, which had on the contrary been confirmed. The Court of Appeal then compared the analysis note provided by the defence with the documents in the case file. It added that, according to three experts, the copies of the mobile phone and computer seized at the time of the applicant's arrest had been described as 'clean', with nothing 'to call into question their integrity'. It concluded that the computer data seized could not be suspected of having been tampered with before or at the time they were copied, reiterating that the applicant's suspicions were not supported by any evidence, and consequently rejected the request for a computer forensic examination.

9. In a decision of 28 June 2022, for which no specific reasons were given, the Court of Cassation dismissed the applicant's appeal against the Court of Appeal's judgment of 24 June 2021 (see paragraph 7 above).

Invoking Article 6 §§ 1 and 3 of the Convention, the applicant complained that he had not been able to ascertain the authenticity of the original evidence on the basis of which he had been convicted in France, as the French authorities had obtained only the copy, provided by the American authorities, of the data taken from the computer and mobile phone in his possession at the time of his arrest in Greece.

QUESTIONS TO THE PARTIES

1. Has the applicant exhausted domestic remedies within the meaning of Article 35 § 1 of the Convention in respect of the complaint under Article 6 § 1 of the Convention that he doubts the authenticity of the evidence on the basis of which he was convicted in France?

2. Did the applicant receive a fair trial in the determination of the criminal charges against him within the meaning of Article 6 §§ 1 and 3 of the Convention (see Yüksel Yalçınkaya v. Türkiye [GC], no. 15669/20, §§ 302-308 and §§ 312-313, 26 September 2023)? In particular, did the applicant's alleged lack of access to the original evidence undermine the overall fairness of the criminal proceedings?

3. In what procedural framework did the French courts obtain the evidence on the basis of which the applicant was convicted of aggravated money laundering (see, for a recent example, Beuze v. Belgium [GC], no. 71409/10, § 150 (b), 9 November 2018)? How did they ensure the authenticity of the evidence? Did they investigate whether any procedural safeguards had been applied to the collection of the evidence when it was seized in Greece? Did they request disclosure of the original evidence from the US authorities?

4. Did the applicant have the opportunity to challenge the authenticity of the evidence collected and to oppose its production (see Beuze, cited above, § 150(c))?

5. To what extent did the analysis carried out by the American authorities relate to the French courts' analysis of this evidence (see Beuze, cited above, § 150(g))?

SOCIÉTÉ D'EXPLOITATION DE L'HEBDOMADAIRE LE POINT-SEBDO v. FRANCE (no. 39584/23)*

Article 10 – refusal to the applicant company, a press organisation, to access administrative and medical data held by the State on the grounds that the intended use of the data was affected by methodological biases

SUBJECT MATTER OF THE CASES

The application concerns the refusal to the applicant company, a press organisation, to access administrative and medical data held by the State on the grounds that the intended use of the data was affected by methodological biases.

The applicant is a company incorporated under French law which publishes the weekly magazine Le Point. Since 2001, it has published a special annual issue containing a 'ranking of hospitals and clinics' in France.

It states that this ranking is the result of a multi-faceted survey based in particular on the use of data from the Programme de Médicalisation des Systèmes d'Information (PMSI). This programme is a collection of administrative and medical data relating to all hospital admissions in France, access to which is subject to authorisation from the Commission nationale de l'informatique et des libertés (CNIL), after consultation with the Comité éthique et scientifique pour les recherches, les études et les évaluations dans le domaine de la santé (CESREES).

In April 2022, the applicant applied to the CNIL for access to the PMSI in order to produce rankings for the years 2022 to 2024.

On 2 June 2022, CESREES issued an unfavourable opinion on the grounds that 'the construction of the indicators used in the rankings [could] lead to the dissemination of erroneous information about the actual relative performance of healthcare establishments, which could mislead patients and therefore be contrary to the public interest'. More specifically, it identified five difficulties posed by the applicant's request, relating mainly to the methodology chosen for using the data.

On 20 October 2022, the CNIL refused the access authorisation requested. It took the view that the public interest in data processing was not sufficiently demonstrated in the file submitted to it. It invited the applicant 'to develop its methodology so that, on the one hand, the indicators calculated are as accurate as possible and the biases identified by CESREES are substantially corrected and, on the other hand, the main characteristics of the methodology used are freely accessible and explained in as transparent a manner as possible to all those concerned by the processing of PMSI data'.

On 29 December 2022, the interim relief judge of the Conseil d'État dismissed the applicant's application for interim suspension. Then on 30 June 2023, the Conseil d'État dismissed the applicant's application for ultra vires. It based its decision in particular on the methodological shortcomings identified by the CNIL, on the applicant's failure to provide additional information despite invitations to do so, and on the failure to inform the public about the methodology used and its limitations.

Invoking Article 10 of the Convention, the applicant submitted that the refusal to grant it access to the PMSI data had unjustifiably infringed its freedom to communicate information on a matter of general public health interest. In that regard, she points to the lack of foreseeability of the French legislation due to the vagueness of the public interest ground invoked by the domestic authorities and the absence of any review or balancing of the interests involved. In particular, it argued that, in the absence of any concern for the

protection of patients' personal data (the PMSI data being aggregated and anonymised), no competing interest was likely to be seriously weighed against its right to freedom of expression and to communicate information.

QUESTIONS TO THE PARTIES

Was there a breach of the applicant's right to freedom of expression, and in particular her right to receive or impart information, within the meaning of Article 10?

In particular, to what extent are the applicant's duties and responsibilities as a media organisation, its criticism of the intended use of the data it requested and the aggregated and anonymous nature of those data relevant to the consideration of its complaint and to the determination of the State's margin of appreciation in this area?

S.C. v. FRANCE and 3 other applications (no. 44067/22)*

Articles 3, 8, 13 – failure of the domestic authorities to take charge of the applicants (foreign nationals living in France as unaccompanied foreign minors) when their minority was in dispute

SUBJECT MATTER OF THE CASE

The four applications concerned the failure of the domestic authorities to take charge of the applicants, foreign nationals living in France as unaccompanied foreign minors, during the period in which their minority was in dispute.

Relying on Article 3 of the Convention, the applicants A.D.S. (no. 10844/23), K.N. (no. 19697/23) and J.A. (no. 42429/23) complained that they had been subjected to inhuman and degrading treatment because of their living conditions resulting from a lack of care appropriate to their age by the domestic authorities.

Relying on Article 8 of the Convention, the applicants S.C. (application no. 44067/22), A.D.S. (no. 10844/23) and K.N. (no. 19697/23) complained that they had not benefited from the presumption of minority resulting in a lack of care by the child welfare authorities. Relying on the same Article, the applicant J.A. (application no. 42429/23) complained that his right to private and family life had been infringed because he had not been taken into care, even though he had been isolated as a minor.

Relying on Article 13 of the Convention, in conjunction with Articles 3 and/or 8, the applicants complained that they had not had effective remedies pending the juvenile court's decision on their minority.

QUESTIONS TO THE PARTIES

A.D.S. v. France (no. 10844/23) and K.N. v. France (no. 19697/23)

1. Were the applicants subjected, in breach of Article 3 of the Convention, to inhuman or degrading treatment during the periods in which they were not, despite their alleged minority, cared for by the domestic authorities? In particular, how did they manage, in practice, to meet their basic needs during those periods?

J.A. v. France (no. 42429/23)

2. Was there a violation of the applicant's right not to be subjected to inhuman and degrading treatment, within the meaning of Article 3 of the Convention, and of his right to respect for his private and family life, within the meaning of Article 8 of the Convention, by reason of the fact that he was not cared for by the child welfare authorities during his minority?

S.C. v. France (application no. 44067/22), A.D.S. v. France (no. 10844/23) and K.N. v. France (no. 19697/23)

3. Was there a failure to observe the procedural guarantees provided for in Article 8 of the Convention during the procedure for determining the applicants' age (Darboe and Camara v. Italy, no. 5797/17, 21 July 2022)?

For all the applicants

4. Did the applicants have at their disposal, as required by Article 13 of the Convention, an effective domestic remedy through which they could raise their complaints concerning the breach of Articles 3 and/or 8 of the Convention?

VARDAR v. GERMANY (no. 48663/20)

Articles 2 and 3 – alleged lack of adequate medical care during placement in a State-run psychiatric hospital, as well as alleged lack of an effective investigation into death

SUBJECT MATTER OF THE CASE

The application concerns the alleged lack of adequate medical care of the late Ü.V. during his placement in a State-run psychiatric hospital, allegedly resulting in considerable suffering and death, as well as the alleged lack of an effective investigation into his death.

The applicants are the mother and two brothers of the late Ü.V. From 1989 to 2017 Ü.V. was placed in a psychiatric hospital run by the State of Berlin for crimes for which he could not be held responsible due to his paranoid schizophrenia. Shortly after his release in August 2017, Ü.V. was admitted to another State-run hospital in Berlin where he was diagnosed with a brain tumour and given a fentanyl patch to ease his suffering. He died on 5 November 2017.

The applicants lodged several criminal complaints for murder or involuntary manslaughter against doctors who had treated Ü.V. They claimed that the doctors at the psychiatric hospital had ignored the deterioration of his health since March 2015 even though Ü.V. had repeatedly asked for examination and his symptoms had clearly pointed to severe brain damage. They further claimed that the fentanyl patch given to Ü.V. at the second hospital had been contraindicated and had caused, or at least accelerated, his death.

During the investigation, the Berlin Public Prosecutor's Office obtained several expert opinions to determine the cause of death. According to these opinions, Ü.V. had died of multiple organ failure triggered by brain haemorrhage caused by his brain tumour, and this situation had been beyond the doctors' control. In view of these results, the Public Prosecutor's Office considered it unnecessary to take other investigative

measures requested by the applicants, in particular to hear evidence from the accused doctors and certain witnesses, to examine Ü.V.'s medical records or obtain additional expert opinions.

On 26 April 2019 the Public Prosecutor's Office discontinued the proceedings on the grounds that the expert opinions had not indicated any negligence or malpractice on the part of the accused doctors. On 21 August 2019 the Berlin General Public Prosecutor's Office rejected the applicants' appeal. On 25 November 2019 the Berlin Higher Regional Court declared the applicants' request for a judicial decision inadmissible on the grounds that they had not sufficiently explained the course of the investigation so that the court had not been able to assess, solely on the basis of the written request, whether the authorities had investigated the case with due diligence. On 17 September 2020 the Federal Constitutional Court declined to accept the applicants' constitutional complaint for adjudication, without providing reasons (2 BvR 240/20).

It appears from the applicants' submissions that they also lodged a civil claim in this matter against the State of Berlin which the Berlin Regional Court decided on 4 June 2024 (5 O 3/21). The applicants neither submitted copy of that decision nor did they provide any details as to the outcome of those proceedings.

The applicants complained under Article 2 of the Convention that Ü.V. had died because he had not received adequate medical care at the psychiatric hospital and because the fentanyl patch had been contraindicated. Under the same Article, they also alleged that the authorities had failed to carry out an effective investigation into his death. Lastly, invoking Article 3 of the Convention, they complained that Ü.V. had suffered considerably before his death due to the inadequate medical care.

QUESTIONS TO THE PARTIES

1. Have the State authorities complied with their positive obligations under Article 2 of the Convention concerning Ü.V.'s death? In particular:

(a) Did the domestic authorities provide Ü.V. with an adequate medical care necessary to safeguard his life (Mustafayev v. Azerbaijan, no. 47095/09, §§ 53 and 54, 4 May 2017; Jasinskis v. Latvia, no. 45744/08, § 60, 21 December 2010; Karpylenko v. Ukraine, no. 15509/12, § 79, 11 February 2016)? In this connection the parties are invited to provide detailed information about Ü.V.'s health while in the psychiatric hospital, his requests for treatment and the authorities' reaction to any such requests, in particular between March 2015 and his release in August 2017.

(b) Did the inquiry in the present case satisfy the requirements of an effective investigation under Article 2 of the Convention (Mustafa Tunç and Fecire Tunç v. Turkey [GC], no. 24014/05, §§ 172-82 and 225, 14 April 2015)? In particular, were all necessary measures taken to determine whether the doctors at the psychiatric hospital could have discovered Ü.V.'s brain tumour at an earlier stage or treated it more adequately and thus prevented his death? Would additional investigative measures, such as those requested by the applicants (see above), have helped in establishing the facts?

2. Did the alleged lack of appropriate medical care of Ü.V. during his placement in the psychiatric hospital amount to treatment contrary to Article 3 of the Convention (Blokhin v. Russia [GC], no. 47152/06, §§ 136-37, 23 March 2016)?

3. What is the relevance, if any, of the civil proceedings initiated by the applicants before the Berlin Regional Court (5 O 3/21) for the above complaints under Articles 2 and 3 of the Convention? In particular:

(a) Can the outcome of those proceedings result in the applicants no longer being "victims" within the meaning of Article 34 of the Convention in respect of the alleged violation of the substantive limb of Article 2 of the Convention (Nada v. Switzerland [GC], no. 10593/08, § 128, ECHR 2012)?

(b) In the circumstances of the present case, can those proceedings satisfy the requirements under the procedural limb of Article 2 of the Convention? If so, did these proceedings satisfy the said requirements?

The parties are invited to submit a copy of the applicants' civil claim, the decision of the Berlin Regional Court of 4 June 2024, as well as any appeals which may have been lodged and related decisions.

E.M. v. ITALY (no. 4928/24)*

Articles 3, 5 §§ 1 and 5 and 6 § 1 – continued detention despite a court decision ordering placement in a residence for the execution of security measures

SUBJECT MATTER OF THE CASE

The application concerned the applicant's continued detention despite a court decision ordering his placement in a residence for the execution of security measures (residenza per l'esecuzione delle misure di sicurezza - REMS).

On 11 May 2023, the applicant was remanded in custody following his arrest for attempted murder.

On 26 June 2023, the expert appointed by the preliminary investigations judge (giudice per le indagini preliminari - hereinafter 'G.I.P.') of the Rome District Court gave his expert opinion, in which he found that the applicant was suffering from schizophrenic disorder with delusions of a persecutory nature, lacked the capacity to discern and required therapeutic treatment in a specialised facility.

On 7 July 2023, the IPG replaced pre-trial detention with the security measure of placement in a REMS and ordered that the applicant be kept in a specialised mental health sector in a prison environment.

On 16 February 2024, the applicant was acquitted of all charges by the preliminary hearing judge (giudice dell'udienza preliminare) on the grounds that he could not be held accountable at the time of the events.

On 29 February 2024, the applicant was transferred to the REMS Polluce in Subiaco (Rome).

The applicant complained under Articles 3, 5 §§ 1 and 5 and 6 § 1 of the Convention that he had received insufficient and inadequate medical treatment during his detention, that his continued detention was unlawful, that there was no domestic remedy enabling him to obtain compensation for his detention and that the court decision ordering his placement in a REMS had been delayed.

QUESTIONS TO THE PARTIES

1. Has there been a violation of Article 3 of the Convention (Sy v. Italy, no. 11791/20, §§ 76-82, 24 January 2022)? In particular:

(a) in view of the applicant's medical condition and the G.I.P.'s decision of 7 July 2023 ordering his placement in a REMS, was the detention compatible with his state of health?

(b) did the applicant receive adequate therapeutic care in view of his state of mental health (see Rooman v. Belgium [GC], no. 18052/11, §§ 146-147, 31 January 2019 and Strazimiri v. Albania, no. 34602/16, §§ 103-112, 21 January 2020)?

2. Was there a violation of Article 5 § 1 of the Convention? In particular, in the light of the IPG's decision of 7 July 2023, did the continued detention comply with the 'legal channels' and can it be regarded as 'lawful' within the meaning of that provision?

3. Did the applicant have, as required by Article 5 § 5 of the Convention, an effective right to obtain compensation for the detention which he considered to be contrary to Article 5 § 1 (see Sy, cited above, §§ 141-148)?

4. Was there a violation of Article 6 § 1 of the Convention in respect of the delay in enforcing the IPG's decision of 7 July 2023?

PANTALEONI v. ITALY (no. 50601/17)

Article 1 of Protocol No. 1, Articles 6 and 13 – alleged interference with the right to peaceful enjoyment of one's possessions, resulting from the excessive length of civil proceedings, and the effectiveness of the domestic remedies to complain about the related pecuniary damage

SUBJECT MATTER OF THE CASE

Civil proceedings were brought against the applicant for the annulment of a will in her favour and lasted for almost twelve years before finally acknowledging her inheritance rights. While the proceedings were pending, the applicant was unable to dispose of the inherited properties, which suffered significant depreciation, since her counterparts had obtained the judicial transcription of their writ of summons (trascrizione giudiziale dell'atto di citazione).

In order to seek compensation for the pecuniary damages deriving from the prolonged inability to dispose of the inherited properties the applicant lodged both a claim for damages under Article 96 of the Code of Civil Procedure and an application under Law no. 89 of 24 March 2001, known as the "Pinto Act". In both cases, her claims for pecuniary damages were dismissed by the domestic courts.

The applicant complains under Article 1 of Protocol No. 1 to the Convention and Article 13 of the Convention of her prolonged inability to dispose of the inherited properties and the lack of an effective remedy to complain about the resulting pecuniary damage. Under Article 6 § 1 she also complains of excessive length of the "Pinto" proceedings.

QUESTIONS TO THE PARTIES

1. In the light of the principles established by the Court in relation to the length of the "Pinto" proceedings (Gagliano Giorgi v. Italy, no. 23563/07, §§ 69-73, ECHR 2012), has there been a violation of Article 6 § 1 on account of the alleged length of those proceedings?

2. Given the applicant's inability to dispose of the inherited properties while the proceedings were pending, has there been an interference with her peaceful enjoyment of possessions, within the meaning of Article 1 of Protocol No. 1 to the Convention? If so, did that interference impose an excessive individual burden on the applicant (see Immobiliare Saffi v. Italy, [GC], no. 22774/93, § 59, ECHR 1999-V; Mascolo v. Italy, no. 68792/01, 16 December 2004; Machard c. France, no. 42928/02, 25 April 2006; and Kunić v. Croatia, no. 22344/02, 11 January 2007)?

In particular, can it be established that there was a causal link between the alleged pecuniary damage suffered by the applicant due to the interference and the length of the civil proceedings (see Mascolo v. Italy (dec.), no. 68792/01, 16 October 2003; Provvedi v. Italy (dec.), no. 66644/01, 2 December 2004; and Coggiola and Alba v. Italy (dec.), no. 28513/02, 24 February 2005)?

3. Did the applicant have an effective domestic remedy for her complaint under Article 1 of Protocol No. 1, as required by Article 13 of the Convention?

In answering this question, the parties are invited to take into account whether and under what conditions compensation for such pecuniary damage could be awarded:
(i) under the "Pinto" remedy; and
(ii) under Article 96 of the Code of Civil Procedure.

MEUCCI v. ITALY (no. 1838/21)

Articles 8 and 13 – opening and operation of a landfill site in the proximity of the applicant's home and her alleged exposure to the pollution generated by it

SUBJECT MATTER OF THE CASE

The application concerns the opening and operation of "Fosso del Cassero" landfill site in the proximity of the applicant's home and her alleged exposure to the pollution generated by it.

Relying on Article 8 of the Convention, the applicant complains that in failing to take the requisite protective measures to prevent, minimise or eliminate the effects of the pollution from the landfill, the State authorities have caused serious damage to the environment, endangering her health and well-being and preventing her from enjoying her home. In particular, she maintains that the legislative and administrative framework put in place to regulate the activity in question proved ineffective and that the public authorities failed to take the necessary measures to adequately supervise and ensure the safe operation of the activity. She further complains that the authorisations to open and operate the landfill have not been preceded by adequate studies and impact assessments, that the people concerned have not been informed of the risks of living in the area and have not been involved in the relevant decision-making processes.

Relying on Article 13 taken in conjunction with Article 8, the applicant complains that no effective remedy exists in the Italian domestic legal framework to obtain, amongst other things, the cessation of the polluting activities.

QUESTIONS TO THE PARTIES

1. Has there been a violation of the applicant's right to respect for her private life and her home, contrary to Article 8 of the Convention?

(a) In particular, did the authorities strike a fair balance between the competing interests of the individual applicant and the community as a whole and, also in view of the alleged risk to the health and well-being of the applicant, comply with their obligation to take all reasonable and adequate measures to protect her rights under Article 8 (see Cordella and Others v. Italy, nos. 54414/13 and 54264/15, § 158, 24 January 2019, and Locascia and Others v. Italy, no. 35648/10, § 123, 19 October 2023)?

(b) In relation to the decision-making processes leading to the opening and continuing operation of the landfill, were the relevant decisions preceded by appropriate investigations and studies (see Giacomelli v. Italy, no. 59909/00, § 83, ECHR 2006-XII, and Dubetska and Others v. Ukraine, no. 30499/03, § 143, 10 February 2011)?

(c) Have the people concerned, including the applicant, been provided with information enabling them to assess the risks to which they have been exposed by continuing to live in the proximity of the landfill site (see Locascia and Others, cited above, § 125)?

2. Did the applicant have at her disposal an effective remedy for her complaints under Article 8 of the Convention, as required by Article 13 of the Convention (see Di Sarno and Others v. Italy, no. 30765/08, §§ 114-18, 10 January 2012, and Cordella and Others, cited above, §§ 175-76)?

The parties are further invited to indicate:

- any developments that have occurred since the introduction of the present application in the two sets of criminal proceedings concerning the "Fosso del Cassero" landfill which were ongoing before the Pistoia District Court (RGNR no. 3284/2019, later joined to RGNR no. 6781/2014 and RGNR no. 419/2017) and whether there are any other criminal proceedings (either ongoing or concluded) which concern the same landfill site and the surrounding area;

- any developments concerning (a) the epidemiological investigation on the cluster of sarcomas in the Casalguidi-Cantagrillo area (Serravalle Pistoiese municipality) launched in 2019 by the Tuscan local health authority (Azienda USL Toscana centro) and (b) the investigation on the groundwater contamination in the Serravalle Pistoiese municipality launched in 2018 by the Regional Environmental Protection Agency of Tuscany.

The parties are invited to provide copies of all the relevant documents.

ADDONIZIO AND OTHERS v. ITALY and 1 other application (nos. 67766/11 and 482/13)

Articles 8 and 13 – opening and operation of a landfill site, in the proximity of the applicants' homes, in the context of the extraordinary measures to overcome the waste disposal emergency

SUBJECT MATTER OF THE CASE

The applications concern the opening and operation of a landfill site in the municipality of Sant'Arcangelo Trimonte, in the proximity of the applicants' homes, in the context of the extraordinary measures to overcome the waste disposal emergency in the Campania region (Law Decree no. 61/2007, converted into Law no. 87/2007).

Relying on Article 8 of the Convention, the applicants complain that in failing to take the requisite protective measures to prevent, minimise or eliminate the effects of the pollution from the landfill, the State authorities have caused serious damage to the environment, endangering their health and well-being and preventing them from enjoying their home. They further complain that the authorities have failed to inform them of the risks to their health that they were exposed to by living in the area surrounding the landfill.

The applicants also allege a breach of Article 13 of the Convention on account of the lack of effective domestic remedies, relying primarily on the alleged impossibility to prevent the landfill from being operational.

QUESTIONS TO THE PARTIES

1. Has there been a violation of the applicants' right to respect for their private life and their home, contrary to Article 8 of the Convention?

(a) In particular, did the authorities strike a fair balance between the competing interests of individual applicants and the community as a whole and, also in view of the alleged risk to the health and well-being of the applicants, comply with their obligation to take all reasonable and adequate measures to protect their rights under Article 8 (see Cordella and Others v. Italy, nos. 54414/13 and 54264/15, § 158, 24 January 2019, and Locascia and Others v. Italy, no. 35648/10, § 124, 19 October 2023)?

(b) In relation to the decision-making process leading to the opening of the landfill, was the relevant decision preceded by appropriate investigations and studies (see Giacomelli v. Italy, no. 59909/00, § 83, ECHR 2006-XII, and Dubetska and Others v. Ukraine, no. 30499/03, § 143, 10 February 2011)?

(c) Have the people concerned, including the applicants, been provided with information enabling them to assess the risks to which they have been exposed by continuing to live in the proximity of the landfill site (see Locascia and Others, cited above, § 125)?

2. Did the applicants have at their disposal an effective remedy for their complaints under Article 8 of the Convention, as required by Article 13 of the Convention (see Di Sarno and Others v. Italy, no. 30765/08, §§ 114-18, 10 January 2012, and Cordella and Others, cited above, §§ 175-76)?

The Government are invited to indicate:

- whether the Sant'Arcangelo Trimonte landfill site has been operational following its preventive seizure by the preliminary investigations judge (giudice per le indagini preliminari) of the Benevento District Court (criminal proceedings no. R.G. GIP 3152/10);

- whether any steps have been taken to decontaminate the site since the lodging of the present applications;

- which developments have occurred since the introduction of the present applications in the criminal proceedings before the Benevento District Court (R.G. GIP 3152/10) and whether there are any other criminal proceedings (either pending or concluded) which concern the Sant'Arcangelo Trimonte landfill site and the surrounding area.

BILMA S.R.L. v. ITALY and 3 others applications (no. 57439/18)*

Article 6 § 1 – a breach of the right to a court on account of the excessive formalism of the Court

SUBJECT MATTER OF THE CASE

The applications concerned the decisions of the Court of Cassation to declare inadmissible the applicants' appeals, pursuant to Article 369 § 2, paragraph 2, of the Code of Civil Procedure ('CPC'), on account of irregularities concerning the lodging with the registry of a certificate of conformity with the electronic original of the copy of the judgments challenged before the Court of Cassation and/or of the notice of service of those judgments transmitted by certified electronic mail ('posta elettronica certificata', "PEC").

Invoking Article 6 § 1 of the Convention, the applicants complained of a breach of their right to a court on account of the excessive formalism of the Court of Cassation's judgments.

In application no. 10241/19, the applicant company also complained that it had not been able to respond to the objection of inadmissibility of the appeal raised by the opposing party, which had infringed the principles of adversarial proceedings and equality of arms.

QUESTIONS TO THE PARTIES

1. Did the Court of Cassation's dismissal of the appeals as inadmissible under Article 369 § 2, paragraph 2, CPC impose a disproportionate restriction on the applicants' right to a court, guaranteed by Article 6 § 1 of the Convention? In particular, is the interpretation adopted by the Court of Cassation compatible with the principles identified by the Court in relation to 'excessive formalism' (Patricolo and Others v. Italy, nos. 37943/17 and 2 others, §§ 86-104, 23 May 2024)?

2. As regards application no. 10241/19, was the applicant company's civil rights and obligations challenged fairly, as required by Article 6 § 1 of the Convention? In particular, did the applicant's inability to respond to the opposing party's objection that the appeal was inadmissible result in a breach of the principles of adversarial proceedings and equality of arms?

CREȚU v. THE REPUBLIC OF MOLDOVA (no. 77583/17)

Article 6 – a parent charged for the actions of his 8-year-old son; alleged violation of the right to a fair trial and right to a reasoned court judgment

SUBJECT MATTER OF THE CASE

On 5 December 2016 the Botanica prosecutor's office initiated a criminal investigation against the applicant's son C.S. for alleged theft of a bicycle. Since C.S. was 8 years old and was not criminally liable, the prosecutor discontinued the criminal investigation and charged the applicant, under Article 63 (2) of the Code of Administrative Offences, of failing to duly fulfil his parental duties of educating and caring for his son. On 28 February 2017, the Chișinău District Court found the applicant guilty and fined him 300 Moldovan lei (14 euros). The court argued that the applicant's liability resulted from the legal presumption that parents are responsible for the illegal actions of their children.
The applicant appealed, arguing, inter alia, that the court had convicted him without any evidence that could prove he had failed to fulfil his duty to bring up his son and the fact that his son had committed an illegal act did not automatically make him administratively liable. On 25 April 2017 the Chișinău Court of Appeal dismissed the applicant's appeal on points of law as ill-founded, upholding the reasons adduced by the Chișinău District Court.

The applicant complains, under Article 6 §1 of the Convention, about the unfairness of the domestic proceedings because the domestic judgments were arbitrary and unreasoned and did not rely on any evidence. They automatically found that he had committed an offence once criminal proceedings against his son were discontinued.

QUESTION TO THE PARTIES

Did the applicant have a fair hearing within the meaning of Article 6 of the Convention (see Moreira Ferreira v. Portugal (no. 2) [GC], no. 19867/12, §§ 83-84, 11 July 2017)? In particular, did the domestic courts give sufficient reasons for their decisions, to convict the applicant, in accordance with the requirements of Article 6 of the Convention (see Rostomashvili v. Georgia, no. 13185/07, §§ 54-59, 8 November 2018; Fomin v. Moldova, no. 36755/06, §§ 24-34, 11 October 2011)?

IAŢCO and GHELICI v. REPUBLIC OF MOLDOVA (no. 53648/16)*

Article 10 – alleged infringement of the applicants' freedom of expression

SUBJECT MATTER OF THE CASE

The applicant is a former government adviser and the applicant is the president of an NGO. On 19 June 2013 they held a press conference at which they denounced the integrity of X, a high-ranking police officer. The press conference was broadcast live by eight television channels.

In particular, the applicants described X as a swindler, having falsified his university degree, fabricated criminal cases in the past, failed to pay his debts when the second applicant was one of his creditors, threatened a judge and even hired a hitman to murder some of his creditors. In support of these allegations, the applicants submitted several documents relating to disciplinary proceedings against X, as well as X's

expulsion from the university. They also submitted transcripts of conversations between X and the alleged hitman, as well as the minutes of the hearing of the hitman as a witness.

X brought a civil action for defamation against the applicants. The plaintiffs argued that the factual information reported was accurate, based on official documents issued on request by the competent public authorities.

The Court of First Instance partially upheld X's action. It considered that the plaintiffs' statements were defamatory and false, finding that they had been unable to provide any evidence to support their claims. He also considered that the accusations in question were value judgements without any factual basis, inciting discrimination and hatred, and that there was no public interest in their dissemination or that they did not concern X's professional activity.

The applicants were ordered to publish a retraction, including on the platforms of other media institutions that had picked up the information, and jointly to pay X moral compensation of approximately EUR 2,000. In a final decision of 20 April 2016, the Supreme Court of Justice upheld this judgment.

In the meantime, in a judgment of 22 March 2016, a court had acquitted the applicant of the charge of appropriating the property of others. It had found, inter alia, that X had fabricated the criminal case against the applicant and that he had organised an attempt on her life in order to avoid returning the money he owed her (more than EUR 30,000).

Before the Court, the applicants complained of a violation of their right to freedom of expression guaranteed by Article 10 of the Convention.

QUESTIONS TO THE PARTIES

Was the interference with the applicants' freedom of expression prescribed by law and necessary within the meaning of Article 10 § 2 of the Convention (see Bladet Tromsø and Stensaas v. Norway [GC], no. 21980/93, §§ 58-60 and 66, ECHR 1999-III; Savitchi v. Moldova, no. 11039/02, §§ 43-50 and 59, 11 October 2005, and Medžlis Islamske Zajednice Brčko and Others v. Bosnia and Herzegovina [GC], no. 17224/11, §§ 80-88 and 98, 27 June 2017)?

TALESKI v. NORTH MACEDONIA and 1 other application (nos. 34261/23 and 7877/24)

Article 6 § 1 – alleged unfairness of criminal proceedings; prosecution, trial and conviction despite pardon decisions; lack of impartiality; lack of adversariness in the criminal proceedings

SUBJECT MATTER OF THE CASE

The applications concern the alleged unfairness of criminal proceedings against the applicants (a former municipality mayor, Minister of Transport and chair of a local electoral committee, respectively). The background to the case was described in Taleski and Others v. North Macedonia ((dec.), nos. 77796/17 and 5 others, §§ 4-25, 24 January 2023).

At the pre-investigation stage of the proceedings, in April 2016 the President of the State adopted individual decisions on pardon (помилување) and rulings exempting each of the applicants from prosecution

(ослободува од гонење) regarding the offences they were charged with ("pardon decisions"). The President relied on section 11 of the 1993 Pardon Act, which had been repealed in 2009 by way of amendments; the latter amendments were struck down by the Constitutional Court in March 2016. On the basis of a statutory provision adopted in May 2016 ("the 2016 Pardon Act", section 11-a), the President annulled the pardon decisions ("the annulment decisions"). The Supreme Court's panels which included judge M.L.T. finally confirmed the applicants' convictions, holding that the pardon decisions had never created a legal effect, as they had been based on a provision which had not existed in the domestic legal order at the material time.

Following the pardon decisions and before the Supreme Court decided the applicants' cases, judge M.L.T. made public statements concerning the pardon decisions, including that they had been "unusual" and "a heavy blow to the anyhow fragile legal system" and that they had rather resembled a general amnesty.

In the criminal proceedings at issue in application no. 7877/24, the applicants were not served a copy of the Higher Public Prosecutor's submissions in reply to their appeals against the first-instance judgment.

All applicants complain under Article 6 § 1 of the Convention that they were prosecuted, tried and convicted despite the pardon decisions, contrary to the principles of rule of law and legal certainty. They further complain about the lack of impartiality of judge M.L.T., due to her alleged preconceived negative opinion concerning the pardon decisions. The applicants in application no. 7877/24 also complain about a lack of adversariness in the criminal proceedings against them.

QUESTIONS TO THE PARTIES

A. Questions concerning both applications

1. Were the applicants' prosecution, trial and conviction for the offences to which the pardon and annulment decisions by the President of the State relate permissible and compatible with the principles of rule of law and legal certainty? If not, has there been a violation of Article 6 § 1 of the Convention in the applicants' cases on this ground (see, mutatis mutandis, Radchikov v. Russia, no. 65582/01, § 42, 24 May 2007; Xheraj v. Albania, no. 37959/02, §§ 51 and 52, 29 July 2008)?

(a) In particular, in the light of the finding of the Supreme Court concerning the validity of the pardon decisions, were the 2016 Pardon Act and the subsequent annulment decisions by the President of the State relevant for the applicants' cases?

(b) If so, were the pardon decisions by the President of the State irrevocable? Were the annulment decisions by the President of the State based on section 11-a of the 2016 Pardon Act compatible with the principles of rule of law and legal certainty?

(c) Was the 2016 Pardon Act of an individualised nature that targeted specific persons? In addition and given the short-term nature of the President's entitlement to annul a pardon issued without regular proceedings, was the 2016 Pardon Act compatible with the principles of rule of law and legal certainty?

2. Were the Supreme Court's panels which dealt with the applicants' cases impartial as required by Article 6 § 1 of the Convention, in view of the statements of judge M.L.T. (for the relevant general principles see, for example, Ugulava v. Georgia (no. 2), no. 22431/20, §§ 50-56, 1 February 2024, with further references)?

B. Question concerning application no. 7877/24

Were the applicants denied the right to an adversarial trial guaranteed by Article 6 of the Convention, in the light of the failure to communicate to them the Higher Public Prosecutor's submissions in reply to their appeal against the first-instance judgment (see, mutatis mutandis, Bajić v. North Macedonia, no. 2833/13, §§ 54-60, 10 June 2021)?

NALBANTI-DIMOSKA v. NORTH MACEDONIA and 3 other applications (no. 54213/20)

Article 1 of Protocol No. 1 – civil proceedings in which the applicants were ordered to pay a standing charge to a private heating company for the apartments (that they own and/or live in), which were disconnected from (or have never been connected to) the district heating system

SUBJECT MATTER OF THE CASE

The applications concern the same issue addressed by the Court in the leading case Strezovski and Others v. North Macedonia (nos. 14460/16 and 7 others, 27 February 2020).

QUESTION TO THE PARTIES

Was the system in which the heating standing charge operated in the applicants' cases compatible with Article 1 of Protocol No. 1 to the Convention? Did the way in which the domestic courts interpreted and applied the applicable rules impose an excessive individual burden on the applicants (see Strezovski and Others v. North Macedonia, nos. 14460/16 and 7 others, §§ 61-89, 27 February 2020)?

THORENFELDT v. NORWAY (no. 35473/23)

Articles 8 and 13 – insufficient protection of the confidentiality of personal records and no effective domestic remedy

SUBJECT MATTER OF THE CASE

The applicant is employed by the Norwegian Labour and Welfare Administration (hereinafter "NAV"). After an accident in 2015, she was granted a work assessment allowance and consequently became a personal user of NAV.

In 2018 the applicant suspected that some of her colleagues had had unauthorised access to her file containing personal information and her health data. She thus sought information from the NAV on who had accessed her case file. She received an unspecified log of entries which showed dates of access to her file and the office involved but no specific information about who had accessed her case file or why. The applicant subsequently also contacted the Data Protection Authority which concluded that the NAV had not made sufficient evaluations to determine a suitable level of security for employees' personal data which resulted in the fact that routines and technical solutions to provide for such security had been unsatisfactory. The Data Protection Authority considered this a breach of the General Data Protection Regulation (GDPR) and the NAV was ordered to establish a suitable level of security to ensure employees' privacy. The NAV replied to the Data Protection Authority agreeing that technical solutions had been lacking

when it came to employees' personal data, and it presented a plan for such solutions with effect as of 1 January 2020.

In 2020 the applicant again requested information about who had accessed her file and obtained a log, in respect of which she sought clarifications and reasons why several persons had accessed her file.

In 2021 the applicant lodged an action against the NAV seeking to obtain a declaratory judgment and complaining about a violation of her rights under the data protection legislation, including the GDPR. She also claimed non-pecuniary damages, alleging that colleagues in the NAV had had unauthorised access to her case file, which contained personal health data, and that as a result she suffered emotional distress. The domestic courts found a breach of the GDPR on account of deficiencies established in the NAV's system for securing personal data, but did not award the applicant any damages finding that she had failed to prove that unauthorised access to her personal data had actually occurred.

The applicant complains, under Article 8 of the Convention, about a violation of her right to respect for her private life by the insufficient protection of the confidentiality of her records at the NAV. She also complains, under Article 13 of the Convention, that she had no effective domestic remedy at her disposal in respect of the breach of her right to privacy.

QUESTIONS TO THE PARTIES

1. Has there been a violation of the applicant's right to respect for her private life under Article 8 of the Convention? In particular, has the respondent State failed in its positive obligation to protect the confidentiality of the applicant's records within the data system of the Norwegian Labour and Welfare Administration (cf. I v. Finland, no. 20511/03, §§ 35-49, 17 July 2008)?

2. Did the applicant have at her disposal an effective domestic remedy for her complaint under Article 8, as required by Article 13 of the Convention?

SALAMON v. POLAND and 4 other applications (no. 40158/20)

Article 8 – strip searches while imprisoned

SUBJECT MATTER OF THE CASE

The applications concern strip searches the applicants had to undergo while imprisoned. None of the applicants were classified as "dangerous detainees" and they lodged complaints and appeals with various bodies of the prison system and the judiciary but all of them were dismissed (see the appended table for details).

The applicants complain, under Article 8 of the Convention, that the strip searches violated their right to respect for their private lives.

QUESTIONS TO THE PARTIES

Do the relevant facts of the applications give rise to a violation of the applicants' right to their private lives contrary to Article 8 of the Convention (see Milka v. Poland, no. 14322/12, §§ 41-50, 15 September 2015, and Dejnek v. Poland, no. 9635/13, §§ 70-77, 1 June 2017; compare also Bojar v. Poland [Committee], no. 11148/18, §§ 8-18, 11 May 2023)?

Reference is made to the applicants' allegations concerning the circumstances of the strip searches which were numerous, routine and carried out without any apparent justification.

GABRYSZEWSKI v. POLAND and 2 other applications (no. 6356/21)

Articles 3 and 8 – strip searches while imprisoned

SUBJECT MATTER OF THE CASE

The applications concern strip searches the applicants had to undergo while imprisoned. None of the applicants were classified as "dangerous detainees" and they lodged applications, complaints and appeals with various bodies of the prison system and the judiciary but all of them were dismissed (see the appended table for details).

The applicants complain, under Articles 3 and 8 of the Convention, that the unjustified strip searches constituted degrading treatment and violated their right to respect for their private lives.

QUESTIONS TO THE PARTIES

1. Have the applicants been subjected to inhuman or degrading treatment, in breach of Article 3 of the Convention (see, for example, Roth v. Germany, nos. 6780/18 and 30776/18, §§ 70-72, 22 October 2020)?
Reference is made to the applicants' allegations concerning the circumstances of the strip searches which were carried out without any apparent justification and in some cases were numerous and routine.

2. Do the relevant facts of the applications relating to the strip searches give rise to a violation of the applicants' right to their private life contrary to Article 8 of the Convention (see, Milka v. Poland, no. 14322/12, §§ 41-50, 15 September 2015; Dejnek v. Poland, no. 9635/13, §§ 70-77, 1 June 2017; and Bojar v. Poland [Committee], no. 11148/18, §§ 8-18, 11 May 2023)?

SKŁODOWSKA v. POLAND (no. 52776/22)

Articles 5, 10, 11 – deprivation of liberty by the police for about 30 minutes without any apparent reason; prevention from participating in a legal assembly which had been properly registered

SUBJECT MATTER OF THE CASE

The application concerns the applicant's apprehension by the police when she was heading to an assembly which she had organised and was supposed to preside, and which she had registered in accordance with the relevant law.

On 10 May 2022, in the morning, the applicant and several other participants were surrounded by the police and prevented from getting to the place of their assembly, planned in the vicinity of the so-called Smoleńsk commemoration which took place on the 10th day of every month in the centre of Warsaw. The whole incident lasted for about 30 minutes, and they were allowed to go only once the main celebration of the Smoleńsk commemoration was over.

The applicant complains under Article 5 of the Convention that she was deprived of her liberty for about 30 minutes without any apparent reason. She also complains under Articles 10 and 11 of the Convention that the action of the police amounted to an infringement of her right to freedom of expression and to freedom of assembly, because she was prevented from participating in a legal assembly, which she was supposed to preside, and which had been properly registered.

QUESTIONS TO THE PARTIES

1. Was the applicant "deprived of her liberty" within the meaning of Article 5 of the Convention on 10 May 2022 from the moment when the police surrounded her and some other participants and started to check their identity until they were allowed to go to the place of the planned assembly (Ladent v. Poland, no. 11036/03, 18 March 2008, and Friedrich and Others v. Poland, nos. 25344/20 and 17 others, 20 June 2024)?

2. If so, was that detention compatible with Article 5 §§ 1 and 2 of the Convention? In particular, was the applicant's detention "in accordance with a procedure prescribed by law" and was it properly recorded? Moreover, was the applicant informed of her rights?

3. Was there an interference with the applicant's freedom of expression, in particular her right to hold opinions and to impart information, within the meaning of Article 10 § 1 of the Convention? If so, was the interference complained of "prescribed by law" and was it necessary in terms of Article 10 § 2 of the Convention (Friedrich and Others v. Poland, nos. 25344/20 and 17 others, 20 June 2024)?

4. Was there an interference with the applicant's freedom of assembly, within the meaning of Article 11 of the Convention? If so, was the interference complained of "prescribed by law" and was it necessary in terms of Article 11 § 2 of the Convention (Friedrich and Others v. Poland, nos. 25344/20 and 17 others, 20 June 2024)?

GRUSZCZYŃSKI-RĘGOWSKI v. POLAND and 9 other applications (no. 5059/22)

Article 8 and 14 – lack of legal recognition of same-sex couples

SUBJECT MATTER OF THE CASE

The applicants form same-sex couples who were married abroad and applied to have their marriage certificates registered in Poland. On various dates the relevant Head of the Civil Status Office refused their requests finding that registering their marriages would be contrary to the Polish legal order in breach of, inter alia, Article 18 of the Constitution which provides that a marriage is only possible between two people of opposite sex. The applicants appealed but the decisions were upheld by the relevant Governors. Most of the applicants lodged further appeals to the relevant administrative court which dismissed their appeals. The courts relied on clear domestic law and practice which made it impossible to register a foreign marriage concluded between two persons of the same sex.

The applicants complain under Article 8 on its own and in conjunction with Article 14 of the Convention about the absence of any form of legal recognition and protection for same-sex couples in Poland and the impossibility to have their foreign marriage certificates registered there.

QUESTIONS TO THE PARTIES

1. Has there been a violation of the applicants' right to respect for their private and family life, contrary to Article 8 of the Convention? Reference is made to the allegation that the State failed in their positive obligation to ensure that the applicants had a specific legal framework providing for the recognition and protection of their same-sex unions and/or to register their marriages contracted abroad (see Przybyszewska and Others v. Poland, nos. 11454/17 and 9 others, 12 December 2023).

2. Have the applicants suffered discrimination in the enjoyment of their Convention rights on the ground of their sexual orientation, contrary to Article 14 of the Convention in conjunction with Article 8 of the Convention in respect of their inability to (i) register their marriages contracted abroad and (ii) enter into any other type of civil union recognising their respective relationships in Poland?

BUDYŚ v. POLAND (no. 48076/22)

Articles 6 and 8 – enforcement of the applicant's contact rights with his minor child who lives with the applicant's ex-wife

SUBJECT MATTER OF THE CASE

The contact arrangements between the applicant and his son (born in 2009) have been based on the Nowy Dwór Mazowiecki District Court's decisions of: 27 May 2013 (case no. III Nsm 52/13); 20 September 2016 (case no. III C 767/13); 29 September 2017 (case no. VI Aca 2060/16); 5 December 2018 (case no. Nsm 258/18; appeal dismissed on 7 August 2019); 18 March 2019 (case no. III Nsm 258/18; amended on 13 November 2019 and on 2 December 2021). Pursuant to the last decision, failure by the child's mother (M.B.) to comply with the contact schedule was under pain of paying the applicant 200 Polish zlotys (PLN, approximately 50 euros (EUR)) for each meeting that did not effectively take place.

As established by the domestic courts and as submitted by the applicant, since 2014, M.B. had been consistently hindering the applicant's contact with his son. It was also established, by the court-appointed experts, that the applicant's son had become estranged from him and was unwilling to meet with the applicant.

The applicant sought payment from M.B. for hindering his contact with his son (actions lodged on 4 February 2014, 22 April 2015 and 5 June 2019). The Nowy Dwór Mazowiecki District Court issued the following decisions in this context:

(i) On 18 September 2014 M.B. was warned that she would have to pay PLN 50 (approximately EUR 12) for each meeting that did not effectively take place (case no. III Nsm 52/13; interlocutory appeal dismissed on 21 January 2015);

(ii) On 27 October 2016 M.B. was ordered to pay the applicant PLN 6,500 (approximately EUR 1,625) for having hindered over 100 meetings between October 2014 and September 2016 (case no. Nsm 38/14; interlocutory appeal dismissed on 22 March 2017);

(iii) On 22 July 2021 M.B. was ordered to pay the applicant PLN 6,400 (approximately EUR 1,600) for hindering 32 such meetings in the period from March to December 2019 (case no. Nsm 224/19).

On several occasions, the applicant also sought, to no avail, to have his son's residence changed so that the child could live with him. The following documents were issued in the course of last such proceedings:

(i) a report dated 28 January 2020 in which expert psychologists recommended that the applicant and his son should regularly meet, so that they could rebuild the emotional bond between them;

(ii) the District Court's decision of 22 July 2021 dismissing the applicant's last action regarding the child's residence;

(iii) the Regional Court's decision of 2 June 2022 ordering M.B. to complete a parental skills training (case no. IV Ca 2300/21).

The applicant complains under Articles 6 and 8 of the Convention that the authorities failed to effectively ensure the enforcement of his contact rights. In particular, the applicant complains that all the instruments that he has used were ineffective, and that the domestic proceedings were unreasonably long and unfair.

QUESTION TO THE PARTIES

Has there been a violation of the applicant's right to respect for his family life, contrary to Article 8 of the Convention? In particular, have the measures taken by the domestic authorities to facilitate the applicant's contact rights with his child been adequate and implemented in a timely manner (see Boisteau v. Poland, no. 19561/22, 27 June 2024; Beluch v. Poland, no. 4065/21, 28 September 2023; and J.N. v. Poland, no. 10390/15, 10 November 2022)?

Gogoljev v. Slovenia (no. 5112/23)

Article 8 – national prohibition on the export of frozen embryos

SUBJECT MATTER OF THE CASE

The applicants are wife (first applicant) and husband (second applicant). They stored six frozen embryos in the Maribor Hospital in 2012. The embryos remain stored there to this day, although pursuant to domestic law they could only be stored for a maximum of ten years.

In 2018, following the first applicant's diagnosis of breast cancer and ensuing treatment, the applicants requested to have the embryos exported to Estonia, where they lived. The competent Slovenian authorities refused that request because the relevant law prohibited the export of embryos. The applicants also lodged a petition for review of the constitutionality of the relevant law, but that was rejected by the Constitutional Court on 22 September 2022.

The applicants complain under Article 8 of the Convention that the absolute time-limit on the storage of the embryos and the prohibition on their export amount to a disproportionate interference with their family life. They submit that the stored embryos are their only chance to have a biological child. They also allege that they were not informed of all the decisions issued by the domestic authorities with respect to their request and therefore were unable to fully participate in the proceedings.

QUESTIONS TO THE PARTIES

1. Have the applicants exhausted all effective domestic remedies, as required by Article 35 § 1 of the Convention?

2. Has there been an interference with the applicants' right to respect for their private and family life in view of the absolute time-limit on storage and the prohibition to export the embryos, within the meaning of Article 8 § 1 of the Convention?

If so, was that interference in accordance with the law and necessary in terms of Article 8 § 2, with respect to both the substantive and the procedural aspect of Article 8?

PÉREZ LÓPEZ v. SPAIN (no. 30633/23)

Article 6 – right to a fair trial, alleged failure to summon the applicant in the framework of civil proceedings

SUBJECT MATTER OF THE CASE

The application concerns the alleged failure to summon the applicant in the framework of civil proceedings. The judicial decision ordering the payment of the debt, the seizure of the defendants' assets and the summon of the defendants was notified to a relative of the applicant's former wife and subsequent decisions were served via public announcement. The applicant claims that he became aware of such proceedings only when his bank accounts were seized several years later. Relying on Article 6, the applicant alleges a violation of his right to a fair trial.

QUESTIONS TO THE PARTIES

Did the applicant have effective access to a court and to judicial remedies in accordance with Article 6 § 1 of the Convention having regard to the fact that the decisions rendered during the civil proceedings were allegedly not personally served on him (see Dilipak and Karakaya v. Turkey, nos. 7942/05 and 24838/05, 4 March 2014; Gankin and Others v. Russia, nos. 2430/06 and 3 others, 31 May 2016; Schmidt v. Latvia, no. 22493/05, 27 April 2017; Karesvaara and Njie v. Spain [Committee], no. 60750/15, 15 December 2020 and Klopstra v. Spain [Committee], no. 65610/16, 19 January 2021)?

The parties are requested to submit a copy of the decision of 4 January 1999, the judgment of 14 January 1999 and the seizure order of 27 March 2017 of the Almería First Instance Court no. 2.

KÜÇÜKÖZYIĞIT v. TÜRKİYE (no. 20325/21)

Articles 2, 3 and 5 – alleged abduction and disappearance

SUBJECT MATTER OF THE CASE

The application concerns the alleged abduction and disappearance of the applicant's father, Mr Hüseyin Galip Küçüközyiğit, on 29 December 2020 in Ankara. Mr Küçüközyiğit was convicted for membership of an armed terrorist organisation described by the Turkish authorities as the "Fetullahist Terror Organisation/Parallel State Structure" (Fetullahçı Terör Örgütü/Paralel Devlet Yapılanması, hereinafter referred to as "the FETÖ/PDY") and sentenced to imprisonment. He was released on 6 May 2019 pending trial and his appeal is still pending before the domestic courts.

Relying on Articles 2, 3 and 5 of the Convention, the applicant complains about the lack of an effective investigation into her father's disappearance.

QUESTIONS TO THE PARTIES

1. Has the applicant exhausted all domestic remedies, as required by Article 35 § 1 of the Convention? In particular, can the individual application to the Constitutional Court be considered as an effective remedy within the meaning of Article 35 § 1 of the Convention in respect of the applicant's complaints under Articles 2, 3 and 5 of the Convention?

2. Was the right to life of the applicant's father, ensured by Article 2 of the Convention, violated in the present case (see, for instance, Tanış and Others v. Turkey, no. 65899/01, §§ 199-205, ECHR 2005-VIII)? In particular, was he abducted, as alleged, by agents of the State on 29 December 2020?

3. In accordance with the procedural and positive obligations under Article 2 of the Convention, have the authorities carried out an effective investigation and taken the necessary measures to find the applicant's father in order to safeguard his life (see Salman v. Turkey [GC], no. 21986/93, § 104, ECHR 2000-VII and Osmanoğlu v. Turkey, no. 48804/99, §§ 70-84, 24 January 2008)?

In this connection,

3.1. What steps are being taken by the investigating authorities, in particular by the relevant prosecutors, in order to find the applicant's father who was allegedly abducted in Ankara?

3.2. Have the records of public and private surveillance cameras which could have captured the incident in the vicinity of the crime scene been collected and analysed? If the answer is in the affirmative, what actions are taken to follow those leads?

3.3. Furthermore, following the applicant's submission that an anonymous twitter account had claimed that certain people, who had been allegedly involved in the FETÖ/PDY terrorist organisation, had been abducted and tortured in a place known as the "Farm" in Ankara, what steps have been taken by the prosecution authorities to verify these claims?

4. Has there been a violation of Article 5 of the Convention on account of the disappearance of the applicant's father (Çiçek v. Turkey, no. 25704/94, § 164, 27 February 2001)?

The Government are requested to submit a copy of the investigation file and the relevant decisions at domestic level, including the decision of the Constitutional Court on the applicant's individual application.

M.N. AND OTHERS v. TÜRKİYE (no. 11741/20)

Articles 3, 5 §§ 1 and 4, 5 §§ 2 and 5, Article 13, Article 1 of Protocol No. 1 – administrative detention pending deportation of a family of five Russian nationals; material conditions and unlawfulness of detention; absence of any effective domestic remedies to raise complaints

SUBJECT MATTER OF THE CASE

The applicants are a family of five Russian nationals from the Republic of Dagestan, consisting of the parents (the first and second applicants) and three children (the third to fifth applicants) who were minors at the material time. They entered Türkiye on 3 November 2014 via regular means and were later apprehended on 5 February 2015 while attempting to cross the border into Syria illegally.

The applicants were placed in administrative detention pending deportation in the Kocaeli Foreigners' Removal Centre from 7 February to 11 June 2015 and from 12 October to 12 November 2015.
On 27 October 2015 the applicants lodged individual applications with the Constitutional Court to complain, inter alia, of the conditions and unlawfulness of their detention in the Kocaeli Foreigners' Removal Centre. The Constitutional Court decided on 17 April 2019 that the applicants' complaints were inadmissible for failure to exhaust the action for a full remedy (tam yargı davası) before the administrative courts, which could provide an effective remedy – in the form of compensation – following release from detention. This decision was duly served upon the applicants on 16 July 2019. Subsequently, the applicants brought actions for a full remedy before the Kocaeli 1st Administrative Court, which dismissed them as having been lodged outside the time-limits provided under domestic law. These rulings were later upheld by the Istanbul Regional Administrative Court.

Relying on Article 3, Article 5 §§ 1 and 4 and Article 13 of the Convention, the applicants complain about the material conditions and unlawfulness of their detention in the Kocaeli Removal Centre as well as the absence of any effective domestic remedies to raise those complaints. They also argue that their administrative detention had been in violation of Article 5 §§ 2 and 5 of the Convention. They finally complain that their rights under Article 1 of Protocol No. 1 were breached as a result of the manner in which the legal costs and expenses were awarded by the Constitutional Court in jointly examined applications.

QUESTIONS TO THE PARTIES

1. Did the applicants duly exhaust the remedies available in domestic law in respect of their complaints under Articles 3 and 5 of the Convention, as required by Article 35 § 1 of the Convention?

2. Were the conditions of the applicants' detention at the Kocaeli Foreigners' Removal Centre compatible with Article 3 of the Convention, in particular having regard to the fact that the third, fourth and fifth applicants were all minors at the material time (see, mutatis mutandis, G.B. and Others v. Turkey, no. 4633/15, §§ 99-101, 17 October 2019; M.D. and A.D. v. France, no. 57035/18, § 63, 22 July 2021; and M.H. and Others v. Croatia, nos. 15670/18 and 43115/18, §§ 183-86, 18 November 2021)?

3. Did the applicants have at their disposal an effective domestic remedy for their complaints under Article 3 of the Convention, as required by Article 13 of the Convention (see G.B. and Others, cited above, §§ 118-38)? In this connection, is the action for a full remedy (tam yargı davası) before the administrative courts capable of providing redress in respect of the applicants' complaints under Article 3 of the Convention?

4. Did the applicants' detention comply with the requirements of Article 5 § 1 of the Convention (see, mutatis mutandis, A. and Others v. the United Kingdom [GC], no. 3455/05, § 164, ECHR 2009, and M.H. and Others v. Croatia, cited above, §§ 229-39)? In particular, given that the third, fourth and fifth applicants were all minors at the material time, could the aim pursued by detention have been achieved by less coercive measures (see, inter alia, Rahimi v. Greece, no. 8687/08, §§ 108-110, 5 April 2011, and Nikoghosyan and Others v. Poland, no. 14743/17, § 86, 3 March 2022)?

5. Were the applicants informed promptly of the reasons for their detention, as required by Article 5 § 2 of the Convention (see, among other authorities, Khlaifia and Others v. Italy [GC], no. 16483/12, §§ 115-16, 15 December 2016?

6. Did the applicants have at their disposal a remedy by which they could challenge the lawfulness of their deprivation of liberty, as required by Article 5 § 4 of the Convention (see, for example, A.M. v. France, no. 56324/13, §§ 40-41, 12 July 2016, and G.B. and Others v. Turkey, cited above, §§ 163-69)? In this connection, is the action for a full remedy (tam yargı davası) before the administrative courts capable of providing redress within the meaning of Article 5 § 4 in respect of the applicants' complaint for the period following their release from detention?

7. Did the applicants have an effective and enforceable right to compensation for their detention in alleged contravention of Article 5 §§ 1, 2 and 4, as required by Article 5 § 5 of the Convention (see, for example, Vachev v. Bulgaria, no. 42987/98, § 78, ECHR 2004-VIII (extracts))?

8. (a) Did the applicants have a "legitimate expectation" within the meaning of the Court's case-law under Article 1 of Protocol No. 1, to obtain a full reimbursement for legal representation costs in applications jointly examined by the Constitutional Court (see Kopecký v. Slovakia [GC], no. 44912/98, § 35, ECHR 2004-IX)?

(b.) Has there been an interference with the applicants' peaceful enjoyment of possessions, within the meaning of Article 1 of Protocol No. 1 (see Anheuser-Busch Inc. v. Portugal [GC], no. 73049/01, §§ 62-65, ECHR 2007-I)? Reference is made to the Constitutional Court's decision of 17 April 2019, in which it awarded a single lump sum calculated on a pro rata basis for legal representation costs in jointly examined applications. This corresponded to the fixed amount based on the Tariff on Minimum Lawyers' Fees to be distributed evenly among individuals who were represented by the same lawyer during those proceedings (compare Antürk v. Türkiye (dec.) [Committee], no. 18476/22, §§ 6-13, 27 September 2022).

(c) If so, was that interference in the public interest and in accordance with the conditions provided for by law (see Béláné Nagy v. Hungary [GC], no. 53080/13, §§ 112-13, 13 December 2016)? In particular, was the calculation adopted by the Constitutional Court accessible and foreseeable, given in particular that the annex of the Constitutional Court's decision differed from the wording of the operative part of the same decision?

(d) Did the interference impose an excessive and individual burden on the applicants (see Broniowski v. Poland [GC], no. 31443/96, §§ 150-51, ECHR 2004-V, and the case-law cited therein)?

(e) Were the applicants provided with procedural guarantees affording them a reasonable opportunity of presenting their case to the domestic courts for the purpose of effectively challenging the measures interfering with their rights guaranteed by Article 1 of Protocol No. 1 (see Lekić v. Slovenia ([GC], no. 36480/07, § 95, 11 December 2018, and the cases cited therein)?

The Government are invited to submit information and supporting documents on the conditions at the Kocaeli Foreigners' Removal Centre, in particular (i) the opportunities for access to fresh air and daily exercise, (ii) the hygiene conditions, (iii) the sufficiency of food rations and (iv) the family arrangements in place as well as the suitability of the premises with regard to the specific needs of children at the material time.

The parties are requested to submit, within the same time-limit, reports or information documents regarding the conditions of detention at the Kocaeli Foreigners' Removal Centre from reliable sources.

The Government are also invited to submit sample decisions, delivered in respect of administrative detentions, where the administrative courts have examined – within the context of an action for a full remedy – the merits of complaints lodged by foreigners concerning (i) the material conditions of their detention, (ii) the unlawfulness of their administrative detention, (iii) the absence of any effective remedies to challenge the lawfulness of their detention, and (iv) the lack of prompt information on the reasons for deprivation of liberty. The Government are requested to include in their submissions decisions

in which the administrative courts have applied the time-limit rules for lodging an administrative action flexibly as suggested by the Constitutional Court.

HUSSEIN v. TÜRKİYE (no. 22171/22)

Article 6 § 1 – alleged lack of reasoning in domestic court decisions to find the applicant guilty of membership of an armed terrorist organisation

SUBJECT MATTER OF THE CASE

The applicant is a Syrian national. After having migrated to Denmark through Türkiye and Greece, by illegal means, he returned to Türkiye illegally and was apprehended by the security forces while attempting to cross the border towards Syria and, by order of the public prosecutor, he was taken into custody.

He was interviewed by the security forces in the presence of a lawyer and was questioned about photos found, by the security forces, on his phone depicting him holding machine guns and heavy rifles (namely a PK machine gun and an AK-47) along with other people in a PYD (Syrian branch of PKK) uniform. He denied being a member of PYD or any other terrorist organisation but did not challenge the content or authenticity of the photos. He explained that he intended to join the PYD to free his sister who was, allegedly, held captive by the PYD as a "soldier".

He was detained by order of a magistrate's court and tried by an assize court. The Kilis Assize Court, relying on his statements given in the presence of a lawyer and photos found on his phone, concluded that he was a member of the PYD and sentenced him to a term of imprisonment. The judgment was upheld by the Gaziantep Regional Court of Appeal. The Court of Cassation quashed the decision on the grounds that he had not had the benefit of a defence lawyer during the hearings and remitted the case. Upon the appointment of a lawyer, the Regional Court held a new hearing, during which the applicant's lawyer was present, and found him guilty of the charges brought against him. In its decision the Regional Court stated that he had been trained by the PYD, however it did not make clear how it reached such a conclusion. The judgment was upheld by the Court of Cassation. The Constitutional Court dismissed the applicant's individual application.

The applicant complains that the Gaziantep Regional Court of Appeal failed to address his arguments which were, allegedly, decisive for the outcome of his case. In this respect, the applicant alleges that that court did not render an individualised decision with answers to his defence submissions.

QUESTIONS TO THE PARTIES

Did the applicant have a fair hearing in the determination of the criminal charge against him in accordance with Article 6 § 1 of the Convention? In particular, did the Gaziantep Regional Court of Appeal provide relevant and sufficient reasoning in finding him guilty of membership of an armed terrorist organisation (see Moreira Ferreira v. Portugal (No. 2) [GC], no. 19867/12, §§ 83 and 84, 11 July 2017)?

The Government are invited to submit copies of all the relevant documents concerning the applicant's case.

BALAT RUM BALINO KILISESI VAKFI v. TÜRKİYE and 2 other applications (no. 3984/21)

Article 6 and Article 1 of Protocol No. 1 – right of access to court by a minority religious community

SUBJECT MATTER OF THE CASE

The applicants are minority religious community foundations established during the Ottoman era. After the proclamation of the Republic, the foundations' status was regulated by Law no. 2762 of 13 June 1935, by virtue of which they were given legal personality. In 1936, in accordance with section 44 of the said Law, the applicants filed declarations indicating their aims and their immovable property. The applications concern the applicants' claims for the return of certain property or the payment of compensation corresponding to its value, in accordance with provisional section 11 of Law no. 5737. They claimed that this property had been registered in their 1936 declarations.

The applicants' requests for the application of provisional section 11 of Law no. 5737 were rejected by the administrative courts on the grounds that section 11 was not applicable in their cases. The administrative courts stated that the applicants should lodge a case with the civil courts instead.
Following the decisions of the administrative courts, the applicants lodged an individual application with the Turkish Constitutional Court. In applications nos. 3986/21 and 5567/21, that court examined the applicants' complaints on the basis of the right to a fair trial and the right to respect for property. It declared the first complaint inadmissible on the ground that it was manifestly ill-founded. As for the complaint relating to the right to property, it declared it inadmissible for non-exhaustion of the domestic remedies, referring to its judgment in Boyacıköy Panayia Evangelistra Kilisesi ve Mektebi Vakfı (no. 2015/17576 of 1 February 2017). Application no. 3984/21 was examined by the Constitutional Court on the basis of the right to property and declared inadmissible on the ground of non-exhaustion of the domestic remedies. In this regard, the Constitutional Court referred to its judgment in Bayram Gök (no. 2012/946 of 26 February 2013), which concerned a de facto expropriation.

The applicants complained under Article 6 of the Convention that their right of access to court had been violated by the Turkish Constitutional Court's rejection of their cases for non-exhaustion of domestic remedies, even though they had applied to the administrative courts beforehand. The applicants further complained under Article 1 of Protocol No. 1 to the Convention that the administration's refusal to register the properties concerned in their names violated their right to property. They maintained that the properties concerned had been declared in their 1936 declarations.

QUESTIONS TO THE PARTIES

1. Have the applicants exhausted all effective domestic remedies as required by Article 35 § 1 of the Convention?

Can the judgments referred to by the Constitutional Court in dismissing the applicants' individual applications be considered applicable to the present cases?

The Government are requested to provide examples of judicial decisions capable of demonstrating that an appeal to the civil courts was capable of remedying the applicants' complaints under Article 1 of Protocol No. 1 to the Convention.

2. Has there been a breach of the applicants' right of access to court within the meaning of Article 6 § 1 of the Convention on account of the Constitutional Court's rejection of their applications for non-exhaustion of domestic remedies?

3. Has there been a breach of the applicants' right to respect for their property under Article 1 of Protocol No. 1 to the Convention by the administration's refusal to register the properties concerned in the applicants' names?

(a) Did the applicants have a possession within the meaning of Article 1 of Protocol No. 1? In the particular circumstances of the cases, for the purposes of provisional section 11 of Law no. 5737 and the applicants' cases before the administrative courts, did the applicants declare the properties concerned in their 1936 declarations (compare Midyat Mor Gabriel Monastery Foundation v. Türkiye, no. 13176/13, § 41, 3 October 2023)?

(bà Has there been an interference with the applicants' peaceful enjoyment of possessions, within the meaning of Article 1 of Protocol No. 1?

(c) If so, have the applicants been deprived of their possessions in the public interest and in accordance with the conditions provided for by law, within the meaning of Article 1 of Protocol No. 1? Did such a deprivation impose an excessive burden on the applicants?

(d) Were the applicants given the opportunity to enjoy the procedural safeguards required under Article 1 of Protocol No. 1, in particular given the administrative courts' treatment of their cases (Midyat Mor Gabriel Monastery Foundation, cited above, § 56)?

ÖZTÜRK v. TÜRKIYE (no. 53461/21)*

Articles 8, 10 and 13 – right of the applicant, who was detained at the time of the events, to confidential communication with his lawyers

SUBJECT MATTER OF THE CASE

Relying on Articles 8 and 10 of the Convention, the applicant alleges that his meetings and interviews with his lawyers were arbitrarily monitored by a guard who was present and listened to them and/or were subject to audio and video recordings.

Relying on Article 13 of the Convention, the applicant also complains of the lack of an effective domestic remedy in that respect, as he has not received any response from the domestic courts to his complaints since 23 December 2017, but the Turkish Constitutional Court nonetheless dismissed his individual application for non-exhaustion of domestic remedies.

QUESTIONS TO THE PARTIES

1. Has there been an interference with the applicant's right to respect for his private life and correspondence, within the meaning of Article 8 § 1 of the Convention, on account of the presence of an officer during the applicant's consultations with his lawyer and/or the recording of their conversations?

If so, was that interference in accordance with the law and necessary in terms of Article 8 § 2 (Canavcı and Others v. Türkiye, nos. 24074/19 and 2 others, §§ 91 and 93-96, 14 November 2023)?

2. Did the applicant have at his disposal an effective domestic remedy for his complaints under Article 8, as required by Article 13 of the Convention (compare, for example, Gorlov and Others v. Russia, nos. 27057/06 and 2 others, §§ 109-110, 2 July 2019, and Liu v. Russia (no. 2), no. 29157/09, § 99, 26 July 2011)?

SOLTANOV v. TÜRKİYE and 1 other application (nos. 56893/19 and 50127/20)

Article 8 – electronic recording and storage of the applicants' private correspondence in the National Judicial Network System (UYAP) and the measure of monitoring of the applicants' communication with their lawyers during their detention

SUBJECT MATTER OF THE CASE

Relying on Article 8 of the Convention, the applicants complain about the recording and storage of their private correspondence in the UYAP.

Under the same Article, they also complain about the monitoring of their communication with their lawyers.

QUESTIONS TO THE PARTIES

1. Has there been an interference with the applicants' right to respect for their private life and correspondence, within the meaning of Article 8 § 1 of the Convention, on account of the recording and storage of their private correspondence in the National Judicial Network System (UYAP) (Nuh Uzun and Others v. Turkey, no. 49341/18 and 13 others, § 82, 29 March 2022)?

If so, was that interference in accordance with the law and necessary in terms of Article 8 § 2?

In particular, was the litigious measure prescribed by a legislative provision accessible to the applicants and providing appropriate safeguards to prevent any arbitrary interferences by public authorities that might be inconsistent with the guarantees of Article 8 (Nuh Uzun and Others, cited above, §§ 91-98, see also the Turkish Constitutional Court judgment in the application of Ümit Karaduman, no. 2020/20874, §§ 64-71, 2/2/2022)?

2. Has there been an interference with the applicants' right to respect for their private life and correspondence, within the meaning of Article 8 § 1 of the Convention, on account of the presence of an officer during the applicants' consultations with their lawyers and/or the recording of their conversations?

If so, was that interference in accordance with the law and necessary in terms of Article 8 § 2 (compare Campbell v. the United Kingdom, 25 March 1992, §§ 33-53, Series A no. 233; Altay v. Turkey (no. 2), no. 11236/09, §§ 49-52, 9 April 2019; and Canavcı and Others v. Türkiye, nos. 24074/19 and 2 others, §§ 91 and 93-96, 14 November 2023)?

KAYA v. TÜRKİYE and 1 other application (nos. 16058/19 and 29949/20)

Article 8 – monitoring/recording of the applicants' conversations with their lawyers, electronic recording and storage of the applicants' private correspondence with their family

SUBJECT MATTER OF THE CASE

The applications concern the following measures adopted by the authorities during the applicants' detention: monitoring/recording of the applicants' conversations with their lawyers pursuant to section 6 of Emergency Legislative Degree no. 667 and electronic recording and storage of the applicants' private correspondence with their family in the National Judicial Network System (UYAP).

Relying on Article 8 of the Convention, the applicants complain about the above-mentioned measures.

QUESTIONS TO THE PARTIES

1. Has there been an interference with the applicants' right to respect for their private life and correspondence, within the meaning of Article 8 § 1 of the Convention, on account of the presence of an officer during the applicants' consultations with their lawyers and/or the recording of their conversations?

If so, was that interference in accordance with the law and necessary in terms of Article 8 § 2 (compare Campbell v. the United Kingdom, 25 March 1992, §§ 33-53, Series A no. 233; Altay v. Turkey (no. 2), no. 11236/09, §§ 49-52, 9 April 2019; and Canavcı and Others v. Türkiye, nos. 24074/19 and 2 others, §§ 91 and 93-96, 14 November 2023)?

2. Has there been an interference with the applicants' right to respect for their private life and correspondence, within the meaning of Article 8 § 1 of the Convention, on account of the electronic recording and storage of their private correspondence with their family in the UYAP?

If so, was that interference in accordance with the law and necessary in terms of Article 8 § 2 of the Convention? (see Nuh Uzun and Others v. Turkey, no. 49341/18 and 13 others, §§ 82-98, 29 March 2022)?

KARAHASANOĞLU v. TÜRKİYE (no. 39094/22)

Article 8 – confidential communication with one's lawyer when detained

SUBJECT MATTER OF THE CASE

The application concerns the right of the applicant, who was detained at the time of the events, to confidential communication with his lawyer. A measure of monitoring/recording of the applicant's conversations with his lawyer was adopted by the penitentiary authorities pursuant to Article 59 of Law no. 5275.

Relying on Article 8 of the Convention, the applicant complains about the monitoring by an officer of his lawyer's visits and the recording of those meetings by means of technical devices.

QUESTION TO THE PARTIES

Has there been an interference with the applicant's right to respect for his private life and correspondence, within the meaning of Article 8 § 1 of the Convention, on account of the presence of an officer during the applicant's consultations with his lawyer and/or the recording of their conversations?

If so, was that interference in accordance with the law and necessary in terms of Article 8 § 2 (compare Campbell v. the United Kingdom, 25 March 1992, §§ 33-53, Series A no. 233; Altay v. Turkey (no. 2), no. 11236/09, §§ 49-52, 9 April 2019; and Canavcı and Others v. Türkiye, nos. 24074/19 and 2 others, §§ 91 and 93-96, 14 November 2023)?

PRYSTYNSKA v. UKRAINE (no. 34333/19)

Article 2 – investigation into the death of the applicant's husband

SUBJECT MATTER OF THE CASE

The application concerns investigation into the death of the applicant's husband, P.

On 23 July 2015 P. was punched several times by a private person, K., fell to the ground and hit his head. He was taken to a hospital where he died on 27 July 2015 from the injuries sustained. On the same day criminal proceedings into the P.'s death were instituted. Following the investigation, K. was charged with intentional infliction of severe bodily injuries that caused P.'s death.

On 12 January 2018 the first-instance court found K. guilty and sentenced him to eight years' imprisonment. The court allowed the applicant's civil claim in part and awarded non-pecuniary damages in the amount of 150,000 Ukrainian hryvnas (approximately 4,390 euros at the material time). On 3 May 2018 the court of appeal, relying on the findings of the medical examinations, amended the above judgment and requalified K.'s actions as involuntary manslaughter, a less severe crime under the domestic law, and sentenced K. to four years' imprisonment. The court of appeal also applied the Law on Amnesty and released K. from serving the sentence. On 22 January 2019 the Supreme Court upheld the above decision.

The applicant complains of the ineffective investigation into her husband's death since the perpetrator avoided punishment, which she considers contrary to the requirements of Article 2 of the Convention.

QUESTIONS TO THE PARTIES

1. Having regard to the procedural protection of the right to life (see paragraph 104 of Salman v. Turkey [GC], no. 21986/93, ECHR 2000-VII), was the investigation in the present case by the domestic authorities in breach of Article 2 of the Convention?

2. In particular, was the sentence imposed on the perpetrator, K., consistent with the respondent State's obligations under Article 2 of the Convention considering that he was released from serving that sentence as amnestied (see, mutatis mutandis, E.G. v. the Republic of Moldova, no. 37882/13, § 43, 13 April 2021)?