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ÇELA v. ALBANIA (application no. 55672/22)

Exhaustion domestic remedies, Article 8 § 1, home search and seizures, Article 13, effective remedy

SUBJECT MATTER OF THE CASE

The applicant is a lawyer in Albania. His home and office were searched on 8 February 2022 by the judicial police and an investigator of the National Investigation Office pursuant to a decision of the First Instance Court against Corruption and Organised Crime issued on 21 November 2021, on the basis of a request by Belgian authorities since criminal proceedings had been instituted in Belgium against several persons, including the applicant, on charges of conspiracy to commit criminal offences, money laundering and forgery of documents. The applicant was also representative of some other suspects in different proceedings in Albania. In the applicant's law office, his computer and mobile telephone were also searched, and the computer was seized and some documents concerning the applicant's clients were copied. No objects were seized in the applicant's home, and no documents copied or downloaded. The applicant's constitutional complaint of 7 June 2022 was declared inadmissible on 14 July 2022 for non-exhaustion of remedies under the Code of Criminal Procedure.

The applicant, relying on Articles 6, 8 and 13 of the Convention complains that the search was carried out contrary to domestic law and the Convention standards, and that he had no remedy in that respect.

QUESTIONS TO THE PARTIES

1. Did the applicant properly exhaust domestic remedies for purposes of his claims under Article 8 of the Convention, given that his constitutional complaint was declared inadmissible for non-exhaustion of remedies under the Code of Criminal Procedure? In particular:

(a) What remedies under the Code of Criminal Procedure were available to the applicant in respect of the searches of his law office and his home, respectively?

(b) What remedies would be capable of finding, as appropriate, a violation of the applicant's right to respect for his home (and office) and of awarding him compensation in that respect?
(c) Could the applicant have lodged a claim for compensation of damages against the State under Law no. 8510 (1999) on the non-contractual liability of the bodies of State Administration? If so, the Government are invited to submit case-law of domestic courts confirming the effectiveness of that remedy in a situation comparable to the applicant's.
2. Has there been an interference with the applicant's right to respect for his home (including his office), 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? In particular, did it conform with the requirements of Article 52 of the Code of Criminal Procedure? Was the scope of the search and seizures in accordance with the requirements of Article 8 § 2 of the Convention?
3. Did the applicant have at his disposal an effective domestic remedy for his complaints under Article 8 of the Convention, as required by Article 13 of the Convention?
The Government are invited to submit a copy of the entire case-file concerning the proceedings before the domestic authorities.

KUQO v. ALBANIA (application no. 18166/23)

Article 8, dismissal judges, foreseeability test, necessity test

SUBJECT MATTER OF THE CASE

The application concerns the dismissal of the applicant, a district court judge, on the grounds that he had approved a request for release on parole in flagrant disregard of the circumstances of the case and the applicable law.
On 14 February 2019, the applicant, seating as a single judge of the District Court of Korça, approved the request for conditional release of a prisoner serving a life term ("the 2019 decision"). That decision was later overruled by the higher courts.
On 10 December 2020 the High Judicial Council (HJC) dismissed him from office. On 7 December 2022 the Special Appeal Chamber of the Constitutional Court ("SAC") dismissed the applicant's appeal, in application of Article 140 (2)(a) of the Constitution, which provides for dismissal of judges for "serious professional or ethical misconduct that discredits the position or image of a judge".
The HJC and the SAC held the following elements against the applicant.
Firstly, the released prisoner was a repeat offender who was therefore not eligible under domestic law to be released on parole.
Secondly, under domestic law as in force at the time of the adjudication of the release request, persons such as the prisoner in question who had been sentenced to life imprisonment, became eligible to be released on parole only after serving thirty-five years of a life sentence. Instead of this requirement, the applicant had applied the law as in force at the time of the prisoner's conviction when the minimum time for parole for life prisoners had been twenty-five years.
Thirdly, release on parole of life prisoners required "exceptional circumstances" justifying the release, not mere good behaviour as it had been held by the applicant. In addition, the HJC/SCA found that there was no sufficient evidence of the prisoner's good behaviour.
The HJC and SAC found that the applicant, a judge with decades of experience, had thus violated a number of legal requirements and established case law that had been easy to discern and apply.

Accordingly, he had "willingly" (*me dashje direkte*) misapplied the law and released a dangerous criminal.
Two judges of the SAC dissented arguing that the applicant's decision, while ungrounded, did not disclose a grave misconduct justifying his dismissal. They concluded that a less severe sanction should have been imposed on him.

QUESTIONS TO THE PARTIES

Has there been a violation of Article 8 of the Convention on account of the applicant's dismissal from office? Specifically:
(a) Was the applicant's dismissal in accordance with the law? In particular, was it sufficiently foreseeable that his actions could lead to dismissal from office under Article 140 (2)(a) of the Constitution?
(b) Was the applicant's dismissal necessary in a democratic society and proportionate to the breaches he was found to have committed? Did the 2019 decision disclose only a disputable application of the criminal law by the applicant or did it, conversely, disclose serious professional or ethical breach capable of justifying the dismissal of a tenured judge (see *Ovcharenko and Kolos v. Ukraine*, nos. 27276/15 and 33692/15, § 104, 12 January 2023; see also *Juszczyszyn v. Poland*, no. 35599/20, § 276, 6 October 2022)?

K.A. v. AUSTRIA (application no. 22881/24)

Article 5 § 1, compulsory confinement, Article 5 § 4, deprivation of liberty, Article 6 § 1, applicability criminal head fair procedure, interpreter

SUBJECT MATTER OF THE CASE

The case concerns the rejection of the application for release of the applicant, a national of Kosovo[1] living in Austria since 2001, from confinement in a forensic-therapeutic centre (*Anhaltung in einem forensisch-therapeutischen Zentrum*) (for the applicant's complaints concerning his criminal trial in 2021 and the ensuing confinement in an institution for mentally ill offenders (*Einweisung in eine Anstalt für geistig abnorme Rechtsbrecher*) since December 2021, see application no. 44001/22, *K.A. v. Austria*).
On 1 March 2023 the law on the 2022 reform of preventive measures (*Maßnahmenvollzugsanpassungsgesetz 2022*) entered into force. The reform introduced, *inter alia*, the above-mentioned new terminology for confinement as a preventive measure. According to a transitory provision, persons who should not be confined under the new legal provisions were to be released.
On 11 March 2023 the applicant submitted an application for release from the forensic-therapeutic centre. He argued that under the new legal provisions, a confinement no longer required the existence of a serious mental or emotional abnormality (*schwere geistige oder seelische Abartigkeit*) but a serious and persistent mental disorder (*schwere und nachhaltige psychische Störung*). This meant that the legislature's focus was now on the concept of illness (*Krankheitsbegriff*), which was not fulfilled in his case. The applicant also submitted a private expert opinion of 8 January 2023 which, in his view, confirmed that he did not suffer from a mental disorder. The Regional Court (*Landesgericht*) ordered a new expert opinion from the same expert as the one who had been commissioned during the applicant's criminal trial in 2021. Following a new face-to-face examination of the applicant held without

an interpreter, the court-appointed expert concluded in her new expert report of 24 September 2023 that, from a psychiatric perspective, there had been no changes with regard to the applicant's serious and persistent disorder since 2021. A release on probation could therefore not be recommended.
On 13 February 2024 the Regional Court rejected the applicant's application for release, thereby confirming his continued confinement also under the new legal provisions. On 3 April 2024 the Court of Appeal (*Oberlandesgericht*) upheld this decision.
Under Article 5 §§ 1 and 4 of the Convention, the applicant complains of the rejection of his application for release from the forensic-therapeutic centre, claiming that it had not been established that he suffered from a mental disorder, not even from a personality disorder. He considers that only a true mental disorder, as recognised by the current state of medical science, could qualify him as being of "unsound mind" within the meaning of Article 5 § 1 (e) of the Convention. Under Article 6 §§ 1 and 3 (e) of the Convention, he further complains that his application for release was rejected on the sole basis of the expert opinion of the court-appointed expert who had examined him without an interpreter. He claimed that in view of his poor knowledge of German, a normal conversation with him, let alone a psychiatric examination of him, was not possible in German.

QUESTIONS TO THE PARTIES

1. Was the applicant deprived of his liberty in breach of Article 5 § 1 of the Convention? In particular, did the deprivation of liberty after 1 March 2023 fall within paragraph (e) of this provision and was it extended "in accordance with a procedure prescribed by law"? Has the applicant been reliably shown, by objective medical expertise, to continue to be of unsound mind within the meaning of the Convention and, if so, is his disorder of a kind to continue to warrant compulsory confinement, that is, has this confinement been shown to continue to have been necessary in the circumstances (see, for example, *Petschulies v. Germany*, no. 6281/13, §§ 59-65 and 77, 2 June 2016; *Kronfeldner v. Germany*, no. 21906/09, §§ 78-80, 19 January 2012; *B v. Germany*, no. 61272/09, §§ 78-80, 19 April 2012; and *Glien v. Germany*, no. 7345/12, §§ 88-91, 28 November 2013)?
2. Was the procedure by which the applicant sought to challenge the lawfulness of his deprivation of liberty after 1 March 2023 in conformity with Article 5 § 4 of the Convention (see, for example, *Khlaifia and Others v. Italy* [GC], no. 16483/12, §§ 128-31, 15 December 2016, and *M.H. v. the United Kingdom*, no. 11577/06, §§ 74-77, 22 October 2013)?
3. Was Article 6 § 1 of the Convention under its criminal head applicable to the proceedings in the present case? If so, did the applicant have a fair hearing in these proceedings, in accordance with Article 6 § 1 of the Convention? Did the applicant require and was he afforded the free assistance of an interpreter, within the meaning of Article 6 § 3 (e) of the Convention?

RZAYEV AND OTHERS v. AZERBAIJAN (application no. 31633/18)

Article 6 § 1, Article 6 § 3 (b), Article 6 § 3 (c), Article 11 § 1, Article 4 of Protocol No. 7, Article 18, fair hearing, free choice legal assistance, confidential communication lawyer, ne bis in idem, ulterior purpose

SUBJECT MATTER OF THE CASE

The applicants were members of an unregistered religious movement, "Müsəlman Birliyi" ("the MB"). The MB was established in the beginning of 2015 by Taleh Bagirov (who is one of the applicants in application no. 47347/18 pending before the Court).

On 5 November 2015 the applicants were arrested during a dispersal of an unauthorised demonstration protesting against the arrest of the deputy chairman of the MB. By judgments of the Sabunchu District Court adopted on 6 November 2015, the applicants were convicted of non-compliance with a lawful order of the police, an offence under Article 310 of the Code of Administrative Offences ("the CAO"). They were sentenced to imprisonment sentences ("administrative detention") for periods varying from ten to thirty days.

On 26 November 2015 the so-called "Nardaran events" occurred. On that day armed police officers carried out an operation during which members and supporters of the MB, including Taleh Bagirov, were arrested. Later they were convicted of a number of grave criminal offences (the mentioned operation, arrests and convictions are the subject of application no. 47347/18 pending before the Court). The applicants in the present application were not among those who were arrested during the Nardaran events.

On the next day, 27 November 2015, the Sabunchu district prosecutor lodged an appeal (protest) against the Sabunchu District Court's above-mentioned judgments of 6 November 2015 and asked the appellate court to quash them because the actions of the applicants were to be qualified as criminal offences under Articles 221.3 (hooliganism with the use of objects as weapons) and 315.2 (resistance to or violence against public officials) of the Criminal Code.

By final decisions adopted on 28 and 30 November 2015 the appellate court allowed the appeals and quashed the first-instance court's judgments of 6 November 2015 in respect of the applicants.

On an unspecified date the applicants were charged under the above-mentioned Articles of the Criminal Code. Later the charges against them were requalified and they were convicted under Articles 233 (organising or actively participating in actions causing a breach of public order) and 315.2 (resistance to or violence against public officials) of the Criminal Code. Applicant Elvin Bunyadov was additionally charged and convicted under Article 228.4 (unlawfully obtaining and carrying gas, cold or throwing weapons) of the Criminal Code. The applicants were sentenced to several years of imprisonment each. When determining the definitive sentence in respect of each applicant, the trial court deducted the length of the imprisonment sentences ("administrative detention") imposed by the Sabunchu District Court's judgments of 6 November 2015 from the imprisonment sentences the trial court had applied under the Criminal Code. A final decision in the case was delivered by the Supreme Court on 28 November 2017 (served on the applicants on 23 December 2017).

The applicants complain under Article 6 of the Convention that the criminal proceedings against them were in breach of such fair-trial guarantees as the right to be afforded adequate time and facilities to prepare their defence and the right to adequate legal assistance.

They also complain under Article 11 of the Convention that the dispersal of the demonstration and their arrests and convictions were in breach of their right to freedom of assembly.

The applicants further complain under Article 4 of Protocol No. 7 to the Convention that they were tried and punished twice for the same offence – first in the administrative-offence proceedings and then in the criminal proceedings. They allege in particular that by the time the prosecutor lodged his appeals seeking the quashing of the applicants' convictions under the CAO, the Sabunchu District Court's judgments had become final and that, moreover, some of the applicants had fully served their sentences of "administrative detention".

The applicants also raised a complaint under Article 18 of the Convention taken in conjunction with Articles 6 and 11 of the Convention and Article 4 of Protocol No. 7 to the Convention, alleging that the criminal proceedings against them were brought immediately after the Nardaran events in order to subject them to harsher sentences.

QUESTIONS TO THE PARTIES

1. Did the applicants have a fair hearing in the determination of the criminal charges against them, in accordance with Article 6 § 1 of the Convention?
2. Were the applicants afforded adequate time and facilities to prepare their defence, as required by Article 6 § 3 (b) of the Convention?
3. Were the applicants able to defend themselves through legal assistance of their own choosing, as required by Article 6 § 3 (c) of the Convention?
4. Were the applicants afforded an adequate opportunity to communicate confidentially with their lawyers during the trial and to effectively participate in the court hearings?
5. Has there been an interference with the applicants' freedom of assembly, within the meaning of Article 11 § 1 of the Convention? If so, was that interference prescribed by law and necessary in terms of Article 11 § 2?
6. Have the applicants been tried, convicted or punished twice for the same offence in the territory of the respondent State, as prohibited by Article 4 of Protocol No. 7?
7. Were the prosecutor's appeals against the Sabunchu District Court's judgments of 6 November 2015 in the administrative-offence proceedings lodged within the time-limits set out by the domestic law?
8. Were the restrictions imposed by the State on the applicants, purportedly permitted under Articles 6 and/or 11 of the Convention, applied for a purpose other than those envisaged by those provisions, contrary to Article 18 of the Convention?
9. In the circumstances of the present case, does Article 18 apply in conjunction with Article 4 of Protocol No. 7? If so, has there been a violation of Article 18 taken in conjunction with Article 4 of Protocol No. 7?

BAGIROV v. AZERBAIJAN (application no. 50416/19)

Article 6 § 1, fair hearing, equality of arms, well-reasoned decision, Article 7

SUBJECT MATTER OF THE CASE

The present application concerns alleged unfairness of criminal proceedings against the applicant and his conviction on account of an act which allegedly did not constitute a criminal offence under national law.

On 31 July 2017 the applicant was transferred from a pre-trial detention facility to a prison to serve his twenty years' imprisonment sentence imposed on him in an earlier, unrelated set of proceedings (the criminal proceedings resulting in that sentence are the subject of application no. 47347/18 pending before the Court).

In the prison, on the same day, 31 July 2017, the applicant was subjected to an X-ray examination. As a result, two packages containing seven MicroSD cards (a type of removable storage device used to store and transfer digital data) were detected inside the applicant's abdomen. It appears from the case

material that the applicant had swallowed those packages at some time during his transfer from the pre-trial detention facility to the prison.
Two expert reports obtained by the authorities stated that the cards were electronic devices used as "elements in mobile telephones, devices to make secret audio and video recordings and other devices, including radio electronic devices", and that they contained video and audio recordings with no prohibited content (such as, for example, incitement to violence).
The applicant was charged with a criminal offence under Article 317-2.1 of the Criminal Code for possession of prohibited items in the prison.
On 13 February 2018 the applicant was convicted as charged and sentenced to five months' imprisonment. That sentence was partially cumulated with the unserved part of the initial sentence, resulting in a final sentence of eighteen years' imprisonment. By its final decision of 19 February 2019, the Supreme Court upheld the conviction.
Relying on Article 6 of the Convention, the applicant complains that the criminal proceedings against him were in breach of a number of fair-trial guarantees, including the right to contest evidence against him.
Relying on Article 7 of the Convention, the applicant complains that the domestic law was not foreseeable as to whether the MicroSD cards, for possession of which he was convicted, fell under the category of items prohibited by Article 317-2.1 of the Criminal Code.

QUESTIONS TO THE PARTIES

1. 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:
(i) was the applicant's right to a reasoned decision respected?
(ii) were the principles of equality of arms and adversarial proceedings respected?
(iii) 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. Did the act of which the applicant was convicted constitute a criminal offence under national law at the time when it was committed, as required by Article 7 of the Convention?

AHMED v. BULGARIA (application no. 15363/22)

Article 3, Article 13, forced removal, non-refoulement

SUBJECT MATTER OF THE CASE

The applicant was born in 1982 in Syria where he lived until March 2014. He submits that he fled Syria due to the civil war and arrived in Bulgaria in October 2014. The State Agency for Refugees granted the applicant with a refugee status in a decision of 3 February 2015.
It appears from the case file that, later, in final judgments delivered on unspecified dates in 2017 in two sets of criminal proceedings, the domestic courts found the applicant guilty of the commission of three criminal offences (using a forged document before a national authority, assisting a foreign national to illegally cross the border or to reside in the country, as well as driving a motor vehicle without a license). The courts sentenced the applicant to a term of imprisonment. Consequently, by a decision of 21 February 2019, the State Agency for Refugees revoked the applicant's refugee status on the grounds

that he had been convicted for a serious criminal offence within the meaning of Article 93(7) of the Criminal Code.
In an order of 10 June 2020, the Migration Department within the Ministry of Interior imposed on the applicant a coercive administrative measure "return to a country of origin, transit or a third country" due to the revocation of his international protection. By a final decision of 23 April 2021, the Supreme Administrative Court dismissed the applicant's appeal against that order.
In a communication of 17 June 2024, the applicant's representative indicated that the applicant was serving an imprisonment sentence at the Sofia Prison at that time, and that no actions in relation to his expulsion have been undertaken by the Bulgarian authorities so far.
The applicant complains that the expulsion order of 10 June 2020 is enforceable and that a return to Syria, his country of origin, would expose him to the risk of being subjected to treatment contrary to Article 3 of the Convention. He adds that he did not benefit from a remedy as required by Article 13 to protect his rights under Article 3.

QUESTIONS TO THE PARTIES

1. Would the return of the applicant to Syria, his country of origin, if carried out based on the order of 10 June 2020 by the Migration Department within the Ministry of Interior be contrary to Article 3 of the Convention (see *L.M. and others v. Russia*, nos. 40081/14 and 2 others, 15 October 2015, and *O.D. v. Bulgaria*, no. 34016/18, 10 October 2019)? Does the current situation in Syria, *per se*, make any return to that country incompatible with Article 3 of the Convention? Have the competent authorities examined the applicant's allegations that he would be exposed to the risk of death and/or inhuman and degrading treatment if he was returned to Syria?
2. Did the applicant have at his disposal, as required by Article 13 of the Convention, an effective domestic remedy which he could have used to protect himself against a return in breach of Article 3 of the Convention?

DIMITROV v. BULGARIA (application no. 679/21)*

Article 6 § 1, overall fair criminal trial, witness testimony

SUBJECT OF THE CASE

The application concerns, under Article 6 § 1 of the Convention, the use of the testimony of a collaborator of justice (a " repentant ") as evidence in chief in a criminal trial. The applicant was criminally prosecuted for two murders. By a final judgment of the Supreme Court of Cassation of 28 May 2020, he was found guilty and sentenced on the basis of the testimony of witness DD, who had been his co-accused in another criminal trial. The applicant alleges in substance that the use of this witness's testimony undermined the fairness of his criminal trial.

QUESTIONS TO THE PARTIES

Did the applicant receive a fair criminal trial, in accordance with Article 6 § 1 of the Convention, having regard to the fact that the courts used the testimony of witness DD to justify their decisions to convict the applicant ? In particular, were there sufficient adequate procedural safeguards in the present case to ensure the overall fairness of the criminal proceedings (see *Habran and Dalem v. Belgium* , nos. 43000/11 and 49380/11 , §§ 94-118, 17 January 2017; *Adamčo v. Slovakia* , no . 45084/14 , §§ 56-

71, 12 November 2019; and *Xenofontos v. Cyprus* , nos. 68725/16 and 2 others , §§ 76-89, 25 October 2022) ?

FONDS ANTICORRUPTION v. BULGARIA (application no. 32824/23)*

Article 10, right to receive and impart information, refusal of access to information of public interest, Article 13, effective remedy, Article 18, ulterior motive

SUBJECT OF THE CASE

The application concerns, under Articles 10, 13 and 18 of the Convention, the refusal of access to information of public interest held by the Commission for the Fight against Corruption and Confiscation of Illegally Acquired Assets (the Commission).

On 29 April 2022, the applicant organisation, the Anti-Corruption Fund, requested the Commission to provide it with information that it considered to be of public interest, including copies of the Commission's decisions taken, during a given period, for the purpose of bringing civil actions for the confiscation of illegally acquired assets. By a decision of 12 May 2022, the Commission refused access to this information. Upon appeal by the applicant organisation, on 14 November 2022, the Sofia Administrative Court annulled the Commission's decision, considering that the information in question fell within the public interest referred to by law and that there were no obstacles to providing it to the applicant. The Administrative Court returned the case to the Commission for further consideration, instructing it to interpret the applicable law accordingly and to submit the requested information within fourteen days.

On 28 November 2022, the Commission filed an action with the Administrative Court in Sofia requesting that the latter declare the decision of 14 November 2022 null and void on the grounds that the decision was unclear and impossible to implement. On the same day, the Commission ordered the suspension of the administrative proceedings initiated with a view to the enforcement of the decision of 14 November 2022. By a decision of 22 March 2023, the Administrative Court dismissed the Commission's action, considering that the grounds invoked did not justify declaring the decision null and void. The Commission appealed against this decision. As of the date of the latest material filed, the proceedings were still pending.

QUESTIONS TO THE PARTIES

1. Has there been, in the light of the factual circumstances of the present case, in particular the failure to implement the decision of the Sofia Administrative Court of 14 November 2022, an interference with the applicant organisation's right to receive and impart information within the meaning of Article 10 § 1 of the Convention (*Magyar Helsinki Bizottság v. Hungary* [GC] no. 18030/11 , §§ 131, 149-180, 8 November 2016; *Társaság a Szabadságjogokért v. Hungary* , no. 37374/05 , §§ 26-29, 14 April 2009; *Guseva v. Bulgaria* , no. 6987/07 , §§ 36-41 and 53-56, 17 February 2015, *Studio Monitori and Others v. Georgia* , nos. 44920/09 and 8942/10 , §§ 40-43, 30 January 2020, *Centre for Democracy and the Rule of Law v. Ukraine* (dec.), no . 75865/11 , §§ 50-63, 3 March 2020, 26 March 2020, *Georgian Young Lawyers' Association v. Georgia* (dec.), no . 2703/12 , §§ 26-34, 19 January 2021, and *Mikiashvili and Others v. Georgia* (dec.), nos. 18865/11 and 51865/11 , §§ 47-56, 19 January 2021) ?

If so, was the interference prescribed by law, did it pursue one of the legitimate aims referred to in Article 10 § 2 and was it necessary in a democratic society ?

2. Did the applicant organisation have at its disposal, as required by Article 13 of the Convention, an effective domestic remedy through which it could have raised its complaint of breach of Article 10 ?
3. Did the failure to execute the decision of the Sofia Administrative Court of 14 November 2022 in this case take place, in breach of Article 18 of the Convention, for a purpose other than that envisaged by Article 10 of the Convention ?

RATH v. THE CZECH REPUBLIC (application no. 34695/22)

Article 6 § 1, Article 6 § 2, judicial independence and impartiality, presumption of innocence

SUBJECT MATTER OF THE CASE

The application concerns criminal proceedings on serious corruption-related charges brought in May 2012 against the applicant, a well-known politician, and other co-accused, which were widely covered in the media.
Following a first round of the proceedings, which gave rise to an extraordinary complaint by the Minister of Justice and an interpretative decision of the Supreme Court concerning the lawfulness of interception and surveillance warrants issued in the applicant's case and the admissibility of the evidence obtained thereby, the first-instance court convicted the applicant of bribe-taking, committed in his capacity as a public official, and sentenced him to eight and a half years' imprisonment and confiscation of money. On 26 June 2019[1], the appellate court substituted that conviction for a lesser offence, finding the applicant guilty, in his capacity as a public official, of an attempt to secure an advantage in a public tender in exchange of an undue financial benefit and harming the financial interests of the European Union, and sentencing him to seven years' imprisonment, financial penalty, confiscation of money and seven years' prohibition of public-function activities. Later, the Supreme Court dismissed appeals on points of law filed by the applicant, his co-accused and the Supreme Prosecutor. A constitutional appeal by the applicant was also dismissed as manifestly ill-founded (decision no. I. ÚS 1775/21 of 14 December 2021, served on the applicant on 21 December 2021).
The applicant complains under Article 6 §§ 1 and 2 of the Convention that the criminal proceedings against him displayed elements of a show trial. He contends that the adverse public statements and interventions made by various State officials, namely the Minister of Justice and the President (repeatedly referring to him as a thief and a convict who should sit in jail), encouraging the public to believe that there was solid evidence proving that he was guilty and pressurising the courts to convict him, compromised the principles of impartiality and independence and were incompatible with the presumption of innocence. In respect of the impartiality of the judges involved in the proceedings, the applicant also points out that the first-instance court had been fined by the Office for protection of personal data on account of having made his criminal file accessible to the media, and that he had lodged a an action for protection of his personality rights against the president of the chamber of that court. He further objects that the lay assessors sitting in the first-instance court had been elected by the council of the Central Bohemian Region which was itself a civil party in the proceedings.
The applicant further complains under Article 6 § 1 that the interception and surveillance warrants issued in his case were not sufficiently reasoned, that the principle of equality of arms was breached due to the filing by the Minister of Justice of an extraordinary complaint, that the trial was conducted in an incomplete and one-sided manner, without proper inquiry into all relevant circumstances, and that it suffered from delays.

QUESTIONS TO THE PARTIES

1. Having regard, *inter alia*, to the fact that the first-instance court had been fined for having breached the protection of the applicant's personal data and that the applicant had lodged an action for protection of his personality rights against the president of that court's chamber in charge of his case, as well as to the alleged connection between the lay assessors sitting in the first-instance court's chamber and the regional entity acting as a civil party in the proceedings, were the lower courts which dealt with the applicant's case independent and impartial, as required by Article 6 § 1 of the Convention (see, for example, *Daktaras v. Lithuania*, no. 42095/98, ECHR 2000-X; and *Bavčar v. Slovenia*, no. 17053/20, 7 September 2023)?

The Government are invited to comment on the leak of the applicant's personal data from the first-instance court, on the procedure of election and appointment of the lay assessors sitting in the applicant's case and on their connection to the regional entity alleged to act as a civil party in the impugned proceedings.

2. Did the statements of the then President and other public officials encourage the public to believe that the applicant was guilty and prejudge the assessment of the facts by the competent courts, in breach of the presumption of innocence, guaranteed by Article 6 § 2 of the Convention (see, for example, *Butkevičius v. Lithuania*, no. 48297/99, § 50, ECHR 2002-II (extracts); *Peša v. Croatia*, no. 40523/08, 8 April 2010; and *Bavčar*, cited above)?

MUTSO v. ESTONIA (application no. 37626/23)

Article 6 § 1, fair criminal trial, right to remain silent, self-incrimination

SUBJECT MATTER OF THE CASE

The applicant's complaint concerns the question whether she was properly informed of her right to remain silent and not to self-incriminate before revealing the usernames and passwords of her electronic devices during a criminal investigation against her.

The applicant was suspected of activities against the Republic of Estonia and of a drug offence. In the course of the investigation, she was arrested as a suspect and her home was searched. During the search she revealed her usernames and passwords of her electronic devices and email and social media accounts to the investigators. She was subsequently convicted. The court relied, inter alia, on information, obtained form the applicant's cell phone, from her e-mail and social media accounts and from messaging applications used by her.

In her appeal on points of law the applicant complained that she had not been properly informed of her right to remain silent before she had handed over her usernames and passwords, and asked the evidence thereby obtained to be set aside.

The Supreme Court found that the applicant had been given a print-out of her procedural rights (õiguste deklaratsioon) prior to the search, and her rights and obligations had been introduced to her. She had thereafter revealed her usernames and passwords to the investigators. The Supreme Court explained that the rights that the applicant had been informed of included the "right to refuse to give statements" (õigus keelduda ütluste andmisest). She had also been informed that her defence lawyer could advise her in making the decision on whether to remain silent or not. Therefore, she ought to have understood

that she had not been obliged to reveal her usernames and passwords. The access to evidence had thus been lawful.
The applicant complains under Article 6 § 1 of the Convention that she had not been properly informed of her right to remain silent and not to self-incriminate, stating that she did not and could not have understood that "right to refuse to give statements" (in such wording) had also included the right to refuse to reveal usernames and passwords.

QUESTIONS TO THE PARTIES

1. Did the applicant have a fair hearing in the determination of the criminal charge(s) against her, in accordance with Article 6 § 1 of the Convention?
In particular, does the right to remain silent and not to self-incriminate extend to cover the obtaining from the applicant the usernames and passwords of her electronic devices, which allow further access to those devices? Was the applicant in the present case subjected to some form of coercion or compulsion or were there any other elements which impinged on the "voluntariness" of the disclosure of those usernames and passwords? In this connection, what is the relevance of the applicant's argument that she could not have understood from the manner of introduction of her procedural rights that the right "not to give statements" covered the right not to disclose the usernames and passwords of her electronic devices?
If the right to remain silent and not to self-incriminate extends to cover the circumstances of the present case, was Article 6 § 1 of the Convention violated in the case at hand?
2. The parties are invited to submit the copies of the report of the applicant's arrest as a suspect (kahtlustatavana kinnipidamise protokoll) and of the report of the search in the applicant's home (läbiotsimisprotokoll).
3. The applicant is invited to specify which exact electronic devices (or accounts) and which usernames and passwords her complaint concerns.

O.J. v. FRANCE and 5 other applications (application nos. 4527/24 4535/24 4636/24 5360/24 5821/24 6657/24)*

Article 3, Article 13, forced removal, non-refoulement

SUBJECT MATTER OF THE CASE

The applications concern the forced removal of the applicants, Haitian nationals residing in Guadeloupe, to their country of origin. The applications are based on Articles 3 and 13 of the Convention.

Relying on Article 3 of the Convention, the applicants, with the exception of applicant no . 3, maintain that, given the situation of generalised violence currently prevailing in Haiti, the implementation of the removal measures taken against them is likely to violate their right not to be subjected to torture or to inhuman and degrading treatment.
Recalling the non-suspensive nature of the removal, on the one hand, of the asylum applications made in detention and, on the other hand, of the annulment actions brought in Guadeloupe against the orders requiring them to leave French territory and determining the country of destination, the applicants maintain that their return to Haiti, without any real examination of the merits of their fears and their asylum applications, would violate Article 13 of the Convention, taken in conjunction with Article 3.

QUESTIONS TO THE PARTIES

1. Having regard to the applicants' complaints and the documents submitted, would the applicants be at risk of being subjected to treatment contrary to Article 3 of the Convention if the measures of removal to Haiti were implemented ?

2. Did the French authorities carry out a careful and rigorous review of their complaints under Article 3 of the Convention (*FG v. Sweden* [GC], no . 43611/11 , § 119, 23 March 2016) ? In particular, were there factors specific to the applicants' personal situation which characterised the existence or absence of a risk, particularly in the light of the security situation prevailing in Haiti? If so , what were the various factors on which the Government relied in concluding that there was no risk ?

3. Did the applicants have at their disposal, as required by Article 13 of the Convention, an effective domestic remedy through which they could have raised their fears that, if they returned to Haiti, they would be exposed to acts contrary to Article 3 of the Convention ? Are the applications for annulment brought in Guadeloupe against the orders establishing the OQTF and determining the country of destination effective within the meaning of the Court's case-law ?

The parties are also invited to produce any new decisions concerning the applicants rendered, where applicable, by the domestic courts, in particular the judgments of the administrative court of Guadeloupe ruling on the appeals for annulment brought by the applicants against the orders requiring them to leave the territory and determining the country of destination, as well as the decisions of the French Office for the Protection of Refugees and Stateless Persons or, where applicable, those of the National Court of Asylum Law.

IOANNIDIS AND OTHERS v. GREECE (application no. 13139/20)

Article 6 § 1, Access to court, peaceful enjoyment of their possessions, Article 1 of Protocol No.1

SUBJECT MATTER OF THE CASE

The application concerns the applicants' alleged lack of access to a court because certain grounds for their appeal on points of law before the Court of Cassation about the ownership of certain property were declared inadmissible.

In 2009 the applicants lodged a civil action against the State asking that they should be declared owners of a plot of land of 832 sq. m. in the municipality of Kalamaria. By judgment no. 30510/2011 of the Thessaloniki Civil Court of First Instance their action was granted. Following an appeal lodged by the State, the Thessaloniki Court of Appeal by its judgment no. 2435/2017 quashed the first-instance judgment and rejected the action. The applicants appealed on points of law. By their second and fourth grounds for appeal they relied on a breach of law and argued that the appellate court had incorrectly interpreted and applied certain legal provisions. By their fifth ground for appeal, they relied on a lack of legal basis of the impugned judgment owing to absence of reasoning. The Court of Cassation by its judgment no. 910/2019 dismissed these grounds as inadmissible for being vague. Regarding the second and fourth grounds, it held that the appellants had not entirely cited, but only in a fragmentary manner, what had been accepted by the appellate court and was crucial for the establishment of a breach of a substantive legal rule. Regarding the fifth ground, it held that the applicants' failed to refer to the substantive provision which had been allegedly breached.

The applicants complain under Article 6 § 1 of the Convention that the Court of Cassation, in dismissing the above grounds for appeal on points of law acted with excessive formalism in violation of their right of access to court, as not only they had attached the appellate court's judgment but also the Court of Cassation had cited it in its entirety and it could also have examined the breach of law of its own motion. They further complain under Article 1 of Protocol No. 1 to the Convention that they were deprived of the possibility to claim ownership of the property despite their action having been granted at first instance.

QUESTIONS TO THE PARTIES

1. Has there been a violation of the applicants' right of access to court within the meaning of Article 6 § 1 of the Convention on account of the dismissal by the Court of Cassation of the second, fourth and fifth grounds for their appeal on points of law? In particular, given the applicants' complaint set out above, was the Court of Cassation's approach arbitrary or excessively formalistic?
2. Has there been a violation of the applicants' right to peaceful enjoyment of their possessions within the meaning of Article 1 of Protocol No. 1 to the Convention?

SZABÓ v. HUNGARY (application no. 15543/22)

Article 10, elected member of parliament, disproportionate fine, legality test, necessity test

SUBJECT MATTER OF THE CASE

The application concerns the decision of the Speaker of Parliament to fine the applicant, an opposition member of Parliament, for her conduct during a pre-agenda speech delivered by another member of Parliament.

The applicant put up a banner on the pulpit and interrupted several times the response by the State Secretary to the applicant's previous speech. On 30 June 2021 the Speaker decided to reduce her remuneration by 9,686,400 Hungarian forints (approximately 27,000 euros), four times her monthly salary. The Speaker determined the amount of the fine in the light of the seriousness of the infringement of the Rules of Parliament (*Házszabály*) and the fact that the applicant had been previously sanctioned for similar disorderly conduct. The applicant unsuccessfully contested the decision before the Immunity Committee and the plenary Parliament.

Complaining under Article 10 of the Convention, the applicant submits that the fine imposed by the Speaker was unnecessary and blatantly disproportionate, and that the procedural safeguards available to her to challenge it could not be considered appropriate or sufficient.

QUESTIONS TO THE PARTIES

1. Has there been an interference with the applicant's freedom of expression, within the meaning of Article 10 § 1 of the Convention, in particular having regard to her role as elected member of Parliament participating in debates of public interest and scrutinising decisions of the Government?
2. If so, was that interference prescribed by law and necessary in terms of Article 10 § 2 (see *Karácsony and Others v. Hungary* [GC], nos. 42461/13 and 44357/13, §§ 137-47, 17 May 2016)? Were the reasons adduced by the national authorities to justify the amount of the fine relevant and sufficient (ibid. § 148)?

CELATO v. ITALY (application no. 11238/24)

Article 5 § 1, Article 6 § 1, detention, procedure prescribed by law

SUBJECT MATTER OF THE CASE

The application concerns the prolonged stay of the applicant, suffering from paranoid schizophrenia, in the specialised structure (Residence for Execution of Security Measures – "REMS") of Palombara Sabina (Rome), notwithstanding judicial orders requesting his transfer to another specialised medical structure (care home – "*Casa di Cura*").

The placement in a REMS was ordered on 11 August 2021 by the Rome District Court as a precautionary measure. Subsequently, on 9 May 2022, the measure was substituted by probation in a care home by the Rome preliminary investigations judge. The applicant was transferred to the REMS on 12 May 2022. Since then, multiple attempts have been made to transfer him to a care home. However, no available place has been found due to the lack of such places, the nature of his mental disorder and the required treatment.

The applicant complains under Article 5 § 1 and Article 6 § 1 of the Convention about the detention regime he is subjected to, which is different from the probatory measure that has been ordered by the authorities, and about the non-enforcement of the decision that he should be placed in a care home issued by the preliminary investigations judge.

QUESTIONS TO THE PARTIES

1. Has there been a breach of the applicant's rights under Article 5 § 1 of the Convention? In particular, was the applicant's continued detention in the REMS, after the decision ordering his probation with placement in a care facility, "in accordance with a procedure prescribed by law" within the meaning of Article 5 § 1 of the Convention (see, *Rooman v. Belgium* [GC], no. 18052/11, § 190, 31 January 2019 and see, *mutatis mutandis*, *Sy v. Italy,* no. 11791/20, § 119, 24 January 2022)?

SZOŁAJSKI v. POLAND (application no. 51541/19)

Article 6 § 1, Article 10 § 1 and 2, freedom of expression, access to information, definition journalist, right to impart information and ideas, Article 13, effective domestic remedy

SUBJECT MATTER OF THE CASE

The case concerns the applicant's access to information and his access to a court.

The applicant was collecting material for a film documentary that he was directing.

On 7 May 2018 the Director of the Sejm Information Centre rejected the applicant's request for a periodic press pass to the Sejm building (the lower house of the Parliament) on the grounds that the applicant was a not a journalist within the meaning of the 1984 Press Act (*Prawo prasowe*), as he was not a person engaged in editing, creating, or preparing press materials, who was employed by an editorial office or engaged in such activities on behalf of and with the authorisation of the editorial office.

The applicant filed an application for reconsideration (*wniosek o ponowne rozpatrzenie sprawy*) with the Sejm's Speaker. On 12 June 2018 the Director of the Sejm's Chancellery (*Szef Kancelarii Sejmu*), acting on behalf of the Sejm's Speaker, refused this application, finding that the applicant was not a

journalist under the applicable Polish law given that his documentary was produced by a commercial company.
The applicant appealed to the Warsaw Regional Administrative Court, which on 24 October 2018 rejected the appeal as inadmissible in law. The court held that the letter of the Director of the Sejm's Chancellery sent on behalf of the Sejm's Speaker did not constitute an administrative decision that could be subject of appeal.
The applicant lodged a cassation appeal against this decision. In particular, he complained, relying on the Constitution and the Convention, that he had not had access to a court in order to challenge the decision refusing him access to the Sejm.
On 14 March 2019 the Supreme Administrative Court dismissed the cassation appeal. The court adhered to the reasoning of the Regional Administrative Court. The decision was served on the applicant's representative on 20 March 2019.
The applicant complains that the restrictions imposed on his access to the Sejm building constitute a breach of his rights guaranteed by Article 10 of the Convention.
He further complains, relying on Articles 6, 10 and 13 of the Convention, that he did not have an effective remedy in respect of the refusal of access to the Sejm building.

QUESTIONS TO THE PARTIES

1. Is Article 6 § 1 of the Convention under its civil head applicable to the applicant's situation? If so, did the applicant have access to a court for the determination of his civil rights and obligations, in accordance with Article 6 § 1 of the Convention?
2. Is Article 10 § 1 of the Convention applicable to the applicant's situation (see, *mutatis mutandis*, *Mándli and Others v. Hungary*, no. 63164/16, 26 May 2020)?
If so, has there been an interference with the applicant's freedom of expression, in particular his right to impart information and ideas, within the meaning of Article 10 § 1 of the Convention on account of his exclusion from the Sejm?
If so, was that interference justified in terms of Article 10 § 2 (see *Pentikäinen v. Finland* [GC], no. 11882/10, §§ 87-91, ECHR 2015, and *Karácsony and Others v. Hungary* [GC], nos. 42461/13 and 44357/13, § 133, 17 May 2016, with further references)?
3. Did the applicant have at his disposal an effective domestic remedy or a combination of remedies for his complaint under 10 of the Convention, as required by Article 13?

STOMAKHIN v. RUSSIA and 5 other applications (applications nos. 5804/15 4099/20 11619/20 13442/20 41853/23 17835/24)

Article 10 § 1, freedom of expression, WECL

PROCEDURAL INFORMATION

Following a preliminary examination of the admissibility of the applications on 17 October 2024, the Court decided, under Rule 54 § 2 (b) of the Rules of Court, that notice of the applications should be given to the Government of Russia.
In the applications marked by an asterisk, other complaints were raised. This part of the applications has been struck out of the Court's list of cases or declared inadmissible by the Court, sitting in a single-judge formation, assisted by a rapporteur as provided for in Article 24 § 2 of the Convention.

In the enclosed table, whenever an applicant is referred to using initials, this indicates that the Court has authorised anonymity for that person, whose identity will not be disclosed to the public (Rule 47 § 4).
For further information on the procedure following communication of an application brought against Russia, subject of well-established case law of the Court, please refer to the Court's website.

SUBJECT MATTER
The applications concern complaints raised under Article 10 §1 of the Convention relating to various restrictions on the right to freedom of expression which are the subject of well-established case law of the Court (see *Stomakhin v. Russia*, no. 52273/07, 9 May 2018; *Dmitriyevskiy v. Russia*, no. 42168/06, 3 October 2017; *Karuyev v. Russia*, no. 4161/13, 18 January 2022; and *OOO Flavus and Others v. Russia*, nos. 12468/15 and 2 others, 23 June 2020).

APPENDIX – STATEMENT OF FACTS
Applications raising complaints under Article 10 §1 of the Convention (various restrictions on the right to freedom of expression)

LOBACHEVA v. RUSSIA and 6 other applications (applications nos. 16041/19 17254/19 24655/20 22621/21 1833/22 14349/22 37597/22)

Article 10 §1, freedom of expression, WECL

PROCEDURAL INFORMATION
Following a preliminary examination of the admissibility of the applications on 17 October 2024, the Court decided, under Rule 54 § 2 (b) of the Rules of Court, that notice of the applications should be given to the Government of Russia.
In the applications marked by an asterisk, other complaints were raised. This part of the applications has been struck out of the Court's list of cases or declared inadmissible by the Court, sitting in a single-judge formation, assisted by a rapporteur as provided for in Article 24 § 2 of the Convention.
In the enclosed table, whenever an applicant is referred to using initials, this indicates that the Court has authorised anonymity for that person, whose identity will not be disclosed to the public (Rule 47 § 4).
For further information on the procedure following communication of an application brought against Russia, subject of well-established case law of the Court, please refer to the Court's website.
SUBJECT MATTER
The applications concern complaints raised under Article 10 §1 of the Convention relating to various restrictions on the right to freedom of expression which are the subject of well-established case law of the Court (see *Taganrog LRO and Others v. Russia*, nos. 32401/10 and 19 others, 7 June 2022, and *Olga Kudrina v. Russia*, no. 34313/06, 6 April 2021).
APPENDIX – STATEMENT OF FACTS
Applicationы raising complaints under Article 10 §1 of the Convention

LEONOV v. RUSSIA and 1 other application (applications nos. 34456/15 and 14929/20)

Article 3 , metal cages and/or other security arrangements in courtrooms, WECL

PROCEDURAL INFORMATION

Following a preliminary examination of the admissibility of the applications on 17 October 2024, the Court decided, under Rule 54 § 2 (b) of the Rules of Court, that notice of the applications should be given to the Government of Russia.

In the applications marked by an asterisk, other complaints were raised. This part of the applications has been struck out of the Court's list of cases or declared inadmissible by the Court, sitting in a single-judge formation, assisted by a rapporteur as provided for in Article 24 § 2 of the Convention.

In the enclosed table, whenever an applicant is referred to using initials, this indicates that the Court has authorised anonymity for that person, whose identity will not be disclosed to the public (Rule 47 § 4).

For further information on the procedure following communication of an application brought against Russia, subject of well-established case law of the Court, please refer to the Court's website.

SUBJECT MATTER

The applications concern complaints raised under Article 3 of the Convention relating to use of metal cages and/or other security arrangements in courtrooms which are the subject of well-established case law of the Court (see *Svinarenko and Slyadnev v. Russia* [GC], nos. 32541/08 and 43441/08, ECHR 2014 (extracts), and *Vorontsov and Others v. Russia,* nos. 59655/14 and 2 others, 31 January 2017).

APPENDIX – STATEMENT OF FACTS

Applications raising complaints under Article 3 of the Convention (use of metal cages and/or other security arrangements in courtrooms)

KOÇUM v. TÜRKİYE (application no. 36961/20)

Article 6 § 1, fair hearing, in-person hearing, freedom of expression, Article 10

SUBJECT MATTER OF THE CASE

The applicant is a convict who was serving his prison sentence at the time of lodging the present application. On 12 March 2018 the prison administration imposed a disciplinary sanction, in the form of a withdrawal of communication rights for three months (except for visits), on the grounds that the applicant and thirteen other inmates had shouted the slogan "stop arbitrary practices" while banging on the doors for a duration of six minutes. The applicant challenged the disciplinary sanction before the Enforcement Court, arguing mainly that he was exercising his right to protest against the prison's arbitrary practices. On 30 March 2018 the applicant was informed that the Enforcement Court would hold the hearing via the video-conference system known as "SEGBİS" and that it would examine the case without taking the applicant's statement in the event of his failure to appear. The applicant wrote a petition to the Enforcement Court explaining that he wanted to participate in the proceedings in person and not by video-conference. On the same day, the Enforcement Court held the hearing via SEGBİS in the absence of the applicant and dismissed his objection to the impugned sanction, noting

that the acts of the applicant and the other inmates had disturbed the prison order. The Constitutional Court examined the applicant's individual application, which had been submitted under Articles 6, 10 and 13 of the Convention, under the aspect of freedom of thought and expression only and rejected it for being manifestly ill-founded.

Relying on Article 6 of the Convention the applicant complains that the Enforcement Court held the hearing in his absence despite the fact that he had refused to participate in the proceedings by video-conference. He further complains under Article 10 of the Convention of an infringement of his right to freedom of expression on account of the imposition of the disciplinary sanction.

QUESTION TO THE PARTIES

1. Did the applicant have a fair hearing in the determination of his civil rights and obligations, in accordance with Article 6 § 1 of the Convention? In particular, has there been a breach of the applicant's right to a public hearing within the meaning of Article 6 § 1 of the Convention on account of the Enforcement Court rendering its decision without holding a hearing in person? In particular, in the circumstances of the present case, did the hearing via SEGBİS meet the requirements of the right to a public hearing (see, *mutatis mutandis*, *Gülmez v. Turkey*, no. 16330/02, §§ 26-31 and 34-39, 20 May 2008; and *Altay v. Turkey (no. 2)*, no. 11236/09, §§ 74-82, 9 April 2019)?

2. Has there been a breach of the applicant's right to freedom of expression, contrary to Article 10 of the Convention (see, among others and *mutatis mutandis, Mehmet Çiftçi and Suat Incedere v. Turkey*, nos. 21266/19 and 21774/19, §§ 19-22, 18 January 2022)?

SARIBEY v. TÜRKİYE (application no. 21608/20)

Applicability Article 6 (civil or criminal limb), insufficient reasoning, Article 8, doctor-patient confidentiality

SUBJECT MATTER OF THE CASE

The applicant is a convict, who was serving a life sentence in prison at the time of lodging the present application. He had problems with one of the guardians who allegedly physically and verbally harassed him. In connection with this issue, he requested a session with the prison's psychotherapist. During the session, after mentioning the guardian's alleged harassment, the applicant stated that he had been trained as a navy commando, that he was well-trained in infighting and that he had the capacity to knock down a man with an elbow hit or a punch. In that respect, he expressed that he had been trying to control his anger against this guardian in order not to harm him, and that nevertheless, he had been obsessing about this issue. Subsequent to the psychotherapist informing the prison administration on the content of the session, the administration, by interpreting the applicant's remarks in the psychotherapy session as an implicit threat against the guardian, opened a disciplinary investigation against him and imposed fifteen days of solitary confinement.

The applicant challenged the disciplinary sanction before the Enforcement Court. During the proceedings, by his petitions of 23 November 2018, 31 December 2018 and 4 January 2019, he requested access to the witness testimonies, the recordings or notes of the psychotherapy session, the footage records of the prison and the other incident records created by the prison administration in the context of the disciplinary investigation. It appears that without communicating these elements to the applicant and without replying to the applicant's request to that effect, the Enforcement Court

dismissed his objection. The Assize Court subsequently upheld the Enforcement Court's decision. On 16 December 2019 the Constitutional Court examined the applicant's individual application which had been submitted under Articles 6 and 8 of the Convention under the aspect of the right to fair hearing only and rejected it for being manifestly ill-founded.

Relying of Article 6 § 1 of the Convention, the applicant complains of the Enforcement Court's failure to communicate the decisive documents to him, including the opinion of the public prosecutor, and of the alleged insufficiency of the reasoning of the domestic courts. Relying on Article 8 of the Convention, the applicant further complains about the breach of his right to doctor-patient confidentiality in so far as his statements during the psychotherapy session were shared with the prison authorities, as a result of which he was sanctioned with solitary confinement by way of disciplinary punishment.

QUESTIONS TO THE PARTIES

1. Was Article 6 of the Convention applicable, under its civil or criminal limb, to the disciplinary proceedings in question (see, in particular, *Ezeh and Connors v. the United Kingdom* [GC], nos. 39665/98 and 40086/98, § 82, ECHR 2003-X; *Štitić v. Croatia*, no. 29660/03, §§ 51-63, 8 November 2007; *Gülmez v. Turkey*, no. 16330/02, §§ 26-31, 20 May 2008; and *Mariusz Lewandowski v. Poland*, no. 66484/09, §§ 29-31, 3 July 2012)? If so, was the principle of equality of arms and adversarial proceedings respected in the absence of the communication of the case documents, including the public prosecutor's written opinion, to the applicant (see, *inter alia*, *Andrejeva v. Latvia* [GC], no. 55707/00, § 96, ECHR 2009; and *Günana and Others v. Turkey,* nos. 70934/10, 6560/11, 23599/12, 39367/12 and 66687/12, §§ 70-85, 20 November 2018)?

2. Did the domestic courts' decisions include sufficient reasoning *vis-à-vis* the applicant's arguments, as required by Article 6 § 1 of the Convention (see generally *Ruiz Torija v. Spain*, 9 December 1994, § 29, Series A no. 303-A; and *Pişkin v. Turkey*, no. 33399/18, §§ 141-153, 15 December 2020)?

3. Has there been an interference with the applicant's right to respect for his private life, within the meaning of Article 8 § 1 of the Convention, on account of the imposition of solitary confinement based on his statements during the psychotherapy session (see, *mutatis mutandis, Ekinci and Akalın v. Turkey*, no. 77097/01, § 47, 30 January 2007, and *Szuluk v. the United Kingdom*, no. 36936/05, §§ 43-48, 2 June 2009)?

If so, was that interference in accordance with the law and necessary in terms of Article 8 § 2 of the Convention? In particular, did the domestic courts strike a fair balance between the applicant's privacy and the prevention of crime and the protection of the rights and freedoms of others aimed at with the impugned sanction (compare *Szuluk*, cited above, §§ 46-54)?

ERBAŞ AND İPEKLI v. TÜRKİYE (application no. 45562/21)

pre-trial detention, Article 5 § 1, Article 5 § 3, length pre-trial detention, Article 5 § 4, Article 10, freedom of speech (legality and necessity test)

SUBJECT MATTER OF THE CASE

At the material time, the applicants were members of the Peoples' Democratic Party ("HDP"), a left-wing pro-Kurdish political party, in the province of Istanbul. The application concerns the applicants' pre-trial detention in the context of a criminal investigation opened against them for membership of a terrorist organisation, namely the PKK (Kurdistan Workers' Party, an illegal armed organisation).

The applicants allege that their pre-trial detention violated Article 5 §§ 1 and 3 of the Convention. The second applicant further alleges a violation of Article 5 § 4 of the Convention on the grounds that the Constitutional Court did not comply with the requirement of "speediness" in the proceedings concerning the lawfulness of his pre-trial detention. Both applicants further complain that their detention, as well as the criminal proceedings against them, breached Article 10 of the Convention.

QUESTIONS TO THE PARTIES

1. Was the applicants' pre-trial detention compatible with the requirements of Article 5 § 1 of the Convention? In particular, can the applicants be considered to have been detained on the basis of a "reasonable suspicion" that they had committed an offence, within the meaning of Article 5 § 1 (c) of the Convention (see, in particular, *Fox, Campbell and Hartley v. the United Kingdom*, 30 August 1990, § 32, Series A no. 182)? Was the evidence that was available in the file at the time of the applicants' pre-trial detention sufficient to satisfy an objective observer that they may have committed the offences attributed to them (see, *mutatis mutandis*, *Mergen and Others v. Turkey*, nos. 44062/09 and 4 others, §§ 46-55, 31 May 2016, and *Yüksel and Others v. Turkey*, nos. 55835/09 and 2 others, §§ 51-60, 31 May 2016)?
2. Did the magistrates who ordered the applicants' initial and continued pre-trial detention fulfil their obligation under Article 5 § 3 of the Convention to provide relevant and sufficient grounds in support of the deprivation of liberty in question? In addition, was the length of the applicants' pre-trial detention in breach of the "reasonable time" requirement under Article 5 § 3 of the Convention (see, in particular, *Buzadji v. the Republic of Moldova* [GC], no. 23755/07, §§ 84-102, 5 July 2016)?
3. Did the procedure before the Constitutional Court by which the second applicant sought to challenge the legality of his pre-trial detention comply with the requirements of Article 5 § 4 of the Convention? In particular, was the time taken by the Constitutional Court to review the legality of the applicant's pre-trial detention compatible with the "speediness" requirement of this article (see *Kavala v. Turkey*, no. 28749/18, §§ 185-196, 10 December 2019)?
4. Was there an interference with the applicants' freedom of expression within the meaning of Article 10 of the Convention, due to their placement in pre-trial detention and the criminal proceedings against them? If so, was this interference prescribed by law and necessary in a democratic society (see, *mutatis mutandis*, *Nedim Şener v. Turkey*, no. 38270/11, §§ 92-119, 8 July 2014)?

MULUNDKAR v. UKRAINE (application no. 19395/24)

Article 35 § 1, Article 3, effective remedy, extradition, detention conditions

SUBJECT MATTER OF THE CASE

The application concerns the planned extradition of the applicant, an Indian national, to Kuwait, to serve a prison sentence imposed on him there. He complains that it would be in breach of Article 3 of the Convention.

The applicant lived and worked in Kuwait from 2014 to 2015 when he left for India.

On 4 May 2017 a first-instance court in Kuwait convicted him in absentia of breach of trust and misappropriation committed against his former employer in Kuwait (a restaurant) and sentenced him to two years' imprisonment, combined with labour.

In August 2018 the applicant was arrested on arrival in Ukraine, based on an Interpol red notice from Kuwait. The applicant was subsequently released and remained in Ukraine.

The Kuwaiti authorities requested the applicant's extradition to serve his sentence.
According to the applicant, from June 2023 to March 2024 his lawyer submitted to the Ministry of Justice of Ukraine ("the Ministry") six sets of objections to extradition, combined with requests to examine additional issues and request assurances from Kuwaiti authorities. The submissions mostly focused on various technical objections to extradition supposedly based on Ukrainian law and allegedly unfounded nature of the extradition request and of conviction in Kuwait.
In her submissions of 19 September 2023 the lawyer also submitted that the provision of the Kuwaiti Penal Code under which the applicant was convicted did not provide for compulsory labour as part of the punishment and therefore extradition would be in breach of Article 4 of the Convention.
On 12 October 2023 the Ministry requested additional information and undertakings from the Kuwaiti authorities, in particular it asked for information on whether the applicant had been sentenced to forced labour.
Responding to the request, the Public Prosecutor of International Cooperation Prosecution of Kuwait provided assurances concerning the applicant's trial rights and explained that the applicant was sentenced to imprisonment combined with labour as relevant provisions of the Kuwaiti Penal Code provided that all imprisonment of six month or more had to be combined with labour. The labour in question was simple and craft work that did not undermine the humanity of the convict, did not violate his dignity and was not considered hard labour.
On 5 March 2024 the Ministry ordered the applicant's extradition.
The applicant challenged the decision before the domestic courts. He reiterated his objections to extradition raised before the Ministry and in particular repeated his arguments to the effect that labour ordered under the judgment of the Kuwaiti court would be in breach of Article 4 of the Convention. He added that the Ministry failed to request more detailed information from the Kuwait authorities about the nature of the work he would be required to perform. Quoting a report on the situation in Kuwait published in 2019 by Americans for Democracy and Human Rights in Bahrein, an NGO,[1] he stated that the "Prison conditions in Kuwait fail to meet Red Cross standards, indicating they require improvement. There is arbitrary use of torture and the punishment for torture is disproportionately light."
On 3 June 2024 the Kyiv Pecherskyy District Court upheld the extradition decision, considering that it was lawful and there were no barriers to extradition. On 11 July 2024 the Kyiv City Court of Appeal upheld that decision.

QUESTIONS TO THE PARTIES

1. Has the applicant exhausted all effective domestic remedies, as required by Article 35 § 1 of the Convention?
2. In the light of the applicant's claims and the documents which have been submitted, would he face a risk of being subjected to treatment in breach of Article 3 of the Convention if the extradition decision were enforced, on account in particular of conditions of detention he would be subject to in Kuwait (see, for example, F.G. v. Sweden [GC], no. 43611/11, §§ 111-27, 23 March 2016, Liu v. Poland, no. 37610/18, §§ 81-84, 6 October 2022, and Bivolaru and Moldovan v. France, nos. 40324/16 et 12623/17, §§ 122-126, 25 March 2021)?
In what facility or facilities would the applicant serve his sentence, what conditions of detention would he face there, in particular how much personal space he would dispose of?
What work would he be required to perform in detention?
Have the domestic authorities assessed the assurances provided by the State of Kuwait, in particular in respect of the above-mentioned matters under Article 3 of the Convention, by reference to criteria set

down by the Court in Othman (Abu Qatada) v. the United Kingdom (no. 8139/09, §§ 187-89, ECHR 2012 (extracts))?

ILCHUK v. UKRAINE (application no. 2732/21)

Article 2, Article 3, procedural limb

SUBJECT MATTER OF THE CASE

The application concerns the investigation into the alleged ill-treatment of the applicant's mother, V., and her alleged provocation into committing suicide.

From 15 to 18 April 2012, V. was undergoing in-patient treatment in a public hospital. According to the applicant, she was subjected to mental and physical abuse and was not provided with adequate medical care, which she reported to the police. Simultaneously, the head of the medical unit, K., filed a complaint with the police alleging that the applicant had inflicted moderate bodily injury on her during his visit to the hospital; however, the applicant was ultimately acquitted by a trial court. While the investigation into K.'s complaint was still ongoing, on 28 June 2013, V. committed suicide, leaving a note in which she blamed K. for provoking her to take her own life. The next day, the police initiated criminal proceedings in that regard. According to the information currently available, the investigation is still ongoing with no significant progress.

The applicant complains, under Articles 2 and 3 of the Convention, that the investigation into the alleged ill-treatment of his mother and her provocation to commit suicide has been ineffective.

QUESTION TO THE PARTIES

Having regard to the procedural protection of the right to life and the procedural protection against inhuman or degrading treatment, have the domestic authorities conducted an effective investigation into the allegations of ill-treatment and provoking the applicant's mother into committing suicide, as required by Articles 2 and 3 of the Convention?