Scan of communicated cases

Cases covered from 14th until 25th of April.

Dhionisios Alfred BELERI v. Albania (No. 28070/23)

(Art. 5) Right to liberty and security – detention – considerations of alternative measures to prison detention

SUBJECT MATTER OF THE CASE

The applicant is a Greek and Albanian national.

Initial detention proceedings

1. On 12 May 2023, in the context of his electoral campaign for the office of mayor of Himara, he was detained on suspicion of vote buying (active corruption in election).

2. The elections took place on 14 May 2023 and the applicant won.

3. On 1 June 2023 the Court of Appeal on Corruption and Organized Crime confirmed the lower court's order to place the applicant in detention. The court found that in his capacity of mayor-elect the applicant had significant authority which could be used to obstruct the collection of evidence. The Court noted in particular that authorities had not been able to take a number of recordings from local cameras which suggested that there had been some effort to conceal evidence.

4. It added that the applicant had been convicted in 2004 of "incitement of national hatred" and "denigration of the Republic or its symbols" and sentenced to three years in prison (see *Beleri and others v. Albania* (dec.), no. 39468/09, § 9, 10 May 2016). However, he had not turned himself to serve that sentence. In the court's view, that showed that the applicant had the propensity and means to evade justice. Lastly, the court added that the applicant could also reoffend.

5. On 25 July 2023 and 21 March 2024, the Supreme Court and the Constitutional Court, respectively, dismissed the applicant's appeals.

6. It appears that, on 15 June and 31 July 2023, the applicant made further requests for converting detention into a more lenient measure. He has not provided any further information on the outcome of these proceedings.

Criminal proceedings

7. On 5 March 2024 the First Instance Court on Corruption and Organized Crime found the applicant guilty of active corruption in elections under Article 328 of the Criminal Code and sentenced him two years in prison. The applicant appealed.

8. The applicant, thus, spent nine months and twenty-two days in pre-trial detention (see paragraphs 1-7 above).

9. On 2 September 2024 the applicant was released on parole.

10. Under Article 5 § 3 of the Convention, the applicant complains that his initial detention was not grounded on relevant and sufficient reasons and that the authorities did not consider alternative measures before ordering his detention in prison.

QUESTION TO THE PARTIES

Has there been a violation of Article 5 § 3 of the Convention? In particular, did the domestic courts consider alternative measures to the applicant's continued detention (see *Jablonski v. Poland*, no. 33492/96, § 83, 21 December 2000; *Idalov v. Russia* [GC], no. 5826/03, § 140, 22 May 2012; *Hysa v. Albania*, no. 52048/16, §§ 61-76, 21 February 2023; and *Gëllçi v. Albania* [Committee], no. 15468/23, § 25, 25 February 2025)?

Elda DINAJ v. Albania (No. 26285/24)

(P1-1) Protection of property and (Art. 6) Right to a fair trial – seizure of property - corruption

SUBJECT MATTER OF THE CASE

The case concerns the preventive seizure of a seaside villa that the applicant claims to own, on suspicion that the property belongs in reality to A.A., a former senior executive official, who is under ongoing investigation for corruption. It is alleged by the prosecution that the property was obtained by A.A. or his family members through the use of undeclared and illicit means that constitute proceeds of crime.

I. Criminal Investigation

As of 2020 the Special Prosecution Against Corruption and Organised Crime ("Special Prosecution") has been investigating multiple (former) Government officials, including A.A., in connection to the awarding of public contracts for waste treatment facilities in Tirana and two other cities.

II. Seizure

On an unspecified date, the Special Prosecution requested from the First Instance Court Against Corruption and Organised Crime authorisation to seize the villa. On 23 March 2023 the court, sitting *in camera*, granted the request and ordered the seizure of the villa on the grounds of Article 274 of the Code of Criminal Procedure (CCP) which reads:

"*1. When there is a risk that the free disposal of an item related to the criminal offense may aggravate or extend its consequences or facilitate the commission of other criminal offenses, at the request of the prosecutor, the competent court orders its seizure* [of the item] *by way of a reasoned decision.*

2. The seizure can also be imposed on items, products of the criminal offense and any other type of property that is allowed to be confiscated, according to Article 36 of the Criminal Code [on the confiscation of the means and byproducts of criminal offenses]."

On 26 April 2023, the Court of Appeal Against Corruption and Organised Crime upheld the lower ruling. On 27 July 2023, the Supreme Court dismissed the applicant's cassation appeal.

On 16 April 2024, the Constitutional Court dismissed the applicant's constitutional appeal. The court rejected the Special Prosecution's claim that the applicant had no standing to challenge the seizure as she was not the formal owner of the property; it found that the applicant had shown that she had sufficient proprietary interest and therefore standing to challenge the seizure.

It further reasoned that the case called for a review of whether the applicant had enjoyed the procedural guarantees provided by Article 1 of Protocol No. 1 to the Convention. In that connection, the court found that there had been an interference with the applicant's property rights. It noted that the seizure served the legitimate aim of preventing crime and the laundering of proceeds from crime.

As regards proportionality of the measure, the court noted that the ordinary courts had not engaged into a proportionality assessment, however it made that assessment itself and found no issues.

The applicant complains that the seizure of the villa was contrary to Article 1 of Protocol No. 1 to the Convention and that the domestic courts violated her rights under Article 6 § 1 of the Convention.

QUESTIONS TO THE PARTIES

1. Has there been a violation of Article 1 of Protocol No. 1? In particular:

a) did the applicant have at the relevant time ownership of or other patrimonial interest, in whole or in part, in the seized property?

b) if so, and bearing in mind the procedural safeguards under Article 1 of Protocol No. 1, did the applicant have a reasonable opportunity to present her case and challenge the seizure of the property before the domestic courts (see *G.I.E.M. S.r.l. and Others v. Italy* [GC], nos. 1828/06 and 2 others, § 302, 28 June 2018; and *Zaghini v. San Marino*, no. 3405/21, § 57, 11 May 2023 with further references)?

b) were any alleged deficiencies in the proceedings before the ordinary courts cured as a result of the Constitutional Court's review?

2. Has there been a violation of the applicant's right of access to a court, the principle of adversarial proceedings and equality of arms under the civil limb of Article 6 § 1 of the Convention?

Agron LAÇAJ v. Albania (No. 33866/23)

(Art. 5) Right to liberty and security – deprivation of liberty

1. SUBJECT MATTER OF THE CASE

The application concerns issues under Article 5 § 1 of the Convention. In the course of the criminal proceedings against the applicant on charges of murder and illegal possession of firearms, the applicant was placed in pre-trial detention by an order of 2 March 2000. He was acquitted at first instance by the Shkodra District Court on 28 February 2012. Upon the prosecution's appeal, the Shkodra Appeal Court reversed the first-instance judgment, and on 17 April 2014 found the applicant guilty as charged and sentenced him to 25 years' imprisonment. Following that decision, the applicant was arrested.

The appeal court's judgment was upheld by the Supreme Court on 14 January 2016.

Upon the applicant's constitutional complaint, on 10 November 2017 the Constitutional Court quashed the judgment of the Supreme Court, and remitted the case to the latter.

On 14 January 2022, after a fresh examination, the Supreme Court quashed the judgment of 17 April 2014 and remitted the case to the Appeal Court. The Supreme Court did not take any decision concerning the applicant's detention, whereas the applicant remained in detention.

At a hearing held on 10 March 2022 the Appeal Court examined, as a preliminary question, the applicant's request for release from detention. The prosecutor agreed that the applicant's detention based on his 2014 conviction by the appeal court was no longer valid after the quashing of that judgment on 14 January 2022. However, the prosecutor asked to place the applicant in detention pending the appeal proceedings since there existed reasons to believe that he might abscond.

On 10 March 2022 the Appeal Court held that the applicant's detention order of 2 March 2000 had "expired" on 28 February 2012. However, it also held that the applicant should be placed in detention under Article 238 of the Code of Criminal Procedure which reads as follows:

"Article 238

Detention on remand [*Arresti në burg*]

1. By a decision for detention on remand, the court shall order the judicial police to immediately bring the defendant to a pre-trial detention facility to be held at the disposal of the proceeding authority.

2. The period of pre-trial detention shall be calculated as part of the imposed sentence."

In his appeal to the Supreme Court the applicant argued that the detention imposed by the Appeal Court was unlawful since the 2012 acquittal judgment of the District Court was still in force.

On 5 July 2022 the Supreme Court dismissed the applicant's appeal on the grounds that the detention order of 10 March 2022 was lawful.

On 18 March 2022, during another hearing before the Appeal Court, the applicant submitted that the detention ordered by the appeal court on 10 March 2022 had become invalid as of 13 March 2022 since that decision had not been communicated to him and he had not been questioned within 72 hours after the adoption of that detention order. The applicant asked to be released, but that request was dismissed, and the applicant appealed to the Supreme Court.

On 14 July 2022 the Supreme Court dismissed his appeal as manifestly ill-founded, holding that the applicant had been already brought before a judge when his very first detention had been ordered on 2 March 2000.

On 7 and 16 November 2022 the applicant lodged constitutional complaints, alleging, *inter alia*, that his right to liberty had been violated.

On 4 April 2023 the Constitutional Court dismissed the applicant's constitutional complaints as unfounded. The decision of the Constitutional Court was published on its website on 4 May 2023.

On 24 October 2023 the Shkodra Appeal Court convicted the applicant, but on 21 January 2025 the Supreme Court quashed the conviction again and remitted the case to the Appeal Court. The proceedings are still pending.

The applicant complains under Article 5 § 1 that his detention between 14 January 2022 and 10 March 2022 was unlawful since it was not authorised by any court decision. He further complains that his detention between 10 March 2022 and 24 October 2023, and after 21 January 2025 was unlawful since the only ruling which was in force during those periods was the first-instance judgment of 28 February 2012 that had acquitted him of all charges.

The applicant also complains under Article 5 of the Convention that he was not notified of the prosecution's request for his renewed detention, and that he had not been heard about it. He alleges that these complaints were raised in his appeal with the Supreme Court, but the Supreme Court did not address them.

QUESTIONS TO THE PARTIES

1. Was the applicant deprived of his liberty in breach of Article 5 § 1 of the Convention? Did the grounds for the deprivation of liberty between 14 January and 9 March 2022, between 10 March 2022 and 24 October 2023, and after 21 January 2025, fall within any of the paragraphs (a) to (e) of this provision? If so, what were the reasons for the detention of the applicant during these periods, given his acquittal at first instance (compare *I.S. v. Switzerland,* no. 60202/15, §§ 41-61, 6 October 2020)? Were any less restrictive measures considered by the domestic courts in this regard (ibid., § 54)?

2. Was the applicant's detention during the three periods indicated above "in accordance with a procedure prescribed by law"?

3. Was the procedure by which the applicant sought to challenge the lawfulness of his detention after 14 January 2022 in conformity with Article 5 § 4 of the Convention? In particular, did the domestic courts address all of the applicant's allegations relevant to the lawfulness of his detention, and was the principle of equality of arms respected in those proceedings?

Luan DACI v. Albania (No. 5232/24)

(Art. 7) No punishment without law – nulla poena sine lege – document falsification

SUBJECT MATTER OF THE CASE

On 3 February 2017 the applicant applied to be appointed a judge at the Special Appeal Chamber (SAC), attached to the Constitutional Court. His application was successful, and he was appointed by Parliament on 17 June 2017.

In 2020 criminal proceedings were instituted against the applicant on charges of falsifying a document. On 1 December 2020 the First Instance Court on Anticorruption and Organised Crime found the applicant

guilty as charged and sentenced him to six months' imprisonment, suspended for one year. It was established that in an affidavit (self-declaration) included in his application for the position of SAC judge, the applicant had failed to disclose the fact that his previous mandate as a district court judge had been terminated in 1997 by the High Judicial Council, following disciplinary proceedings (on the grounds of breaches of the law and incompetence). This failure by the applicant had amounted to "intellectual falsification", by presenting knowingly false and material data in his application for a senior position in the justice system.

On 21 September 2023 the Constitutional Court dismissed the applicant's constitutional complaints related to his criminal conviction, which had been upheld on appeal and by the Supreme Court.

The applicant complains under Article 7 of the Convention that his conduct did not amount to the criminal offence at issue, and that such qualification had not been foreseeable to him.

QUESTIONS TO THE PARTIES

Did the act or omission of which the applicant was convicted constitute a criminal offence under national law at the time when it was committed, as envisaged by Article 7 of the Convention (see *Delga v. France*, no. 38998/20, §§ 56-73, 9 July 2024; *Pantalon v. Croatia*, no. 2953/14, §§ 45-54, 19 November 2020; and *Liivik v. Estonia*, no. 12157/05, §§ 92-104, 25 June 2009)? In particular, given the wording of Article 186 of the Criminal Code and the relevant judicial practice, was it foreseeable for the applicant that

(i) a private statement of interest filed with a State entity, for which the law required no particular formalities, would constitute a "document"; and that

(ii) the content of such statement, made not under oath or penalty of perjury, would constitute "falsification" for the purposes of the relevant offence? Was the alleged falsity of the applicant's statements on his prior disciplinary record a matter of arguable legal interpretation?

The Government are requested to provide evidence of the state of the relevant judicial practice as it existed at the time of the alleged commission of the offence.

Andranik POGHOSYAN and Others v. Armenia and Russia (No. 76360/17)

(Art. 2) Right to life and (Art. 13) Right to an effective remedy – jurisdiction – effective investigation – death by Russian soldier

STATEMENT OF FACTS

1. The facts of the case, as submitted by the applicants (the list of the applicants is set out in the appendix), may be summarised as follows.

BACKGROUND TO THE CASE

2. On 12 January 2015, at around 6 a.m., a family living in the city of Gyumri of Shirak Region of Armenia was killed in their home. The family comprised two elderly people, S. Avetisyan and H. Avetisyan, their daughter, A. Avetisyan, their son Ar. Avetisyan, the latter's wife, A. Poghosyan, and their two minor children, three-year-old H.A and six-month-old S.A. All the victims died the same day with the exception of six-month-old S.A., who died seven days later in the hospital because of multiple stab wounds.

3. The first and second applicants are A. Poghosyan's parents (her father and mother respectively) and the grandparents of H.A. and S.A.

4. The third and fourth applicants are the daughters of S. Avetisyan and H. Avetisyan and the sisters of A. Avetisyan and Ar. Avetisyan.

5. According to the findings of the investigation and the ensuing judgment (see paragraphs 24 and 27 below), V.P., a Russian citizen who had been drafted into the Russian army on 21 May 2014 and transferred to Armenia on 28 November 2014 to continue his service in the Russian military base situated in the city of Gyumri ("the military base"), having a plan to desert the army and return home, had abandoned his guard post on the day of the incident taking with him his assault rifle, 2 magazines loaded with 60 rounds and a bayonet knife. He walked around Gyumri in order to find money and civilian clothes, broke into the victims' house and killed them, taking some money and other belongings. He had then attempted to flee from Armenia by crossing the border illegally but had been captured and taken into custody at the military base.

INVESTIGATIONS carried out by the authorities of both respondent states

Criminal proceedings instituted by the Russian authorities

6. On the day of the incident – that is 12 January 2015 – the Investigative Committee of Russia instituted criminal proceedings in relation to the incident.

7. On 13 January 2015 V.P. was arrested by the border guard of the Russian Federal Security Service patrolling the border between Armenia and Turkey.

8. On 14 January 2015 the Investigative Committee of Russia brought charges against V.P. under Article 338 § 2 (desertion with weapons entrusted in military service) and Article 105 § 2 (a) and (c) (murder of two or more persons, including a murder of a minor or another helpless person) of the Russian Criminal Code ("the Russian CC").

9. The same day V.P. was detained by a decision of the Fifth Garrison Court of the Russian Federation ("the Garrison Court"), which was apparently sitting at the military base.

10. On 15 and 26 January 2015 the Russian authorities additionally instituted another set of criminal proceedings (under Article 222 § 1 of the Russian CC (illegal acquisition, transfer, sale, storage, transportation, or carrying of firearms, their basic parts, ammunition, explosives, and explosive devices) and Article 226 § 3(g) of the Russian CC (theft or possession of weapons, ammunition, explosives, and explosive devices by a person who used his official position)).

11. On 28 January 2015 V.P. was additionally charged with the crimes proscribed by Articles 222 § 1 and 226 § 3(g) of the Russian CC (see paragraph 10 above).

12. On 13 February 2015 a joint inpatient psychiatric and psychological examination conducted by an expert commission under the Ministry of Defence of Russia was completed.

The ensuing expert report contained the following description of V.P.'s military service in Russia and information about his medical files:

"... In the first days after arrival at the [military] unit [in Russia], when at the reception of the personnel, because of a conflict with a sergeant, having left the [military] unit for 2 hours without permission and use of alcohol [V.P.] was examined by the psychologist of the [military] unit and was referred to the psychologist of the clinic, who advised private [V.P.] to undergo an examination in the psychological unit of the hospital for symptoms of 'mental retardation'. [V.P.] was referred to the psychological unit of ... [hospital] by the command staff of the [military] unit.

...

According to [V.P.'s] personality profile from the military unit he has shown himself as an average serviceman. Approaches his tasks in bad faith, required constant supervision. Always complains about mental distress ... needs additional pedagogical attention. There have been attempts to leave the military unit without permission ... the serviceman [that is V.P.] assesses the basic values based on the premise that human life is not a special value and, if the opponent is not right, it is permissible to deprive him of life for his careless action, word. There is inadequate behaviour. Is secretive. Conclusion: does not meet the requirements for a military serviceman of the Russian Federation.

... medical profile dated 28 May 2014: arrived for medical care ... on 22 May 2014 ... Diagnosis: 'Transient personality disorder of an unstable type'. Needs consultation of a psychiatrist at the consultative-diagnostic clinic of [hospital] no. 321, to determine fitness for military service ...

... [V.P.] stayed in ... [hospital] no. 321 from 30 May to 19 June 2014, having been referred there with the diagnosis of mental retardation. After the examination conducted ... the same day, a preliminary diagnosis of 'symptoms of mixed personality disorder' was made.

On 16 June 2014 a final diagnosis was made: 'healthy'. According to the prescription sheet, [V.P.] was prescribed a medical examination. (Note from the forensic expert: medication has not been prescribed) ...Emotional instability of the mental state was observed, frivolous attitude for his action – 'I left and that is it'. The overall level of education is not high but the analytical-comparative functions of thinking are sufficiently developed. No effective symptomatology was discovered. The orientation is correct, sociable, smile on the face without a reason. Emotionally unstable. No signs of irritation ... There are no psychotic disorders. Does not express suicidal thoughts. The behaviour is orderly, manages the routine, interacts when necessary. Is willing to continue the service (has written a report). The results of special examinations: blood and urine tests of 2 June 2014 without pathologies, [computed tomography] of the brain dated 9 June 2014 without pathologies. [Electroencephalography] dated 5 June 2014 – mild general cerebral changes. Mild inflammatory changes in the frontal-central part of the brain. Based on a psychologist's opinion of 4 June 2014, the diagnosis of oligophrenia is ruled out. Taking into account the above-mentioned, a final diagnosis was made as 'healthy' ... is fit for training in the educational unit, ... is fit for military service.

In the 'epicrisis' [a summary medical report] issued at the time of [V.P's] discharge [from the hospital of the military unit], [the following] advice was given: dynamic supervision of a psychologist, the doctor of the [military] unit, examination by a ... psychiatrist in one month, rule out service on duty with a weapon and missions outside the [military] unit for 3 months, measures of psychotherapeutic effect."

Having examined V.P., his medical documents and the materials of the criminal case, the expert commission made the following conclusions:

"[V.P.] was not found to have suffered from any chronic mental disorder, temporary mental disorder, dementia or other mental disorder at the time of the commission of the acts he is accused of, nor are such established at present.

With his mental state, [V.P.] had been able to realise the nature and the public danger of his actions and control them at the time of the commission of the acts of which he is accused ...

...

At the time of the commission of the acts of which he is accused, [V.P.] was not in a state of temporary insanity or other emotional state that could have significantly diminished his awareness of his illegal action or his ability to control it."

13. On 12 August 2015 the Garrison Court convicted V.P. of desertion, theft and illegal possession of weapons and ammunition, sentencing him to ten years' imprisonment. The court found that at around 2 a.m. on 12 January 2015, V.P., having been on watch duty at a guard post of the military base with an assault rifle and 60 bullets assigned to him, intending to reach the place of his permanent residence and to evade military service altogether, took his service weapon and ammunition and left the military base without permission. He illegally carried the given weapon and ammunition outside the military base between 2 and 6 a.m. after which he left those in a house. At around 1 a.m. on 13 January 2015 V.P. was arrested by the border guard officials of the Federal Security Service of Russia at the Armenian border.

Criminal proceedings in Armenia

Investigation

14. On the day of the incident, that is on 12 January 2015, the Investigative Committee of Armenia instituted criminal proceedings under Article 104 § 2 (1) (murder of two or more persons) and Article 235 § 1 (illegal acquisition, sale, possession, transportation or carrying of weapons, ammunition, explosives, or explosive devices) of the former Criminal Code of Armenia ("the former Armenian CC", in force until 1 July 2022).

15. On 14 January 2015 V.P. was charged with murder of more than two persons and attempted murder of six-month-old S.A. with particular cruelty (Article 104 § 2 (1) and Article 34-104 § 2 (5) of the former Armenian CC).

16. On 19 January 2015 S.A. died in the hospital.

17. On 28 January 2015 the first applicant was recognised as the legal heir of his daughter, A. Poghosyan, and his grandchildren, H.A. and S. A. in the criminal proceedings.

18. At some point the third and fourth applicants were apparently given a procedural status of a victim's legal heir (it is not specified whose in particular) legal heirs in the given criminal proceedings.

19. By a decision of 13 July 2015 the Investigative Committee of Russia sent the material gathered by the Russian authorities within the framework of their investigation to the Investigative Committee of Armenia at the request of the Prosecutor General of Armenia. The relevant decision referred to the Agreement of 29 August 1997 "On Jurisdiction and Mutual Legal Assistance in Cases Related to the Deployment of the Russian Military Base on the Territory of the Republic of Armenia" and the Agreement of 20 January 2015 "On the Establishment of a Coordination Headquarters for the Cooperation During the Investigation of the Murder of the Avetisyan Family."

The same decision stated that V.P. had left his guard post without permission at around 2:30 a.m. on 12 January 2015 with the purpose of evading military service, taking with him his service weapon and ammunition, including an assault rifle, bayonet knife and 60 bullets that had been assigned to him while on watch duty. Having used his official position, V.P. had taken and carried the weapons in question until 8 a.m. on 12 January 2015. Between 4 a.m. and 8 a.m. on 12 January 2015, while still being outside of the military base with his service weapon and ammunition, V.P. had illegally entered the victims' house, intending to take possession of their money and clothes. Having been seen by the residents of the house and being afraid that they might report him to the law-enforcement authorities, he had opened fire from his service assault rifle, killing S. Avetisyan, H. Avetisyan, A. Avetisyan, Ar. Avetisyan and A. Poghosyan. He had then stabbed three-year-old H.A. in the chest with the bayonet knife at least 2 times as a result of which she had died on the spot and had stabbed six-month-old S.A. in the chest at least 3 times causing his death, which had occurred on 19 January 2015.

20. On 18 July 2015 the Investigative Committee of Armenia decided to take over the investigation of the criminal case received from the Investigative Committee of Russia and to conduct a joint examination with the case it had instituted into the same events (see paragraph 14 above).

21. According to the expert report of 17 September 2015 following a combined inpatient psychiatric and psychological forensic examination:

"[V.P.] did not suffer and does not suffer from a chronic mental illness. Instead, he is 'an infantile person with psychopathic personality traits and emotional immaturity', which is a certain deviation in the general development of a person and is manifested by superficial, primitive, prejudiced judgments, certain childish mentality with elements of concrete thinking, uniformity of emotional reactions, primitive personality.

...

Therefore, [V.P.] should be considered sane in connection with the acts that he is accused of.

Currently, as a person who does not suffer from a chronic mental illness, he can correctly understand the circumstances that are relevant for the criminal case, [testify] and participate in investigative activities.

At the time of the commission of the criminal offence, [V.P.] did not act in a sudden heat of passion, his emotional state did not significantly affect his consciousness and behaviour..."

22. On 16 October 2015 the initial charges brought against V.P. (see paragraph 15 above) were amended and he was charged under Article 104 § 2(1), (5) and (8) (murder of two or more persons with particular cruelty, motivated by profit, as well as accompanied by robbery), Article 175 § 2(3) and (4) (robbery with breaking into a house with the use of weapons or other objects used as weapons) and Article 34-329 § 1 (illegal attempt to cross the state border) of the former Armenian CC.

23. The same day the Investigative Committee of Armenia sent a letter to the commander of the relevant unit of the military base stating that the fact that V.P. had abandoned his guard post had been reported to the command staff at around 3:20 a.m. on 12 January 2015, whereas the Armenian Police had been informed thereof only 3 hours later in which circumstances all the necessary measures aimed at finding V.P. sooner had not been taken. It was therefore requested to carry out an internal investigation into the matter and inform the Investigative Committee of Armenia about the results thereof.

24. On 19 November 2015 the bill of indictment was finalised by the Investigative Committee of Armenia. It was approved by the Prosecutor General's Office on 24 November 2015.

According to the indictment, V.P. had been drafted into the Russian army on 21 May 2014 and had been assigned to military unit no. 21250 near a village in the Transbaikal Region of Russia. Four days after his arrival, V.P. had left the military unit without permission in order to meet with friends who had visited him, and returned a few hours later being under the influence of alcohol. Because of that behaviour, V.P. had been referred to the psychiatric unit of a military hospital for an inpatient examination. He had been found to be of good health and had been returned to the military unit. He had then left the military unit without permission around 8 to 10 times in order to meet with friends and relatives. On 28 November 2014 he arrived at the military base in order to continue his military service in Armenia. V.P. had intentionally and illegally murdered more than two persons, committed robbery and attempted to illegally cross Armenia's state border. In particular, at around 2 a.m. on 12 January 2015 V.P., who was on watch duty armed with an AKS-74 type assault rifle (no. 1283689), 60 rounds of 5.45 mm calibre and a bayonet knife (no. 689) assigned to him, left his guard post without permission and wandered around the city of Gyumri trying to find clothes and money. Having arrived at the victims' house at around 6 a.m. and intending to commit an armed robbery, he had entered the yard through the open door of the gate and approached the house. He

had then removed the glass of the front door with his bayonet knife, opened the door from the inside using the key left on the lock, entered the house and killed six of the victims by firing 28 shots from his assault rifle. Thereafter, intending to kill six-month-old S.A. with particular cruelty, V.P. had stabbed him 5 times, inflicting pierced/cut, perforating and non-perforating wounds to the vital organs, around the left half of the chest, the abdomen and left arm, as a result of which the latter died in hospital 7 days later. V.P. then took a sports cap, trousers, a jacket, a pair of boots, three mobile phones, 6,000 Armenian Drams (AMD) (approximately 11 euros (EUR)) in cash and left the scene. Thereafter, intending to illegally cross the state border, he reached the part of Armenia's state border guarded by the Federal Security Service of the Russian Federation and hid in a small house. At around 5 p.m. on 12 January 2015 V.P. studied the area and returned to his shelter, planning to illegally cross the border at night. At around midnight V.P. tried to illegally cross the border but was captured by the border guard officers at 12 minutes past midnight.

Trial

25. On 24 November 2015 the case was brought before the Regional Court of General Jurisdiction of Shirak Region of Armenia ("the Regional Court").

26. On 9 December 2015 the Regional Court decided to set the case for trial and to hold its hearings in the military base. In doing so, it referred to the fact that V.P. had been serving his sentence imposed by the Garrison Court (see paragraph 13 above) in the garrison detention facility of the military base and considered that holding the hearings in the military base would enable V.P.'s participation and ensure the exercise of his right to a fair trial.

27. By its judgment of 23 August 2016 the Regional Court found V.P. guilty as charged and sentenced him to life imprisonment.

Appeals

28. On 19 September 2016 the first applicant appealed against the Regional Court's judgment arguing that the Armenian authorities had failed to conduct an effective investigation.

29. On 19 December 2016 the Criminal Court of Appeal dismissed the appeal.

30. The first applicant lodged an appeal on points of law against the decision of the Criminal Court of Appeal, raising the same arguments as those raised in his appeal to the Criminal Court of Appeal.

31. On 18 April 2017 the Court of Cassation declared the first applicant's appeal inadmissible for lack of merit. That decision was served on his representatives on 28 April 2017.

RELEVANT LEGAL FRAMEWORK

RUSSIAn law

The Constitution

32. Under Article 61 of the Russian Constitution, the citizens of the Russian Federation may not be deported from Russia or extradited to another State.

Criminal Code

33. Under Article 12 § 2 of the Russian Criminal Code, servicemen of military units of the Russian Federation located outside the Russian Federation bear criminal responsibility for their crimes committed on the territories of foreign states in accordance with the legislation of the Russian Federation unless stipulated otherwise by international agreements of the Russian Federation.

34. Under Article 13 § 1, citizens of the Russian Federation who have committed crimes in foreign states shall not be subject to extradition to those states.

BILATERAL AGREEMENTS

35. The relevant provisions of the Agreement of 29 August 1997 "On Jurisdiction and Mutual Legal Assistance in Cases Related to the Deployment of the Russian Military Base on the Territory of the Republic of Armenia" read as follows:

Article 4

"In cases concerning crimes and other offences committed by the personnel of the military base and their family members in the Republic of Armenia, the legislation of the Republic of Armenia applies and its law enforcement authorities operate."

Article 5

"The procedure provided for in Article 4 of the present Agreement does not apply in cases concerning crimes and other offences against the Russian Federation or against the personnel of the Russian military base and their family members, in cases related to military crimes, committed by the personnel of the military base and their family members in places of deployment of the Russian military base."

COMPLAINTS

36. The applicants complain under Article 2 of the Convention that Russia breached their relatives' right to life. They argue that the Russian authorities had been aware of V.P.'s psychological problems and misconduct. Nevertheless, they provided V.P. with weapons and failed to properly supervise him. Furthermore, the officials of the Russian military base situated in Armenia informed the local law-enforcement authorities about V.P.'s escape belatedly, making it impossible to undertake timely measures to prevent the murders.

37. The first and second applicants complain under the same provision that the investigation carried out by the Armenian authorities was not effective in that it was not thorough. They further complain under the same provision that the punishment imposed on V.P. was not implemented since, according to what they had learned from the media, he had been transferred to Russia.

38. The first and second applicants also complain under Article 13 in conjunction with Article 2 of the Convention that they had no possibility to claim compensation from Russia.

QUESTIONS TO THE PARTIES

A. Questions concerning Russia:

1. Did the matters complained of by the applicants fall within the jurisdiction of Russia within the meaning of Article 1 of the Convention?

2. Was there an effective procedure available to the applicants to have the responsibility of Russia, if any, established for the deaths of their relatives and to seek compensation for the damage they suffered? If so, have the applicants exhausted those remedies, as required by Article 35 § 1 of the Convention? If no such remedies existed, has there been a violation of Article 13 of the Convention?

3. Was the applicants' relatives' right to life, ensured by Article 2 of the Convention, violated in the present case? In particular, did the Russian authorities fulfil their obligation under Article 2 of the Convention to protect life (see, for example, *Gorovenky and Bugara v. Ukraine*, nos. 36146/05 and 42418/05, § 39, 12 January 2012; *Makuchyan and Minasyan v. Azerbaijan and Hungary*, no. 17247/13, § 119, 26 May 2020; and *Hovhannisyan and Karapetyan v. Armenia*, no. 67351/13, § 110, 17 October 2023)?

The Russian Government are requested to provide copies of documents showing any assessments of V.P.'s personality and/or his fitness for military service. They are also requested to provide information on whether or not any military servicemen and/or officials of the Russian military base situated in the city of Gyumri in Armenia were subjected to any liability in connection with the facts of the present case and, if so, provide the copies of the relevant documents.

The Russian Government are also requested to provide information on whether V.P. was transferred to Russia and, if so, whether the sentence imposed on him by the Armenian courts is currently being enforced.

B. Questions concerning Armenia:

Having regard to the State's procedural obligation to conduct an effective investigation and to enforce a sentence imposed in the context of the right to life (see *Mustafa Tunç and Fecire Tunç v. Turkey* [GC], no. 24014/05, § 171, 14 April 2015; *Kitanovska Stanojkovic and Others v. the former Yugoslav Republic of Macedonia*, no. 2319/14, § 32, 13 October 2016; and *Akelienė v Lithuania*, no. 54917/13, § 85, 16 October 2018), has there been a breach of Article 2 of the Convention, as alleged by the first and second applicants?

In this context, the Armenian Government are requested to inform the Court whether V.P. was transferred to Russia, and, if so, what measures, if any, the Armenian authorities took to ensure that the sentence imposed on him would be implemented in Armenia or enforced by the Russian authorities following his transfer. Did they ask or receive guaranties from the Russian authorities that the sentence will be enforced?

The Armenian Government are also requested to provide the Agreement of 29 August 1997 "On Jurisdiction and Mutual Legal Assistance in Cases Related to the Deployment of the Russian Military Base on the Territory of the Republic of Armenia" and the Agreement of 20 January 2015 "On the Establishment of a Coordination Headquarters for the Organisation of Cooperation During the Investigation of the Murder of the Avetisyan Family."

The Armenian Government are also requested to provide copies of the decisions recognising the third and fourth applicants as legal heirs in the criminal proceedings.

Shahane VARDANYAN v. Armenia (No. 8226/19)

(Art. 2) Right to life – protection of life during military service

2. SUBJECT MATTER OF THE CASE

The applicant is the mother of G. Vardanyan, who died during the military clashes in early April 2016 (sometimes referred to as the "Four-Day War") while performing his compulsory military service in the

"Republic of Nagorno-Karabakh" (the "NKR"). G. Vardanyan was conscripted into the Armenian army in 2014 for non-combatant service ("with limitations") in view of his state of health - "second degree" kyphosis (a condition where the spine curves outward more than it should) and flat feet. He was subsequently assigned to a military unit in the "NKR". On 3 April 2016 G. Vardanyan was killed by an artillery shell fired by the Azerbaijani army. On 4 April 2016 the Third Garrison Investigative Division of the Military Investigations Principal Department of the Investigative Committee of Armenia (Martakert, Nagorno-Karabakh) instituted criminal proceedings in relation to the deaths of G. Vardanyan and of a number of other servicemen during the events in question. The investigation eventually found it established that on 3 April 2016 at around 9 p.m. G. Vardanyan had been moved to a command post together with several other servicemen to perform watch duty in order to prevent the progression of the Azerbaijani army. Some servicemen had stayed at that command post while several others, including G. Vardanyan, had fallen under a heavy artillery attack when they were on their way from the given command post to the shelter. An artillery shell exploded right next to G. Vardanyan and his fellow serviceman, killing the former on the spot (the other serviceman also then died of the wounds). On 30 March 2017 the investigator decided to suspend the criminal proceedings on the grounds that all the possible investigative measures had been undertaken while there was a *force majeure* precluding the advancement of the investigation given that any further investigative measures would have required cooperation with the Azerbaijani authorities. The applicant appealed against that decision before the prosecutor and then before the courts. She argued, in particular, that the investigation had failed to establish who had given the order to G. Vardanyan's platoon to move to the command post in question despite the fact that there had been no sufficient anti-tank munition there, including missiles and also to identify the person(s) who had been responsible for the shortage of weapon supply. The applicant further argued that the investigation had failed to establish any responsibility for having sent her son to perform combatant duty at the given command post notwithstanding the fact that he had been found not to be fit for combatant service for medical reasons. The Regional Court dismissed the applicant's appeal, finding that the Armenian investigating authorities had undertaken all the measures that were possible to be carried out without the participation of the Azerbaijani side. That decision was upheld by the Criminal Court of Appeal. By decision of 31 August 2018 the Court of Cassation refused to grant the applicant leave for appeal.

Relying on Article 2 of the Convention, the applicant complains about her son's death and the ensuing investigation. She argues that the Armenian authorities failed to protect her son's right to life during his compulsory military service in that they assigned him to combatant duty despite his vulnerability due to his medical condition and failed to ensure a sufficient supply of weapons to deter the adversary. The applicant further argues that the authorities failed to carry out a proper investigation into the circumstances of her son's death.

3. QUESTIONS TO THE PARTIES

1. Having regard to the applicant's arguments raised in her domestic appeals and currently before the Court, did the Armenian authorities comply with their obligation to protect G. Vardanyan's right to life, ensured by Article 2 of the Convention, during his compulsory military service?

2. Having regard to the procedural protection of the right to life, was the investigation by the domestic authorities in the present case in breach of the guarantees of Article 2 of the Convention?

The parties are requested to clarify the state of domestic law in relation to the regulation of military service – during peace time and in time of war – of conscripts (and military servicemen in general) having health issues. In this connection, the parties are requested to make references to the domestic legal regulations referred to by the domestic courts in the present case, including the Order of the Minister of Defence No. 410-13 (*ՀՀ ՊՆ 410-13 հրաման*) and the Orders of the Chief of Staff of 15 January 2014 (*ԳՇ պետի 03 առ*

2014թ. հունվարի 15-ի «Խաղաղ պայմաններում ՀՀ ԶՈՒ ժամկետային պարտադիր զինծառայողների զինվորական ծառայության պիտանելիության սահմանափակումների վերաբերյալ» հրամաններ) and any other relevant domestic law provisions.

The parties are also requested to submit copies of all relevant documents concerning the assessment of G. Vardanyan's state of health during the conscription process, including medical opinions and resultant decisions of the military authorities in relation to the conditions of (limitations to) his military service.

Vachik PETROSYAN v. Armenia (No. 31688/20)

(Art. 2) Right to life – death during military service – effective investigation

SUBJECT MATTER OF THE CASE

The application concerns the death of the applicant's son, H. Petrosyan, during compulsory military service and the subsequent investigation.

On 25 April 2016 at around 7.45 p.m. H. Petrosyan was found dead with a gunshot injury to his head in the vehicle assigned to him as a driver while performing patrolling duty.

On the same day the Investigative Committee of Armenia instituted criminal proceedings on account of incitement to suicide (Article 110 of the former Criminal Code in force until 1 July 2022) and ordered an autopsy. On 26 April 2016 a combined ballistic, trace and fingertip forensic examination was ordered.

On 8 May 2016 the applicant was recognized as H. Petrosyan's legal heir in the criminal proceedings. He stated that his son had told him about a conflict with his commander V.H. because the latter had tried to steal fuel and weapons from the vehicle assigned to H. Petrosyan. The applicant further voiced H. Petrosyan's allegation that the officers in his military unit might have stored drugs in the vehicle assigned to him. The applicant also claimed that V.H. had been collecting money from soldiers. These allegations were denied by other servicemen and V.H. who in turn stated in his witness statement that after finding H. Petrosyan asleep while being on watch duty (several days prior to his death), he spoke with the applicant on the phone and informed him that his son had not been performing well in his capacity as a driver and recommended the applicant to have H. Petrosyan's military function changed. V. H. apparently died in a car accident when the investigation was pending.

On 13 June 2016 the autopsy report was delivered according to which H. Petrosyan's death had resulted from ballistic injuries with the two bullet entries having been in the forehead and in the right nostril and the bullet exit for both entries being in the nape of the neck (ծոծրակ). On 27 September 2016 the applicant requested to order a toxicological and chemical forensic examination to reveal traces of drugs or psychotropic substances in the blood of V.H. and other officers of the military unit where H. Petrosyan was serving. This request was rejected as unsubstantiated and irrelevant.

On 2 June 2017 the report on the combined ballistic, trace and fingertip forensic examination was delivered which established that the two cartridge cases found on the scene of the incident had been fired from the assault rifle assigned to H. Petrosyan and that there were no identifiable fingerprints on that rifle.

A follow up combined medical and ballistic forensic examination was ordered. On 15 November 2017 the ensuing report was delivered according to which the rifle in question could fire two bullets after pulling the trigger once if in the "fire line" mode. The first injury was the one on the forehead and the second – the one on the right nostril. The report further established that the gunshots could have been fired both by H. Petrosyan and by another person.

The applicant requested to order a posthumous psychological forensic examination which was granted. On 5 February 2018 the ensuing report was delivered which stated that it was impossible to establish a causal link between V.H.'s actions and H. Petrosyan's psychological state before his death and that the latter was not in such an emotional state that could significantly influence his "consciousness and psychological activity".

According to the investigation, witness statements and other investigative and operative-search activities did not reveal any problems or conflicts between H. Petrosyan and other servicemen.

On 23 November 2018 the investigator decided to suspend the investigation on the grounds that following all the possible investigative and operational-search activities the person/persons who had committed the crime could not be established. The applicant unsuccessfully challenged this decision. On 20 January 2020 the Court of Cassation declared the applicant's appeal on points of law inadmissible for lack of merit.

The applicant complains under Article 2 of the Convention of his son's death, the ineffectiveness of the investigation into the matter carried out by the domestic authorities and the lack of access to the full case file.

QUESTIONS TO THE PARTIES

1. Was H. Petrosyan's right to life, ensured by Article 2 of the Convention, violated in the present case (see Beker v. Turkey, no. 27866/03, §§ 41-43, 24 March 2009; Ohanjanyan v. Armenia, no. 70665/11, §§ 132-34, 25 April 2023 and Petrosyan v. Armenia, no. 51448/15, §§ 110-12, 9 January 2025)?

2. Having regard to the procedural protection of the right to life, was the investigation by the domestic authorities in the present case in breach of the guarantees of Article 2 of the Convention (see Hovhannisyan and Nazaryan v. Armenia, nos. 2169/12 and 29887/14, §§ 124-130, 8 November 2022; Ohanjanyan v. Armenia, cited above, §§ 135-38 and Petrosyan v. Armenia, cited above, §§ 113-17)?

The Government are requested to submit the full copy of the criminal case in question with the exception of the materials already submitted by the applicant. The Government are further requested to

clarify whether there has been an internal investigation into H. Petrosyan's death and submit the ensuing report, if any.

Anzhelika MOSIYAN v. Armenia (No. 43565/21)

(Art. 2) Right to life – failure to protect right to life – failure to investigate los of life – life-threatening medical condition during military service

SUBJECT MATTER OF THE CASE

The applicant is the mother of S. Mosiyan, who died at the age of 19 during his compulsory military service as a result of a pre-existing cardiovascular disease. In March 2015 S. Mosiyan underwent mandatory medical examinations with a view to determining whether he was fit for military service. An electrocardiogram performed on 4 March 2015 in a local policlinic showed "sinus arrhythmia, tachycardia (110 beats per minute), right ventricular hypertrophy". In July 2015 S. Mosiyan was found fit for military service and drafted into the Armenian army. He was assigned to a military unit in the "Republic of Nagorno-Karabakh" (the "NKR"). Further to the state of alert issued on 2 April 2016 (the first day of the military clashes in early April 2016 (sometimes referred to as the "Four-Day War")), S. Mosiyan was put on military duty at the control centre of the artillery unit. Between 9.30 and 10 p.m. on 29 May 2016, while on duty there, S. Mosiyan's health drastically declined. He died on the way to the military hospital. On 31 May 2016 the Second Garrison Investigative Division of the Military Investigations Principal Department of the Investigative Committee of Armenia (Hadrut, Nagorno-Karabakh) instituted criminal proceedings into the matter. The autopsy carried out during the investigation found that the cause of S. Mosiyan's death had been acute heart failure, pulmonary edema (buildup of fluid in the lungs) linked to idiopathic cardiomyopathy, moderate cardiosclerosis, endocardial fibrosis, cardiac steatosis (excess pericardial fat), hepatosplenomegaly (enlargement of liver and spleen), microvascular dysfunction of inner organs, grave cardiac atrophy, which had existed while he was still alive. A number of light bodily injuries were also discovered on the body, mainly on the face, which were found not to be linked to the death. It was also established that during his military service S. Mosiyan had been hospitalised twice – for the first time from 7 to 12 November with an initial diagnosis of "enuresis" (urinary incontinence) and for the second time from 5 to 9 December 2015 with an initial diagnosis of "acute respiratory disease". In August 2017 S.T., a cardiologist, was charged with aggravated official negligence (Article 315 § 2 of the former Criminal Code (in force from 1 August 2003 until 1 July 2022)) for having failed to send S. Mosiyan for further medical examinations and issuing a conclusion, on the basis of her own (inaccurate) examination of him, that he was fit for military service. According to the description of the charges, S.T. had been a member of the local conscription commission as an expert-cardiologist during S. Mosiyan's conscription and had failed to carry out her official duties properly which had negligently caused his death. More than 2 years after the trial had started, the prosecution motioned to drop the charges against S.T. on the grounds that the latter had not acted as an "official" for the purposes of Article 315 § 2 of the former Criminal Code since she had only been a member of the medical commission of the military commissariat as opposed to the local conscription commission, which had the ultimate authority to make a final decision to draft on the basis of the conclusion (whether or not the person was fit for military service) issued by the former commission. By its judgment of 20 April 2020 the Ararat and Vayots-Dzor Regional Court ("the Regional Court") acquitted S.T. The applicant was unsuccessful in her appeals against that judgment (final decision in this set of proceedings was taken by the Court of Cassation on 21 February 2021). In the meantime, in June 2019 another set of criminal proceedings was instituted in relation to S. Mosiyan's death. Within the framework of those proceedings, in April 2020 A.G. (an expert-cardiologist who had been a member of the local conscription commission) was charged with official negligence under Article 315 § 2 of the former Criminal Code for having found S. Mosiyan fit for military service by having failed to properly examine the results of

the latter's medical examinations and send him for more detailed medical checks by relevant specialists. By its decision of 23 May 2022 the Regional Court granted A.G.'s application to discontinue his prosecution for having become time-barred and terminated his prosecution. Further to the applicant's appeals against that decision, the Court of Appeal upheld it while the Court of Cassation refused to grant her leave for appeal.

The applicant complains under Article 2 of the Convention that the domestic authorities failed to comply with their positive obligation to protect her son's right to life as a result of their failure to identify (in a timely manner) that he suffered from a medical condition incompatible with military service. She complains under the same provision that the domestic authorities failed to conduct an effective investigation into the matter. She argues that the investigation was unreasonably lengthy, failed to hold those responsible to account and that she had no possibility to claim compensation.

QUESTIONS TO THE PARTIES

1. Having regard to the applicant's arguments raised in her domestic appeals and currently before the Court, did the domestic authorities comply with their obligation to protect S. Mosiyan's right to life, ensured by Article 2 of the Convention?

2. Having regard to the procedural protection of the right to life, was the investigation by the domestic authorities in the present case in breach of the guarantees of Article 2 of the Convention, including, among others, the requirement of reasonable expedition?

3. Did the applicant have at her disposal an effective domestic remedy for her complaint under Article 2 of the Convention, as required by Article 13 of the Convention? In particular, was there available to her a legal mechanism to claim compensation for non-pecuniary damage flowing

Darko BEŠTEK v. Croatia (No. 20441/24)

(Art. 8) Right to respect for private and family life – disability – war veteran

STATEMENT OF FACTS

The application concerns a statement made by a member of the Croatian Parliament during a public parliamentary session, suggesting that the applicant, a disabled war veteran, managed to have his disability established by the domestic authorities to a greater degree than it actually was. The session was broadcasted live, and its recording remained available on the Parliament's website.

The applicant complains that the statement in question was untrue and that, by dismissing his civil action for damages, the domestic courts failed to protect his reputation in violation of his right to respect for his private life.

QUESTIONS TO THE PARTIES

Was the decision of the domestic courts to dismiss the applicant's civil action for damages in compliance with the State's positive obligations under Article 8 of the Convention to ensure effective respect for his private life, notably his right to respect for his reputation?

In particular, did those courts strike a fair balance between the applicant's right to respect for his private life under Article 8 and the right to freedom of expression of the member of the Croatian Parliament guaranteed by Article 10 of the Convention? In that context, did the domestic courts convincingly explain why the protection of the freedom of expression of the member of the Croatian Parliament outweighed the applicant's right to respect for his reputation (see *Axel Springer AG v. Germany* [GC], no. 39954/08, §§ 83-95, 7 February 2012; *Jishkariani v. Georgia*, no. 18925/09, §§ 41-46, 20 September 2018, and *Mesić v. Croatia*, no. 19362/18, §§ 91-93, 5 May 2022)?

Ahmed MEKKAOUI v. France (No. 7992/23)*

(Art. 13) Right to an effective remedy and (P1-1) Protection of property – seizure of property – failed request for restitution – procedural guarantees national law

SUBJECT OF THE CASE

The application concerns the application of a rule of acquisitive prescription having the effect of transferring to the State the ownership of objects placed in the hands of justice which have not been claimed at the end of criminal proceedings.

In a series of orders dated March 31 and April 30, 2015, the liberty and custody judge at the Bobigny district court ordered, as part of a preliminary investigation, the seizure of two properties belonging to the applicant, as well as the seizure of rents due from the tenants of these two properties.

The applicant was prosecuted and appeared before the Bobigny criminal court, assisted by his lawyer.

In a contradictory judgment of June 29, 2016, the correctional court definitively sentenced him to various penalties, but refrained from ordering the confiscation of the seized assets and receivables.

On August 30 and October 17, 2017, the applicant requested the release of the rents owed by his tenants and the return of the aforementioned real estate.

On April 25, 2018, the Bobigny public prosecutor refused to return the seized property on the grounds that the applicant had lost ownership of it pursuant to article 41-4, paragraph 3, of the Code of Criminal Procedure, in the version applicable to the dispute.

The claimant contested this decision.

In a ruling dated November 30, 2021, the Investigation Division of the Paris Court of Appeal rejected his appeal. It noted that the time limit stipulated in article 41-4, paragraph 3, of the Code of Criminal Procedure had begun to run from the date on which the court had rendered its decision, so that in the absence of a request for restitution, ownership of the seized goods and receivables had been transferred ipso jure to the State six months later.

In a ruling dated October 19, 2022, the French Supreme Court rejected the appeal lodged against this ruling.

Invoking Article 1 of Protocol No. 1, the applicant complained of a disproportionate infringement of his right to property and of the inadequacy of the procedural guarantees provided by domestic law.

QUESTIONS TO THE PARTIES

1. Has there been an infringement of the applicant's right to respect for his property, within the meaning of Article 1 of Protocol No. 1?

2. Has the interference with the applicant's right to respect for his property been accompanied by appropriate procedural safeguards (Lekić v. Slovenia [GC], no. 36480/07, § 95, 11 December 2018)? In particular, was the applicant given sufficient information (Kemal Bayram v. Turkey, no. 33808/11, §§ 63-73, 31 August 2021, and, mutatis mutandis, Zolotas v. Greece (no. 2), no. 66610/09, §§ 53-54, ECHR 2013 (extracts))?

The applicant is also invited to submit the memorandum he produced before the Court of Cassation.

L.B. v. France (No. 11013/24)*

(Art. 3) Prohibition of torture and (Art. 8) Right to respect for private and family life – forced deportation of intersex person following sexual reassignment treatment to Morocco

SUBJECT OF THE CASE

The application concerns an intersex person, of Moroccan nationality, who underwent sexual reassignment treatment in France and claimed to be male. He was deported to Morocco following a decision by the French Office for the Protection of Refugees and Stateless Persons to refuse him refugee status, pursuant to the provisions of article L. 711-6, paragraph 2, of the Code de l'entrée et du séjour des étrangers et du droit d'asile.

Invoking Article 3 of the Convention, the applicant complained, firstly, of the risks incurred in Morocco as an intersex person and as a person who could be perceived, by society and the authorities, as homosexual. Secondly, he complains about the interruption, due to his deportation, of his medical treatment and care received in France, and the consequences of such a stop. Thirdly, he deplores the fact that the domestic authorities did not take sufficient account of his status as a refugee.

Invoking Article 8 of the Convention, he complains, firstly, that he has been deported to a State in which he has no family or social ties and, secondly, that it is impossible for him to live a normal life as an intersex person and to continue the medical, surgical and administrative process of sexual reassignment begun in France.

QUESTIONS TO THE PARTIES

1. Was the deportation of the applicant to Morocco, an intersex person who had been recognized as a refugee but whose status had been refused on the basis of the provisions of article L. 711-6, paragraph 2, of the Code de l'entrée et du séjour des étrangers et du droit d'asile, in violation of article 3 of the Convention, taking into account the Moroccan criminal law in force at the time the deportation order was enforced and Moroccan society's perception of intersex and homosexual persons?

2. having regard to the applicant's complaints and the documents submitted, did his deportation to Morocco, as an intersex person who had undertaken medical treatment for sexual reassignment in France, constitute, in view of the alleged unavailability of such treatment in Morocco, a violation of Article 3 of the Convention (compare, inter alia, with Paposhvili v. Belgium [GC], no. 41738/10, 13 December 2016, and Savran v. Denmark [GC], no. 57467/15, 7 December 2021)?

3. Has the applicant exhausted domestic remedies in respect of his complaint under Article 8 of the Convention?

4. Did the applicant's deportation to Morocco constitute a violation of Article 8 of the Convention, given his alleged lack of family ties in Morocco and the impossibility of asserting his gender identity there, as well as his criminal record in France (compare, inter alia, Savran v. Denmark [GC], cited above)?

GEORGIAN YOUNG LAWYERS' ASSOCIATION and Others v. Georgia (No. 31069/24)

(Art. 8) Right to respect for private and family life, (Art. 10) Freedom of expresión, (Art. 11) Freedom of assembly and association, (Art. 13) Right to an effective remedy, (Art. 14) Prohibition of discrimination and (Art. 18) Limitation on use of restrictions on rights – register for legal entities that "pursue interests of a foreign power"

MATTER OF THE CASE

The application has been lodged by 120 civil society organisations and 16 media outlets as well as by four individual applicants ("the individual applicants," see applicants nos. 3, 33, 79, and 83 in the appendix below). The case concerns alleged interference with the applicants' rights under Articles 8, 10, and 11 of the Convention, considered alone and in conjunction with Articles 13, 14, and 18, following the adoption of the Law on Transparency of Foreign Influence ("the TFI Act").

On 28 May 2024 the Georgian Parliament enacted the TFI Act, which came into force on 3 August 2024. The law consists of 11 Sections, with the final two (Sections 10-11) containing merely procedural and transitional provisions related to its implementation. The key provisions of the TFI Act can be summarised below:

"Section 1 § 1 states the general objective of the law as ensuring "transparency of foreign influence" by creating a register for legal entities deemed to be "pursuing the interests of a foreign power." Paragraph 2 of Section 1 clarifies that the law does not restrict the operation of organisations registered under it.

Section 2 identifies four categories of legal entities that may be deemed "pursuing the interests of a foreign power": (i) non-entrepreneurial (non-commercial) legal entities (with certain exceptions), (ii) broadcasting companies, (iii) legal entities owning print media outlets, and (iv) legal entities owning or using internet domains or hosting services for media coverage. Entities fall under this category if 20% of their annual income originates from a "foreign power." This section also defines "income" and how to determine its source.

Section 3 defines "foreign power" as including (i) a constituent entity of a foreign State's governmental system, (ii) non-Georgian nationals, (iii) legal entities not established under Georgian law, and (iv) other organisational formations or associations created under foreign or international law.

Section 4 requires relevant legal entities to voluntarily register with the National Agency of the Public Registry ("the Agency"), part of the Ministry of Justice, as "organisations pursuing the interests of a foreign power." The section outlines the procedure and deadlines for registration.

Section 5 mandates that the register of organisations deemed to be "pursuing the interests of a foreign power," along with all related documents, be made fully accessible to the public.

Section 6 requires registered organisations to file an annual financial declaration, specifying the required contents and making these declarations publicly available.

Section 7 allows for the de-registration of organisations if they cease to be funded from abroad, as defined in Section 2. The de-registration must be made public immediately.

Section 8 empowers the Ministry of Justice to investigate and identify potential "organisations pursuing the interests of a foreign power" and to ensure compliance with the law. This section grants the Ministry authority to request any person or entity to disclose information, including sensitive personal data (such as racial or ethnic origin, political opinions, religious beliefs, sexual orientation, etc.).

Section 9 outlines fines for non-compliance with the law, with the maximum fine set at 25,000 Georgian Laris (approximately 8,000 euros) for failing to register or submit financial declarations. Repeated fines can be imposed for the same violation. The imposition of fines can be challenged in court, but such proceedings do not suspend the sanction."

On 29 August 2024, the majority of the applicants, in coordination with the President of Georgia and other civil society organisations and media outlets, challenged the constitutionality of the TFI Act before the Constitutional Court of Georgia. These proceedings are still ongoing.

The applicants argue that, despite none of the TFI Act's requirements having yet been enforced against them, the law's enactment itself constitutes an interference with their rights under the Convention. They claim no effective domestic remedies are available.

Citing Articles 10 and 11 of the Convention, in conjunction with Articles 13, 14, and 18, all of the applicants assert that the TFI Act violates their rights to freedom of expression and association. They allege the law is motivated by the respondent State's discriminatory treatment of independent civil society organisations and media outlets receiving foreign funding, as well as by the State's desire to hinder their watchdog activities under the guise of transparency. Additionally, the four individual applicants (nos. 3, 33, 79, and 83) allege that the law's requirement for individuals to disclose sensitive personal data constitutes a violation of their rights under Article 8, in conjunction with Articles 13, 14 and 18 of the Convention.

QUESTIONS TO THE PARTIES

1. Can the applicants in the present case claim victim status under Article 34 of the Convention due to the operation of the Transparency of Foreign Influence Act? Specifically, have any provisions of the Act been applied to them (compare *Ecodefence and Others v. Russia*, nos. 9988/13 and 60 others, § 80, 14 June 2022)?

2. Has the reporting requirement concerning personal data, as set out in Section 8 of the Transparency of Foreign Influence Act, interfered with the four individual applicants' (nos. 3, 33, 79, and 83) rights under Article 8 § 1 of the Convention?

2.1. If so, was this interference compatible with the requirements established in the second paragraph of Article 8?

3. Has the operation of the Transparency of Foreign Influence Act interfered with the applicants' rights under Articles 10 § 1 and 11 § 1 of the Convention?

3.1. If so, was this interference compatible with the requirements set out in Articles 10 § 2 and 11 § 2 of the Convention?

- In this context, does the designation of relevant organisations as entities "pursuing the interests of a foreign power" have a stigmatising effect, including in light of linguistic nuances specific to the Georgian language? Consequently, can this designation be considered to have significant deterrent impact on the organisations' activities? What objective evidence (such as opinion polls, opinions by language experts), if any, supports the claim that the wording of the contested designation in the Georgian language carries a stigmatising connotation (see *Kobaliya and Others v. Russia*, nos. 39446/16 and 106 others, §§ 75 and 78, 22 October 2024)?

- Furthermore, does the definition of "a foreign power," as well as the underlying assumption conveyed by the Act – that entities receiving 20% or more of their funding from abroad automatically qualify as pursuing the interests of foreign powers – align with the principles of "necessity," "relevance," and "sufficiency of reasons" set out in the second paragraphs of Articles 10 and 11 of the Convention? Has the Transparency of Foreign Influence Act sufficiently addressed the relevant "agency relationship" between foreign principles and national recipients to prevent broad and potentially abusive interpretations (compare *Kobaliya and Others*, cited above, §§ 76 and 83)?

- Are the sanctions imposed for violations of the Transparency of Foreign Influence Act proportionate to the gravity of the alleged offenses?

4. Does the operation of the Transparency of Foreign Influence Act amount to discriminatory treatment of the applicants, in violation of Article 14 of the Convention, when considered alongside Articles 8, 10 and 11?

5. Did the applicants have access to an effective domestic remedy for their complaints under Articles 8, 10, and 11, as required by Article 13 of the Convention?

6. Were the restrictions imposed by the State on the applicants under Articles 8, 10, and 11 of the Convention applied for purposes other than those intended by these provisions, in violation of Article 18 of the Convention?

Irina TVARADZE v. Georgia (No. 1337/25)

(Art. 8) Right to respect for private and family life, (Art. 9) Freedom of thought, conscience and religión and (Art. 14) Prohibition of discrimination – Jehovah's witness – blood transfusion

4. SUBJECT MATTER OF THE CASE

This application, lodged under Articles 8, 9 and 14 of the Convention, concerns a dispute over a blood transfusion administered to the applicant, a Jehovah's Witness, while unconscious in a life-threatening emergency. Despite her advance medical directive refusing such treatment, the transfusion was performed to allegedly preserve her life. On 16 November 2023, the Supreme Court of Georgia issued its final decision, dismissing the applicant's civil suit against the private hospital responsible. A reasoned copy of the decision was served on 13 September 2024.

5. QUESTIONS TO THE PARTIES

1. Has the applicant's right to respect for her private life and freedom of conscience or religion, as protected under Articles 8 and 9 of the Convention, been violated (compare *Pindo Mulla v. Spain* [GC], no. 15541/20,
§§ 125-182, 17 September 2024, and *Lindholm and the Estate after Leif Lindholm v. Denmark*, no. 25636/22, §§ 71 and 72, 5 November 2024)?

2. Has the applicant experienced discrimination in the exercise of her relevant rights under Articles 8 and 9, in violation of Article 14 of the Convention?

F.D. et E.M.S. v. Greece

(Art. 3) Prohibition of torture and (Art. 8) Right to respect for private and family life – lack of investigation to secondary victimisation – sexual abuse within family

SUBJECT OF THE CASE

The applicants are a mother (first applicant) and her minor daughter (second applicant). The application concerns criminal proceedings brought on 29 June 2018 by the first applicant, individually and as the parent with custody of the second applicant, against the second applicant's father for repeated sexual touching of a minor (κατάχρηση σε ασέλγεια ανηλίκου που δεν συμπλήρωσε τα 14 έτη, από οικείο, κατ' εξακολούθηση) and repeated statutory rape (αποπλάνηση ανηλίκου που δεν συμπλήρωσε τα 12 έτη, κατ' εξακολούθηση) by someone close to him.

On March 26, 2019, the public prosecutor at the Athens Criminal Court initiated criminal proceedings against the father.

On March 30, 2023, by order no. 1015/2023, the Indictment Division of the Athens Criminal Court of First Instance decided not to bring charges against the father.

On April 25, 2023, the Public Prosecutor at the Athens Court of Appeal refused to lodge an appeal.

On May 18, 2023, by order no. 3627/2023, the Public Prosecutor at the Court of Cassation decided that there was no need to appeal in the interests of the law.

Invoking Articles 3 and 8 of the Convention, the applicants complained of the absence of an effective and prompt criminal investigation into their allegations and of the secondary victimization suffered by the second applicant. In particular, they argue that the second applicant should have been heard as a witness, that the competent authorities failed to give due consideration to the fact that the second applicant had allegedly attempted suicide and, finally, that the expertise of the technical advisor appointed by the applicants was not duly taken into account. They also contested the conclusions drawn by the competent authorities from the drawings produced by the second applicant in the course of the expert examination. As for the duration of the criminal proceedings, almost five years had elapsed between the time when the applicants had lodged the complaint and the final order of the public prosecutor at the Court of Cassation.

QUESTION TO THE PARTIES

Was there a violation of Articles 3 and/or 8 of the Convention due to the alleged shortcomings of the criminal proceedings (see, among others, M.G.C. v. Romania, no. 61495/11, §§ 54-58, March 15, 2016)?

Győzőné KÓTAI v. Hungary (No. 49933/22)

(Art. 2) Right to life, (Art. 13) Right to an effective remedy and (Art. 14) Prohibition of discrimination – denial of emergency medical treatment – refusal to enter Roma village without police protection by ambulance

SUBJECT MATTER OF THE CASE

The case concerns the death of the applicant's husband as a result of the alleged refusal to provide him with emergency medical assistance.

The applicant and her late husband G.K. lived in Csenyéte, which, according to the applicant, is a segregated village populated exclusively by Roma.

On 25 January 2020 G.K. felt pressure in his chest and got very sick while at their family home. An ambulance was called at 7.09 p.m. and a team was dispatched a few minutes later, but the ambulance van was instructed not to enter the village and to wait for the police because the site had been dangerous. G.K. died before the ambulance van could reach him.

In April 2022 the prosecutor dismissed the applicant's subsequent complaint concluding that G.K. had died of natural causes and that it could not be said with absolute certainty that his life would have been saved had he received proper and timely medical care. The applicant's appeal against that decision was dismissed on 16 June 2022.

The applicant complains, under Article 14 of the Convention taken in conjunction with Article 2 thereof, that her late husband had been denied life-saving emergency medical treatment on account of his Roma ethnic origin and that the authorities failed to effectively investigate his death, or the possible racist prejudice involved.

The applicant also complains under Article 13 of the Convention, taken in conjunction with Article 2 and 14 thereof, about the lack of an effective remedy in respect of her Convention complaints.

QUESTIONS TO THE PARTIES

1. Has the applicant's husband's right to life, guaranteed by Article 2 of the Convention, been violated in the present case? In particular, did the respondent State violate its positive obligation under Article 2 of the Convention by denying the applicant's husband emergency medical treatment which resulted in his death (see *Lopes de Sousa Fernandes v. Portugal* [GC], no. 56080/13, §§ 186-96, 19 December 2017; *Asiye*

Genç v. Turkey, no. 24109/07, §§ 65-87, 27 January 2015; and *Mehmet Şentürk and Bekir Şentürk v. Turkey*, no. 13423/09, §§ 85-97, ECHR 2013)?

2. If so, was the denial of medical care to the applicant's husband due to his Roma ethnic origin, in breach of Article 14 taken in conjunction with Article 2 of the Convention?

3. Having regard to the procedural protection of the right to life (see *Lopes de Sousa Fernandes*, cited above, §§ 214-21), was the investigation in the present case by the domestic authorities in breach of Article 2 of the Convention?

4. Were the possible racist motives of the alleged denial of the medical care investigated, as required under Article 14 in conjunction with Article 2 of the Convention (see *Nachova and Others v. Bulgaria* [GC], nos. 43577/98 and 43579/98, §§ 160-68, ECHR 2005-VII)?

5. Did the applicant have at her disposal an effective domestic remedy for her complaints under Article 2 of the Convention taken alone and/or in conjunction with Article 14 thereof, as required by Article 13 of the Convention?

Eirikur SIGURBJÖRNSSON v. Iceland (No. 22364/23)

(Art. 6) Right to a fair trial and (P7-4) Right not to be tried or punished twice – pre-existence of documents – criminal character of tax proceedings

SUBJECT MATTER OF THE CASE

In 2016, in the context of tax audit proceedings, the Icelandic Directorate of Internal Revenue (*Ríkisskattstjóri*) researched the applicant's usage of his company's foreign credit cards, including for personal purposes. Under Article 94 of the Income Tax Act (*Lög um tekjuskatt*, no. 90/2003) it requested the applicant to submit all necessary information and documents about the use of the credit cards. Having submitted some documents already earlier, on 20 December 2016 the applicant also submitted certain Excel documents containing an overview of the credit cards' usage highlighting the transactions concerning his personal expenses.

The Directorate of Internal Revenue forwarded the case to the Directorate of Tax Investigations (*Skattrannsóknarstjóri ríkisins*) which found in its final report of 30 November 2018 that the applicant had incorrectly filed his taxable income. Subsequently, on the basis of the Directorate of Tax Investigation's report, the Directorate of Internal Revenue informed the applicant on 29 November 2019 of its intention to render a decision about the re-assessment of his taxes, while making no mention of possible surcharges. It gave the applicant 20 days to object and warned that upon the expiry of the time-limit, the Directorate of Internal Revenue would take the case under consideration with a view to issuing a ruling. The time-limit was subsequently extended until 15 January 2020.

In the meanwhile, between December 2019 and May 2020, the Icelandic parliament was debating a proposed legislative amendment, which was adopted and entered into force on 15 May 2020. This amendment (introduced by virtue of Act no. 33/2020) provided that a surcharge would not be applied in

2020 if the taxpayer's case, arising from the circumstances that led to the re-assessment, had been referred for criminal proceedings, and applied to any case which had not been taken under consideration with a view to issuing a ruling (*tekin til úrskurðar*) upon the entry into force of the amendment.

On 19 May 2020 the Directorate of Internal Revenue rendered a decision about the applicant's tax re-assessment and ordered him to pay additional tax. The decision made no mention of tax surcharges. The applicant appealed against the re-assessment decision, but the Internal Revenue Board (*Yfirskattanefnd*) upheld it on 27 January 2021.

In parallel, by a letter of 11 March 2019, the Directorate of Tax Investigations referred the applicant's case to the District Prosecutor for investigation. He was indicted on 23 January 2020 for having failed to report personal withdrawals as income and thus having evaded the payment of taxes.

In the domestic proceedings the applicant, referring to the principle of *ne bis in idem*, argued that his criminal case should be dismissed as he had already been acquitted in the tax proceedings in view of the fact that no tax surcharge had been imposed on him. He also argued that the dual criminal proceedings had not been sufficiently connected in substance and in time. He further complained that the privilege against self-incrimination had been breached given that the indictment had been based on the information in the Excel documents which he had been obliged to provide in the tax audit proceedings.

Those claims were dismissed by the domestic courts. As regards the impugned Excel documents, the Court of Appeal (*Landsréttur*) observed that they had not been submitted to it as evidence in the criminal proceedings. However, there was no dispute that the applicant's indictment (regarding the sums of his personal withdrawals) was based on the information emanating from the Excel documents provided by the applicant in the course of tax audit.

The Reykjavik District Court convicted the applicant on 1 October 2021 and the Court of Appeal upheld the conviction on 18 November 2022. The Supreme Court refused to examine his appeal on 1 March 2023.

The applicant complains under Article 6 § 1 to the Convention about the breach of the privilege against self-incrimination. He also complains about having been tried twice for the same offence in violation of Article 4 of Protocol No. 7 to the Convention.

QUESTIONS TO THE PARTIES

1. Has there been a violation of Article 6 § 1 of the Convention in that the applicant was compelled to produce incriminating evidence in the course of tax audit proceedings which was subsequently used in criminal prosecution against him? In particular, could the Excel documents which the applicant submitted to the Directorate of Internal Revenue on 20 December 2016 be considered pre-existing documents? Furthermore, could the authorities be considered to have been aware of the existence of such documents (see *De Legé v. the Netherlands*, no. 58342/15, §§ 74-78, 4 October 2022)?

2. Has the applicant been tried twice for the same offence, as prohibited by Article 4 § 1 of Protocol No. 7 to the Convention?

In particular, could the tax proceedings where no tax surcharge was imposed be considered "criminal" for the purpose of Article 4 § 1 of Protocol No. 7 (see, albeit in the context of Article 6 of the Convention, *Västberga Taxi Aktiebolag and Vulic v. Sweden*, no. 36985/97, § 80, 23 July 2002, where the Court noted both the "potential and actual penalty" as one of the elements of assessing the "criminal character" of an offence; see also *Engel and Others v. the Netherlands*, 8 June 1976, § 82, Series A no. 22,

which mentions "the degree of severity of the penalty that the person concerned risks incurring")? What was the relevance of Act no. 33/2020, which entered into force on 15 May 2020, for the Directorate of Internal Revenue's decision of 19 May 2020 not to impose any surcharges on the applicant?

Moreover – if the tax proceedings were to be seen as "criminal" – could the fact that no surcharge was imposed be construed as the acquittal of the applicant (see *Mihalache v. Romania* [GC], no. 54012/10, §§ 96-98, 8 July 2019)?

The parties are asked to specify which materials relevant to the question of the applicant's personal withdrawals did the Directorate of Internal Revenue have at its disposal before 20 December 2016 and which exact documents did the applicant (through an accountant) forward to the Directorate on that date. The parties are invited to submit copies of the impugned Excel documents submitted to the Directorate of Internal Revenue on 20 December 2016.

Karl Larus HJALTESTED v. Iceland (No. 33938/23)

(Art. 6) Right to a fair trial and (P1-1) Protection of property – disposition of property – inheritance of property rights – economic value of property rights

SUBJECT MATTER OF THE CASE

The application concerns the expropriation of part of the *Vatnsendi* farm, originally bequeathed by M.E.H. to S.K.L.H. on 4 January 1938. The will included restrictions on the disposition of the property and specific stipulations on agricultural tenancy and use of the farmland, as well as on related income or compensation. It further provided that upon the death of S.K.L.H., the "farm property" would be inherited by S.K.L.H.'s eldest son, and subsequently by the eldest son in the line of inheritance. In case the line was broken, the property subject to the will was to be sold and deposited in a fund. The applicant is one of S.K.H.L.'s younger sons.

Background of the case

Upon S.K.L.H.'s death in 1966, a dispute arose over the inheritance of the *Vatnsendi* farm. In 1968, the Supreme Court confirmed that "agricultural tenancy and use" of *Vatnsendi* under the conditions of the will were inherited by the applicant's oldest brother, M.S.H. In 1969, the court also confirmed that M.S.H. should be given "control and use" of the farm, which was subsequently entered into the relevant public registry of property rights as indicating his "ownership" by inheritance. Upon M.S.H.'s death in 1999, his eldest son, Þ.M.H., took over the farm, and his ownership was similarly registered.

In 2011, the Supreme Court accepted the applicant's and some of his co-heirs' petition for the appointment of a new administrator for S.K.L.H.'s estate. In 2013, it held that the "direct" property rights related to *Vatnsendi* belonged to the estate. In a subsequent judgment that year, the court instructed the registration of the estate as the "owner" of *Vatnsendi.* It also noted that M.S.H.'s property rights, from which Þ.M.H. derived his rights, were "indirect" property rights in the form of the right of control and use of *Vatnsendi* in accordance with the terms of M.E.H.'s will of 1938. In 2015, the Supreme Court annulled the estate administrator's proposal to transfer the "direct" property rights to Þ.M.H., stating that these rights should be inherited according to the ordinary rules of inheritance.

Proceedings concerning compensation for land expropriated in 2007

In late 2006, Þ.M.H. and *Kópavogur* municipality signed a memorandum of understanding related to the potential expropriation of around 863 hectares of land from the *Vatnsendi* farm. On 23 January 2007, after receiving authorisation by the Ministry of the Environment, the municipality expropriated 864 hectares.

The Expropriation Compensation Committee rejected the applicant's and his brother's petition for recognition as parties entitled to compensation, stating that the property rights dispute should be decided by the courts. The expropriation proceedings concluded with a settlement, according to which Þ.M.H. would receive 2,250,000,000 Icelandic *krónur* (ISK) and certain building rights and shares in planned plots.

On 14 June 2013, the administrator of S.K.L.H.'s estate recorded that he would not pursue claims against *Kópavogur* municipality for payment to the estate of compensation for the expropriated land. In April 2014, the applicant and some of his co-heirs initiated legal proceedings to recover compensation from the municipality. They contended that the estate was not bound by the 2007 compensation settlement.

During the District Court proceedings, four different petitions for court appointed expert assessments were submitted. They concerned the market value of the expropriated land and the value of the different property rights and entitlements.

In its judgment of 22 December 2020, the District Court found that the value of the "direct" property rights amounted to 10-15% of the total value of the expropriated land and held that *Kópavogur* should pay S.K.L.H.'s estate ISK 968,000,000. The Court of Appeal overturned this judgment on 3 June 2022. It rejected the expert assessors' premises about the potential future value of the land and concluded that any assumption that the "direct" property rights had transferable value at the time of the expropriation conflicted with the will's provisions. It thus found that the heirs had not proven any damage to the estate. The Supreme Court upheld this judgment on 23 May 2023, confirming that the "direct" property rights related to *Vatnsendi* were purely formal and lacked financial value.

The applicant complains under Article 6 § 1 of the Convention of the length of proceedings. He also complains under Article 1 of Protocol No. 1 that as the "direct" property rights related to *Vatnsendi* were considered worthless, he was deprived of his property without any compensation.

QUESTIONS TO THE PARTIES

1. Does the applicant have sufficient proprietary interest in respect of the estate of S.K.L.H. to constitute a "possession" in the sense of Article 1 of Protocol No. 1 to the Convention, and is his complaint under that Article therefore compatible with the provisions of the Convention *ratione materiae* (see, *mutatis mutandis*, *Merger and Cros v. France*, no. 68864/01, § 32, 22 December 2004, and *Inze v. Austria*, 28 October 1987, § 38, Series A no. 126)?

2. Can the applicant be considered a victim of the alleged violation under Article 1 of Protocol No. 1 to the Convention, insofar as that complaint concerns the "direct" property rights related to *Vatnsendi*, which were held by the estate of S.K.L.H. and not directly by the applicant (and his co-heirs) (see *Ishchenko and Others v. Ukraine*, nos. 23390/02 and 3 others, § 19, 8 November 2005)?

3. Has the applicant exhausted effective domestic remedies in respect of his complaints, as required by Article 35 § 1 of the Convention? In particular, did the applicant sufficiently exhaust domestic remedies by way of lodging domestic proceedings in his own name but for the benefit of the estate (see, *mutatis mutandis, Gorraiz Lizarraga and Others v. Spain*, no. 62543/00, § 37-39, ECHR 2004-III)?

4. Did the deprivation of the "direct" property rights related to *Vatnsendi,* given that the domestic courts found those rights not to bear any economic value and no compensation was afforded to the estate of S.K.L.H., impose an excessive individual burden on the applicant in violation of his rights under Article 1 of Protocol No. 1 to the Convention (see *Kostov and Others v. Bulgaria*, nos. 66581/12 and 25054/15, §§ 71-92, 14 May 2020)?

5. Was the length of the court proceedings in the present case in breach of the "reasonable time" requirement of Article 6 § 1 of the Convention?

Eva María PÁLSDÓTTIR v. Iceland (No. 10992/24)

(Art. 1) Obligation to respect human rights, (Art. 9) Freedom of thought, conscience and religión, (Art. 10) Freedom of expression and (Art. 11) Freedom of assembly and association – collective bargaining – exclusive union authority to represent employees

6. SUBJECT MATTER OF THE CASE

The application concerns a complaint by a pharmacist employee of the national hospital (*Landspítali*). She complains about the refusal to recognise her union's authority to represent her and the continued deduction of dues for remittance to her former union. The applicant resigned from the Icelandic Pharmacists Association ("LFÍ") in July 2021 to join the Union of Natural Scientists in Iceland ("FÍN"). When she requested that *Landspítali* recognise FÍN as her bargaining representative and apply FÍN's collective agreement to her employment, the hospital refused, maintaining that her terms and conditions must continue to be governed by the LFÍ collective agreement. It also continued to deduct trade union dues for remittance to LFÍ. FÍN initiated proceedings before the Labour Court for the recognition of its right to represent the applicant in collective bargaining. In accordance with the provisions of the Act on Collective Agreements for Public Employees no. 94/1986 ("the Act"), it also claimed, on behalf of the applicant, recognition of her right to take wages and enjoy work conditions in accordance with FÍN's collective agreement. The Labour Court, in its final judgment of 15 December 2023, dismissed the claims. It held that generally, under the Act, only one union could have negotiating rights with the same employer for the same profession. While both FÍN and LFÍ had collective agreements with the State covering *Landspítali* employees, only LFÍ had specifically negotiated terms for pharmacist positions, whereas FÍN's agreement was more general and not profession-specific. The Labour Court acknowledged that the applicant had the constitutional and Convention rights to join FÍN. Nevertheless, it found that in accordance with the Act, LFÍ alone held negotiating rights for pharmacist positions at *Landspítali* and that the framework for collective agreements created by the Act did not violate the applicant's freedom of association. Before the Court, the applicant complains, under Article 11 of the Convention, that she was compelled to hold the membership of the LFÍ trade union, particularly as her full union dues were remitted to that union.

QUESTIONS TO THE PARTIES

1. Has the applicant exhausted the effective domestic remedies, as required by Article 35 § 1 of the Convention? In particular, did she raise, either expressly or in substance, the question of the legal obligation imposed on employers, under Article 7(2) of the Act on Collective Agreements for Public Employees, to collect full union dues to the trade union to which employees should belong in accordance with the provisions of the Act? She is requested to submit a copy of her pleadings before the Labour Court.

2. Has there been a violation of the applicant's right to freedom of association under Article 11 of the Convention? In particular:

(a) On the facts, what specific consequences would the applicant face if she refused to pay membership fees to LFÍ? (i) Would she be able to maintain her employment at *Landspítali*? (ii) Would she face any reduction in salary, benefits, or other terms of employment? (iii) Would her refusal to pay fees to LFÍ affect her professional advancement or status in any other way?

(b) Does the statutory organisation of collective bargaining, which does not allow the applicant to be covered by the collective agreement of her chosen union and obliges her to pay full membership fees to LFÍ, despite her membership of FÍN, "strike at the very substance of her right to freedom of association" and amount thereby to an interference with her rights under Article 11 of the Convention (compare *Sørensen and Rasmussen v. Denmark* [GC], nos. 52562/99 and 52620/99, § 59-64, ECHR 2006-I, and *Vörður Ólafsson v. Iceland*, no. 20161/06, §§ 47-54, 27 April 2010)?

(c) If there has been an interference with the applicant's rights, did it pursue a legitimate aim and was it proportionate to that aim (compare *Vörður Ólafsson*, cited above, §§ 73-83)?

Camelia FERU v. Italy (No.17499/24)

(Art. 3) Prohibition of torture, (Art. 5) Right to liberty and security and (Art. 5-5) Compensation – inhumane treatment in temporary detention centre whilst awaiting expulsion

SUBJECT MATTER OF THE CASE

The case concerns the applicant's detention for about eight months in the Centre for Repatriation (Centro di Permanenza per i Rimpatri or "CPR") of Rome – Ponte Galeria.

The applicant, a woman suffering from psychiatric disorders whose identity and nationality were at the time unknown, has been detained in Rome - Ponte Galeria CPR for the purpose of her expulsion since October 2023.

On 21 June 2024, the applicant filed a request under Rule 39 of the Rules of the Court, which was granted on 3 July 2024. On 12 July 2024, the applicant was transferred to a psychiatric hospital in Rome. On 13 August 2024, the applicant was appointed a legal guardian to represent her interests. The legal guardian signed the application form in this case.

The applicant complains under Article 3 of the Convention of the conditions of her detention in Rome – Ponte Galeria CPR, submitting that they were inadequate, given her mental health conditions and the absence of adequate healthcare. Relying on Article 13 of the Convention, she also complains of the lack of domestic remedies in respect of her complaints under Article 3.

The applicant further alleges that her detention in the CPR has been unlawful and arbitrary in breach of Article 5 § 1 (f) of the Convention, and that she was not given the possibility to obtain compensation under Article 5 § 5 of the Convention.

QUESTIONS TO THE PARTIES

1. Has the applicant been subjected to inhuman or degrading treatment in breach of Article 3 of the Convention, during her detention at the Centre for Repatriation of Rome – Ponte Galeria? In particular:

(a) Were the applicant's conditions of detention in conformity with her state of health?

(b) Did the applicant receive adequate medical treatment during the above-mentioned period (see for example Rooman v. Belgium [GC], no. 18052/11, §§ 146-47, 31 January 2019, and Strazimiri v. Albania, no. 34602/16, §§ 103-12, 21 January 2020, as well as, mutatis mutandis, Sy v. Italy, no. 11791/20, §§ 76-89, 24 January 2022)?

2. Was the applicant deprived of her liberty in breach of Article 5 § 1? In particular:

(a) Was the applicant's detention justified under the second limb of Article 5 § 1 (f) (see A. and Others v. the United Kingdom [GC], no. 3455/05, § 164, ECHR 2009 [GC], and M. and Others v. Bulgaria, no. 41416/08, 26 July 2011)?

(b) Did domestic authorities consider alternatives to detention in the light of the applicant's condition and the specific circumstances of the individual case (see, for example, Yoh-Ekale Mwanje v. Belgium, no. 10486/10, 20 December 2011).

3. Did the applicant have an effective compensatory remedy in respect of her complaints under Article 5 of the Convention?

4. Did the applicant have an effective domestic remedy to complain of the alleged violation of Article 3 of the Convention, as required by Article 13 of the Convention?

Armando CHIOSI v. Italy (No. 17277/24)

(Art. 6) Right to a fair trial and (Art. 7) No punishment without law – impartiality of adjudicating panels

SUBJECT MATTER OF THE CASE

The application concerns the impartiality of the domestic courts and the foreseeability of the applicant's conviction for the offence of "production of child pornography" provided for by Article 600 ter of the Criminal Code ("the CC").

In January 2015, F.G., judge at the Criminal Division of the Rome District Court, acting as parent exercising parental responsibility over her son, filed a complaint against the applicant for child pornography, accusing him of having induced minors to self-produce and send him pornographic material between 2013 and 2015.

At the pre-trial stage, the applicant requested the Judge for the Preliminary Investigation ("the GIP") that the proceedings be transferred before the judicial authorities of a different district under Article 11 of the Code of Criminal Procedure ("the CCP") in order to guarantee the impartiality of the adjudicating judges. That provision provides for a derogation to the territorial jurisdiction of a court when a magistrate is involved in the criminal proceedings as, inter alia, injured person (persona offesa) or person who sustained damage as a result of the offence (persona danneggiata). The GIP dismissed the request on the grounds that only F.G.'s son held the position of injured party and F.G. had not yet formally joined the proceedings as a civil party.

The applicant's appeal against the GIP's decision was ultimately dismissed by the Court of Cassation with judgment no. 6558/24 of 14 February 2024. The court stated that the contested provision concerned only cases in which the offence affected the magistrate as an injured or damaged person directly and not by reflection, as in the case at issue.

As regards the charge under Article 600 ter of the CC, throughout the proceedings the applicant argued that he could not be found guilty, since the constitutive elements of the offence, and notably the concrete risk of diffusion of the pornographic content, had not been made out.

The interpretation of the above constitutive element had evolved in the domestic case-law. In particular, the Combined Divisions of the Court of Cassation had found that the offence no longer required the concrete risk of diffusion of the pornographic material (judgment no. 51815 of 2018). Relying on the principle established in that judgment, the Rome District Court convicted the applicant. Upon appeal, the Rome Court of Appeal, to where F.G. had in the meantime been transferred, upheld the conviction, as did the Court of Cassation.

The applicant complains under Article 6 of the Convention that the adjudicating panels of the Rome District Court and the Rome Court of Appeal, where F.G. held an office at the relevant time, lacked the necessary impartiality to adjudicate the case.

The applicant further alleges a violation of Article 7 of the Convention, complaining that his conviction was based on a new interpretation of the relevant domestic provision resulting from the Court of Cassation's departure from previous case-law, which caused him prejudice.

QUESTIONS TO THE PARTIES

1. Did the applicant have a fair trial in the determination of the criminal charge against him, in accordance with Article 6 § 1 of the Convention? In particular, were the applicant's doubts as to the impartiality of the adjudicating panels of the Rome District Court and the Rome Court of Appeal objectively justified (see, mutatis mutandis, Mitrov v. the former Yugoslav Republic of Macedonia, no. 45959/09, § 55, 2 June 2016; Kyprianou v. Cyprus [GC], no. 73797/01, § 118, ECHR 2005-XIII)

2. In light of the domestic courts' well-established case-law at the material time (see, inter alia, judgment of the Combined Divisions of the Court of Cassation no. 13 of 31 May 2000, and judgments of the Court of Cassation no. 17178 of 11 March 2010, no. 16340 of 12 March 2015, no. 35295 of 12 April 2016) and the grounds on which the applicant was convicted of the offence of "production of child pornography" under Article 600 ter of the Criminal Code, was that conviction in compliance with Article 7 of the Convention?

In particular, was the interpretation of Article 600 ter of the Criminal Code adopted by the Court of Cassation in 2018 and applied by the domestic courts in the applicant's case reasonably foreseeable for the applicant at the material time (see the subject matter of the case in R.B. v. Italy, application no. 20409/23, communicated to the Government on 27 November 2023, for a summary of the domestic case-law developments at issue. See for general principles Del Río Prada v. Spain [GC], no. 42750/09, §§ 77-80 and 91-93, ECHR 2013; compare S.W. v. the United Kingdom, 22 November 1995, Series A no. 335-B, and Dragotoniu and Militaru-Pidhorni v. Romania, nos. 77193/01 and 77196/01, § 44, 24 May 2007)?

Ada AGRI v. Italy (No. 9821/21)

(Art. 2) Right to life, (Art. 3) Prohibition of torture – death in psychiatric ward – involuntary hospitalisation

SUBJECT MATTER OF THE CASE

The case concerns the circumstances of the death of the applicant's son, P.A., during his involuntary hospitalisation in a psychiatric ward (*Servizio psichiatrico di diagnosi e cura*) while under mechanical restraint and pharmacological sedation.

Relying on Articles 2 and 3 of the Convention, the applicant complains (a) that the mechanical restraint to which P.A. was subjected had not been strictly necessary to prevent imminent danger to himself or others and had contributed to causing his death (b) that the mechanical restraint and pharmacological sedation had not been applied with diligence given that P.A. was an individual with respiratory difficulties and other high-risk medical conditions (c) that the authorities, despite having been fully aware of P.A.'s health conditions, had failed to provide him with appropriate medical assistance – as well as close and constant monitoring – capable of averting risks to his life and health; and (d) that there was a lack of training of healthcare personnel on the use of mechanical restraint. The applicant also complained, under the same Articles, that the authorities failed to carry out an effective investigation into the impugned events.

QUESTIONS TO THE PARTIES

1. Do the circumstances in which P.A. died disclose a violation of Article 2 of the Convention in its substantive aspect? In particular, did the domestic authorities fail to take adequate and appropriate steps to protect P.A.'s life?

2. Has P.A. been subjected to inhuman or degrading treatment, in breach of Article 3 of the Convention (see *Aggerholm v. Denmark*, no. 45439/18, §§ 79-85, 15 September 2020)? In particular:

Can it be stated that mechanical restraint was employed as a matter of last resort and that its application was the only means available to prevent immediate or imminent harm to P.A. or others, and, if so, that the measure was not prolonged beyond the period which was strictly necessary for the achievement of such a

purpose (see *Lavorgna v. Italy*, no. 8436/21, §§ 115, 116 and 122, 7 November 2024)? Was the use of such a measure commensurate with adequate safeguards from any abuse (see *M.S. v. Croatia (no. 2)*, no. 75450/12, § 105, 19 February 2015) ? Can it be stated that P.A. was kept under close supervision, also bearing in mind the specific circumstances of the case, and that the use of restraint was properly recorded (see *Lavorgna*, cited above § 116) ?

3. 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) and the procedural protection from inhuman or degrading treatment (see *Labita v. Italy* [GC], no. 26772/95, § 131, ECHR 2000-IV) was the investigation in the present case by the domestic authorities in breach of Articles 2 and 3 of the Convention? In particular:

- Have all reasonable steps been taken by the national authorities to establish the cause of P.A.'s death and to investigate the applicant's allegations in this respect?

- Were the investigation's conclusions based on a thorough, objective and impartial analysis of all relevant elements (see *Armani Da Silva v. the United Kingdom* [GC], no. 5878/08, § 234, 30 March 2016) and, *mutatis mutandis*, *Scavuzzo-Hager and Others v. Switzerland*, no. 41773/98, §§ 58-59, 7 February 2006?

- Did the domestic judicial authorities, and in particular the investigating judge, set out with sufficient clarity the grounds on which the applicant's arguments and requests for further investigative acts were dismissed? In replying to this question, the parties are invited to address, amongst other things, the applicant's requests for an assessment of the possible impact of mechanical and pharmacological restraint on P.A.'s death, if need be by ordering a fresh medical expert assessment; an assessment of the justification of the mechanical restraint measure and its prolongation in terms of the measures' necessity to prevent an imminent danger; and, lastly, the request to identify and hear the medical and nursing staff involved in the impugned events.

The Government are invited to specify whether P.A. was under constant supervision while he was mechanically restrained and, if so provide evidence thereof.

The Government are invited to submit a copy of the protocol or guidelines on the use of mechanical restraint which were applicable, at the time of the impugned events, in the Sassari Santissima Annunziata hospital psychiatric ward.

The Government are further invited to specify whether a Register of restraint (*registro della contenzione*) existed at the Sassari Santissima Annunziata hospital at the material time, and whether the applicant's restraint was recorded in such a register. In the affirmative, they are invited to provide a copy of the relevant entries.

They are also invited to specify whether training of medical and non-medical staff in the Sassari Santissima Annunziata hospital psychiatric ward had been carried out on the use of mechanical restraint at the time of the impugned events, and, in the affirmative, provide information on the content of such training and any pertinent documentation in support of their answer.

Vita MANISCALCHI v. Italy (No. 39591/23)

(Art. 14) Prohibition of discrimination and (P1-1) Protection of property – discrimination between different categories of civil servants – pension

SUBJECT MATTER OF THE CASE

The application concerns an alleged discrimination in relation to a special pension on account of the fact that the applicant was a non-State civil servant (*dipendente pubblico non statale*).

The applicant is a former medical manager at the Health Administration of the Province in Trapani (*Azienda Sanitaria Provinciale*, ASP), who was made redundant on 24 March 2006 because her serious mental illness was incompatible with her work.

In July 2004 she had asked the ASP to ascertain if her illness was work-related and to grant her compensation, but the ASP refused it in April 2007. In July 2011 she challenged the ASP's refusal and, on 16 July 2014, the employment tribunal acknowledged that her illness was indeed work-related.

The applicant then requested the Italian welfare agency (*Istituto Nazionale della Previdenza Sociale*, INPS) to grant her a special pension (*pensione privilegiata ordinaria*) which requires a declaration confirming that the illness is work-related but does not set an age-limit or require any contributions. This request was rejected by INPS in July 2018, because lodged out of time, according to Section 14 paragraph 1 of Law no. 274/1991, which sets a five-year time-limit from the cessation of the job.

The applicant challenged the rejection before the First Instance Auditor Court, which, in 2021, acknowledged her right to the special pension. However, on 27 June 2023 the Appeal Auditor Court quashed that decision on the ground that the request had been lodged out of time because the applicant was not a "State employee" who can benefit from the suspension of the time-limit according to Section 169 of Law no. 1092/1973, but a "public employee", who could not avail herself of such a suspension.

The applicant, arguing that the two categories of civil servants are almost identical, complains of a violation of Article 14 of the Convention in conjunction with Article 1 of Protocol No. 1 to the Convention.

QUESTIONS TO THE PARTIES

Has the applicant suffered discrimination in the enjoyment of her Convention rights, contrary to Article 14 of the Convention read in conjunction with Article 1 of Protocol No. 1 to the Convention (*Clift v. the United Kingdom*, no. 7205/07, § 66, 13 July 2010; *Fábián v. Hungary* [GC], no. 78117/13, §§ 60-64, 5 September 2017; *Stec and Others v. the United Kingdom* [GC], nos. 65731/01 and 65900/01, § 51, ECHR 2005-X; *Moskal v. Poland*, no. 10373/05, § 39, 15 September 2009; *Andrejeva v. Latvia* [GC], no. 55707/00, § 77, ECHR 2009; *Savickis and Others v. Latvia* [GC], no. 49270/11, § 121, 9 June 2022)?

(a) In particular, has the applicant as a non-State civil servant been subjected to a difference in treatment in comparison with State civil servants?

(b) If so, did that difference in treatment pursue a legitimate aim? And did it have a reasonable justification (*Carson and Others v. the United Kingdom* [GC], no. 42184/05, § 61, ECHR 2010)?

Gianluca CIUCCI and Constanza PICCIONI v. Italy

(Art. 8) Right to respect for private and family life, (Art. 9) Freedom of thought, conscience and religión and (Art. 14) Prohibition of discrimination – Jehova's witness - blood transfusion

7. SUBJECT MATTER OF THE CASE

The application concerns the administration of blood transfusions to the first applicant, a Jehovah's Witness, against his will.

On 10 February 2014, the first applicant was admitted awake and conscious to the Siena University Hospital and diagnosed with an acute respiratory distress syndrome. The doctors were informed by the first applicant's wife (the second applicant) that he was a Jehovah's Witness refusing blood transfusions and were presented with an advance medical directive, signed by the applicant on 1 January 2014.

On 11 February 2014, following deterioration of his medical conditions, physicians considered necessary to place the first applicant under external mechanical respiratory support. Considering the risk of haemorrhagic complications associated with the medical procedure, advice was sought from a legal expert of the hospital who noted that, lacking national legislation on advanced medical directives, it was necessary to refer to the hospital's internal guidelines establishing that, in case of unconscious patients, blood products were to be administered when necessary. The second applicant was informed of the need to place him under external mechanical respiratory support and of the associated risk of haemorrhages.

Due to complications during the said medical procedure, blood transfusions were administered. The second applicant and a trusted person applied to the Siena guardianship judge (*giudice tutelare*) for the official appointment of the trusted person as a limited guardian (*amministratore di sostegno*) in order to ensure respect of the first applicant's advanced medical directive.

On 12 February 2014, the judge considered that the protection of health was of such paramount importance that the first applicant's previously expressed wishes had to be disregarded. The judge appointed as a limited guardian a person unknown to the applicants and authorised any necessary medical treatment, including blood transfusions. Pursuant to this decision, further transfusions were performed until the first applicant regained consciousness.

The second applicant and the trusted person challenged the decision before the Siena Court of Appeal, claiming a violation of the first applicant's right to self-determination and freedom of religion as recognised by the Italian Constitution and the Convention.

On 18 March 2014, the Court of Appeal revoked the appointment of the legal guardian.

On 27 October 2016, the applicants' appeal on points of law was dismissed by the Court of Cassation. In its decision the court referred, *inter alia,* to the principle established in its judgment no. 23676 of 15 September 2008 according to which, to be valid, the refusal of medical treatments must be expressed, unequivocal and actual. A manifestation of dissent formulated *ex ante* at a time when the patient's life was not in danger is not sufficient as it shall be expressed after the patient has been informed of the severity of his/her medical condition.

The first applicant complains under Articles 8 and 9 of the Convention that while his refusal to certain medical treatments had been clearly expressed, they were ignored by the domestic authorities. In

particular, he maintains that at the material time there was no legal framework setting out the conditions to ensure respect for patient autonomy in the healthcare system at national level. In the first applicant's view, the contested medical treatments were also contrary to Article 14 taken together with Articles 8 and 9 of the Convention.

Relying on Articles 8 and 9 of the Convention, the second applicant complains that the forced blood transfusions performed on her husband infringed her right to family life as their shared religious beliefs were a fundamental element of their marriage. She further claims that the profound distress she sustained on account of the events violated her right to private life.

QUESTIONS TO THE PARTIES

1. Having regard to the object of the domestic judicial proceedings and to the content of the decisions thereof, in particular the Siena Court of Appeal's decision of 18 March 2014, have the applicants complied with the time-limit laid down in Article 35 § 1 of the Convention?

2. Can the second applicant claim to be a victim of alleged violations of the Convention, within the meaning of Article 34 (see *mutatis mutandis, Koch v. Germany*, no. 497/09, §§ 43-50, 19 July 2012; and *Lindholm and the Estate after Leif Lindholm v. Denmark*, no. 25636/22, § 58, 5 November 2024)?

3. Has there been an interference with the applicants' right to respect for their family and/or private life contrary to Article 8 of the Convention read in the light of Article 9 of the Convention (see *Pindo Mulla v. Spain* [GC], no. 15541/20, § 98, 17 September 2024)? If so, was that interference in accordance with the law and necessary in terms of Article 8 § 2?

4. Has the first applicant suffered discrimination contrary to Article 14 of the Convention read in conjunction with Articles 8 and 9 of the Convention?

In answering the questions, the parties are asked to describe the domestic legal framework addressing informed consent and the refusal of medical treatment which was in place at the material time. They are invited to refer to both legislative provisions and domestic case-law.

Cretu v. Republic of Moldova (No. 16379/28)*

(Art. 6) Right to a fair trial – equality of arms – notification of appeal lodged by opposing party

SUBJECT OF THE CASE

The application concerns civil proceedings brought by the applicant against his employer concerning the recovery of his wages over a period of approximately 21 months.

In a final decision dated October 31, 2013, the Court of Appeal reversed the judgment handed down by the court of first instance, which was favorable to the claimant, and dismissed his action as ill-founded. The claimant maintained that he had not been notified of the appeal lodged by the opposing party and was thus prevented from responding to it, as the appeal had been examined solely on the basis of the documents appended to the case file.

Invoking Article 6 § 1 of the Convention, the applicant complained that the principles of adversarial proceedings and equality of arms had not been respected in the proceedings before the Court of Appeal, insofar as he had not been notified of the appeal lodged by the opposing party and of the arguments put forward by the latter, and had therefore been unable to contest them or to defend his case effectively by submitting a statement of defence.

QUESTION TO THE PARTIES

Was the applicant's civil rights and obligations fairly contested, as required by Article 6 § 1 of the Convention? In particular, were the principles of equality of arms and adversarial proceedings respected in relation to the proceedings before the appeal court in the present case (APEH Üldözötteinek Szövetsége and Others v. Hungary, no. 32367/96, §§ 39 and 42, ECHR 2000-X, Beer v. Austria, no. 30428/96, §§ 17-21, 6 February 2001, and Regner v. the Czech Republic [GC], no. 35289/11, §§ 146, 149 and 151, 19 September 2017)?

SDS EKIP S.R.L v. Republic of Moldova (No. 13252/18)*

(Art. 6) Right to a fair trial – access to court – impossibility to challenge official report and subsequent fine

SUBJECT OF THE CASE

The application concerns the imposition, on February 7, 2017, by the State Environmental Inspector of a fine on the applicant company, a Moldovan trading company, for illegal cutting of trees, in the absence of authorization from the environmental authority. The official report drawn up by the inspector, a copy of which was sent to the applicant company, already indicated the penalty, namely the payment of a fine of 10,000 MDL (around 500 euros). It was specified that the procès-verbal could be contested within fifteen days. On February 16, 2017, the same inspector issued a formal decision reiterating this penalty. The applicant company claimed that it had not been informed of this decision.

The interested party challenged the administrative penalty notice before the Court of First Instance. The latter dismissed the appeal on the grounds that the official report could only be contested together with the decision imposing the penalty. The appellant company appealed, arguing that it was contesting the official report in its entirety, including the penalty. In a final decision dated September 5, 2017, the Court of Appeal dismissed the appeal as ill-founded, relying on Recommendation no. 41 of the Supreme Court of Justice, which provides that the minutes may only be challenged together with the decision imposing the sanction in the same proceedings.

Invoking Article 6 § 1 of the Convention, the applicant company claimed that its right of access to the courts had been restricted by the refusal of the domestic courts to examine its challenge on the merits in order to determine the legality of the official ticket, including the penalty imposed on it.

QUESTIONS TO THE PARTIES

Was the applicant company's right of access to a court, as guaranteed by Article 6 § 1 of the Convention, disregarded in the present case, given the alleged impossibility of challenging the official report and the amount of the fine (Efstathiou and Others v. Greece, no. 36998/02, § 24, 27 July 2006; García Manibardo v. Spain, no. 38695/97, § 36, ECHR 2000-II)?

In particular, did the domestic courts display excessive formalism when they refused to consider the applicant's appeal (Zubac v. Croatia [GC], no. 40160/12, §§ 97 - 98, 5 April 2018; Walchli v. France, no. 35787/03, § 29, 26 July 2007)?

Violeta GAŞIŢOI v. Republic of Moldova (No. 7558/18)*

(Art. 6) Right to a fair trial – hearing – oral hearing with regard to criminal charge

SUBJECT OF THE CASE

The application concerns the limitation of the right of access to the Court of Appeal in the context of civil proceedings instituted by the applicant in order to recover her debt.

In particular, the claimant lodged an appeal against the first instance judgment against her. By a preliminary ruling of September 5, 2017, the Chișinău Court of Appeal set her a ten-day deadline to complete her appeal so that it complied with legal requirements and to provide proof of payment of the court fee. In a decision dated October 12, 2017 and after finding that the applicant had not complied with the instructions given, the Court of Appeal dismissed the appeal without examining it. It pointed out that the appellant's lawyer had received the preliminary ruling in question electronically on September 15, 2017. The applicant lodged an appeal arguing that neither she nor her lawyer had received the preliminary ruling of September 5, 2017 electronically. She also pointed out that, under article 105 of the Code of Civil Procedure, the courts could only send notifications by electronic means at the request of the person concerned, and that she had not made such a request. In a final decision of December 20, 2017, the Supreme Court of Justice dismissed the appeal and upheld the Court of Appeal's judgment of October 12, 2017, without responding to the claimant's argument regarding electronic notifications.

Invoking Article 6 § 1 of the Convention, the applicant complains of an arbitrary limitation of her right of access to the Court of Appeal.

QUESTION TO THE PARTIES

Has the applicant's right of access to the Court of Appeal, guaranteed by Article 6 § 1, been respected in the present case? In particular, was the applicant notified of the preliminary ruling of the Chișinău Court of Appeal of September 5, 2017 in accordance with the legal channels? Did the limitation on the applicant's right of access to the appeal proceedings comply with the requirements of Article 105 of the Code of Civil Procedure, did it pursue a legitimate aim and was there a reasonable relationship of proportionality between the means employed and the aim pursued (Paroisse gréco-catholique Lupeni et autres c. Romania [GC], no. 76943/11, § 89, 29 November 2016, Avotiņš v. Latvia [GC], no. 17502/07, § 119, 23 May 2016, and Miragall Escolano and Others v. Spain, nos. 38366/97 and 9 others, § 37, ECHR 2000-I)?

Tamara COJOCARU v. Republic of Moldova

(Art. 6) Right to a fair trial and (P1-1) Protection of property – right to property - arbitrariness of judgement – motivated reasoning

SUBJECT OF THE CASE

The application concerns a failure to state reasons in decisions handed down by national courts in a dispute concerning the amount of the one-off severance pay to which the claimant believed she was entitled.

The claimant left the civil service in 2017, after 40 years as a public prosecutor. Pursuant to Article 62 § 2 of Law no. 3/2016 on the Public Prosecutor's Office, in force at the time of her retirement, a prosecutor leaving office was entitled to compensation equal to 50% of the sum of her monthly salary multiplied by the number of full years worked. In this case, the employer paid the claimant severance pay only for the last 14 years of her career, because in 2002 she had received similar pay for the first 26 years.

The claimant brought an action before the Court of First Instance seeking to obtain the difference between the amount of the severance payments received in 2002 and 2017, and the amount to which she believed she was entitled, pursuant to article 62 § 2 of the aforementioned law. In particular, she alleged that she had received a much lower sum than she would have if her compensation had been calculated, in 2017, on the basis of 40 years' work.

The court of first instance rejected the claim. It considered that the legal relationship in question was governed by the provisions of Act no. 294/2008 on the Public Prosecutor's Office, repealed in 2016. It cited article 72 of this law, according to which “the prosecutor who has [already] received an indemnity (...) and who nevertheless continues to be employed or is re-employed receives the indemnity only for the period not covered by the indemnity previously received”. The court therefore considered that the payment of compensation calculated on the basis of the last 14 years of employment was justified.

The claimant appealed, arguing in particular that the provisions of law no. 294/2008 were not applicable in this case. She pointed out in this respect that in 2002, when she received, at the employer's initiative, the indemnity relating to her first 26 years of service, the aforementioned law did not yet exist, whereas in 2017, when she retired, the law in question had already been repealed.

The Court of Appeal rejected the appeal and confirmed the decision. The action was finally dismissed by the Supreme Court of Justice on August 8, 2018.

The applicant complained that the proceedings had failed to meet the requirements of Article 6 § 1 of the Convention. She complained of a failure to state reasons for the domestic decisions, as well as their arbitrary nature, resulting from an unforeseeable interpretation of the provisions applicable in the case. Invoking Article 1 of Protocol no. 1, the applicant also complains of an infringement of her right to the

peaceful enjoyment of her possessions as a result of proceedings that failed to respect the guarantees afforded by Article 6 of the Convention.

QUESTIONS TO THE PARTIES

1. Was the dispute over the applicant's civil rights and obligations given a fair hearing, as required by Article 6 § 1 of the Convention?

In particular, did the domestic courts give proper reasons for their decisions in the present case (Ruiz Torija v. Spain, 9 December 1994, §§ 29-30, Series A no. 303-A, and Ramos Nunes de Carvalho e Sá v. Portugal [GC], nos. 55391/13 and 2 others, § 185, 6 November 2018)?

In particular, were the conclusions of the domestic judges as to the interpretation of the national law applicable in the case vitiated by arbitrariness (Moreira Ferreira v. Portugal (no. 2) [GC], no. 19867/12, § 83, 11 July 2017, and Anđelković v. Serbia, no. 1401/08, § 24, 9 April 2013)

2. Did the applicant's claim to the single severance payment constitute “property” within the meaning of Article 1 of Protocol No. 1 to the Convention (Béláné Nagy v. Hungary [GC], no. 53080/13, §§ 72-79, December 13, 2016, Fu Quan, s.r.o. v. Czech Republic [GC], no. 24827/14, § 154, June 1, 2023, and Radomilja and Others v. Croatia ([GC], nos. 37685/10 and 22768/12, §§ 142-143 and 149, March 20, 2018)?

If so, was the applicant's right to respect for her property infringed?

Was any interference consistent with the guarantees offered by this provision?

Alexander HALY et Svitlana CHERVONNYKH- et PETRO SERVICES SHIP MANAGEMENT S.A.M. and others v. Monaco (No. 48995/22 and 49003/22)*

(Art. 6) Right to a fair trial and (Art. 8) Right to respect for private and family life – siezure of property – home and office searches – judicial review

SUBJECT OF THE CASES

The applications concern the seizures made following searches of the applicants' homes and offices, in execution of an international letter rogatory (ICR).

The applicants are a company director (Mr. Haly) and his wife (Mrs. Chervonnykh-Volodarska), as well as three companies of which the first applicant is the director (see appendix). The applicant companies targeted by the searches and seizures, which share the same premises in Monaco, are:

i) Petro Services Ship Management S.A.M.,

ii) All Energies Services Holding BV (formerly Petroserve Holding BV),

iii) Cap Energy Ltd.

In 2016, a wide-ranging judicial investigation was launched in Italy into the bribery of public officials in the Republic of Congo with a view to obtaining oil licenses. As part of this investigation, on February 26, 2018, the Italian authorities sent their Monegasque counterparts a CRI, referring to :

- Mr. Haly, as director of various non-applicant companies, more or less directly involved in the corruption case,

- the first applicant company, targeted because it shared offices with the second applicant company.

- the second applicant company, targeted because it turned out to be controlled by a third company (Petro Service Congo Sàrl), implicated in the corruption affair.

The Italian authorities asked the Monegasque authorities to search:

"- the offices of Petro Services (...), as well as any other offices of the companies [mentioned in the IRC] or of the companies mentioned in Appendix 1;

- the home or any other place of residence or office of Alexander Anthony Haly",

. The Italian authorities requested the seizure of "any documentation (...) relating to economic relations with the companies or individuals listed in the attached annex".

The annex to the CRI, containing 78 keywords (including "Petroserve Holding BV") determining the object of the seizures, was only transmitted to the Monegasque authorities on April 5, 2018 and was not taken into account when the searches and seizures were carried out.

In execution of the CRI, on April 5 and 6, 2018, police officers seized a telephone, two laptops, a tablet and three filing cabinets with documents at the Haly couple's home in Monaco. At the companies' offices, they seized documents in paper format, as well as the entire contents of a computer server and fifteen computers. The data was then stored on three hard disks and placed under seal.

The plaintiffs filed a motion for nullity of the CRI's acts of execution.

In a judgment handed down on June 6, 2019, the Monaco Court of Appeal, sitting in chambers, ruled that the seizures appeared to have greatly exceeded the scope of the request for international mutual assistance, since the limitations resulting from the annex to the IRC had not been taken into account. It qualified the seizures as disproportionate and ordered the annulment of all the implementing acts of the CRI and the withdrawal of the annulled acts from the file.

On December 7, 2019, the Court of Revision annulled the judgment on the grounds that the chambre du conseil could only declare null and void those acts of execution not covered by the appendix delimiting the scope of the operations to be carried out.

On February 5, 2021, the Court of Revision, acting as the referring court, ruled that the CRI's implementing measures concerning the documentation not covered by the Italian authorities' request should be annulled. Consequently, it ordered the Public Prosecutor, after listing the only documentation requested in the annex to the CRI, to issue copies to the applicants, and stayed proceedings on the remainder of the requests.

As part of the execution of the judgment of February 5, 2021, a forensic expert selected, by keyword, the documents, messages and files to be transmitted to the Italian authorities. For each keyword, he indicated the number of files and their locations. When several files corresponded to a keyword, he compiled a list of these files, indicating their location. According to the expert, it was neither humanly nor technically feasible to detail the contents of the files further, given their sheer volume.

On September 17, 2021, a copy of all the documents seized was delivered to the applicants on a hard disk and on paper (in the case of the filing cabinets). They objected, with a bailiff's report in support, to the lack of sorting and of a “usable inventory”, and stated that they had been unable to open all the files. Nevertheless, among those they were able to open, there were hundreds of files with no connection whatsoever with the investigation, as well as a large number of other files.

QUESTIONS TO THE PARTIES

Were the searches and seizures carried out on 5 and 6 April 2018 by the Monegasque authorities, in execution of the international letter rogatory issued by the Italian authorities, conducted in violation of the

applicants' right to respect for their private and family life, home, and correspondence, within the meaning of Article 8 of the Convention?

More specifically:

To what extent and on what legal grounds did the Monegasque authorities have the possibility to adapt, limit, clarify, or circumscribe the execution of the request for international mutual assistance, given its scope and prospective nature?

Was the judicial warrant issued to the police sufficiently precise and explicit regarding both the subject matter and the scope of the search and seizure measures (see, mutatis mutandis, Kırdök and Others v. Turkey, no. 14704/12, §§ 53-54, 3 December 2019, and Amarandei and Others v. Romania, no. 1443/10, §§ 224-226, 26 April 2016)?

Were the contested operations accompanied by procedural safeguards that complied with the requirements of Article 8?

Did the judgments of the Court of Revision dated 5 February 2021 and 13 June 2022 remedy the alleged violations?

More specifically:

Was the judicial review concrete, effective, and sufficient to address the extensive seizures (see, mutatis mutandis, in the context of Article 1 of Protocol No. 1 to the Convention, Amerisoc Center S.R.L. v. Luxembourg, no. 50527/20, § 56, 17 October 2024)?

Was the order by the Court of Revision requiring the applicants to individually identify each document and file to be excluded from the seizures proportionate in light of the procedural requirements of Article 8 (UAB Kesko Senukai Lithuania v. Lithuania, no. 19162/19, 4 April 2023; compare with Janssen Cilag v. France (dec.) [committee], no. 33931/12, §§ 22-23, 21 March 2017)?

Were the documents and files protected by lawyer-client privilege (Michaud v. France, no. 12323/11, §§ 117-119, ECHR 2012, and the references cited therein) removed from the case file?

The applicants are invited to indicate the consequences of the contested seizures, and whether Mr. Haly and/or the applicant companies were subject to criminal convictions or dismissals of charges in Italy.

The applicants in application no. 48995/22 are invited to provide information on the identity of the owner of the laptops seized at the home of Mr. and Mrs. Haly and not returned.

Was the procedure initiated by the applicants to annul the searches and seizures fair, in accordance with the requirements of Article 6 § 1 of the Convention?

Miroje JOVANOVIĆ v. Montenegro (No. 19802/24, 20868/24 and 20872/24)

(Art. 10) Freedom of expression – freedom of expression of a lawyer representing defendants in criminal proceedings - impartiality of court

SUBJECT MATTER OF THE CASE

The applications concern the applicant's freedom of expression in court proceedings and his right to a fair trial.

The applicant is a lawyer practicing in Novi Sad, Serbia. At the relevant time he was representing three defendants in criminal proceedings ongoing before the Montenegrin courts, who were, with several other persons, accused of forming a criminal organisation, attempt of terrorism, and inciting preparation of actions against the constitutional order and security of Montenegro.

During the criminal proceedings the applicant was fined for disrupting the order and procedural discipline on 7 December 2017, 27 September and 13 December 2018, in the amounts of 500 euros (EUR), EUR 500 and EUR 1,000, respectively.

As concerns the first two occasions, the first-instance decisions to fine the applicant were upheld by the Court of Appeal, and in both cases the Constitutional Court found a violation of Article 10 and remitted the cases. The first-instance decisions to fine the applicant were upheld again by the Court of Appeal and the applicant's subsequent constitutional appeals were dismissed by the Constitutional Court on 26 December 2023.

On the third occasion the first-instance decision was upheld by the Court of Appeal on 14 January 2019, and the applicant's constitutional appeal was dismissed on 26 December 2023.

The applicant complains under Article 10 of the Convention that the very imposition of the fines amounted to a violation of his right to freedom of expression, particularly since he only attempted to procedurally intervene and lodge an objection during the criminal proceedings. He also complains under Article 6 of the Convention that the courts which fined him were not impartial and that the relevant decisions were inadequately reasoned.

QUESTIONS TO THE PARTIES

1. Was Article 6 § 1 of the Convention under its civil or criminal head applicable to the proceedings in the present cases (see *Kyprianou v. Cyprus* [GC], no. 73797/01, §§ 61 and 64, ECHR 2005-XIII; see, also, *Žugić v. Croatia*, no. 3699/08, §§ 63-71, 31 May 2011)?

If so, did the applicant have a fair hearing, in accordance with Article 6 § 1 of the Convention? In particular, was the court which dealt with the applicant's case impartial, as required by Article 6 § 1 of the

Convention? Also, were the reasons given in the relevant domestic decisions based on a manifest factual or legal error committed by the domestic court, resulting in a "denial of justice" (see *Moreira Ferreira v. Portugal (no. 2)* [GC], no. 19867/12, § 85, 11 July 2017)?

2. Has there been a violation of the applicant's right to freedom of expression, in particular his right to impart information and ideas, contrary to Article 10 of the Convention (see, *mutatis mutandis*, *Kyprianou*, cited above, §§ 170-75 and 181, and *Morice v. France* [GC], no. 29369/10, §§ 124-39, ECHR 2015)? In this respect, to what extent are the duties and responsibilities inherent in the applicant's profession relevant to his claim and to the State's margin of appreciation in this field?

The parties are invited to provide the Court with the complete decision of the Court of Appeal of 30 December 2020. They are also invited to inform the Court if there were any further developments in the criminal proceedings thereafter and, if so, to submit all the decisions that might have been delivered in the meantime.

Milivoje NIKIKJ v. North Macedonia (No. 23839/22)

(Art. 6) Right to a fair trial – fair hearing – denial of oral hearing – contribution to establishment of facts

SUBJECT MATTER OF THE CASE

The applicant complains under Article 6 § 1 of the Convention about the refusal of the Court of Appeal to hold an oral hearing in the criminal proceedings in which he was finally convicted for causing a traffic accident, despite his explicit request to that effect and after having been heard by the court of first instance in the same proceedings. The Court of Appeal found that the applicant's appeal had been sufficiently detailed, and an oral hearing would not contribute to the establishment of the facts.

QUESTION 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, has there been a breach of the applicant's right to an oral hearing under Article 6 § 1 on account of the Court of Appeal's refusal to hold a hearing (see *Deliktaş v. Türkiye*, no. 25852/18, §§ 40-55, 12 December 2023; compare also *Hokkeling v. the Netherlands,* no. 30749/12, §§ 56-63, 14 February 2017, and *Arps v. Croatia*, no. 23444/12, §§ 24-29, 25 October 2016)?

Natasha PETRAK v. North Macedonia (No. 5359/23)

(Art. 2) Right to life – effective investigation into medical error leading to loss of life

SUBJECT MATTER OF THE CASE

On 27 December 2015 the applicant's father died in the Bitola State Hospital after it had been established that he had suffered a perforation of the large intestine which led to sepsis. The applicant lodged a criminal complaint with the Bitola Public Prosecutor's Office against the doctors who had treated her father in the Bitola State Hospital. The prosecution rejected her criminal complaint at two levels finding

that the perforation had been caused by a colonoscopy performed at the Skopje State Hospital ten days prior to the death of her father.

On 29 August 2017 the applicant lodged a criminal complaint with the Skopje Public Prosecutor's Office against the doctors that treated her father in the Skopje State Hospital. On 21 January 2022 the prosecution rejected the applicant's criminal complaint. It held that the perforation of the large intestine and the late detection of the inflammation of the stomach cavity could not be characterised as negligent medical care, application of obviously inappropriate means of medical care or lack of adherence to hygiene measures.

The applicant complains, under the procedural aspect of Article 2 of the Convention, about the alleged failure of the State to effectively investigate her father's death caused by medical negligence.

QUESTIONS TO THE PARTIES

1. Has the applicant exhausted all effective domestic remedies, as required by Article 35 § 1 of the Convention? In particular, was a civil action for compensation an effective remedy in the circumstances? The parties are invited to submit any relevant case-law of the domestic courts in support of their submissions.

2. Having regard to the procedural protection of the right to life, was the investigation in the present case capable of satisfying the requirements of an "effective investigation" within the meaning of the Court's case-law concerning the procedural limb of Article 2 of the Convention (see *Lopes de Sousa Fernandes v. Portugal* [GC], no. 56080/13, §§ 214-38, 19 December 2017; *Mehmet Şentürk and Bekir Şentürk v. Turkey*, no. 13423/09, §§ 81-83; 98-106, ECHR 2013; and *Šilih v. Slovenia* [GC], no. 71463/01, §§ 192-211, 9 April 2009)?

Ruzhica NIKOLOVSKA v. North Macedonia (No. 4137/21)

(Art. 10) Freedom of expression – fine for contempt of court

8. SUBJECT MATTER OF THE CASE

The application concerns a fine in the amount of EUR 500 imposed by the domestic courts on the applicant, a lawyer, for contempt of court, concerning a comment she had allegedly made at a hearing. The applicant had allegedly stated: "Shall we not watch any more video recordings?". The presiding judge of the trial bench found, and the three-judge panel of the court confirmed, that the applicant had addressed the court with irony, criticising the length of the hearing.

The Constitutional Court dismissed the applicant's constitutional complaint, finding that the applicant had not acted in a professional manner and that she had abused her rights and negatively affected the proceedings.

The applicant complains under Article 10 of the Convention about a violation of her right to freedom of expression by the imposition of the fine on her for contempt of court.

9. QUESTION TO THE PARTIES

Has there been a violation of the applicant's right to freedom of expression by the imposition of the fine on her for contempt of court, contrary to Article 10 of the Convention (see *Morice v. France* [GC],

no. 29369/10, §§ 124-39, 23 April 2015; *Bono v. France*, no. 29024/11, §§ 43 et seq., 15 December 2015; and *Rodriguez Ravelo v. Spain*, no. 48074/10, §§ 39-51, 12 January 2016)?

Giulio PLATON and Gheorghe-Vasile VĂSCĂUŢANU v. Romania (No. 49254/22 and 10120/23)

(Art. 3) Prohibition of torture – inhumane treatment of prisoners – detention conditions

SUBJECT MATTER OF THE CASE

The applicants, currently in detention, complain, under Article 3 of the Convention, about overcrowding and other issues related to the material conditions of their detention, including poor hygiene, mould-infested or unclean cells, and inadequate ventilation and lighting.

The first applicant, whose detention commenced on 14 November 2020, was sentenced to 14 years and four months' imprisonment. He complains about the conditions of detention at the Giurgiu, Mioveni, Timișoara, Jilava Prisons, and Dej Prison Hospital.

The second applicant, whose detention commenced on 26 February 2019, was sentenced to life imprisonment. He complains about the conditions of detention at the Vrancea County Police Station, Focșani and Galați Prisons.

QUESTIONS TO THE PARTIES

1. Did the material conditions of the applicants' detention amount to inhuman or degrading treatment, in breach of Article 3 of the Convention (see Rezmiveș and Others v. Romania, nos. 61467/12 and 3 others, 25 April 2017)?

2. Did the applicants have an effective preventive remedy, as required by Article 13 of the Convention, through which they could raise before the domestic courts their complaints under Article 3 of the Convention relating to improper conditions of detention? Have the applicants exhausted all effective domestic remedies, as required by Article 35 § 1 of the Convention? In particular, was a complaint before the post-sentencing judge under Law no. 254/2013 on sentencing, execution of sentences, and detention ("Law no. 254/2013") an effective remedy in respect of the applicants' complaints under Article 3?

In the affirmative, the Government are invited to provide examples of domestic case-law concerning measures ordered by the post-sentencing judge under Law no. 254/2013 to guarantee detainees standards of accommodation compliant with Article 3 of the Convention, together with proof of implementation of those measures.

Edem Remziyevich USEYNOV v. Russia (No. 41275/16, 17284/18, 37728/18, 2862/20 4663/20 and 32101/21)

(Art. 8) Right to respect for private and family life, (Art. 9) Freedom of thought, conscience and religion(Art. 11), Freedom of assembly and association (Art. 14), Prohibition of discrimination (P1-2), Right to education and (P4-2) Freedom of movement. - imposition of Russian citizenship on Ukrainian nationals following Russian jurisdiction over Crimea

SUBJECT MATTER OF THE CASES

The applications arise from the conflict between Ukraine and the Russian Federation. They concern, *inter alia*, the imposition of Russian citizenship on the applicants in the territory of Crimea following the Russian Federation's assertion of jurisdiction over it in 2014.

The applicants, Ukrainian nationals, were permanent residents of Crimea. According to Russian law - specifically the so-called "Accession Treaty" of 18 March 2014 and the Federal Constitutional Law of the Russian Federation no. 6-FKZ of 21 March 2014 - Russian citizenship was automatically imposed on all residents of Crimea "from the date of admission of the Republic of Crimea into the Russian Federation". The applicants (except the applicant in application no. 32101/21) claim that, under this legislation, Russian citizenship was forcibly imposed on them, which constituted an interference with their private life in violation of Article 8 of the Convention. Specifically, the applicants contend that they were compelled to acquire Russian nationality due to the absence of an effective opt-out system. The applicants in applications nos. 2862/20, 4663/20 and 32101/21 state that they renounced Russian citizenship but, as a result, allegedly faced restrictions in their enjoyment of certain rights compared to Russian Federation citizens in Crimea.

The applicants in applications nos. 41275/16, 37728/18, 4663/20, 2862/20 and 32101/21 further complain of restrictions on their movement between Crimea and mainland Ukraine due to Crimea's admission as a constituent entity of the Russian Federation and the application of Russian law to them. Additionally, the applicants in applications nos. 4663/20, 2862/20 and 32101/21, who renounced Russian citizenship, alleged a violation of their freedom to choose their residence under Article 2 of Protocol No. 4 as they faced difficulties in obtaining residence permits in Crimea, and further claimed under Article 14 of the Convention that they were discriminated against as Ukrainian nationals.

The applicant in application no. 17284/18 complains under Article 7 of the Convention about his conviction by the "Gagarinskiy District Court of Sevastopol" on 17 June 2017 for defaming a judge. In particular, he claims that the relevant provisions of Russian criminal law were neither accessible nor foreseeable, and that Ukrainian criminal law does not provide for criminal liability for the offence of defamation.

Lastly, the applicant in application no. 41275/16, who is of Crimean Tatar origin, alleges a violation of Article 2 of Protocol No.1 to the Convention. He argues that his children, who are secondary school students in Crimea, are required to follow the Russian curriculum, which he claims is inconsistent with his family's religious and philosophical convictions and misrepresents the history of the Crimean Tatar people.

QUESTIONS TO THE PARTIES

1. Have the applicants complied with the admissibility requirements set forth in Article 35 § 1 of the Convention

2. Has there been a violation of the applicants' right to respect for their private life under Article 8 § 1 of the Convention on account of:

(a) the imposition of the Russian citizenship on the applicants and the lack of effective opt-out system in all applications, except no. 32101/21 (see *Ukraine v. Russia (re Crimea)* [GC], nos. 20958/14 and 38334/18, §§ 1038-39, 25 June 2024);

(b) the renunciation of Russian citizenship by the applicants in applications nos. 2862/20, 4663/20 and 32101/21, and the restrictions in the enjoyment of certain rights as a consequence of that renunciation?

3. In so far as applications nos. 41275/16, 37728/18, 4663/20, 2862/20 and 32101/21 are concerned, has there been a restriction on the applicants' right to liberty of movement, guaranteed by Article 2 § 1 of Protocol No. 4 to the Convention (see *Ukraine v. Russia (re Crimea)* [GC], cited above, §§ 1174-75)?

4. Have the applicants in applications nos. 4663/20, 2862/20 and 32101/21 suffered discrimination in the exercise of their Convention rights based on their Ukrainian nationality, in breach of Article 14 of the Convention and taken in conjunction with Article 8 and/or Article 2 of Protocol No. 4?

5. In application no. 17284/18, has the applicant's conviction for defamation been compatible with the requirements of Article 7 of the Convention?

6. In so far as application no. 41275/16 is concerned, has there been a breach of the applicant's right to have his children educated in conformity with his religious and philosophical convictions, guaranteed by Article 2 of Protocol No. 1 to the Convention?

Torgovyy Dim Germes Oil, TOV v. Russia (No. 68289/14, 48912/18, 20073/19, 45694/19, 39098/21, 54328/21, 54919/21, 30449/22, 30480/22, 30873/22, and 42780/23)

(P1-1) Protection of property – deprivation of property possession following Russian jurisdiction over Crimea

SUBJECT MATTER OF THE CASES

The applications arise from the conflict between Ukraine and the Russian Federation following the latter's assertion of its jurisdiction over Crimea in 2014. They concern restrictions on the applicants' property rights to various assets, including buildings, apartments, and land located across different parts of Crimea.

The facts of the cases, as submitted by the applicants, are detailed in the appended table.

In application no. 68289/14 the applicant company complained that the seizure of its properties, ordered in criminal proceedings, along with changes in the economic situation caused by the occupation of Crimea, had effectively deprived it of its possessions.

In applications nos. 48912/18, 20073/19, 45694/19, 543281/21, 30449/22, 30480/22, and 30873/22 the applicants complained that Russian "courts" in Crimea had deprived them of their properties (apartments and land plots) without compensation. In application no. 54328/21 the applicant was found not to be a *bona fide* purchaser of her apartment and was therefore deprived of it. In the remaining six applications the "courts" in Crimea upheld claims brought against the applicants by the Russian authorities, namely that their respective properties had been privatised in violation of Ukrainian law between 2005 and 2010.

In application no. 54919/21 the applicant complained that an apartment he had purchased under Ukrainian law in 2018 from a liquidated Ukrainian bank, V., was registered under Russian law in 2019, without his consent, as the property of a certain O.B.

In applications nos. 39098/21 and 42780/23 the applicants complained about the restrictions on the use of their property and its potential *de facto* expropriation imposed by Decree No. 201 of the President of the Russian Federation, dated 20 March 2020. It designated nineteen territories in Crimea and eight in Sevastopol as "border areas of the Russian Federation", precluding non-Russian nationals from owning land there. The applicants neither disposed of their land in the "border areas" within the transitionary one-year period, nor had their titles annulled. The applicant in application no. 42780/23 further argued that this measure was discriminatory, as she had been treated differently from Ukrainian nationals residing in Crimea who had had Russian nationality imposed on them. In this regard, she relied on Article 14 of the Convention in conjunction with Article 1 of Protocol No. 1.

QUESTIONS TO THE PARTIES

1. Have the applicants complied with the admissibility criteria set out in Article 35 of the Convention?

Specifically, in applications nos. 48912/18 and 54919/21, have the applicants complied with the six-month rule, as applicable before the entry into force of Article 4 of Protocol No. 15 to the Convention?

2. In applications nos. 54328/21, 30449/22, 30480/22 and 30873/22, where the applicants acquired their properties under Russian law after the Russian Federation had asserted its jurisdiction over Crimea, did their proprietary interests constitute "possessions" or at least gave rise to a "legitimate expectation" within the meaning of Article 1 of Protocol No. 1 to the Convention (see *Ukraine v. Russia (re Crimea)* [GC], nos. 20958/14 and 38334/18, § 946, 25 June 2024, regarding the Court's findings that Russian law cannot be considered "law" within the meaning of the Convention)?

Was the situation different for the applicants in applications nos. 45694/19 and 54919/21, who acquired their properties in accordance with Ukrainian law during the same period?

3. Assuming that all applicants had either a "possession" or a "legitimate expectation" attracting the protection of Article 1 of Protocol No. 1 to the Convention, do the measures complained of constitute a violation of that provision (see *Ukraine v. Russia (re Crimea)* [GC], cited above, §§ 942-46 and 1145-51)?

4. In application no. 42780/23, did the applicant suffer discrimination in the enjoyment of her right to peaceful enjoyment of her possessions on the grounds of her Ukrainian nationality and place of residence, contrary to Article 14 of the Convention read in conjunction with Article 1 of Protocol No. 1 thereto?

Sergiy Vasylyovych KAZACHENKO v. Russia and Ukraine (No. 9580/15, 49255/15, 12781/17, 34941/17 and 45447/18)

(Art. 5) Right to liberty and security, (Art. 13) Right to an effective remedy and (P7-2) Right of appeal in criminal matters – deprivation of liberty – reclassification of criminal cases following Russian jurisdiction over Crimea

SUBJECT MATTER OF THE CASES

The applications arise from the conflict between Ukraine and the Russian Federation following the latter's assertion of jurisdiction over Crimea in 2014.

The applicants are Ukrainian nationals some of whom are currently serving their prison sentences in Russia. Initially detained by Ukrainian authorities in Crimea before 2014 – either after their detention on remand was ordered on account of suspicions or following their convictions by Ukrainian courts – their criminal cases were subsequently reclassified under Russian law by Russian "courts" in Crimea. Subsequently the applicants were convicted by Russian "courts" for the offences allegedly committed when Crimea was under Ukrainian jurisdiction. The applicants allege that their criminal convictions and detention were unlawful.

In particular, the applicants argue under Article 5 of the Convention that their detention following conviction by Russian "courts" lacked legal basis, as they were convicted for acts committed under Ukrainian jurisdiction in Ukraine. They claim that Ukraine also bears responsibility for their uncertain legal status under Article 5 of the Convention, asserting that Ukraine did not exhaust legal and diplomatic means to protect their rights.

Furthermore, the applicants in applications nos. 12781/17 and 34941/17 complain about their transfers from Crimea to detention facilities in Russia to serve their sentences, arguing that it has*, inter alia,* severely

impacted their ability to maintain essential social ties with their families, in breach of Article 8 of the Convention and Article 3 of Protocol No. 4 to the Convention.

QUESTIONS TO THE APPLICANTS AND THE RUSSIAN GOVERNMENT

1. Have the applicants complied with the admissibility requirements set forth in Article 35 of the Convention?

2. Were the applicants deprived of their liberty in breach of Article 5 § 1 of the Convention (see *Ukraine v. Russia (re Crimea)* [GC], nos. 20958/14 and 38334/18, §§ 943-46 and 998, 25 June 2024)?

3. In applications nos. 12781/17 and 34941/17, were the applicants, who are Ukrainian nationals, expelled from the territory of their State, in breach of Article 3 § 1 of Protocol No. 4 and/or Article 8 of the Convention?

QUESTIONS TO THE APPLICANTS AND THE UKRAINIAN GOVERNMENT

1. Were the applicants deprived of their liberty in breach of Article 5 § 1 of the Convention?

2. In respect of their complaints directed against Ukraine, did the applicants have any effective remedies at their disposal for the protection of their right to liberty? If so, have the applicants exhausted those remedies as required by Article 35 § 1 of the Convention?

Ukrainian Helsinki Human Rights Union on behalf of ten Ukrainian children v. Russia (No. 6719/23)

(Art. 5) Right to liberty and security and (Art. 8) Right to respect for private and family life – Ukrainian children in state childcare institutions following Russia's jurisdiction over Crimea

SUBJECT MATTER OF THE CASE

1. The application was lodged by the Ukrainian Helsinki Human Rights Union (UHHRU), Ukraine's largest association of twenty-six human rights organisations dedicated to the protection of human rights.

2. UHHRU is acting on behalf of ten children without parental care, currently aged between twelve and sixteen years old, who are Ukrainian nationals by birth. In 2014, at the time of the assertion of Russia's jurisdiction over Crimea, these children, then aged between one and five years old, were wards of the Ukrainian State and living in childcare institutions in Crimea.

3. UHHRU alleges that following Russia's assertion of jurisdiction over Crimea, Russian nationality was imposed on the children. Despite repeated requests from the Ukrainian Government, Russia refused to transfer the children to the care of Ukrainian authorities and instead started facilitating their adoption. According to UHHRU, at the time of the introduction of the application, the imminent risk of the children being adopted was evidenced by the sudden disappearance of some of the children's names from the childcare institution's website. This suggested that the children

had either been adopted or that adoption proceedings had commenced. Currently there is no information regarding the children's whereabouts.

4. UHHRU submits that the situation of Ukrainian children in Crimea in general has raised serious concerns among international organisations and public institutions. UHHRU contend that the arbitrary change of the children's citizenship following the assertion by Russia of jurisdiction over Crimea, along with their adoption facilitated by the Russian authorities in the context of the ongoing war in Ukraine, deprived them of their social identity as Ukrainian nationals which was integral to their sense of belonging and cultural heritage. This, UHHRU argues, constitutes a breach of the children's right to respect for private life under Article 8 of the Convention. UHHRU further submits that the Russian Government's failure to follow due legal process in placing and keeping the children in State institutions after establishing effective control over Crimea amounted to a breach of Article 5 of the Convention.

QUESTIONS TO THE PARTIES

1. Does the Ukrainian Helsinki Human Rights Union have standing, within the meaning of Article 34 of the Convention, to act before the Court on behalf of the children in the present case (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 112, ECHR 2014, and *Association Innocence en Danger and Association Enfance et Partage v. France*, nos. 15343/15 and 16806/15, §§ 121-31, 4 June 2020)?

2. Has the Ukrainian Helsinki Human Rights Union complied with the admissibility requirements set forth in Article 35 § 1 of the Convention?

3. Where are the children currently, and have they been adopted, as alleged by the Ukrainian Helsinki Human Rights Union?

The parties are requested to provide factual information in support of their replies to this question.

4. Were the children in the present case deprived of their liberty, in breach of Article 5 § 1 of the Convention, due to their placement and continued stay in the childcare institutions following Russia's assertion of jurisdiction over Crimea (see *Ukraine v. Russia (re Crimea)* [GC], nos. 20958/14 and 38334/18, §§ 943-46 and 998, 25 June 2024)? What was the legal basis for their placement and continued stay in the childcare institution in Crimea?

5. Has there been a violation of Article 8 of the Convention due to the imposition of Russian nationality on the children (see *Ukraine v. Russia (re Crimea)* [GC], cited above, §§ 1031-39), their alleged adoption, and the resulting adverse impact of these measures on their identity?

Olena Borysivna OKUN and Others v. Russia (No. 60887/21, 60896/21 and 60904/21)

(Art. 8) Right to respect for private and family life, (Art. 13) Right to an effective remedy, (P1-1) Protection of property and (P4-2) Freedom of movement – House evictions by the Russian authorities in Crimea

MATTER OF THE CASES

The applications originate from the conflict between Ukraine and the Russian Federation. They mainly concern the applicants' right to respect for their homes, as their tenancies were terminated by the Russian authorities in Crimea.

At various times between 2004 and 2010, the applicants moved into service apartments in Sevastopol based on tenancy orders issued under Russian law to their family members who were serving with the Black Sea Fleet ("the BSF") of the Russian Federation.

The status of the BSF of the Russian Federation on the territory of Ukraine was determined by the bilateral agreements concluded between those States in 1997 and 2010 (see, for the context, Ukraine v. Russia (re Crimea) (dec.) [GC], nos. 20958/14 and 38334/18, §§ 202-08, 16 December 2020).

In applications nos. 60887/21 and 60896/21, the applicants separated from their serving family members between 2012 and 2013, eventually divorcing them in 2019 and 2013, respectively. In application no. 60904/21 the applicant lived in the service apartment of her son, a Russian serviceman, with his family.

After terminating their military service, the applicants' relatives, who had originally been granted the tenancy orders for the apartments, decided to relocate from Sevastopol to Moscow or the Moscow region.

In application no. 60887/21, the applicants' relative alone was granted a social tenancy in an apartment in Balashykha in 2013, having exercised his housing rights as a retired serviceman. In application no. 60896/21, the applicants' relative and his daughter, M., were granted co-ownership of an apartment in the same town in 2015. In application no. 60904/21, the applicant's son and his family were granted a social tenancy in an apartment in Moscow in 2013. Despite this, the applicants in all three cases continued to reside in the respective service apartments in Sevastopol.

In 2019 and 2020 the Ministry of Defence of the Russian Federation filed eviction claims against the applicants, which were granted by the "Gagarinskiy District Court of Sevastopol" through the issuance of eviction orders. The subsequent appeals of the applicants were rejected by the higher courts, with the final decisions taken by the Supreme Court of the Russian Federation on 20 and 27 July 2021. The courts reasoned that the applicants had benefited from the tenancies initially granted to their family members in active military service. Consequently, once those family members ended their service and relocated, there were no legal grounds under Russian law for the applicants to continue tenancy.

In the meantime, during 2020 and 2021, the Russian authorities initiated enforcement proceedings against the applicants with the aim of evicting them. On 11 March 2021 the applicant in application no. 60904/21 was fined 1,000 Russian rubles for failing to vacate the apartment. On 25 August 2021 the main applicants in the other two applications were prohibited from leaving the territory of the Russian Federation (which, according to the Russian authorities, included Crimea) as part of the enforcement proceedings.

On 22 December 2021 the applicants lodged with the Court requests for interim measures under Rule 39 of the Rules of Court, asking the Court to indicate to the Russian Government that the eviction

proceedings should be stayed at least during winter time. On 25 January 2022 the Court decided not to apply the measures sought by the applicants. It remains unclear whether the eviction orders have been enforced against the applicants.

Relying on Article 8 of the Convention and Article 1 of Protocol No. 1 to the Convention, the applicants complained that the decisions of the Russian authorities to evict them had been unlawful, lacking any basis in Ukrainian law, had no legitimate aim, and had been disproportionate.

The main applicants in applications nos. 60887/21 and 60896/21 (see the appendix), relying on Article 2 of Protocol No. 4 to the Convention, also complained that the restrictions on their right to liberty of movement within Ukraine, imposed by the Russian authorities, had been unlawful, lacking any basis in the Fourth Geneva Convention. Having not pursued any domestic remedies in Crimea or Russia, these applicants, relying on Article 13 of the Convention, argued that there were no effective remedies available to challenge the alleged violation of Article 2 of Protocol No. 4 to the Convention in this context.

QUESTIONS TO THE PARTIES

1. Can the apartments in question be classified as the applicants' "home" (see McCann v. the United Kingdom, no. 19009/04, § 46, ECHR 2008)? Have the eviction orders issued by the Russian authorities against the applicants been enforced? Did the alleged actions giving rise to their complaints under Article 8 of the Convention have a basis in "law" within the meaning of that provision (see Ukraine v. Russia (re Crimea) [GC], nos. 20958/14 and 38334/18, §§ 942-46, 25 June 2024)?

2. Did the applicants' interests in question constitute "possessions" within the meaning of Article 1 of Protocol No. 1? If so, do the facts they refer to constitute a violation of that Article?

3. Did the alleged actions that gave rise to the complaints under Article 2 of Protocol No. 4 to the Convention of the main applicants in applications nos. 60887/21 and 60896/21 (see the appendix) have a basis in "law" within the meaning of that provision (see Ukraine v. Russia (re Crimea) [GC], nos. 20958/14 and 38334/18, §§ 1170-75, 25 June 2024)? Did those applicants have at their disposal an effective domestic remedy for their complaints under that Article, as required by Article 13 of the Convention?

Grigoriy Vladimirovich LARIONOV v. Russia (No. 31355/17, 81586/17 and 8406/18)

(Art. 5) Right to liberty and security – lawful detention – Conversion of Ukrainian to Russia prison sentences following Russian effective control over Crimea

MATTER OF THE CASES

The applications arise from the conflict between Ukraine and the Russian Federation, following the latter's assertion of jurisdiction over Crimea in 2014. They concern the alleged unlawful criminal conviction of the applicant, as well as related issues, including the lawfulness of his detention, the conditions of his detention and the loss of access to his property.

On 6 November 2013 the applicant was convicted for theft and sentenced to five years and five months' imprisonment by the Kyivskyi Local Court of Simferopol, acting in the name of Ukraine. However, on 24

September 2014 the same court pronounced a new sentence in the name of Russia, adjusting the conviction in accordance with Russian legislation and sentenced the applicant to four years' imprisonment. The applicant appealed this second sentence in the Russian "courts" in Crimea. After the conviction became final, he was transferred to serve his sentence in the Kirov region of Russia.

On 3 August 2017 the applicant was released, having completed his sentence in full. Several months before the applicant's release, the prison authorities where he was serving his sentence requested the court to place him under administrative supervision. However, on 13 March 2017 the Kirovo Chepetsk District Court of the Kirov region denied the request on the grounds that the applicant was not a Russian citizen and had no legal grounds to remain in Russia after his release.

In application no. 31355/17, the applicant complains under Article 6 of the Convention that his original conviction in Crimea was unlawful, and that he was unlawfully detained in Russia following the conviction by the Russian "court" in Crimea.

In application no. 81586/17, the applicant complains that he lost access to his property in Crimea, as he was unable to return there after serving his sentence, in violation of Article 1 of Protocol No. 1 to the Convention.

Lastly, in application no. 8406/18, the applicant argues that he was prevented from entering Crimea after his release in violation of Article 2 of Protocol No. 4 to the Convention.

QUESTIONS TO THE PARTIES

1. Has the applicant complied with the admissibility requirements set forth in Article 35 of the Convention?

2. In so far as application no. 31355/17 is concerned, was the applicant deprived of his liberty in breach of Article 5 § 1 of the Convention (see Ukraine v. Russia (re Crimea) [GC], nos. 20958/14 and 38334/18, §§ 943 46 and 998, 25 June 2024)?

3. As regards application no. 81586/17, has there been an interference with the applicant's right to peaceful enjoyment of possessions, within the meaning of Article 1 of Protocol No. 1 to the Convention?

4. In so far as application no. 8406/18 is concerned, has there been a restriction on the applicant's right to liberty of movement, guaranteed by Article 2 § 1 of Protocol No. 4 to the Convention (see Ukraine v. Russia (re Crimea) [GC], cited above, §§ 1174-75)?

Dylyaver Kurtseyitovych KHALILOV v. Russia (No. 24097/22, 24345/22, 6584/23)

(Art. 9) Freedom of thought, conscience and religion and (Art. 14) Prohibition of discrimination – requirement of pre-registration for religious services following Russian effective control over Crimea

SUBJECT MATTER OF THE CASES

The applications concern the alleged restrictions imposed by the Russian authorities on the applicants' right to freedom of religion in Crimea following the Russian Federation's assertion of jurisdiction over the peninsula in 2014.

The applications were lodged by religious leaders and religious organisations based in Crimea and registered in Ukraine. Relying on Article 9 of the Convention, the applicants refer to numerous instances that took place in Crimea in alleged violation of their right to freedom of religion. In particular, they argue that the obligation to undergo a re-registration procedure under Russian law in Crimea violated their right to freedom of religion.

The applicant in application no. 24345/22 is a priest of the Orthodox Church of Ukraine who conducted a worship service in Crimea on 8 August 2021 within his religious community. The applicant in application no. 24097/22 is an imam of the Muslim Community "Chelebidjikhan" who held a public worship service inside a mosque in Crimea on 20 March 2020 in accordance with Islamic traditions. In their respective applications, the applicants allege that they were subjected to administrative liability and fined: the former for engaging in a missionary activity without proper registration, and the latter for organising a public gathering without prior authorisation.

The applicant in application no. 6584/23 is a religious organisation of the Orthodox Church of Ukraine. Although registered in Ukraine, the organisation did not re-register under Russian law applied in Crimea after 21 March 2014. In September 2019 the local administration of Yevpatoriya filed a claim in a Crimean court seeking demolition of the church used by the applicant organisation. The applicant alleges that the courts in Crimea, established under Russian law, refused to recognise the legal standing of the organisation due to its failure to re-register under Russian law.

Finally, the applicants in applications nos. 24097/22 and 24345/22 complain that their religious communities were treated less favourably than other religious organisations in Crimea, namely the Ukrainian Orthodox Church of the Moscow Patriarchate (in so far as the former application is concerned), and organisations affiliated with the Religious Board of Muslims of Crimea (as regards the latter application). In this regard, these applicants argue that they have been subjected to discrimination in the enjoyment of their right to freedom of religion, contrary to Article 14, read in conjunction with Article 9 of the Convention.

QUESTIONS TO THE PARTIES

1. Have the applicants complied with the admissibility requirements set forth in Article 35 § 1 of the Convention?

2. Has there been an interference with the applicants' right to freedom of religion, within the meaning of Article 9 § 1 of the Convention? If so, was that interference prescribed by law and necessary in terms of Article 9 § 2?

3. Have the applicants in applications nos. 24097/22 and 24345/22 been subjected to discriminatory treatment in the enjoyment of their Convention rights, contrary to Article 14 taken in conjunction with Article 9 of the Convention?

A and Others v. Russia (No. 67202/14, 45623/15, 59299/15, 53716/16, 41775/17, 72692/17 and 1025/23)

(Art. 8) Right to respect for private and family life, (Art. 13) Right to an effective remedy, (Art. 14) Prohibition of discrimination, (Art. 17) Prohibition of abuse of rights, (Art. 18) Limitation on use of restrictions on rights, (P1-1) Protection of property, (P1-2) Right to education, (P4-2) Freedom of movement – forced displacement from homes following Russian effective control over Crimea

SUBJECT MATTER OF THE CASES

The applications concern the alleged forced displacement of the applicants from their permanent residences in Crimea to mainland Ukraine, as well as other related alleged violations of their rights resulting from Russia's exercise of effective control over Crimea (see Ukraine v. Russia (re Crimea) (dec.) [GC], nos. 20958/14 and 38334/18, § 335, 16 December 2020).

The applicants are Ukrainian nationals. The applicants Mr R.R. Ibragimov, Ms E.S. Motrechko and Mr S.V. Seytumerov (applications nos. 53716/16, 72692/17 and 1025/23 respectively) are of Crimean Tatar origin.

All applicants had been permanently residing in Crimea and had established their private and family lives there until, after the Russian Federation asserted their jurisdiction over Crimea, they left Crimea on various dates between February 2014 and February 2019 and have thus become internally displaced persons.

Relying on Article 8 of the Convention, the applicants allege that they were forced to leave their homes and/or places of work, businesses, or education due to threats, intimidation and persecution by the Russian authorities and/or their unwillingness to accept Russian citizenship and remain in Crimea under Russia's jurisdiction. Additionally, some applicants argue that the risks they face have been exacerbated following the start of Russia's military operations on the territory of Ukraine on 24 February 2022.

The applicants (except Mr Ibragimov in application no. 53716/16) also raise complaints under Article 8 of the Convention concerning the forced imposition of Russian citizenship on them under the so-called "Accession Treaty" of 18 March 2014 and the Federal Constitutional Law of the Russian Federation no. 6 FKZ of 21 March 2014, as well as of the lack of an effective opt-out system, stating that it constitutes an ongoing interference with their private lives. Specifically, some applicants contend that the involuntary acquisition of Russian citizenship has directly impacted their social identity and imposed obligations on them as citizens of the Russian Federation without their consent. Additionally, the applicants in applications nos. 45623/15, 41775/17, 72692/17, as well as Ms. I. Losytsya and Mr O. Goloborodko in application no. 1025/23, who have renounced Russian citizenship, complain about various restrictions and requirements imposed on them under Russian law. The restrictions and requirements in question included migration controls and residence checks which, the applicants complain, have effectively rendered them foreigners in their own homeland.

The applicants (except the applicant in application no. 53716/16) also allege a violation of their rights under Article 1 of Protocol No. 1 to the Convention. Specifically, the applicants in applications nos. 45623/15, 59299/15, 41775/17 and 72692/17 and some of the applicants in application no. 1025/23 claim continuing violations as they have lost all access to and use of their property in Crimea. In application no. 67202/14, A complains about loss of the clientele he had built through his work in Crimea. B, the applicant in the same application, alleges that she was forced to sell her land in Crimea due to the prohibition on

Ukrainian nationals owning land under Russian law, namely the Decree of the President of the Russian Federation No. 201 of 20 March 2020.

The applicants in applications nos. 67202/14, 53716/16, 41775/17, 72692/17 and 1025/23 further allege a violation of Article 2 of Protocol No. 4 to the Convention, regarding specifically their freedom to choose their residence and their right to return.

Additionally, the applicants in applications nos. 67202/14, 53716/16, 41775/17, 72692/17, 1025/23 and Mr E.E. Ablayev (application no. 45623/15) allege discrimination based on nationality, in breach of Article 14 of the Convention taken in conjunction with Article 8, Article 1 of Protocol No. 1 and Article 2 of Protocol No. 4 to the Convention.

The applicants (except the applicants in application no. 1025/23) also allege a lack of effective remedies for the violations they complain of, in breach of Article 13 of the Convention, read in conjunction with Article 8 of the Convention, Article 1 of Protocol No. 1 and Article 2 of Protocol No. 4 thereto.

Finally, the applicants in application no. 67202/14 complain of a violation of their right to education in Crimea under Article 2 of Protocol No. 1 to the Convention. Specifically, A and B argue that their children were compelled to follow the Russian curriculum in school, which they claim was inconsistent with their personal views and beliefs.

QUESTIONS TO THE PARTIES

1. Have the applicants complied with the admissibility requirements set forth in Article 35 § 1 of the Convention?

Do the facts of the applicants' cases concerning their complaints under Article 8 of the Convention regarding forced relocation and the imposition – and in some applications, the renunciation – of Russian citizenship; under Article 1 of Protocol No. 1 to the Convention regarding access to their property; and Article 2 of Protocol No. 4 regarding the right to choose their residence and the right to return, give rise to a "continuing situation" for the purposes of the six-month rule?

If so, did the applicants lodge their complaints with the Court without undue delay (see Sargsyan v. Azerbaijan (dec.) [GC], no. 40167/06, §§ 124 48, 14 December 2011)?

2. Has there been a violation of the applicants' right to respect for their private and family lives and home under Article 8 § 1 of the Convention, on account of:

(a) their forced relocation from Crimea (in all applications);

(b) the imposition of Russian citizenship on the applicants and the lack of an effective system of opting-out in all applications except application no. 53716/16 (see Ukraine v. Russia (re Crimea) [GC], nos. 20958/14 and 38334/18, §§ 1038 39, 25 June 2024);

(c) the renunciation of the Russian citizenship by the applicants in applications nos. 45623/15, 41775/17 and 72692/17 as well as by Ms. I. Losytsya and Mr. O. Goloborodko in application no. 1025/23?

3. In all applications (except application no. 53716/16), 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?

4. Have the applicants in applications nos. 67202/14, 45623/15 (with regard to Mr E.E. Ablayev), 53716/16, 41775/17, 72692/17 and 1025/23 suffered discrimination in the exercise of their rights under the Convention and Protocols thereto, based on their Ukrainian nationality, in breach of Article 14 of the Convention taken in conjunction with Article 8 of the Convention, Article 1 of Protocol No. 1 and Article 2 of Protocol No. 4 to the Convention?

5. In so far as applications nos. 67202/14, 53716/16, 41775/17, 72692/17 and 1025/23 are concerned, has there been a breach of the applicants' rights guaranteed by Article 2 § 1 of Protocol No. 4 to the Convention?

6. In so far as application no. 67202/14 is concerned, have the applicants been denied the right to education, guaranteed by Article 2 of Protocol No. 1 to the Convention (see Ukraine v. Russia (re Crimea) [GC], cited above, §§ 1160-65)?

7. Did the applicants in all applications (except application no. 1025/23) have at their disposal effective domestic remedies, as required by Article 13 of the Convention, in respect of their complaints under Article 8 of the Convention, Article 1 of Protocol No. 1 and Article 2 of Protocol No. 4 to the Convention?

Ukraine v. Russia (No. 10691/21)

(Art. 2) Right to life – Russian state-authorised assassinations on the territory of member States

SUBJECT MATTER OF THE CASE

The application concerns the allegations of an ongoing administrative practice by the Russian Federation consisting of State-authorised targeted assassination operations against its perceived opponents in Russia and on the territory of other States, including a number of member States of the Council of Europe such as Austria, Bulgaria, Germany, Latvia, Montenegro, Ukraine, and the United Kingdom, outside a situation of armed conflict. The applicant Government also alleges an administrative practice by the Russian Federation of failing to investigate these assassination operations and of deliberately mounting cover-up operations aimed at frustrating efforts made by other States to find the persons responsible.

The applicant Government invokes Article 2 of the Convention under both the substantive and procedural aspects of that provision.

In support of their allegation of an administrative practice, the applicant Government refer to the following assassinations/attempted assassinations taken place between 2003 and 2020:

assassination of Yuri Shchekochikhin in the Russian Federation;

assassination of Zelimkhan Yandarbiyev in Qatar;

assassination of Anna Politkovskaya in the Russian Federation;

assassination of Alexander Litvinenko in the United Kingdom;

assassination of Leonid Rozhetskin in Latvia;

assassination of Umar Israilov in Austria;

assassination of Oleg Zhukovsky in the Russian Federation;

assassination of Timur Kuashev in the Russian Federation;

assassination of Boris Nemtsov in the Russian Federation;

assassination of Ruslan Magomedragimov in the Russian Federation;

attempted assassinations of Vladimir Kara-Murza in the Russian Federation;

attempted assassination of Emelian Gebrev in Bulgaria;

assassination of Ivan Mamchur in Ukraine;

attempted assassination of Milo Đukanović in Montenegro;

attempted assassination of Anton Gerashchenko in Ukraine;

assassination of Denis Voronenkov in Ukraine;

assassination of Olexander Kharaberyush in Ukraine;

assassination of Maksym Shapoval in Ukraine;

attempted assassination of Igor Moseychuk in Ukraine;

attempted assassination of Sergei Skripal in the United Kingdom;

assassination of Nikolai Glushkov in the United Kingdom;

attempted assassination of Kyrylo Budanov in Ukraine;

assassination of Zelimkhan Khangoshvili in Germany;

attempted assassination of Alexei Navalny in the Russian Federation.

QUESTIONS TO THE PARTIES

1. Did the facts of which the applicant Government complains in the present case fall within the jurisdiction of the respondent State? In particular, considering the general principles concerning

extraterritorial jurisdiction set out in the Court's admissibility decision in Ukraine and the Netherlands v. Russia ([GC] (dec.), nos. 20958/14, 43800/14 and 42410/15, §§ 552-575, 30 November 2022), what is the ground of the said "jurisdiction"?

2. Is there sufficiently substantiated prima facie evidence of the administrative practices alleged by the applicant Government to give rise to violations of the Convention? The parties are invited to discuss whether there is sufficiently substantiated prima facie evidence as to the existence of both the "repetition of acts" and "official tolerance" (see, Ukraine and the Netherlands v. Russia (cited above, §§ 825-827).

3. Bearing in mind the answers to be given to the question above, does the rule on exhaustion of domestic remedies apply in the present case (see Georgia v. Russia (II) ((dec.), no. 38263/08, §§ 84-86, 13 December 2011)?

In the affirmative, a) did effective domestic remedies exist; and if so, b) what are/were they; and c) have they been exhausted?

In particular, (i) are there examples of persons who have tried to have recourse to such remedies before the judicial authorities of the respondent State? (ii) were effective investigations carried out with respect to the alleged violations?

The parties are invited to produce all the relevant evidence regarding the investigations carried out concerning the alleged assassinations/attempted assassinations.

4. Do the matters complained of in the application submitted by the applicant Government give rise to violations of Article 2 of the Convention? In particular, can it be established to the standard of proof required under Article 2 of the Convention that the Russian authorities were responsible for a violation of the right to life in the alleged twenty-four cases? In this context, can it be said that the acts complained of were attributable to the respondent Government? Moreover, what investigative steps have been taken by the Russian authorities into the incidents of the present case? More specifically, having regard to the procedural protection of the right to life (see Salman v. Turkey [GC], no. 21986/93, § 104, ECHR 2000-VII), were the investigations by the Russian authorities in breach of Article 2 of the Convention?

The parties are invited to include relevant submissions as to their views on evidence collected by international bodies and non-governmental organisations which might be pertinent to the assessment of the legal issues identified

They are further asked to provide copies in their original language and in English or French translation of all relevant evidence, on which they wish to rely or which is, or might be said to be, wholly or in large part within the exclusive knowledge or access of their authorities.

Iskender ĆOROVIĆ v. Serbia (No. 10772/19)

(Art. 6) Right to a fair trial and (P1-1) Protection of property – nationalisation of private property under former communist regime – failed restitution

SUBJECT MATTER OF THE CASE

The application concerns the allegedly unlawful nationalisation of property belonging to the applicant's late father, consisting of a plot of land and a building constructed upon it, by the former communist regime. It also concerns the subsequent proceedings which lasted for a number of years and ended in 2018 when the national authorities ruled, in the administrative, judicial review and constitutional contexts, that the applicant, despite being his late father's legal heir, was not entitled to the restitution in kind of the property

at issue. The reason given for the dismissal of the applicant's claim was that the building had in the meantime been converted into a museum (*Muzej Ras u Novom Pazaru*) and had thus become a part of national heritage.

The applicant relies on Article 6 of the Convention and Article 1 of Protocol No. 1. In so doing, he complains, in particular, that the original deprivation of his late father's property was not carried out in accordance with the law at the material time. In addition to that, the applicant complains that the decisions adopted in the subsequent administrative, judicial review and constitutional proceedings, regarding the said property's restitution in kind, were arbitrary. In this connection, the applicant refers to, *inter alia*, other specified nationalised properties that were allegedly also converted into museums but were then returned to their original owners' legal heirs in kind, as requested.

QUESTIONS TO THE PARTIES

1. Are the applicant's complaints under Article 1 of Protocol No. 1 compatible with the provisions of the said Protocol *ratione temporis* (see, *mutatis mutandis*, *Foundation King Peter I Karadordević v. Serbia* (dec.), no. 51211/16, § 42, 6 September 2022)?

2. Has the applicant exhausted all effective domestic remedies, as required by Article 35 § 1 of the Convention? In particular, did he raise, in the administrative, judicial review and constitutional proceedings, the exact complaints which he now wishes to raise before the Court? Also, in the context of the applicant's complaints under Article 1 of Protocol No. 1, was a civil claim for the recognition of the applicant's title in respect of the property at issue an effective remedy to be exhausted, considered in addition to the other remedies pursued?

3. Has there been a violation of Article 6 § 1 of the Convention as regards the administrative and judicial review proceedings wherein the applicant sought restitution in kind of the property at issue? In particular, has there been divergent national case-law in this respect and has the requirement of legal certainty contained in this provision been complied with (see, for example, *Tudor Tudor v. Romania*, no. 21911/03, §§ 26 and 27, 24 March 2009, with further references)?

1. Has there been a violation of Article 1 of Protocol No. 1? In particular, was the property in question ever nationalised in accordance with the conditions provided for by law? In addition to that and in view of the subsequent rejection of the applicant's request for restitution in kind, as part of the administrative and judicial review proceedings, has the requirement of lawfulness contained in Article 1 of Protocol No. 1 been satisfied, given, in particular, the applicant's allegation of the respondent State's inconsistent restitution practices in similar situations (see, for example, *Broniowski v. Poland* [GC], no. 31443/96, § 151, ECHR 2004-V, and *Păduraru v. Romania*, no. 63252/00, § 92, ECHR 2005-XII (extracts), with further references; see, also, *Parvanov and Others v. Bulgaria*, no. 74787/01, § 50, 7 January 2010)?

5. The Government are invited to submit factual information, including any pertinent case-law and all other relevant documentation, regarding the property restitution proceedings involving the museums in Niš and Belgrade respectively (*Narodni muzej u Nišu* and *Muzej istorije Srbije u Beogradu*), as referred to by the applicant in his application.

Sharbiv LTD v. Serbia (No. 33355/23)

(Art. 6) Right to a fair trial and (P1-1) Protection of property – recognition of foreign judgment – length of proceedings

SUBJECT MATTER OF THE CASE

The applicant is a private company based in Israel. In 2002 the District Court in Haifa, Israel, accepted the applicant company's pecuniary claim against a then socially-owned company from Serbia and upon the latter's appeal, in 2004 the judgment became final. The domestic courts rejected the applicant company's request for recognition of that foreign judgment on the grounds that the applicant company had failed to provide direct evidence that its counterclaim from 1993 had been personally delivered to the Serbian company or that the latter had participated in any way in the court proceedings in Israel, relying on Article 88 of the Law on Resolving Conflict of Laws with Regulations of Other Countries.

Invoking Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention, the applicant company claims that the domestic courts' decision to refuse recognition of final foreign decision was arbitrary, that the courts failed to respond to its main arguments and reached manifestly erroneous conclusions, which violated its right to the peaceful enjoyment of its possessions. Moreover, the applicant company complains about the length of the judicial proceedings (around 11 years at two levels of jurisdiction).

QUESTIONS TO THE PARTIES

1. Did the applicant company have a fair hearing in the determination of its civil rights and obligations, in accordance with Article 6 § 1 of the Convention?

2. Did the domestic courts provide sufficient reasons for their decision to refuse the recognition of the final foreign decision, as required under Article 6 § 1 of the Convention (see, *NDI SOPOT v. North Macedonia*, no. 6035/17, 26 November 2024, § 115)?

3. Has the applicant company exhausted all effective domestic remedies, as required by Article 35 § 1 of the Convention concerning its complaint about the length of judicial proceedings?

4. If so, was the length of the judicial proceedings in the present case in breach of the "reasonable time" requirement of Article 6 § 1 of the Convention?

5. Has there been a violation of Article 1 of Protocol No. 1? In particular, does the failure of the respondent State to recognise the foreign decision at issue amount to a violation of the applicant company's right to the peaceful enjoyment of its possessions? (see, *mutatis mutandis*, *BTS Holding, a.s. v. Slovakia*, no. 55617/17, 30 June 2022, § 71)?

Dobrivoj KASAPOVIĆ v. Serbia (No. 14157/23)

(Art. 6) Right to a fair trial – lack of access to supreme court/court of cassation

SUBJECT MATTER OF THE CASE

In 2013 the applicant initiated labour proceedings against his former employer seeking different employment benefits. The first-instance court partially granted his claims for payment of net earnings difference and payment for overtime work, but dismissed his claim for payment for work in shifts. The second-instance court upheld this judgment in part which concerned the applicant's claims for payment of net-earnings difference and work in shifts, and reversed the first-instance judgement as concerns the claim for payment for overtime work.

The applicant lodged an appeal on points of law with the Supreme Court of Cassation, challenging the second-instance decision to dismiss his claim for payment for overtime work, work in shifts, as well as the partially granted claim for payment of net earnings difference. In its decision of 16 September 2020, the Supreme Court of Cassation decided only on the applicant's claim for payment for overtime work; it did not decide on his claims concerning payment for work in shifts and payment of net earnings difference, without stating any reasons in that regard.

Following this decision, the applicant lodged a constitutional appeal claiming violation of his right to a fair trial and pointing out that the Supreme Court of Cassation failed to decide on all his claims. In its decision of 29 September 2022 (which was served on the applicant on 21 November 2022), the Constitutional Court dismissed the applicant's constitutional appeal as being of a fourth-instance nature.

Relying on Article 6 of the Convention, the applicant complains about the lack of access to the Supreme Court of Cassation, and insufficient reasoning of that court's decision.

QUESTIONS 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: was the decision of the Supreme Court of Cassation sufficiently reasoned, as required under Article 6 § 1 of the Convention (see, among other authorities, *Ramos Nunes de Carvalho e Sáv. Portugal* [GC], nos. 55391/13 and 2 others, § 185, 6 November 2018; and *NDI SOPOT v. North Macedonia*, no. 6035/17, § 115, 26 November 2024)?

2. Has there been a violation of the applicant's right of access to court, as a result of the failure of the Supreme Court of Cassation to decide on all of his claims (see *Zubac v. Croatia* [GC], no. 40160/12, §§ 76-79, 5 April 2018; and, *mutatis mutandis*, *Ponomarev v. Russia*, no. 7672/03, § 24, 15 May 2008)?

Ribar v. Slovakia (No. 13295/22 and 21637/22)

(Art. 5) Right to liberty and security and (Art. 5-5) Compensation

No document available

Patrik MIKO and Denis JANO v. Slovakia (No. 33651/24)

(Art. 3) Prohibition of torture – physical abuse during police custody

SUBJECT MATTER OF THE CASE

The application concerns an incident between the applicants (two men of Roma origin, the first applicant a minor at the time) and the police, which took place on 23 July 2019 in Milhosť and at a police station in Čaňa, two villages in eastern Slovakia. The incident occurred immediately prior to the events which form the subject matter of app. no. 29229/22 *Kuruová and Horváthová v. Slovakia*, already communicated to the Government.

Following a conflict in a bar in Milhosť, the police was called and arrested the applicants. During the arrest and in the police car, the first applicant had to be restrained with the use of coercive measures. Official reports on the arrest do not indicate any wounds caused to the applicants.

In the applicants' submissions, the first applicant was slapped, beaten and spat on in the police car, during his arrest and on the way to the police station. After arrival the police station, both applicants were allegedly beaten and verbally abused, called "gypsies" and "morons", and were told that as Roma, they did not have any rights.

After their release the following day, a medical examination found contusions on head, face, left shoulder blade and back, contusion and sprain on the cervical spine, and contusions and abrasions on the wrists of the first applicant. It found contusions on the head and contusions with hematoma on the face of the second applicant.

Following the applicants' criminal complaint, an investigation was opened on suspicion of the police officers having committed the crime of abuse of official power. It was carried out by the eastern unit of the Inspection Service of the Ministry of the Interior, which has a seat in the same building as the police structure to which the intervening police patrol belonged. On 31 May 2021, the investigation was concluded, with a single action (slap on the face of the second applicant at the police station) being referred for disciplinary proceedings. The remaining allegations were not disposed of in the decision.

The Public Prosecution Service dismissed the interlocutory appeal of the applicants, and their constitutional complaint was rejected on 23 May 2024 (case no. I. US 252/2024).

The application raises issues under Articles 3 and 14 of the Convention.

QUESTIONS TO THE PARTIES

1. Having regard to the decision of the Constitutional Court of 23 May 2024, have the applicants exhausted all effective domestic remedies, as required by Article 35 § 1 of the Convention?

2. During their arrest and detention at the police station, in particular considering the facts giving rise to the decision to refer the matter for disciplinary proceedings, have the applicants been subjected to inhuman or degrading treatment, in breach of Article 3 of the Convention?

Did the events in issue lie wholly, or in large part, within the exclusive knowledge of the authorities? If so, did they provide a satisfactory and convincing explanation by producing evidence establishing facts so as to cast doubt on the account of events given by the applicants (see *Bouyid v. Belgium* [GC], no. 23380/09, § 83, ECHR 2015)?

3. Can the applicants' allegation of ill-treatment in violation of Article 3 of the Convention be considered credible so as to engage the procedural protection under that provision (see, for example, *El-Masri v. the former Yugoslav Republic of Macedonia* [GC], no. 39630/09, § 182, ECHR 2012, with further references)?

If so, having regard to such protection (see *Labita v. Italy* [GC], no. 26772/95, § 131, ECHR 2000-IV), was the investigation by the domestic authorities into those allegations in breach of Article 3 of the Convention (see *Bouyid*, cited above, §§ 114-23), including but not limited to the aspect of independence (see, *mutatis mutandis*, *Mižigárová v. Slovakia*, no. 74832/01, §§ 98-100, 14 December 2010; *Eremiášová and Pechová v. the Czech Republic*, no. 23944/04, § 151-60, 16 February 2012, with further references; *Kummer v. the Czech Republic*, no. 32133/11, §§ 83-88, 25 July 2013; and *Mustafa Tunç and Fecire Tunç v. Turkey* [GC], no. 24014/05, § 225, 14 April 2015)?

4. Have the applicants suffered discrimination in the enjoyment of their Convention rights on the grounds of their Roma origin contrary to Article 14 of the Convention, read in conjunction with the procedural aspect of Article 3 of the Convention?

In particular, did the domestic authorities have before them information that was sufficient to bring into play their additional duty to take all reasonable steps to unmask any racist motive and to establish whether or not ethnic hatred or prejudice may have played a role in their alleged ill-treatment (see, *a contrario*, *Adam v. Slovakia*, no. 68066/12, § 94, 26 July 2016, with further references and, *mutatis mutandis*, *Lakatošová and Lakatoš v. Slovakia*, no. 655/16, § 75, 11 December 2018)? If so, did they take such steps?

Robert FICO v. Slovakia (No. 21662/23)

(Art. 6) Right to a fair trial, (Art. 8) Right to respect for private and family life, (Art. 13) Right to an effective remedy and (Art. 18) Limitation on use of restrictions on rights – use of audiovisual monitoring (wire tapping) following poaching suspicions of prominent political figure

(6 november 2023)

5. SUBJECT MATTER OF THE CASE

The application concerns the monitoring of the applicant's private meetings in the context of an investigation into suspected poaching. The applicant is the leader of a political party. At the relevant time, having previously been the Prime Minister of Slovakia, he was a member of the opposition in Parliament.

As the applicant would later learn, on 4 January 2021 the national organised crime investigation agency (*Národná kriminálna agentúra*) began an investigation in respect of one or more unknown persons on suspicion of an aggravated form of poaching under Article 310 § 3 (a) of the Criminal Code ("the CC"). The aggravating factor was indicated as consisting in the use of a weapon, which carried an upper limit of five years' imprisonment on the applicable penalty scale.

On 18 April 2021 the Nitra District Court issued a warrant, with reference to the above-mentioned proceedings, authorising the use of covert audiovisual recording devices on the exterior of a lodge situated in the hunting area concerned. The decision was based on Article 114 § 1 of the Code of Criminal Procedure ("the CCP"), which provided that such measure could be taken in investigations concerning offences with an upper limit on the applicable penalty scale of three year's imprisonment.

The applicant was using the lodge at the material time for unrelated purposes.

On 4 July 2021 the District Court issued a new warrant, this time for the use of covert audiovisual recording devices on the interior of the lodge. Under Article 114 § 2 of the CCP, such measure was only permitted in connection with certain types of offences, including the offence of laundering of the proceeds of criminal activity (*legalizácia výnosu z trestnej činnosti*) within the meaning of Article 233 of the CC. The decision referred to the suspicion of that offence in conjunction with the offence of poaching.

It appears that any recordings obtained by the implementation of the warrant of 18 April 2021 were destroyed on the grounds that they had contained nothing of use in respect of the investigation into the offence in question.

On 25 October 2021 the media published audiovisual footage from the inside of the lodge, depicting a series of meetings between the applicant, his political ally, practicing lawyers and other persons, discussing political, legal and private matters.

In response, a review was carried out by the Nitra Regional Office of the Public Prosecution Service resulting in a decision of 16 November 2021 to quash the decision of 4 January 2021. It was found that the charge of poaching, as specified therein, was incongruous, not susceptible to review and lacked support in any previously obtained material. Moreover, for some ten months after the decision of 4 January 2021, the investigator had failed to take crucial pieces of oral evidence and the evidence taken had suggested, rather, that there had in fact been no suspicion at all. At any rate, it had been an inherent error of law to consider the suspected use of a hunting weapon for poaching to be an aggravating factor with regard to the offence of poaching. In the absence of such factor, a charge of ordinary poaching would have been applicable, with an upper limit on the penalty scale of two years' imprisonment, in which case the use of covert recording devices would not have been permitted under Article 114 of the CCP. In addition, as there had in fact been no suspicion of poaching, there could not have been any suspicion of the laundering of the proceeds of it.

As a further consequence of the above findings, on 12 April 2022 the investigator who had issued the decision of 4 January 2021 was charged with abuse of official authority and the proceedings in that matter are ongoing.

Meanwhile, in December 2021, the applicant had brought proceedings before the Constitutional Court. Relying on, *inter alia*, his rights to judicial protection and protection of his privacy, he argued that the District Court's authorisation of the taking of the covert measures that had led to the monitoring of his person had been unlawful and arbitrary and had served a hidden agenda of politically discrediting him.

On 24 November 2022 the Constitutional Court declared the complaint inadmissible. It noted that the District Court's liability in the case was limited and that the suspicion of abuse of authority on the part of the investigator was being examined in a different set of proceedings. The quashing of the decision of 4 January 2021 had brought the applicant relief with regard to its consequences. The Constitutional Court further considered that the core of the applicant's complaint had to do with the leak of information to the media and held that, under the subsidiarity principle, any claims in that regard had first to be raised before the ordinary courts.

The applicant has never been charged or suspected in connection with the above-mentioned matters. In another set of proceedings, on 19 April 2021 charges were brought against him and two others in connection with various offences essentially having to do with setting up and running a scheme for the exercise of undue influence within the law-enforcement and tax authorities, including obtaining confidential information about political opponents and other persons with a view to discrediting them. Nevertheless, those charges were withdrawn by the Prosecutor General on account of what were seen as

various errors in the factual definition of the reproached actions and procedural irregularities (for more details, see *Kaliňák and Fico v. Slovakia* [Committee], nos. 40734/22 and 40803/22, 28 February 2023).

The applicant alleges that his rights under Article 6 § 1 and Articles 8, 13 and 18 of the Convention were violated.

6. QUESTIONS TO THE PARTIES

1. In the proceedings concerning his constitutional complaint, 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, were the principles of adversarial trial and equality of arms respected in view of his allegation that the Constitutional Court took its decision of 24 November 2022 after having obtained additional information without giving the applicant an opportunity to comment on it?

2. Having regard to the impugned use of covert audiovisual recording devices, has there been a violation of the applicant's right to respect for his private life, contrary to Article 8 of the Convention?

Was the use of such devices in accordance with the law and necessary under Article 8 § 2?

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?

4. If covert audiovisual recording devices were used in the present case, were the restrictions it allegedly imposed on the applicant's right to respect for his private life under Article 8 of the Convention applied for a purpose other than those envisaged by that provision, contrary to Article 18 of the Convention (see a summary of the applicable principles in *Merabishvili v. Georgia* [GC], no. 72508/13, §§ 287-317, 28 November 2017)?

The Government are requested to provide copies of the warrants of 18 April and 4 July 2021 and any and all relevant documentation in that connection (including, but not limited to, the applications for such warrants and any documentation concerning the use and possible destruction of the material obtained by the implementation of those warrants). In particular, should the material gathered in the implementation of the warrant of 18 April 2021 have been destroyed, the Government are requested to explain the grounds and circumstances and to support that information by providing relevant documentation.

(31 March 2025)

QUESTIONS TO THE PARTIES

1. As regards the complaints under Articles 8 and 18 of the Convention, has the applicant exhausted all effective domestic remedies, as required by Article 35 § 1 of the Convention?

In particular, having regard to all the circumstances, including but not limited to (i) the scope of these complaints (contrast, *Zoltán Varga v. Slovakia*, nos. 58361/12 and 2 others, §§ 117-20, 20 July 2021). (ii) the findings of the Nitra Regional Office of the Public Prosecution Service in the decision of 16 Novembre

2021, and (iii) the admission by the Government in their observations before the Court that the interference with the applicant's rights had not been "in accordance with the law", has a claim for damages under sections 3(1)(d) and 9 of the State Liability Act (Law no. 514/2003 Coll., as amended) been an effective remedy within the meaning of this provision in respect of these complaints?

2. Having regard to all the circumstances, including but not limited to (i) the findings of the Nitra Regional Office of the Public Prosecution Service in the decision of 16 November 2021, (ii) any possible further domestic remedies, (iii) the admission by the Government in their observations before the Court that the interference with the applicant's rights had not been "in accordance with the law", (iv) the lack of any observations and claims by the applicant in the proceedings before the Court, and (v) Rule 44C § 1 of the Rules of Court, is there a basis for striking the application out of the Court's list of cases under Article 37 § 1 (b) and/or (c) of the Convention?

Having regard all the circumstances, including but not limited to the admission by the Government in their observations before the Court that the interference with the applicant's rights had not been "in accordance with the law", the Court is at the parties' disposal with a view to exploring the possibilities of securing a friendly settlement of the matter pursuant to Article 39 of the Convention.

Bojan VODOPIVC v. Slovenia (No. 25369/22)

(Art. 8) Right to respect for private and family life – retention of telecommunications data for use in criminal investigation

SUBJECT MATTER OF THE CASE

The application concerns the retention of the applicant's telecommunications data (traffic and location data) by the telecommunications providers, the access to this data by law-enforcement authorities, and their use in the criminal proceedings against the applicant.

In the course of the criminal proceedings, the applicant repeatedly applied for the exclusion of evidence relating to the telecommunications data in question, arguing that their retention by the providers and use by the authorities was unlawful and in breach of the constitutional right to protection of personal data, as well as Article 8 of the Convention. The court of first instance rejected his applications, and the court of second instance dismissed his appeals. He raised these complaints before the Supreme Court and the Constitutional Court, the latter of which refused to accept his constitutional complaint for consideration on 17 January 2022 (served on the applicant's lawyer on 24 January 2022).

The applicant, citing *Škoberne v. Slovenia* (no. 19920/20, 15 February 2024) complains that the legal basis for the retention of telecommunication data for the purposes of criminal proceedings was *ab initio* incompatible with Article 8 of the Convention, as confirmed by the Constitutional Court's annulment in 2014 of the legal provisions of the Electronic Communications Act adopted in 2012 providing for the telecommunication providers' duty to retain telecommunication data. Furthermore, to the extent that the data were obtained by law-enforcement authorities from what allegedly constituted "commercial databases", their use was contrary to the purpose for which they were retained. Additionally, the applicant complains that the Criminal Procedure Act did not limit the possibility to acquire telecommunication data by law-enforcement authorities to certain serious criminal offenses, which allegedly resulted in a disproportionate interference with the applicant's right to privacy enshrined in Article 8.

QUESTIONS TO THE PARTIES

1. What was the legal basis for the retention of the applicant's telecommunications data by the telecommunications providers during the relevant periods? Did the retention of the data in question and their subsequent use in criminal proceedings comply with Article 8 of the Convention, in particular in view of the requirements set out in *Škoberne v. Slovenia*, no. 19920/20, §§ 125-47,15 February 2024?

2. Has a fair balance been struck between competing interests as required by Article 8 of the Convention with respect to the retention and use of this data (see *Škoberne v. Slovenia*, cited above, § 136)? In replying to this question, the parties are requested to include replies to the following:

(a) Regarding the applicant's telecommunications data allegedly retained in "commercial databases", that is under the legal framework governing data retention for commercial purposes, was the type, scope, and volume of this data identical to that retained under the legal basis subsequently annulled by the Constitutional Court?

(b) How was the retention and use of telecommunication data for commercial purposes regulated at the relevant time?

(c) What type of data could have been retained for commercial purposes?

(d) Could location data be retained for commercial purposes, and if so, to what extent?

(e) Have there been sufficient and appropriate safeguards in place with respect to retention of data for commercial purposes and the law enforcement authorities' access to such data (see, *mutatis mutandis*, *Ekimdzhiev and Others v. Bulgaria*, no. 70078/12, §§ 394-95, 11 January 2022)?

Aleš Božidar PIŠČANC and Others v. Slovenia (No. 16658/24)

(Art. 6) Right to a fair trial, (Art. 13) Right to an effective remedy and (P1-1) Protection of property – Access to court – compensation claim against the state

SUBJECT MATTER OF THE CASE

The application concerns the Regulation on spatial plan for Koper Harbour adopted by the Republic of Slovenia in 2011 and which the applicants opposed.

The second, third and fourth applicants together with 800 other appellants challenged the Regulation before the Constitutional Court by means of a petition for constitutional review. They claimed that the contested Regulation was unlawful in the part that concerned the change in the permitted use of their land. On 13 November 2014 the Constitutional Court dismissed the petition, finding that they lacked "legal interest" in such proceedings.

In July 2014 all four applicants initiated civil proceedings against the State, claiming compensation in the amount of one million euros. On 12 February 2020 the Ljubljana Higher Court dismissed their case finding that they should have lodged a petition for constitutional review before the Constitutional Court to challenge the contested Regulation. An appeal by the applicants to the Supreme Court was rejected. Subsequently the applicants lodged a constitutional complaint, claiming *inter alia* that the impugned Regulation was unjustified, contrary to domestic law and resulted in significant financial loss. Moreover, they argued that a petition for constitutional review could not be considered an effective legal remedy and that in any case three of the applicants had in fact lodged such a petition, but to no avail. On 11 January 2024 the Constitutional Court dismissed their complaint finding that they should have lodged a petition for

constitutional review, as provided in its case-law from 2019 according to which such petition was accepted as the appropriate remedy in such cases.

The applicants complain that the contested Regulation was adopted contrary to the provisions of national law and that the status of their property was changed in breach of Article 1 of Protocol No. 1 to the Convention, resulting in a loss of at least one million euros. Moreover, relying on the same Convention provision, they argue that they did not have access to adequate proceedings with respect to these grievances.

In addition, the applicants complain that their right to a fair trial enshrined in Article 6 § 1 of the Convention was breached as the Constitutional Court's decision of 11 January 2024 relied on a change in its case-law (providing for a constitutional review in such cases) which had come only after three of them had unsuccessfully attempted exactly that remedy. Moreover, that remedy was no longer available to them as it had become time barred.

The applicants further complain under Article 13 of the Convention that the remedies to challenge the contested Regulation which had been available to them had proven ineffective.

QUESTIONS TO THE PARTIES

1. Did the applicants have access to court for the determination of their civil rights and obligations, in accordance with Article 6 § 1 of the Convention?

2. Has there been an interference with the applicants' property rights on account of the contested Regulation within the meaning of Article 1 of Protocol No. 1 to the Convention? If so, was the interference justified under the said provision?

In particular, was the interference lawful and proportionate, regard being had to the circumstances in which it took place and the requirement that measures interfering with rights enshrined in Article 1 of Protocol No. 1 to the Convention must be accompanied by sufficient procedural guarantees against arbitrariness (see *Pintar and Others v. Slovenia*, nos. 49969/14 and 4 others, § 97, 14 September 2021)?

3. Did the applicants have at their disposal an effective domestic remedy for their complaint under Article 1 of Protocol No. 1 to the Convention, as required by Article 13 of the Convention?

M.A. v. Sweden (No. 6559/25)

(Art. 2) Right to life, (Art. 3) Prohibition of torture, (Art. 9) Freedom of thought, conscience and religion and (Art. 10) Freedom of expression – risk of threat to life and physical abuse following deportation – non-refoulement

SUBJECT MATTER OF THE CASE

The applicant, an Afghan national, requested asylum in Sweden. In several sets of proceedings, during the years from 2015 to 2024, the Swedish authorities refused his requests and ordered his deportation.

The applicant complains that, if he were to be deported, he would face a risk of being subjected to treatment in breach of Articles 2 and 3 of the Convention mainly owing to his Hazara ethnicity, his political and religious beliefs, and his so-called "westernisation".

The applicant's request for an interim measure under Rule 39 of the Rules of Court was granted by the Court on 6 March 2025.

QUESTION TO THE PARTIES

In the light of the applicant's claims, the documents which have been submitted and relevant country information, would he face a risk of being subjected to treatment in breach of Articles 2 and 3 of the Convention if he were deported to Afghanistan?

In particular, would he face such a risk on account of his Hazara origin, his political and religious beliefs and his so-called "westernisation", alone or in combination with any further circumstances, taking into consideration, *inter alia*, country information regarding the situation in Afghanistan for individuals of Hazara ethnicity, individuals perceived as critical of the Taliban and individuals perceived as influenced by foreign values (see, for example, UN High Commissioner for Refugees (UNHCR), *Guidance Note on the International Protection Needs of People Fleeing Afghanistan (Update I)*, February 2023, § 16 (iv), and European Union Agency for Asylum (EUAA), *Country Guidance: Afghanistan 2024,* May 2024, Common analysis, sections 3.7, 3.13 and 3.14.2)?

Sevim POYRAZ v. Turkey* (No. 14907/20)

(P1-1) Protection of property – legal fees and contractual fees for lawyers

QUESTIONS FOR PARTIES

1. Who is the owner of the amount awarded by the court to the successful party as attorney's fees ("legal fees")?

2. What is the relationship between "legal fees" ("yasal vekalet ücreti") and "contractual fees" ("akdi vekalet ücreti")? Where a fee contract has been concluded between the parties, is the amount of the fee awarded by the court deductible from the "contractual fee"? Where no fee contract has been concluded, does the award of fees by the court release the client from any financial obligation towards his lawyer?

Parties are invited to accompany their answers with relevant case law from national courts.

They are also invited to comment on the impact of the following judgments on the questions in points 1 and 2:

- Constitutional Court, Ömer Kara, no. 2014/5004, June 8, 2016

- Constitutional Court, Atilla İnan, no. 2012/615, November 21, 2013

- Constitutional Court, E.2004/8 K2004/28, March 3, 2014

- Court of Cassation, General Assembly of Civil Chambers, E.2013 /12 2065, K.2015/1291, April 29, 2015

- Court of Cassation, General Assembly of Civil Chambers, E.2004/12 213, K.2004/215, April 7, 2004

- Court of Cassation, General Assembly of Civil Chambers, E.2022/918, K.2023/486, May 17, 2023

- Court of Cassation, 13th Civil Chamber, E. 2014/287, K.2014/14767, May 8, 2014

3. Had the claimant entered into a written contract with her lawyer? If so, what is the content of this document, a copy of which is also requested from the parties? If not, what rules apply to the relationship between the applicant and her lawyer?

Burhan YAZ v. Türkiye (No. 17526/20, 17534/20, 45200/20, 16244/21, 30936/21 and 19177/23)

(Art. 3) Prohibition of torture and (Art. 6) Right to a fair trial – conditions during police custody – abuse by police authorities

SUBJECT MATTER OF THE CASE

The applications concern the material conditions of detention of the applicants during their police custody after the 15 July 2016 military coup attempt and the allegations of physical ill-treatment by the third, fourth, fifth and sixth applicants during that time. The first and second applicants, who are former judges, also complained of an allegedly unnecessary use of handcuffs as a measure of restraint in the courthouse in front of their former colleagues.

The applicants submitted that, while in police custody, they had been held in different venues (see the appendix for the venues at issue) for periods ranging from one to nine days, in deplorable sanitary conditions. In particular, they had been deprived of food and water and had no sanitary facilities, and had been handcuffed in the back and forced to stand for long periods of time. The third, fourth, fifth and sixth applicants also maintained that they had been beaten by the authorities.

On various dates, they submitted criminal complaints to the public prosecutor's office. The public prosecutor issued decisions not to prosecute any officers, stating that there was not sufficient evidence to bring a criminal case against them.

The Constitutional Court found the applicants' individual applications inadmissible, rejecting their complaints regarding the conditions of detention on account of non-exhaustion of domestic remedies, and their complaints about the intentional acts of the authorities as manifestly ill-founded.

The applicants complained of a violation of Article 3 of the Convention.

QUESTIONS TO THE PARTIES

1. Were the third, fourth, fifth and sixth applicants subjected to inhuman or degrading treatment while in police custody, in breach of Article 3 of the Convention (see *Bouyid v. Belgium* [GC], no. 23380/09, §§ 81-90, ECHR 2015)?

The Government are invited to submit all the medical reports obtained in respect of the third, fourth, fifth and sixth applicants during their custody.

2. Having regard to the procedural protection from inhuman or degrading treatment, were the investigations by the domestic authorities concerning the said applicants' allegations of ill-treatment in police custody in breach of Article 3 of the Convention (see *Bouyid*, cited above, §§ 114-23)?

3. Were the first and second applicants subjected to degrading treatment on account of the use of handcuffs in front of their former colleagues in the courthouse, in breach of Article 3 of the Convention (see *Erdoğan Yağız v. Turkey,* no. 27473/02, §§ 32-48, 6 March 2007, and *Shlykov and Others v. Russia*, nos. 78638/11 and 3 others, §§ 69-76, 19 January 2021)?

4. Did the material conditions of the custody of all applicants amount to inhuman or degrading treatment or punishment (see *Muršić v. Croatia* [GC], no. 7334/13, §§ 136-40, 20 October 2016)?

The Government are invited to submit information and documents regarding the conditions of detention at the venues where the applicants were being held, in particular demonstrating:

- the period, surface and capacity of the venues at issue and the number of detainees held;
- whether the applicants were kept handcuffed in custody;
- the number of toilets in the venues and any limitations regarding access to the toilets;
- the provision of food and water to the applicants in custody.

5. Have the applicants exhausted all effective domestic remedies, as required by Article 35 § 1 of the Convention, in respect of their complaints under Article 3 of the Convention concerning the conditions of detention while in police custody (see *İlerde and Others v. Türkiye*, nos. 35614/19 and 10 others, §§ 157-65, 5 December 2023)?

The Government are invited to provide information regarding any available and effective domestic remedies in respect of the alleged violation of Article 3 concerning conditions of detention in police custody. Considering the Constitutional Court's decision in *Nebahat Baysal Gül* (no. 2016/14634, dated 28 May 2019), the Government are further invited to provide the Court with examples of domestic court decisions in which administrative courts examined the claims of violations of Article 3 regarding the conditions of detention.

Levent TÜRKKAN v. Turkey (No. 392/21)

(Art. 3) Prohibition of torture and (Art. 6) Right to a fair trial – torture and physical abuse during pre-trial custody

SUBJECT MATTER OF THE CASE

The application concerns the applicant's alleged ill-treatment during his police custody in the immediate aftermath of the attempted military coup. On 15 July 2016 the applicant was arrested and taken into police

custody on suspicion of membership of an armed terrorist organisation ("Fetullahist Terror Organisation/Parallel State Structure"). He remained in custody until he was placed in pre-trial detention on 19 July 2016.

The medical report drawn up at the Ankara Gazi Mustafa Kemal State Hospital on 16 July 2016 noted that the applicant had first and second degree burns on his abdomen, chest and palms, a 6 cm burn and dermabrasion on the left temporal lobe, a 6x7 cm lesion and haematoma on the right temporal lobe, an ecchymosis on the right eye, a bleeding lesion on the nose, a hyperaemic lesion in the shape of five fingers on the right humerus. The doctor advised that he should be examined at the brain surgery and burns departments. An officer was present during the medical examination.

On 17 July 2016 a new report was drawn up by another doctor, noting subconjunctival haemorrhage, oedema in the nasal dorsum, various abrasions and ecchymoses on different parts of the applicant's head and body, as well as second degree burns on his left shoulder, left hemithorax and abdomen. The medical report drawn up on 18 July 2016 stated that there were no additional findings apart from those already made.

The photographs in the case file show the applicant with his hands and torso in bandages and with visible injuries and ecchymoses on his face.

On 20 July 2016 the applicant gave a statement before the Magistrates' Court, declaring, *inter alia*, that his injuries resulted from a normal procedure during custody and that the burns had been caused by hot cement as he had lied on the ground.

During the course of the criminal proceedings against the applicant, at the hearings on 22 June 2017 and 24 December 2018, he argued that he had been subjected to torture during custody. He claimed that he had been heavily beaten in the face, had had his nails pulled off, and his palms and abdomen burned.

On 22 August 2019 the applicant lodged an individual application with the Constitutional Court, complaining of a violation of the prohibition of ill-treatment and the right to liberty. On 11 June 2020 the Constitutional Court rejected his application for non-exhaustion of domestic remedies.

The applicant complains under Articles 3 and 6 of the Convention that he was subjected to torture as was proven by the medical reports and his photographs taken at the Magistrates' Court. He maintains that although his injuries had been clearly visible, the judge at the Magistrates' Court did not have regard to his situation. He also argues that his initial statements at the Magistrates' Court, wherein he denied having been subjected to ill-treatment, could not be taken into account as they were given in the presence of officers, under a continued threat of torture.

QUESTIONS TO THE PARTIES

1. Has the applicant been subjected to torture or inhuman treatment, in breach of Article 3 of the Convention (see *Bouyid v. Belgium* [GC], no. 23380/09, §§ 81-90, ECHR 2015)?

2. Having regard to the procedural protection from torture or inhuman treatment, were the domestic authorities under an obligation to initiate an investigation of their own motion, either after the applicant's medical examination and questioning by the Magistrates' Court on 20 July 2016 or following his submissions during the criminal proceedings against him that he had been subjected to torture during custody (see *Velev v. Bulgaria*, no. 43531/08, § 60, 16 April 2013, and *Zakharov and Varzhabetyan v. Russia*, nos. 35880/14 and 75926/17, §§ 48 and 57, 13 October 2020)? Was the absence of such an investigation

in breach of the State's positive obligation to conduct an official investigation under Article 3 of the Convention (see *Members of the Gldani Congregation of Jehovah's Witnesses and Others v. Georgia*, no. 71156/01, § 97, 3 May 2007)?

Mahmut ÖNGÖR v. Türkiye (No. 965/21)

(Art. 3) Prohibition of torture and (Art. 6) Right to a fair trial – torture and physical abuse in police custody

SUBJECT MATTER OF THE CASE

The application concerns the applicant's alleged ill-treatment. The applicant, who was in pre-trial detention on suspicion of membership of an armed terror organisation, was brought to the Şanlıurfa Counter-Terrorism Department on 28 November 2017 for further questioning by the police. The applicant remained in the police station until 8 December 2017, when he was brought back to the prison.

By petitions of 30 November and 3 December 2017, the applicant filed a criminal complaint with the Şanlıurfa Public Prosecutor's Office, claiming that he had been left naked, blindfolded and handcuffed behind his back, and subjected to means of torture such as electric shocks, *falaka* (beating on the soles of the feet) and beatings.

A medical report drawn up at the Şanlıurfa Forensic Medicine Institute on 8 December 2017 noted several ecchymoses, abrasions and bruises across the applicant's body, including on both arms, wrists, neck and back.

On 22 June 2020 the applicant submitted an individual application to the Constitutional Court, claiming that he was subjected to ill-treatment by State agents and that the authorities failed to conduct an effective investigation into his claims, as the investigation was pending for more than two years. On 2 November 2020 the Constitutional Court found his application inadmissible as manifestly ill-founded.

On 17 December 2020 the applicant lodged the present application with the Court.

Subsequently, on 2 November 2021 he was notified of the Public Prosecutor's decision of non-prosecution dated 11 December 2020. In the decision, the Public Prosecutor referred to a video analysis report, drawn up by police officers, which stated that the examination of the CCTV footage had shown that the applicant had injured himself in the police station. He concluded therefore that there was not sufficient evidence to prosecute the officers. The applicant's objection to that decision was rejected by the Magistrates' Court.

Before the Court, the applicant argues that he was subjected to ill-treatment at the hands of State agents, in violation of the substantive head of Article 3 of the Convention. He further argues under the procedural head of Article 3 and under Article 6 of the Convention that the investigation into his allegations of ill-treatment was ineffective and, in particular, that the Constitutional Court's decision was insufficiently reasoned.

QUESTIONS TO THE PARTIES

1. Has the applicant exhausted all effective domestic remedies, as required by Article 35 § 1 of the Convention (see, for the general principles, *Communauté genevoise d'action syndicale (CGAS) v. Switzerland* [GC], no. 21881/20, §§ 138-43 and 158, 27 November 2023)?

2. Has the applicant been subjected to torture or to inhuman or degrading treatment, in breach of Article 3 of the Convention (see *Bouyid v. Belgium* [GC], no. 23380/09, §§ 81-90, ECHR 2015, and *Salin and Karşin v. Turkey*, no. 44188/09, §§ 60-72, 23 June 2015)?

The Government are invited to submit the medical reports obtained in respect of the applicant between 28 November and 9 December 2017. Furthermore, the Government are invited to submit any medical reports obtained following the applicant's referral by the Forensic Medicine Institute to Harran University Hospital for further examination.

3. Having regard to the procedural protection from inhuman or degrading treatment, was the investigation in the present case by the domestic authorities in breach of Article 3 of the Convention (see *Bouyid*, cited above, §§ 114-23, and *Salin and Karşin*, cited above, §§ 75-81)?

Şilan FİDAN v. Türkiye (No. 18776/21)

(Art. 3) Prohibition of torture – torture and physical abuse in police custody

SUBJECT MATTER OF THE CASE

The application concerns the applicant's allegations of ill-treatment during her arrest and police custody.

On 28 May 2016 the applicant was arrested by the authorities in Suruç, Şanlıurfa, on suspicion of membership of an armed terrorist organisation, the PKK (Workers' Party of Kurdistan). She remained in police custody until 31 May 2016, when she was placed in pre-trial detention by the Magistrates' Court.

A medical report drawn up on 28 May 2016 following her arrest noted that she had several bruises in her right hand and sensitivity on the third and fourth fingers of the same hand. The report further noted that although the x-ray findings generated suspicion as to a fracture in the third finger of the left hand, that suspicion was rebutted by the lack of any pain and sensitivity in that area. It concluded that the injuries were of a nature that they could be treated by simple medical attention. The reports drawn up on 30 and 31 May 2016 noted the bruises on the applicant's hand and went on to find that her treatment had been completed and that there were no signs of battery.

On 31 May 2016 the applicant submitted a criminal complaint to the Suruç Public Prosecutor's Office, claiming that she had been subjected to ill-treatment during her time in police custody and had bruises on her hand. On 6 September 2016 she submitted a second complaint to the Suruç Public Prosecutor's Office repeating her claims.

On 22 March 2017 the Public Prosecutor's Office decided not to prosecute any officers, finding that the bruises on the applicant's body had resulted from an intervention carried out by the officers which had involved the use of force to the extent necessary to neutralise the applicant and to overcome her resistance to arrest.

On 11 November 2020 the Constitutional Court found the applicant's individual application inadmissible as being manifestly ill-founded.

The applicant argues that she had been ill-treated by the police officers during her arrest and in police custody, resulting in bruises on her right hand, in violation of the substantive limb of Article 3 of the Convention. She further complains of the ineffectiveness of the investigation initiated by the public prosecutor, in breach of the procedural limb of Article 3 of the Convention.

QUESTIONS TO THE PARTIES

1. Has the applicant been subjected to inhuman or degrading treatment at the hands of State agents during her arrest and police custody, in breach of Article 3 of the Convention (see *Bouyid v. Belgium* [GC], no. 23380/09, §§ 81-90, ECHR 2015)?

2. Having regard to the procedural protection from inhuman or degrading treatment, was the investigation in the present case by the domestic authorities in breach of Article 3 of the Convention (see *Bouyid*, cited above, §§ 114-23)?

Rasim Eşref ÇITAK v. Turkey (No. 2851/21)

(Art. 3) Prohibition of torture – torture and physical abuse in police custody

SUBJECT MATTER OF THE CASE

The application concerns the applicant's allegations of torture and ill-treatment in custody. The applicant, who used to serve as a trainee lieutenant at the Special Forces, was arrested by the authorities at the Headquarters of the Special Forces in the morning of 16 July 2016 on suspicion of having participated in the coup attempt. He remained in police custody until 17 July 2016, when he was placed in pre-trial detention by the Magistrates' Court.

A medical report drawn up on 17 July 2016, upon his admission to Mamak Military Prison, noted that he had several bruises on multiple parts of his body, such as his arms and legs.

The CCTV footage in the case file shows that he was carried by several individuals, with his hands and feet tied together.

During the criminal proceedings against him, at the hearings on 26 April 2017 and 23 March 2019, the applicant raised his allegations of ill-treatment before the Ankara Assize Court.

On 4 April 2019 he submitted a criminal complaint to the Ankara Public Prosecutor's Office, claiming that he had been subjected to ill-treatment during his police custody between 16 and 17 July 2016. He alleged that he had been blindfolded, with his mouth gagged and his hands and feet bound together behind his back in a position referred to as a "hogtie". He submitted that he had been dragged on the stairs, punched, kicked, deprived of food and insulted.

On 30 October 2019 the Public Prosecutor's Office decided not to prosecute, finding that there was not sufficient evidence to bring a criminal case against the officers, aside from the applicant's abstract allegations. It noted that while the medical reports indicated some findings, they did not conclusively establish signs of torture against the applicant. Additionally, the applicant had filed his complaint nearly three years after the events, which hindered the prosecution's ability to gather any evidence.

On 26 June 2020 the Constitutional Court found the applicant's individual application inadmissible as being manifestly ill-founded.

The applicant argues that he was subjected to ill-treatment at the hands of the State agents while he was in custody, and that the investigation into his allegations of ill-treatment was ineffective, in violation of Article 3 of the Convention.

QUESTIONS TO THE PARTIES

1. Has the applicant been subjected to torture or to inhuman or degrading treatment, in breach of Article 3 of the Convention (see *Bouyid v. Belgium* [GC], no. 23380/09, §§ 81-90, ECHR 2015, and *Salin and Karşin v. Turkey*, no. 44188/09, §§ 60-72, 23 June 2015)?

The Government are invited to submit all the medical reports obtained in respect of the applicant during his custody between 16 July 2016 and 17 July 2016.

2. Having regard to the procedural protection from inhuman or degrading treatment, was the investigation in the present case by the domestic authorities in breach of Article 3 of the Convention (see *Bouyid*, cited above, §§ 114-23, and *Salin and Karşin*, cited above, §§ 75-81)?

Mustafa CANDEMİR v. Türkiye (No. 24765/20)

(Art. 3) Prohibition of torture, (Art. 6) Right to a fair trial and (Art. 13) Right to an effective remedy – torture and physical abuse in police custody

SUBJECT MATTER OF THE CASE

The application concerns the applicant's alleged ill-treatment by police officers from the Rapid Response Force (*çevik kuvvet*) in İzmir. According to the applicant, on 12 March 2014, while he was sitting in a café, he was caught up in a police intervention in a demonstration and when he complained to the officers about his exposure to tear gas, the latter heavily beat him with truncheons and helmets.

The medical reports drawn up on the same day at the Tepecik Training and Research Hospital noted that the applicant had nasal deformity, dried blood, dermabrasion and oedema in the nostrils, and dermabrasion on the left side of his torso.

On 2 July 2014, as a result of disciplinary proceedings carried out by the İzmir Governor upon the applicant's complaint, one of the officers was imposed a disciplinary sanction of three days' salary cut.

In the meantime, the applicant filed a criminal complaint with the İzmir Public Prosecutor's Office, arguing that the treatment inflicted on him constituted torture and could not be considered to be within the limits of necessary use of force. On 10 January 2017 the Public Prosecutor decided not to prosecute any officers. Finding that the applicant had insulted the officers and had punched one of them, as a result of which an officer had thrown his helmet in his direction, the Public Prosecutor concluded that there was not sufficient evidence to initiate criminal proceedings against the officers. On 2 June 2017 the İzmir Magistrates' Court rejected the applicant's objection to that decision. According to the applicant, the Magistrates' Court's decision was not served on him and he learned of it on 8 February 2019.

Meanwhile, the full remedy action the applicant lodged with the İzmir Administrative Court on 21 September 2015 was dismissed for being out of the one-year statutory time-limit. The applicant's appeal, wherein he argued that he had lodged the action following the notification of the Governor's disciplinary decision to him and that the Administrative Court's interpretation contradicted the Supreme Administrative

Court's case-law, were also rejected. The final decision regarding that set of proceedings was notified to the applicant on 28 January 2019.

On 18 February 2019 the applicant lodged an individual application with the Constitutional Court, complaining of a violation of the prohibition of ill-treatment and his right of access to court. On 7 May 2020 the Constitutional Court examined the application from the standpoint of the prohibition of ill-treatment alone and rejected it for being out of the thirty-day time-limit. In doing so, it referred to its case-law in which it had previously concluded that in criminal proceedings where the notification of a decision had not been regulated by law, the applicants would be expected to show the required diligence. In such cases the thirty-day time-limit would start running at the end of the three-month period following a final decision, as the applicants would be considered to have learned of the final decision then at the latest.

The applicant complains under Articles 6 and 13 of the Convention that his right of access to court was violated on account of the Constitutional Court's interpretation of the thirty-day time-limit. In that respect, he argues that the Constitutional Court's interpretation was unforeseeable and formalistic as he was not notified of the Magistrates' Court's decision despite the fact that the notification of such decisions was foreseen by Article 173 § 3 of the Code of Criminal Procedure. He further maintains that the Constitutional Court failed to examine his complaint regarding his right of access to court before the administrative courts, despite the fact that his individual application had been lodged within thirty days after the notification of the final decision in that set of proceedings. Lastly, he contends that the İzmir Administrative Court's interpretation of the one-year time-limit was also in breach of his right of access to court as it contradicted the case-law of the Supreme Administrative Court on the matter.

Relying on Article 3 of the Convention, the applicant complains of his alleged ill-treatment by the police and maintains that the investigation into his claim was ineffective.

QUESTIONS TO THE PARTIES

1. Has there been a breach of the applicant's right of access to court under Article 6 § 1 of the Convention on account of the Constitutional Court's interpretation of the thirty-day time-limit in its decision dated 7 May 2020 (No: 2019/5869), with regard to both the applicant's complaint about his alleged ill-treatment and his complaint concerning his right of access to court before the administrative courts (see *Üçdağ v. Turkey*, no. 23314/19, §§ 37-50, 31 August 2021)?

Moreover, was the administrative courts' interpretation of the one-year time-limit in breach of the applicant's right of access to court under Article 6 § 1 of the Convention (see *Zubac v. Croatia* [GC], no. 40160/12, §§ 97-98, 5 April 2018)?

2. Has the applicant exhausted the domestic remedies with regard to his complaint under Article 3 of the Convention?

If so, has he been subjected to inhuman or degrading treatment or punishment, in breach of Article 3 of the Convention (see *Bouyid v. Belgium* [GC], no. 23380/09, §§ 81-90, ECHR 2015, and *İşik v. Türkiye*, no. 42202/20, § 60, 8 October 2024)?

Having regard to the procedural protection from inhuman or degrading treatment, was the investigation in the present case by the domestic authorities in breach of Article 3 of the Convention (see *Bouyid*, cited above, §§ 114-23, and *Shmorgunov and Others v. Ukraine*, nos. 15367/14 and 13 others, §§ 327-66, 21 January 2021)?

Sevda YEŞİLKAYA v. Türkey (No. 23659/23)

(Art. 3) Prohibition of torture and (Art. 13) Right to an effective remedy – ill-treatment in police custody – physical and psychological intimidation by police officers

SUBJECT MATTER OF THE CASE

The application concerns allegations of ill-treatment suffered by the applicant in police custody. The applicant was arrested on 13 August 2016 on charges of membership of an armed terrorist organisation, the PKK (Workers' Party of Kurdistan). She remained in police custody until she was placed in pre-trial detention on 28 August 2016. The medical report drawn up on the date of the applicant's arrest stated that there were no signs of battery or assault.

A medical report drawn up on 22 August 2016 noted swelling, pain and haematoma in the right wrist with a statement in parentheses which read "hit on the wall". The conclusion section of the report stated that no traces of battery or assault were found.

On 14 October 2016 the applicant filed a criminal complaint against the police officers, claiming that she had been subjected to physical and psychological violence, in particular sexual threats, while in police custody. She stated that the medical report drawn up on 22 August 2016 demonstrated that she had been assaulted. She further complained about the conditions of her detention, claiming that she had not been provided with sufficient food and access to toilet facilities.

On 21 November 2017 the Public Prosecutor decided not to prosecute the police officers. The decision noted that there was no sufficient evidence to bring criminal charges against the officers apart from the abstract allegations of the applicant. The applicant's objection was rejected by the Magistrates' Court.

The Constitutional Court examined her individual application and declared her complaint concerning the conditions of detention inadmissible for failure to exhaust legal remedies, as she had not filed an action before the administrative courts. It further declared her complaint concerning the police officers' conduct admissible but found no violation of the prohibition of ill-treatment.

The applicant argues that she was subjected to ill-treatment at the hands of State agents, and that the investigation into her allegations of ill-treatment was ineffective, in violation of Articles 3 and 13 of the Convention.

QUESTIONS TO THE PARTIES

1. Was the applicant subjected to inhuman or degrading treatment by State agents while in police custody, in breach of Article 3 of the Convention (see *Bouyid v. Belgium* [GC], no. 23380/09, §§ 81-90, ECHR 2015)?

The Government are invited to submit all the medical reports obtained in respect of the applicant during her custody.

2. Having regard to the procedural protection from inhuman or degrading treatment, was the investigation by the domestic authorities concerning the applicant's allegations of ill-treatment by State agents in breach of Article 3 of the Convention (see *Bouyid*, cited above, §§ 114-23)?

3. Did the material conditions of the applicant's custody amount to inhuman or degrading treatment or punishment (see *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, § 156, 10 January 2012, and *Dudchenko v. Russia*, no. 37717/05, § 130, 7 November 2017)?

4. Did the applicant exhaust all effective domestic remedies, as required by Article 35 § 1 of the Convention, in respect of her complaint under Article 3 of the Convention concerning the conditions of detention while in police custody (see *İlerde and Others v. Türkiye*, nos. 35614/19 and 10 others, §§ 157-65, 5 December 2023)?

The Government are invited to provide information regarding any available and effective domestic remedies, including the case-law of the administrative courts, in respect of the alleged violation of Article 3 concerning conditions of detention in police custody.

Seda ŞARALDI v. Turkey (No. 9233/23)

(Art. 3) Prohibition of torture – ill-treatment in police custody

SUBJECT MATTER OF THE CASE

The application concerns the alleged ill-treatment of the applicant in police custody.

On 29 October 2020 the applicant, a lawyer registered at the Istanbul Bar Association, was arrested in Denizli. After her arrest, she was transferred to Istanbul. On an unspecified date she was released from custody.

A medical report drawn up on 1 November 2020 noted two lesions of 1x2 cm on her right hand.

Following her release, the applicant filed a criminal complaint with the Public Prosecutor, claiming that she had been subjected to ill-treatment in police custody. Particularly, she claimed that she had been kept handcuffed with her hands in the back for eight hours during her transfer from Denizli until Bursa. She further claimed that she had been pushed to the ground and kicked by the police officers.

On 22 January 2021 the Public Prosecutor issued a decision not to prosecute, relying on the submissions of the Istanbul Security Directorate, which stated that the applicant had resisted arrest and chanted slogans while being transferred from Denizli to Istanbul. She had also resisted giving her fingerprints for the processing of her arrest, as a result of which the police officers had used force to end her resistance. The Public Prosecutor stated that the applicant's injury, which was treatable by simple medical care, had been caused by the use of a proportionate amount of force by the police officers to subdue her resistance and accordingly, there was no sufficient evidence to bring criminal charges against the police officers. The applicant's objection to this decision was rejected by the Magistrates' Court.

On 12 October 2022 the Constitutional Court found the applicant's individual application inadmissible for being manifestly ill-founded.

The applicant complains under Article 3 of the Convention that she was handcuffed with her hands in the back for eight hours during her transfer and physically assaulted by the police officers. She also argues that the investigation into her allegations of ill-treatment was ineffective, in violation of Article 3 of the Convention.

QUESTIONS TO THE PARTIES

1. Was the applicant subjected to torture, inhuman or degrading treatment in breach of Article 3 of the Convention, on account of her being handcuffed with her hands in the back during her transfer, as well as the alleged physical assault she was subjected to in police custody (see *Bouyid v. Belgium* [GC], no. 23380/09, §§ 81-90, ECHR 2015, and *Shlykov and Others v. Russia*, nos. 78638/11 and 3 others, §§ 69-76, 19 January 2021)?

The Government are invited to submit all the medical reports obtained in respect of the applicant during her custody.

2. Having regard to the procedural protection from inhuman or degrading treatment, was the investigation by the domestic authorities concerning the applicant's allegations of ill-treatment in breach of Article 3 of the Convention (see *Bouyid*, cited above, §§ 114-23)?

Fesih KARATAŞ and Others v. Turkey (No. 30251/23)

(Art. 3) Prohibition of torture – ill-treatment in police custody

SUBJECT MATTER OF THE CASE

The application concerns allegations of physical assault and verbal abuse by police officers during the arrest and detention of the applicants, as well as the lack of an effective investigation into their claims.

On 15 August 2016 the applicants were arrested in the Hani district of Diyarbakır during an operation conducted as part of an investigation into charges of membership of a terrorist organisation, the PKK (Workers' Party of Kurdistan). They were then taken into custody. On the same day the doctors from the Hani State Hospital examined the applicants and drew up medical reports, noting mild abrasions on their bodies, which were deemed treatable by simple medical intervention.

On 17 and 31 August 2016 the applicants filed criminal complaints with the public prosecutor, alleging ill-treatment by police officers during their arrest and detention. On 7 April 2017 the public prosecutor issued a decision not to prosecute the police officers, stating that, based on camera footage analysed by experts, there were no indications of assault, insults or threats during the applicants' arrest. Upon the applicants' objection, the Magistrates' Court found procedural deficiencies, overturning the decision not to prosecute, and ordered further investigations to address the shortcomings. Subsequently, statements were taken from the applicants, the police officers, the doctor who had prepared the reports and the local

official (*muhtar*) who had witnessed the house search in the context of the applicants' arrest. On 7 May 2018 the Magistrates' Court ultimately decided to reject the applicants' objections to the decision not to prosecute, citing insufficient evidence to substantiate their claims against the suspects.

On 1 March 2023 the Constitutional Court found a violation of the prohibition of ill-treatment under its procedural aspect, holding that the investigation had several shortcomings as it could not convincingly explain the cause of the applicants' injuries. It went on to reject the applicants' claims for non-pecuniary damages, stating that the reopening of the investigation constituted sufficient redress and ordered that a copy of the judgment be transmitted to the Hani public prosecutor's office in order for the latter to initiate a fresh investigation. This judgment was notified to the applicants' lawyer on 13 April 2023.

Relying on Article 3 of the Convention, the applicants complain that they were subjected to ill-treatment by the police officers, that the criminal investigation had been ineffective, and that the remedy of individual application before the Constitutional Court did not provide an effective redress in respect of their complaints as it failed to assess the substantive aspect of their complaint and to award compensation for the violation found.

QUESTIONS TO THE PARTIES

1. In view of the Constitutional Court's judgment of 1 March 2023 (No: 2018/25634), can the applicants still claim to be a victim of a violation of the Convention, within the meaning of Article 34 of the Convention, as regards the alleged breach of Article 3 of the Convention (see *Gäfgen v. Germany* [GC], no. 22978/05, §§ 115-16, ECHR 2010; see also, *mutatis mutandis*, *İ.G. v. Türkiye*, no. 32887/19, §§ 42-49, 27 August 2024)?

In particular, could the reopening of the investigation into the applicants' claims be considered adequate redress to remedy a breach of the prohibition of ill-treatment at national level (see *Gäfgen*, cited above, § 116)? If so, have the applicants exhausted the domestic remedies following the reopening of the criminal investigation into their claims?

The Government are invited to provide information regarding the stage of the domestic proceedings following the Constitutional Court's above-mentioned judgment.

2. Have the applicants been subjected to inhuman or degrading treatment, in breach of Article 3 of the Convention (see *Bouyid v. Belgium* [GC], no. 23380/09, §§ 83-84, ECHR 2015)?

Having regard to the procedural protection from inhuman or degrading treatment, was the public prosecutor's investigation into the applicants' complaint of ill-treatment by police officers in breach of Article 3 of the Convention (*ibid*., §§ 114-123)?

Bilal KARAKURT v. Turkey (No. 34506/21)

(Art. 3) Prohibition of torture and (Art. 13) Right to an effective remedy – medical treatment of prisoners

SUBJECT MATTER OF THE CASE

The application concerns the alleged delay in the medical treatment provided to the applicant in prison.

At the time of the events, the applicant was detained in Bandırma T-Type Prison. According to his submissions, on 12 August 2018 he started to experience vision loss after a ball had hit his right eye. On 16 August 2018 he was transferred to Bandırma State Hospital, where the doctor who examined him noted that he had degeneration of macula and advised his transfer to Uludağ University Hospital which was better equipped. Subsequently, he was transferred to three other hospitals, where it was established that he suffered from retinal detachment and needed to be operated urgently. However, the operation was not carried out for reasons such as the specialised doctor being on leave or lack of place in the prisoners' hospital ward. On 21 November 2018 he was operated in a hospital in Istanbul. According to the applicant, he was diagnosed with 90% vision impairment.

In the meantime, the applicant filed a criminal complaint with the Bandırma public prosecutor's office, arguing that his treatment had been substantially delayed and that he had been denied treatment at different hospitals for various reasons. By a decision of 29 January 2019, the public prosecutor issued a decision of non-prosecution, finding that the applicant had been provided with all required treatment in a timely manner. On 7 February 2020 the Magistrates' Court rejected his objection, finding that he had been transferred to a number of hospitals for his treatment and, while one of his transfers had resulted from the absence of a specialised doctor, no official could be held responsible for that.

Subsequently, the applicant lodged an individual application with the Constitutional Court. On 1 March 2021 the Constitutional Court rejected the applicant's complaint regarding prohibition of ill-treatment for non-exhaustion of domestic remedies. In doing so, it relied on its case-law wherein it had found that in Turkish law compensatory proceedings constituted a more effective remedy with regard to medical negligence complaints.

The applicant complains, under Articles 2, 3 and 13 of the Convention, that he had been denied timely medical care in prison.

QUESTIONS TO THE PARTIES

1. Has the applicant been subjected to inhuman or degrading treatment, in breach of Article 3 of the Convention?

2. In particular, did the State authorities ensure that his health and well-being were adequately secured by providing him with the requisite medical assistance (see *Kudła v. Poland* [GC], no. 30210/96, § 94, ECHR 2000-XI, and *Blokhin v. Russia* [GC], no. 47152/06, §§ 136-37, 23 March 2016)?

3. Was the treatment provided to the applicant for his eye condition prompt and accurate (see *Melnik v. Ukraine*, no. 72286/01, § 106, 28 March 2006, and *Hummatov v. Azerbaijan*, nos. 9852/03 and 13413/04, § 116, 29 November 2007)?

The Government are invited to provide the Court with all medical reports drawn up with regard to the applicant after the beginning of his eye condition on 12 August 2018, and all other relevant documents concerning the treatment provided to him, including all documents pertaining to the annulment of the operations scheduled between September and November 2018.

Zeynel AÇIKMEŞE v. Turkey (No. 11684/23)

(Art. 3) Prohibition of torture, (Art. 6) Right to a fair trial and (Art. 13) Right to an effective remedy – inhumane treatment in prison – detention conditions

SUBJECT MATTER OF THE CASE

The application concerns the allegations of a violation of the prohibition of ill-treatment. At the time of the events subject to the application, the applicant was in pre-trial detention at Bandırma T-Type Prison.

According to the applicant, on 5 February 2019 he was subjected to physical violence in front of the people in his cell after he asked the prison guards whether a football match would be broadcast. A medical report drawn up on 6 February 2019 noted two lesions under the left axilla extending towards the chest (hyperaemia and ecchymosis), a 2x2 cm oedema between the third and fourth fingers of the left hand due to stretching, and a minimal ecchymosis lateral to the left knee. The doctor further noted that these injuries could be treated by simple medical care. A second medical report drawn up on 14 March 2019 determined that the applicant had a horizontal tear in the medial meniscus posterior.

On 6 February 2019 the applicant lodged a criminal complaint with the public prosecutor, claiming that he had been subjected to ill-treatment by the prison guards. He stated that he had been assaulted by the prison guards, that his arm and fingers had been twisted by them, and that he had been taken out of the ward and handcuffed with his hands behind his back, stripped down to his underwear in a padded cell, and held there for more than two hours. On 10 April 2019 the public prosecutor issued a decision not to prosecute the prison guards, finding that there was no sufficient evidence to show that an offence had been committed against the applicant by the prison guards. After having reviewed the camera footage of the event and examined the medical reports, the public prosecutor stated that the prison guards had used a proportionate amount of force to fulfil their duties. The applicant's objection to that decision was rejected by the Magistrates' Court.

In the meantime, on 12 February 2019 the prison disciplinary board imposed the disciplinary sanction of a one-month restriction on visits on the applicant for acting in a manner that could cause fear, anxiety or panic in the institution.

The Constitutional Court rejected the applicant's complaint concerning his alleged ill-treatment for being manifestly ill-founded. It found that the physical intervention by the prison guards had been both necessary and proportionate, and that the investigation had been conducted with sufficient due diligence, without any indication of a violation of the prohibition of ill-treatment.

The applicant complains under Articles 3, 6 and 13 of the Convention that he was subjected to ill-treatment by the prison guards and that the criminal investigation into his complaint was ineffective.

QUESTIONS TO THE PARTIES

1. Has the applicant been subjected to inhuman or degrading treatment by the prison guards, in breach of Article 3 of the Convention (see *Bouyid v. Belgium* [GC], no. 23380/09, §§ 81-90, ECHR 2015)?

2. Having regard to the procedural protection from inhuman or degrading treatment, was the investigation by the domestic authorities into the applicant's allegations of ill-treatment in the present case in breach of Article 3 of the Convention (see *Bouyid*, cited above, §§ 114-23)?